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Kimberlee Foster Field Office Manager
BLM Rock Springs Field Office
280 U.S. Highway 191 North
Rock Springs WY 82901

Re: Comments on the Proposed Resource Management Plan and Draft Environmental Impact Statement

Dear Ms. Foster:

The City of Rock Springs is not capable of providing a detailed independent analysis of the impacts of the proposed RMP within the time given by your agency. We have evaluated the work done by Sweetwater County and are able to strongly support their conclusion. While we recognize the comment period is closing, we will continue to work on determining the specific economic, social, and cultural impact Alternative B would have on our city. We are submitting their comments as our own as we agree with their analysis.

Sweetwater County has been a cooperating agency for over a decade on the Rock Springs Field Office ("RSFO") Resource Management Plan ("RMP") revision and development of the Draft Environmental Impact Assessment ("DEIS"). Through these years, the County had thought there was some collaboration with the Bureau of Land Management ("BLM") and other cooperators in developing an alternative that was not completely finalized but headed in the direction of a more balanced alternative that recognized the BLM's obligation of managing federal lands for multiple use and sustained yield. However, behind closed doors and without any coordination with the County or other cooperating agencies the BLM has taken a complete politically driven reversal from its original direction and released a proposed RMP and DEIS that eliminates multiple use within the RSFO and in turn, Sweetwater County.

The adverse impact of the BLM's decision to move forward with Preferred Alternative B in the Proposed RMP will be felt most heavily by Sweetwater County and its constituents as well as the State of Wyoming as a whole. It also sets forth an uneasy precedent in the BLM's RMP development that excludes cooperating agencies and ignores the BLM's mandate to manage federal lands for multiple use and sustained yield. For these reasons and as outlined more thoroughly in the following comments the BLM must withdraw its Preferred Alternative selection correct multiple procedural errors in the RMP



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process, and complete a more thorough analysis, in coordination with the cooperating agencies of the proposed management actions outlined in the DEIS.

I.

BLM Failed to Honor and Comply with FLPMA's Mandates for Coordination with State and Local Governments in Development of the Preferred Alternative

B

The Federal Land Policy and Management Act ("FLPMA") requires the BLM to "coordinate the land use inventory planning and management activities of or for [public] lands with the land use planning and management programs. . . of the States and local governments within which the lands are located " 43 U.S.C. § 1712(c)(9). As part of this coordination, the BLM is to provide "meaningful public involvement of State and local government officials both elected and appointed, in the development of land use programs land use regulations, and land use decisions for public lands " *Id.* This includes the requirement to "develop resource management plans *collaboratively* with cooperating agencies" and with "*meaningful public involvement* of other Federal agencies, State and local government officials " 43 C.F.R. § 1610.3-1(a)(4) – (5); *see International Snowmobile Mfrs Ass'n v. Norton* 340 F. Supp. 2d 1249, 1261-62 (D. Wyo. 2004).

Local governments must be provided with an "opportunity for review, advice, and suggestion on issues and topics which may affect or influence other agency or other government programs." 43 C.F.R. § 1610.3-1(c). In addition "Field Managers should also collaborate with cooperating agencies in evaluating the alternatives and developing a preferred alternative " BLM Handbook 1601 Section 1.E.2.c; *see id.* at Section 9.2.7.3 ("Whereas the BLM must work with cooperators and other interested parties to encourage consensus on a preferred alternative . . . ") The National Environmental Policy Act ("NEPA") and its implementing regulations also recognize the importance of cooperation with State and local governments early in the NEPA process. 42 U.S.C. § 4331(a); 40 C.F.R. § 1501.8(a), (b)(1) (2020); *see also* Department of Interior, 516 DM 11, Section 11.4(C) (Dec. 10, 2020).

During the long history of the RMP revision process, the BLM focused early on in the 2012 cooperating agency meetings on editing the BLM's proposed Alternatives B and C. *See* DEIS at Table 5-1. However, after these discussions and revisions were made, the BLM made few, if any, substantive changes to these Alternatives after 2013. Alternative B was conveyed as representing a bookend or placeholder versus being functional or reasonable. The BLM and the cooperating agencies instead put all their focus on developing Alternative D which was referred to as the Balanced Alternative starting in 2015. It was at this point that the focus of all cooperating agency meetings was on developing Alternative D and the analysis associated with that alternative. *See e.g.* Attach. 1, Field Manager Email (May 20, 2019). By April 3, 2017, the Field Manager had identified Alternative D as the agency's preliminary preferred alternative. Attach. 2, Field Manager Letter (April 3, 2017) When the Administrative DEIS was released to cooperating agencies at the end of 2019, Alternative D continued to be identified as the agency's Preferred Alternative and was the focus of cooperating agency comments. *See* Attach. 3, Field Manager Email (March 15, 2018)



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At the direction of the BLM, because Alternative B was communicated as not a realistic conclusion, and due to Alternative D becoming the agency's preferred alternative by at least early 2017, the cooperating agencies spent a majority of their time and efforts on working with the BLM to develop Alternative D, refine this alternative, and focus their comments on this alternative. Cooperators were explicitly directed not to focus on Alternative B. With this focus, the cooperators were not provided with meaningful participation in developing Alternative B since 2013, nor did Alternative B receive much attention after 2013. It has been about 10 years since the BLM or the cooperators spent any time on refining or adjusting Alternative B, even after working on the environmental impact sections of the DEIS. The cooperators were not provided with meaningful involvement in developing Alternative B. *See* 43 C.F.R. § 1610.3-1(a)(4) (5); *see also International Snowmobile Mfrs Ass'n v Norton*, 340 F. Supp. 2d at 1261-62.

In addition, the cooperators had zero involvement with the selection of Alternative B as the Preferred Alternative. At one of the last cooperating agency meetings on July 14, 2020 (*see* DEIS at Table 5-1) and after receiving comments on the Administrative DEIS, the BLM continued to identify Alternative D as the Preferred Alternative. Then again on June 22, 2022, after two years of not meeting with cooperating agencies, the BLM provided an update on the status of review of the DEIS and amendments that were made to the Preferred Alternative D to reflect current BLM policy and direction. It was not until the release of the Proposed RMP and DEIS to the public a year later, in August of 2023, where Sweetwater County and other cooperating agencies were made aware of the BLM's dramatic shift in its preferred alternative to the most conservative of all alternatives, Alternative B, which was neither reasonable nor ready for submission.

The dramatic shift from Alternative D to Alternative B negates the decade-long collaboration and efforts of both BLM and cooperating agencies in developing the Alternative D. It further goes against BLM's own policy to work collaboratively with cooperating agencies in developing and working to reach consensus on a preferred alternative. *See* BLM Handbook 1601, Section 1.E.2.c; *see id.* at Section 9.2.7.3. All the cooperating agencies' focus, and commenting was directed to Alternative D and emphasized to them that this was going to be the Preferred.

While the BLM has provided additional time to comment on the DEIS after it was released to the public, the additional 60 days does not replace the years of review and multiple meetings that occurred with the focus on developing Alternative D as opposed to any other alternative. This is not good faith cooperation, let alone "meaningful" involvement, and rather shows a political shift and prejudged outcome. This shift in the preferred alternative was done behind closed doors, without cooperator involvement, and occurred after having limited communications with cooperative agencies for about three years.

The BLM must take a step back and work collaboratively with the cooperating agencies in developing the Preferred Alternative for the Rocks Springs Proposed RMP between now and the release



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of the FEIS. It cannot continue to push forward in this new direction without providing meaningful involvement of the cooperating agencies in developing the Preferred Alternative.

a *Failure to Timely Complete the NEPA Process*

The Rock Springs RMP revision first started in February of 2011 (DEIS at ES 7, 5-11) and is still not anywhere close to being finalized. Although some delays early in the process may have been warranted due to the first Greater Sage Grouse RMP revision process in 2012-2015 and to address/incorporate the Department of Interior's 2013 Consent Decree requirements for wild horses, there is no explanation from the BLM as to why the stop in work on this RMP occurred from July 2020 until August 2023. See DEIS at 5-2 (Table 5-1). The only change that occurred during this time is the BLM switching its Preferred Alternative without any other substantive changes in the DEIS.

The regulations currently state that to ensure NEPA reviews are conducted "as efficiently and expeditiously as practicable," an EIS must be completed within two years of issuing a notice of intent. 40 C.F.R. § 1501.10(b)(2) (2020). While the 2020 revisions to the NEPA regulations apply to processes started after September 14, 2020, the BLM could apply the new regulations to ongoing activities and environmental documents started before that date. 40 C.F.R. § 1506.13. In addition, the 2023 Fiscal Responsibility Act requires an EIS to be completed within two years. 42 U.S.C. § 4336a(g)(1)(A). The BLM's 13+ years of work on this RMP revision far exceeds the BLM's newer mandates to complete an EIS within two years. It also places into question the currentness of the data and inventories the BLM relies on for this revision and environmental analysis. Most of the baseline data was from 2013 or earlier. DEIS at ES 1. Due to the length of time this RMP and DEIS have sat, the information relied upon is largely outdated and must be updated before the RMP goes final. 43 U.S.C. § 1711(a); see also 40 C.F.R. § 1502.23 (2020).

II

BLM Must Correct Both Procedural Errors and Its Analysis of Areas Proposed for Designation as Areas of Critical Environmental Concern

Sweetwater County and the Coalition of Local Governments ("Coalition") have commented extensively on the BLM's analysis of areas proposed for designation as an Area of Critical Environmental Concerns ("ACECs") over the past 12 years. These comments specifically focused on the BLM's analysis of the relevant and important values identified by the BLM in what is now Appendix C of the DEIS and the BLM's failure to demonstrate any threat of irreparable damage to the resources to correctly measure the need for ACEC designation. Sweetwater County has attached the Coalition's previously submitted ACEC Table (Attach 4 ACEC Comment Table (Aug. 2017)) for the BLM's convenience and incorporates that discussion by reference here. In addition, the BLM failed to comply with its own regulations and policies when filing the notice of the proposed ACECs in Preferred Alternative B by not specifying the resource use limitation for each ACEC, not providing a complete list of all areas considered for ACEC designation, failing to explain why a nominated area did not qualify for



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designation as an ACEC, and failing to provide any monitoring requirements for special designated areas such as ACECs.

a. BLM Failed to Specify the Resource Use Limitation for Each ACEC and to Identify Areas Not Proposed for ACEC Designation in the Federal Register Notice

Pursuant to 43 C.F.R. § 1610.7-2(b) "[t]he State Director, upon approval of a draft resource management plan, plan revision, or plan amendment involving ACECs shall publish a notice in the Federal Register listing each ACEC proposed and specifying the resource use limitation if any which would occur if it were formally designated." The Federal Register notice for the Rock Springs Proposed RMP and DEIS provided a list of the proposed ACECs under the preferred alternative and included only the ACEC name, acreage, and short list of vague significant values for the areas 88 Fed. Reg. 56654-56655 (Aug. 18, 2023). The Federal Register notice failed to specify the resource use limitation(s) that would occur if the areas were formally designated as an ACEC thereby failing to provide notice to anyone affected by the particular limitation(s). *See id.*

In addition, BLM Manual 1613 requires the BLM to provide a list of all areas considered for ACEC designation including nominated areas that are not proposed for ACEC designations under the Preferred Alternative. *See* BLM Manual 1613, Section 21.A.2 and Section 32 (Sept. 29, 1988). The County believes that the BLM may have failed to disclose in the Federal Register Notice other areas that were nominated for ACEC designation but dropped from further consideration. *See* 88 Fed. Reg. at 56654-56655. At the September 25, 2023, City of Rock Springs Workshop, the Rock Springs Field Manager stated, over the course of scoping, because we scoped in 2011, and again in 2013 we had received over 27 ACEC proposals. Attach. 5, Transcript of Rock Springs Workshop Meeting (Sept. 25, 2023). Neither the Scoping Report for the Rock Springs RMP revision, the current Proposed RMP and DEIS, nor the Federal Register Notice for the release of the DEIS include a list of all 27+ proposed ACECs. Appendix C of the DEIS lists 26 proposed ACECs, but the Field Manager's statement represented that even more were proposed.

The BLM has failed to follow its own procedures for notifying the public about nominated and proposed ACEC's and must correct this procedural error. In accordance with the regulations other BLM Field Offices have provided more detailed descriptions in their Federal Register Notices of the proposed ACECs under Preferred Alternatives for their RMP amendments, in addition to listing those areas that were nominated but are not moving forward for designation as an ACEC. *See e.g.* Attachs. 6, Federal Register Notices re ACEC Proposals. Providing all information in the notice as required by the regulations will properly inform the public of the implications of any ACEC designations and potential restrictions that will be placed on other multiple uses.

The BLM must also provide a complete list of nominated and not nominated proposed ACECs to cooperators for review and consideration before re-noticing the proposed ACECs. This would allow for cooperators to review all nominated ACECs and provide meaningful feedback to the BLM. Knowing all areas that the BLM and/or the public have nominated for ACEC designation within the Rock Springs



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Field Office is also important for consideration and comparison for those areas the BLM is proposing to carry forward for designation under the Preferred Alternative B.

b BLM Failed to Disclose and Analyze in the DEIS When an Area Does Not Meet ACEC Criteria

"When an area is found not to meet the relevance and importance criteria the analysis supporting that conclusion must be incorporated into the plan and associated environmental document " BLM Manual 1613 Section 21.D (Sept. 29 1988) If more than the identified 26 Proposed ACECs from Appendix C are nominated as discussed above then the BLM also fails to provide an analysis in the DEIS at Chapter 4.21 explaining why certain nominated areas did not meet the relevance and importance criteria for ACEC designation. See DEIS at 4-229 - 4-231 This similar analysis is lacking in relation to Alternatives C and D which propose either no ACECS or a reduced amount of ACECs for designation despite the BLM's conclusions in Appendix C that the areas meet the relevance and importance criteria. See DEIS at 4-230-4-231; see also BLM Manual 1613 Sections 33.E and 33.F.

When the BLM had previously identified Alternative D as the Preferred Alternative, the BLM had also failed to explain why certain proposed ACECs were not going to be nominated despite meeting the "relevance" and "importance" criteria The CLG on behalf of member cooperators had supported exclusion of certain areas from ACEC designation and provided extensive comments on why those areas did not qualify. See Attach. 4 ACEC Comment Table (Aug. 2017). This type of discussion must be included within the DEIS See BLM Manual 1613 Sections 33.E and 33.F.

c. Proposed ACECs Must Meet the Relevance and Importance Criteria, and Further Require Special Management to Protect and Prevent Irreparable Damage to the Value/Resource of Concern

An ACEC is defined as "areas within the public lands where special management attention is required... to protect and prevent irreparable damage to important historic cultural or scenic values fish and wildlife resources or other natural systems or processes or to protect life and safety from natural hazards." 43 U.S.C. § 1702(a). A potential ACEC must satisfy a three part test before it may be designated in a RMP. First, it must have "relevance" meaning it possesses a significant historic, cultural, or scenic value; a fish or wildlife resource or other natural system or process; or natural hazard. 43 C.F.R. § 1610.7-2(a)(1). Second, it must also have "importance" meaning the relevant values identified in the first step must have "substantial significance and values." 43 C.F.R. § 1610.7-2(a)(2); see also BLM Manual 1613 Section 11.B. For the relevance values to meet the "importance" threshold, the area must have "more than locally significant qualities...compared to any similar resource," have qualities that make it fragile rare or irreplaceable, or been recognized as warranting protection to satisfy national priority concerns. BLM Manual 1613 Section 11.B.1 Third the nominated area must require special management "to protect and prevent irreparable damage to important historic cultural, or scenic values fish, wildlife, and plant resources, or other natural system or processes." 43 U.S.C. § 1702(a).



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In making this three step determination the BLM must consider whether "the values of other resources outweigh the need for protection of the important and relevant values " BLM Manual 1613 Section 22.A.2; *see also Rocky Mountain Oil & Gas Ass'n v. Watt* 696 F.2d 734 738 (10th Cir. 1982) (The FLPMA requires the Department of Interior to recognize competing values where public lands are to be managed in recognition of 'the Nation's need for domestic sources of minerals, food timber, and fiber from the public lands " (*quoting* 43 U.S.C. § 1701(a)(12))). The analysis is dynamic and comparative and depends entirely on the resources being compared, the public interest, and the value of, for example mineral resources that may be foregone. The BLM must also base its analysis on current inventories data and environmental studies for the public lands and their resources. 43 U.S.C. § 1711(a); *see* 40 C.F.R. § 1502.23 (Agencies shall ensure the professional integrity, including scientific integrity of the discussions and analyses in environmental documents Agencies shall make use of reliable existing data and resources.); *see also* BLM Handbook 1790-1 Section 6.7.2 (Jan. 30, 2008)

i BLM Fails to Adequately Explain the Proposed ACEC's Relevance and Importance

The BLM has proposed areas for ACEC designation that were previously rejected under the Green River RMP but has failed to explain why the areas now warrant designation after having previously been found to not meet the relevant and importance criteria. For example the Pine Mountain Management Area was "not recommended as part of the Greater Red Creek ACEC because Pine Mountain does not contain the same sensitivity of resources found in Greater Red Creek even though the watershed resources in this area are interconnected with those of Greater Red Creek. The area does not contain populations of the Colorado River cutthroat trout that the Greater Red Creek area has and thus would not need to receive the same management emphasis. DEIS at 2-163 (Mgmt. Action #7312) Under the Green River RMP Pine Mountain was maintained as a geographic management unit. *Id* The BLM provides no explanation or analysis indicating what has changed in the area to now warrant an ACEC designation, or that the area should be expanded to include the rest of the Proposed Salt Wells ACEC *See* DEIS at Appendix C-13 - C-14

Similarly Sugarloaf Basin was found to "not contain the same sensitivity of resources found in Greater Red Creek even though the watershed resources in the area are interconnected with those of Greater Red Creek The area does not contain populations of the Colorado River cutthroat trout that the Greater Red Creek area has and thus does not need to receive the same management emphasis. The watershed, scenic, and wildlife resources are determined to be neither more than locally significant nor fragile, sensitive or rare when compared to those values found in Currant, Sage and Red Creeks " DEIS at 2-168 (Mgmt Action #7329) Under the Green River RMP the Sugarloaf Basin was a management area. *Id* The BLM provides no explanation or analysis indicating what has changed in the area to now warrant an ACEC designation when it so clearly did not meet the relevant and importance criteria in the past *See* DEIS at Appendix C 15 - C-16

The same discussion and failure relates to many of the other newly Proposed ACECs which under the Green River RMP were managed as either Special Recreation Management Areas or



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Management Areas. One last example is the Monument Valley Management Area that Preferred Alternative B proposes for ACEC designation *Id.* at 2-1712-172 The BLM previously concluded that [a]lthough the Monument Valley area has unique scenic features and has the apparent high potential for significant cultural and paleontological resources, there has been little systematic inventory of these features and resources. This lack of information precludes identification of specific resources that meet the ACEC relevance and importance criteria for designation of ACECs " *Id.* at 2-171 In Appendix C the BLM does not describe any new inventory of "significant cultural and paleontological resources" and instead bases the ACEC designation on the qualities associated with the Adobe Town Wilderness Study Area ("WSA"). *Id.* at Appendix C-26. There is no explanation as to why the Checkerboard lands to the north of the WSA warrant ACEC designation or why the WSA designation is insufficient to protect the resources of concern. In addition, the County opposes any ACEC designations within the Checkerboard that would impact private landowner rights.

The other failure of the BLM's ACEC analysis is that it has not been able to show that the relevant resource value to be protected had more than local significant importance or that it was otherwise so rare and irreplaceable that additional protection was necessary. The Coalition, on behalf of its members such as Sweetwater County commented extensively on these failings over the last decade. *See e.g.* Attach 4, ACEC Comment Table (Aug. 2017). One of the main rationales given for the Proposed ACECs is to protect specific wildlife habitat including raptor nesting areas, big game crucial winter range habitat, migration corridors and sage grouse priority habitat management areas. However there is no discussion about how the wildlife habitat within the Rock Springs Field Office is any more significant or important than habitat found in the Little Snake White River Pinedale Kemmerer or Vernal Field Offices or any habitat found in any other state. Furthermore, the BLM fails to explain how the wildlife habitat is so sensitive, rare, or irreplaceable compared to any other habitat found across BLM's public lands. Wildlife habitat in the Rock Springs Field Office does not have "special worth, consequence meaning, distinctiveness, or cause for concern, especially compared to any similar resource." BLM Manual 1613 Section 11(B)(1)

The only time that the BLM addresses the potential rarity or importance of wildlife habitat is under the Proposed Big Game Migration Corridor ACEC DEIS at Appendix C 62-6-63. The BLM explains that the "migration corridor is the longest known mule deer migration corridor in the U.S. and is traveled by up to 5,000 deer twice each year." *Id.* at C 63. However, significant migration corridors exist in about every state in the western United States and additional corridors exist in the State of Wyoming. This alone does not warrant ACEC designation. In addition, as discussed more thoroughly in the next section, most important wildlife habitat receives protection through specific management actions that place seasonal restrictions, buffers, density disturbance requirements, etc.

ii. BLM Completely Ignores Discussion on Whether Special Management is Required to Protect and Prevent Irreparable Damage to Important Resources

Even if a nominated area meets the relevance and importance criteria for the ACEC, the BLM must still consider whether "special management attention is required" "to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish, wildlife, and plant resources,



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or other natural system or processes. 43 U.S.C. §1702(a); *see also* BLM Manual 1613, Section 12. The BLM ignores this portion of the ACEC analysis and fails to consider how the relevant resources are already protected under existing statutes regulations, and/or existing management actions. A significant example of this failure is the BLM's attempt to layer ACEC designations on top of WSA designations throughout the planning area under Preferred Alternative B.

If the ACEC designation is proposing the same management and restrictions as a WSA, then there is no reason for an overlapping ACEC designation. By law, WSAs are closed to development 32 U.S.C. § 1782(c). The BLM provides no explanation as to why the ACEC designation is necessary to protect the underlying resource value when it is already protected by the WSA designation. In addition, under Preferred Alternative B the BLM also proposes to continue managing WSAs that Congress chooses not to designate as Wilderness for their "wilderness values" DEIS at 2-152 (Mgmt Action #7101). The County opposes this management action, but also notes that the BLM provides no rationale for the need for an overlapping ACEC designation. The County objects to any ACEC designations that overlap with existing WSAs including the Pine Springs ACEC Oregon Buttes ACEC Greater Sand Dunes ACEC and Greater Red Creek ACEC. *See* DEIS at Maps 2-29 2-30 2-32. The County also objects to any ACEC designations that border WSAs to the extent the BLM is using it as substitute for expanding the current WSAs' boundaries.

The other resource values often cited in the ACEC analysis include areas of cultural significance, such as rock art panels, petroglyphs and other geological features as well as historic trails. While Sweetwater County does not object to the relevance and importance of some of these sites, the BLM fails to recognize the statutory protections these sites already receive. The Archaeological Resources Protection Act ("ARPA") 16 U.S.C. §§ 470aa 470mm, and the National Historic Preservation Act ("NHPA") 54 U.S.C. §§ 300101-300315; 36 C.F.R. Part 800, already provide longstanding protections to archaeological and cultural resources. The BLM must show additional special management is required to protect these resources or that the current laws are inadequate to protect them.

Cedar Canyon La Barge Sugarloaf Tolar and White Mountain are areas that are protected by ARPA and NHPA and the BLM should not use the rock art and petroglyph sites as a basis for ACEC designation. Sweetwater County especially objects to the expansion of existing ACECs, such as Cedar Canyon ACEC and White Mountain Petroglyphs ACEC, when those specific sites are already protected by statute and pursuant to other proposed management actions. *Compare* DEIS at Map 2-29 with Map 2-30. The BLM proposes to manage rock art sites and their surrounding viewshed "to protect their cultural and historical values" by prohibiting surface occupancy, placing a no surface occupancy for fluid minerals, designating it as a right of way exclusion area etc. DEIS at 2-91 – 2-92 (Mgmt Action #5100). ACEC designation is not necessary to protect this resource.

Finally, national historic trails and wagon roads are also protected by the NHPA and do not necessitate a large swath of land to be designated as an ACEC to protect the trails themselves. Pursuant to the National Register Bulletin #15 a trail must also retain its integrity to be considered in the National



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Register of Historic Places. A trail must still be well established or still visible and not obscured by modern use. Many of the historic trails, such as the Cherokee Trail in Wyoming are no longer visible and have only a few segments that can even be located.

For those that are visible a 1/4 mile buffer on each side of the trail is only warranted pursuant to the National Trails Act. *See e.g.* 16 U.S.C. § 1244(a)(3) ("The authority of the Federal Government to acquire fee title under this paragraph shall be limited to an average of not more than 1/4 mile on either side of the trail.). The BLM provides no explanation why the National Historic Trails within the Proposed South Pass Historic Landscape ACEC would require an additional 50,000+ acres under the Preferred Alternative B to protect trails that in many places are no longer visible. *See* DEIS at 2-195 (Mgmt. Action #7498 expanding South Pass ACEC from 53,940 acres to 171,300 acres under Preferred Alternative B)

The BLM must correct the substantial failure of addressing whether special management prescriptions are necessary to protect the resource values identified within the Proposed ACECs and address the fact that many of these areas are already protected by existing laws, other designations, and/or proposed management actions. The BLM must allow cooperator participation upon said correction.

iii ACECs Are Not a Substitute for Wilderness Study Areas

According to BLM's own policies, "[a]n ACEC designation will not be used as a substitute for wilderness suitability recommendations." BLM Manual 1613 Section 06. While ACECs may be designated within WSAs, "[i]f an ACEC is proposed within or adjacent to a [WSA] the RMP or plan amendments shall provide a clear description of the relationship of the ACEC to the recommendations being made for the WSA." *Id.* at Section 33.D. One thing to consider when determining the appropriate management prescriptions for a Proposed ACEC is if the area includes "an area recommended for designation (or already designated)" and if the "management under the other designation afford sufficient protection of potential ACEC values." *Id.* at Section 22.A.6.

The BLM has conveyed to cooperators that the ACEC designations on top of WSAs are proposed in case the WSAs are not retained. MA#7101 further admits the BLM's policy of using ACECs as a substitute for WSAs. However, the BLM fails to provide any discussion in the DEIS on the relationship between the proposed ACECs and the overlapping and/or neighboring WSAs. As discussed above, there is no description as to why an ACEC designation is necessary overtop an existing WSA, which is already managed to protect the area's wilderness values. There is also no explanation as to why an ACEC designation is necessary for those areas surrounding the WSA which under the Preferred Alternative B would be managed as a VRM Class II within three miles or the visual horizon (whichever is closer) of a WSA boundary." DEIS at 2-152 (Mgmt. Action #7102). For example, for the Monument Valley Management Area that Preferred Alternative B proposes for ACEC designation, the BLM fails to describe any new inventory of "significant cultural and paleontological resources" and instead bases the ACEC designation on the qualities associated with the Adobe Town WSA. DEIS at Appendix C 26. There is no explanation as to why the Checkerboard lands to the north of



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the WSA warrant ACEC designation or why the WSA designation is insufficient to protect the resources of concern

The County continues to object to the overlapping designations but the BLM must still provide sufficient explanation within the DEIS as to the relationship between the WSA and ACEC designations to properly inform the public of the management of these areas and to allow for meaningful participation in reviewing these explanations.

d. Monitoring Requirements for ACECS

Pursuant to 43 C.F.R. § 1610.4-9, a "proposed plan shall establish intervals and standards, as appropriate, for monitoring and evaluation of the plan." These should be based on the sensitivity of the resource to the decisions involved and provide for a way to evaluate whether mitigation measures are satisfactory or a significant change has occurred that warrants a plan amendment. *Id.* In addition BLM Manual 1613 requires ACEC monitoring to be part of the monitoring provisions in a RMP. BLM Manual 1613 Section 63. Intervals and standards for monitoring ACECs must be established and "is critical - not only to ensure that protection of the identified resource values occurs, but also to keep the managing official aware of how well the RMP provisions are accomplishing their objectives." *Id.* The BLM is also required to annually report on the progress of implementing and monitoring ACECs. *Id.* at Section 65

The DEIS fails to discuss any intervals and standards for monitoring ACECs. The Proposed RMP currently provides a management action to "establish an implementation monitoring and evaluation process, including all interdisciplinary monitoring plan, which would evaluate the overall effectiveness of implementing the management decisions for the planning area and would be used as a basis for making management adjustments." DEIS at 2-4 (Mgmt Action #0008) However this is insufficient as a monitoring plan should be included within this currently Proposed RMP and DEIS. The DEIS further fails to discuss any monitoring plan for ACEC management actions.

e. Economic Impact of Designating Over 1.6 Million Acres as ACECS

Preferred Alternative B proposes about 1.6 million acres of ACECs. DEIS at 4-230. Within the management actions for each associated proposed ACEC Preferred Alternative B proposes to withdraw all lands within the ACEC from mineral location close the majority of ACEC lands to fluid mineral leasing and solid leasable minerals and identify almost all ACECs as right of way (ROW) exclusion areas. *See id.* at Append. V 1 V 10 V 14 V 24. The impact this will have on both non renewable and renewable resource development is significant as little to no development would be allowed within over a third of the public lands and additional private lands within the checkerboard in the County due to ACEC designation alone. In addition, the impact to development will double as the BLM has proposed over 2.1 million acres for designation as Visual Resource Management ("VRM") Class II and 225,785 acres of VRM Class I under the Preferred Alternative B which includes ACECS and expands out to an additional 500,000 plus acres. *Id.* at ES 3 Maps 2-18 and 2-29, Append. V-22; *see also id.* at 4-136, 4-223 (discussing impact of VRM Class II designations on development).



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This will devastate Sweetwater County's economy and remove multiple use from the Rock Springs Field Office. The DEIS recognizes the following quantified economic impacts for Alternative B

Total economic output attributable to BLM administered land in the RSFO across all programs totals \$827 million annually in 2016 in Alternative B. Earnings total \$168 million annually. Employment totals 2,515 jobs annually. These values are approximately 56%, 52%, and 56% lower, respectively, than the comparable values for Alternative A.

Total quantified public revenues in 2016 range from approximately 52% to 55% lower under Alternative B than Alternative A. The state redistributes a small portion of total severance taxes and federal mineral royalties directly to the local communities where the revenues are generated. . . .

All quantified economic and public revenue indicators for oil and gas development and production are approximately 74% lower under Alternative B than Alternative A. This is due to the substantially lower number of wells drilled under Alternative B and corresponding reductions in oil and gas production as projected by the RFD scenario.

Id. at 4-2584-259 (emphasis added). The BLM then states that impact on overall oil and gas development may not be as high as the large reduction in BLM managed well counts would indicate because development may shift from the federal surface and mineral estates to non-federal surface and mineral estates. *Id.* at 4-259. However, this statement fails to recognize that development on private and state lands is unlikely to proceed, especially in the Checkerboard, where ROWs across federal lands are necessary for development to occur. In addition, closure of so many areas to development could also adversely impact the development of existing leases when the play or unit area is not fully leased and will never be fully leased due to Preferred Alternative B's proposed closures.

Under Alternative B, it is projected that a total of 1,292 federal wells would be drilled during the next 20 years (74% decrease compared to Alternative A). The decrease in the number of wells drilled is due to an increase in areas that are closed to fluid mineral leasing and managed with NSO stipulations. Approximately 2,186,218 acres would be closed to new fluid mineral leasing (305% increase compared with Alternative A) and 813,354 acres would be managed as NSO areas (412% increase compared with Alternative A) (Table 2-4, Map 2-6). Much like buffer

zones for trail corridors were established in an arbitrary and capricious manner, NSO boundaries, TLS restrictions (more than 700,000 acres) coal closure (3.54 million acres closed which amounts to a coal policy declaration, not a valid resource management planning provision), and the closing of more than 40,000 acres of trona leasing within the KSLA were established in an arbitrary and capricious manner not based on inventory data or monitoring provisions. Although fewer acres would be managed with CSU and seasonal restrictions, there would be far more acres managed as NSO or closed to new fluid mineral leasing compared to Alternative A, which would result in greater impacts to fluid mineral leasing, exploration, development, and operations in these areas. In addition, the NSO area boundaries are such that it would not allow access from offsite drilling.



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All quantified economic and public revenue indicators for oil and gas development and production are approximately 74% lower under Alternative B than A. The 74% anticipation of a reduction in oil and gas development, as indicated in Section 4.22.2.5 of the DEIS will have detrimental effects on local economies and public services. Over 55% of Sweetwater County's valuation comes from natural gas oil and trona so the ramifications of a loss in valuation will affect a diverse spectrum of services county wide. The BLM "Economic Impact Comparison Analysis" was cursory in nature and failed to take in account, *inter alia*, production ad-valorem taxes in their economic modeling. The BLM has failed to adequately consider or calculate the cost-benefit analyses as they pertain to ACECs as well as other values/resources and special designations. Rather the BLM limited their consideration to tax losses while using outdated data and failing to consider other methods of obtaining cost benefit analysis. The failure to consider data includes the fact that lease terms typically end in ten (10) years while the RMP process has gone beyond that time frame and thus, the data is beyond that term. There is further insufficient analysis of the impacts to the state and to renewable development as it relates to ACEC's (as well as other values resources and special designations).

Rather than doing an in depth cost benefit analysis, the BLM merely states at Section 4.22.5 of the Draft RMP "[h]owever, it is also possible that the low levels of oil and gas development under Alternative B could have negative community impacts. Many communities and residents in the planning area have experienced high rates of this development in the recent past, may expect such rates again in the future, and may have made plans or investments that depend on resumption of high rates of development. To the extent this is true for some of the communities and residents the reduced rates of development under Alternative B could reduce their ability to achieve desired levels of community development and individual economic well-being."

Sweetwater County received \$16,897,535.73 in oil and gas production ad valorem taxes in 2023. A 74% reduction would result in \$12,204,176.44 less revenue which will decrease revenue amounts down to \$4,333,359.29. The biggest revenue hit will be to local school districts which would decrease their revenue amount from \$8,502,839.98 down to \$2,946,684.32. The reduction

in jobs and earnings will also impact schools through the loss of student enrollment and as a result reduction in funding from the School Foundation Program. What complicates the projection from below is that the estimates pertain to the County and not solely to Sweetwater #1 or specifically Sweetwater #2. In lieu of this, we examined the cost from the loss of students based on the average daily membership (ADM). Said differently ADM generates how the funding is provided to Sweetwater #1 from the State.

Specifically for Sweetwater #1 the funding for one ADM is estimated at \$12,683.00. This amount is budgeted from the Board of Education Fiscal Update dated July 19, 2023. Therefore, a loss of 100 ADMs would be \$1,268,300.00. A loss of 200 ADMs would be \$2,536,600.00. A loss of 250 ADMs would be \$3,170,750.00. Using this projection significant cuts to school funding would affect workforce reductions, capital improvements, building maintenance, extracurricular activities and programming.



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and staff salaries. Furthermore this could necessitate the closing of schools particularly those in remote areas

In addition to school impacts, the Sweetwater County Public Works Department will also see impacts related to reduced revenues. When you exclude capital construction budgets the Sweetwater County Public Works budget is the second largest budget within the Sweetwater County Government. The Public Works Department maintains thirteen county parks, 1,200 miles of county roads, and is responsible for maintaining and cleaning twelve county buildings and employs approximately 52 full-time employees who work live and recreate within Sweetwater County.

If the Rock Springs RMP Alternative B becomes a reality, Sweetwater County will see a loss in valuation that will affect all the facets of the Public Works Department. To highlight the magnitude of this loss it is important to understand that the Public Works Department's total budget is just over \$12 million for FY2024. If the 74% reduction in ad valorem taxes becomes a reality that budget will be cut to approximately \$3 million Sweetwater County would only be able to fund 93% of our 2024 facility maintenance and custodial budget. This reduction will not even cover the FY2024 anticipated payroll of \$5,469,994 let alone pay for the anticipated maintenance of the roads, parks, and buildings. This loss in valuation would be so severe that Sweetwater County would need to choose if they maintained 932 miles of roadway and/or performed routine maintenance and cleaning of the county buildings All while not maintaining our county parks and vehicles (including the Sheriff's patrol and search and rescue) in safe working order. We wouldn't be able to maintain the full 1,200 miles of roadway because the total budget for Road and Bridge currently exceeds the RMP's estimated loss in budget by 12%. Ultimately these cuts would be so deep that the Public Works Department would be left with a skeleton crew of 13 employees to manage the public infrastructure that the citizens of Sweetwater County have come to rely on within the vast 10,500 square miles that we call home.

Furthermore, public safety will see impacts on both personnel and capital budgets with a projection of public revenue reductions. The Sheriff's Office comprises approximately 28% of the core county government budget. Thus, a 74% reduction in ad valorem and revenue would equate to a \$3,653,807 reduction in the Sheriff's Office budget. At an average cost per sworn deputy of \$134,407 we would be forced to attrition 15 sworn positions to meet this budget reduction. For perspective, we currently employ a total of 21 deputies on patrol and 28 deputies to staff the main operations at the detention center

Due to the number of duty stations and mandatory staffing minimums for accreditation, we would be able to reduce our sworn staff in the detention center by a total of four deputies but only if we also closed our dedicated juvenile detention section of the facility. We are currently only 1 of 4 certified facilities in the state of Wyoming qualified to house juveniles.

On the patrol/operations side of our organization, we would be forced to cut 11 sworn positions to meet this budget reduction. These staffing cuts would make it logistically impossible to provide 24 hour law enforcement services to the County and would force further cuts to services currently provided.



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Additionally these cuts would create a frequently dangerous situation due to understaffing that would leave our patrol deputies alone to address and resolve calls for service that normally require a two deputy response.

Additionally the Sheriff's Office capital budget for this fiscal year is \$186,715, approximately 1.5% of their total budget. These figures do not account for fleet vehicles recently purchased via federal ARPA funds. Our sheriff's vehicles cost \$72,000 apiece with vehicle and up fit purchase costs increasing year to year. On average the Sheriff's require approximately five vehicles yearly to maintain the strategic rotation requirements of our fleet plan, at an approximate cost of \$360,000 per year. If factored as their only capital line item this accounts for 2.7% of their total budget. In a hypothetical 74% loss in ad valorem and revenue to the County, the Sheriff's Office would likely have to cut our vehicle purchase requests to one vehicle per year, representing a reduced capital budget of \$93,600 per annum. These cuts would force the Sheriff's Office to extend the rotation/service times of their existing fleet, rendering many of the vehicles in their fleet unsafe to operate as emergency response vehicles representing an undue danger to their employees, incurring added maintenance expenses, and creating added liability to the County.

In addition to the severe impacts to the energy industry and local services that support our local economy, Alternative B de-emphasizes recreation as stated in Section 4.22.5 of the DEIS RMP, "particularly developed recreation relative to Alternative A. For instance, no SRMAS would be retained in Alternative B. Areas for OHV rallies, cross country races, and other organized events would not be provided. Certain areas that would have recreation project plans developed under Alternative A would not have such plans under Alternative B. Certain areas that would be managed for recreation values under Alternative A would be managed for other values under Alternative B." DEIS at 4-260. Events such as the "Run the Red" which is dedicated to celebrating and conserving the Red Desert, would be in jeopardy of receiving approval for future races. These events provide important tourist dollars within the County and surrounding Counties that are spent in local hotels, restaurants, and other retail establishments. The BLM cursory "Economic Impact Comparison Analysis" economic modeling fails to take in to account recreation and revenues from tourism.

In addition to the economic impacts that will result from Alternative B, Alternative B will also affect renewable energy policies, and development proposals that would be in contradiction to presidential administration priorities. According to Executive Order (EO) 14008, Sec 207 "Renewable Energy on Public Lands and in Offshore Waters. The Secretary of the Interior shall review siting and permitting processes on public lands and in offshore waters to identify to the Task Force steps that can be taken consistent with applicable law to increase renewable energy production on those lands and in those waters, with the goal of doubling offshore wind by 2030 while ensuring robust protection for our lands, waters, and biodiversity and creating good jobs". Alternative B is in contradiction to EO 14008 by creating energy corridors within proposed ROW exclusionary areas. According to Section 4.22.5 of the DEIS RMP, "Renewable Energy Stakeholders would view this alternative much less favorably than Alternative A. In particular, the very high acreage of this alternative that is in ROW exclusion areas (2,480,876 acres versus 426,709 acres under Alternative A) would make siting of wind energy projects



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and development of power transmission lines from areas with wind development difficult". According to Alternative B Map 2-18 and Table 1 over 2,148,902 acres of land would be a Class II VRM which would create obstacles in siting new renewable energy projects. The ROW exclusion areas will also prohibit critical transmission lines critical for wind and solar projects under Alternative B. The BLM failed to take into consideration future renewable energy projects.

Future projects adversely affected will include the Pacific Soda In situ Trona mining project. Sweetwater County has been a cooperator on the Pacific Soda In situ Trona mining project since 2020 and the developer has been working through the NEPA process with the Kemmerer Field Office. The project facility will be located within Township 18 North Range 108 West Sections 4, 8 and 6, which Alternative B has identified as both ROW Avoidance and Exclusion areas. Pacific Soda is proposing their facility in these sections which will have less environmental effects than other proposed alternatives in their NEPA documents. The project will bring over 1,000 permanent jobs to Sweetwater County including over 5,000 peak construction workers. The ROW exclusion areas will force the mine location in an area that will have more environmental effect, which will defeat the entire purpose of a ROW exclusion area. ROW exclusion areas should be removed from the checkerboard area and only occur in locations where adverse environmental effects can occur such as areas with special designations like WSAS or ACECs.

ROW exclusion areas under Alternative B would total 2,480,876 acres compared to 426,709 acres under Alternative A. This is a 581% increase for Alternative B. These changes in part reflect an increased number of ACECs (with accompanying restrictions) under Alternative B, and much larger acreages for some of the ACECs common to both alternatives. ACECs under Alternative B total 1,605,660 acres, compared to 286,450 acres under Alternative A. While the BLM suggests that ACECs don't affect mineral leasing they impact ROW exclusion areas (VRMS, NSOs, etc.) which in turn prevent access roads and pipelines to mineral sites.

All of these negative effects would also be felt with by the existing communities within the Growth Management Area. The purpose of the Growth Management Area, which encompasses the areas surrounding the most populous areas in Sweetwater County consisting of checkerboard ownership, is to promote orderly growth. The ROW exclusion areas shown in Map 2-22 will restrict city growth by prohibiting infrastructure expansion of water sewer transmission lines pipelines, and access roads within the most developable lands in Sweetwater County. Serious limitations on developable properties will constrain opportunities to address housing needs that support future industrial development projects. Again the BLM cursory "Economic Impact Comparison Analysis" economic modeling fails to take into account these effects.

Finally, the BLM's conclusion that impact to livestock grazing would not change between Alternative A and Alternative B is false. See DEIS at 4-178, 4-259. Many of the ACEC's have a no surface occupancy (NSO) designation and this will impact permitted livestock owners' ability to drill for water wells within their grazing allotments. See DEIS at Append. V 4 V 7. In addition, VRM Class II designations, ROW exclusions and prohibition of surface disturbing activities within an ACEC would impact the ability of permittees to develop range improvements, such as fences wells or other water developments. See *id* At 2-210 (Mgmt Action #7556) 4-179. Some of the proposed ACECs also call for closure of grazing



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allotments and/or prohibition of grazing within certain pastures. *See id.* At 2-181 (Mgmt. Action #7433) 2-182 (Mgmt. Action #7438) 2-184 (Mgmt. Action #7443).

III. **BLM's Visual Resource Management Classifications Fail to Adequately Consider the Underlying Resource Allocations**

The BLM has proposed over 2.1 million acres for designation as Visual Resource Management ("VRM") Class II under the Preferred Alternative B. DEIS at ES 3 Appendix V 22 Even under Alternative D the BLM is doubling the amount of VRM Class II designations from the Green River RMP - expanding it to include over 1.178 million acres. *Id.* As with other resources, values, and designations, both of these proposed alternatives fail to appropriately take into consideration the underlying resource allocations that were already made under the Green River RMP and that are being proposed under this current RMP revision. The Coalition has commented extensively on this issue over the last decade and the County supports and incorporates these previous comments. Sweetwater County has previously supported some VRM Class II designations (i.e. around Little Mountain) but has never agreed to such a large swath of land to be excluded from development.

According to the BLM's own policy, the approved VRM objectives shall result from and conform with the resource allocation decisions made in the RMP's "BLM Manual 8400 Section 06.A.2 (Apr. 5 1984); *see also id.* at Section 07.A. In referencing the provision of this BLM Manual the Interior Board of Land Appeals ("IBLA") stated: "[i]t seems clear from the foregoing that what the Manual intends is for the resource allocation decisions to determine the VRM classification." *Southern Utah Wilderness Alliance*, 144 IBLA 70 84 (1998) (explaining that VRM classifications must be made consistent with oil and gas leasing decisions and any stipulations provided in the RMP). The BLM cannot enforce VRM Classes when they conflict with the underlying resource allocation. *Id.* at 85-87 In addition, the management decision in the RMP must reflect the value of the visual resources, which are driven by information provided in the visual resource inventories ("VRI"). BLM Handbook 8410-1, Section V.1 - V.2 (Jan. 17 1986).

The BLM recognized during the Rawlins RMP revision process in 2008 that VRM Class II was inappropriate in the Checkerboard and also agreed to revise its VRM Class II classifications to not affect existing leased areas. *See* Attach. 7 Rawlins Protest Resolution Report Excerpt at pp. 139-142 (Dec. 24 2008). The VRM designations were remanded after the protest period to reevaluate the designations and complete an updated inventory of the visual resources within the planning area to comply with its own VRM policy. *Id.* It is the policy of the BLM to "prepare and maintain on a continuing basis an inventory of visual values on all public lands." BLM Manual 8400 Section 06.A.1; *see also* 43 U.S.C. §§ 1701(a)(2) 1711(a).

When you compare Map 3-8 that shows existing federal oil and gas leases to Map 2-18 (Alt. B) and Map 2-20 (Alt. D) it shows that the BLM has designated VRM Class II management in areas with existing resource allocations made under the Green River RMP. Under IBLA's holding, the VRM Class II would be largely invalid and unenforceable across the planning area. Under VRM Class II, the objective is "to



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retain the existing character of the landscape and "[m]anagement activities may be seen but should not attract the attention of the casual observer" BLM Handbook 8410-1 Section V.B.2. This would prevent resource development, a fact that the BLM recognizes. See DEIS at 4-136 ("The large increase in VRM Class II acreage. . . would greatly increase the impacts of visual resource management on mineral development activities. "), 4-223 ("More acreage managed under the lower VRM classifications . . . would place greater limitations to renewable energy development projects by restricting the availability and access of development sites and the site clearing/preparation/construction activities generation collection, and transport of the energy. "). necessary for the

The BLM must reevaluate and revise the VRM Class II designations to exclude those areas under existing mineral leases under the Green River RMP. These revisions should be made based on an updated inventory of the visual values in the planning area. Sweetwater County requests that like Management Action #5400 for Alternatives A and C the VRM Class I and II designations should be limited to the boundaries of those proposed special designations without expansion into other areas such as five miles on either side of a historic trail or within the Checkerboard. See DEIS at 2-106, Maps 2-17 and 2-19. These revisions should also be done in coordination with the cooperators, who have long expressed their concern for the VRM Class II designations proposed in the DEIS.

IV.

Travel Management Planning

a. Failure to Provide a Range of Alternatives for Off-Highway Vehicle Area

Designations

NEPA requires agencies to consider a "reasonable range of alternatives" to a proposed action in an EIS. 42 U.S.C. § 4332(2)(C)(iii); 40 C.F.R. § 1502.14(a); *New Mexico ex rel. Richardson v. Bureau of Land Mgmt.* 565 F.3d 683, 703 (10th Cir. 2009). An agency must study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources. 42 U.S.C. § 4332(2)(H). While an agency does not need to consider every alternative, "[t]he existence of a viable but unexamined alternative renders an environmental impact statement inadequate." *Or. Natural Desert Ass'n v. Bureau of Land Mgmt.* 625 F.3d 1092, 1122 (9th Cir. 2010).

The need to consider a range of alternatives applies to the management actions associated with the designation of off highway vehicle (OHV) areas within a RMP. *Id.* at 1123. "Striking the proper balance with regard to [OHV] use is thus of considerable importance to the BLM's land management planning because of the impact it has on public land resources and how such designation can alter the outdoor recreation experiences. *Id.* And the effect of a Plan's approval of OHV designations are "immediate and sweeping," because "[t]he approval of a [RMP] constitutes formal designation of off road vehicle use areas. *Id.* (quoting 43 C.F.R. § 8342.2(b)).



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The Proposed RMP and DEIS fails to consider a reasonable range of alternatives for OHV area designations. Under the current Green River RMP, the OHV designations are as follows: 12,831 acres open; 225,537 acres closed; 968,959 acres limited to designated roads and trails; and 2,398,839 acres limited to existing roads and trails. DEIS at 2-139 (Mgmt. Action #6607) All the other alternatives propose the same OHV designations: 12,831 acres open; 225,537 acres closed; and 3,367,576 acres limited to designated roads and trails. *Id.* There is no difference in the alternatives let alone a "reasonable range" of alternatives in this DEIS. See *Or Natural Desert Ass'n* 625 F.3d at 1123-24 (Off road vehicle analysis was flawed for failing to consider "no alternative that proposed closing more than a fraction of the planning area to ORV use."); see also *Ctr. for Biological Diversity v. Bureau of Land Mgmt.*, 746 F. Supp. 2d 1055 1088-89 (N.D. Cal. 2009) (All alternatives were based on the same OHV route network and thus do not provide a truly meaningful range of alternatives) "Sweetwater County supports outdoor recreation on federal land as part of a balanced plan of economic growth and quality of life" including OHV travel. Sweetwater County's Federal Lands and Resources Plan at Sections 19.2.1 and 19.2.2 (June 2022) Under all alternatives the BLM severely limits areas open for OHV travel and provides no opportunity for growth in the County. Preferred Alternative B also prohibits OHV rallies, cross-country races, and other organized events that have a long history of occurring in Sweetwater County and across BLM's lands. See DEIS at 2-140 (Mgmt. Action #6608) The County does not support any management action that would prevent these types of events from occurring since they provide substantial economic benefits to the County and local communities.

The BLM must work collaboratively with cooperating agencies to develop a reasonable range of alternatives for OHV area designations, and either re issue the DEIS or a supplemental EIS to allow for adequate public commenting on the alternatives.

b. Inadequate Discussions and Mapping for Mileage of Roads Open/Closed/Limited Under the DEIS

Throughout Chapter 4 the DEIS provides information on the mileage of roads either opened, closed, or limited under each Alternative. See e.g. DEIS at 4-25 (Alternative B's OHV management includes: 12,831 acres open, 225,537 acres closed and 3,367,576 acres limited to designated roads and trails, including 2,352 miles of open routes, 4,505 miles of closed routes, 67 miles of limited routes (routes limited to either non-motorized vehicles (e.g. bicycles) or to foot traffic), and 10,006 miles of transportation linear disturbance (routes that are not part of the BLM transportation network and would be identified for decommissioning) "). The BLM has continued to state that this language will be removed from the DEIS and that Travel Management Planning will occur at a later date. The County supports removal of this information considering that no lists of the proposed roads status or mapping of roads has been provided in the DEIS.

The County would also respond to the BLM's statements that travel management planning has not occurred. This is disingenuous and ignores the work the County completed and provided to the BLM on inventorying public roads, routes, and other linear features in the Rock Springs Field Office over the last decade. The BLM had also developed a range of alternatives for the proposed transportation network as is evidenced by the identification of numbers of miles open, closed or limited under each alternative in



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the DEIS. In fact, a travel management plan has essentially been developed but has not been fully released to the public at this time.

As currently proposed under Preferred Alternative B, the BLM plans to close thousands of miles of roads and other linear disturbances across the planning area. This will impact the County's plans to maintain and protect the current transportation network. See Sweetwater County's Federal Lands and Resources Plan at Section 13.2.5 (June 2022) ("The County opposes the closure of roads, trails, rights of way, easements or other traditional access for the transportation of people, products, recreation, energy, or livestock across federal land."). Private landowners, energy development, recreation, and livestock grazing all depend on the transportation network across federal lands to access resources and other private or state lands. The County does not support the reduction of access as currently proposed by the Preferred Alternative B through road closures. In addition, the proposed closures may impact roads that the County claims title over.

Even if travel management planning will occur at a later date, the BLM is still required to "document [within the RMP] the decision making process used to develop the initial network; provide[] the basis for future management decisions; and set[] guidelines for making transportation network adjustments throughout the life of the plan." BLM Handbook 8242 at p. 17 (Mar. 16, 2012). This includes assessing the current ground transportation linear feature database during the pre-planning stage and producing a "map of the known and existing network of transportation linear features includes modes of travel." *Id.* at 9, 17; BLM Manual 1626 Section 3.5 (Sept. 27, 2016).

The BLM must provide maps of the existing transportation network with the DEIS and allow for the public and cooperating agencies to comment on OHV area designations in light of the existing network. In the DEIS's current state, it is impossible to determine the effect of the proposed OHV area designations where there is no baseline data provided or mapping of even the known existing roads, routes, and other linear features.

V. Right-of-Way Avoidance/Exclusion Areas

Over 2.4 million acres are right-of-way (ROW) exclusion areas proposed under Alternative B. DEIS at ES 5. These ROW exclusions are due in part to the extensive amount of special designations that are proposed and include a ROW exclusion limitation. See *e.g.* DEIS at 2-23 (Mgmt. Action #1502), 2-163 (Mgmt. Action #7313), 2-169 (Mgmt. Action #7330), 2-178 (Mgmt. Action #7421). In addition, the BLM arbitrarily and without supporting data designates ROW exclusion areas within 5 miles on either side of a historic trail (*id.* at 2-143 (Mgmt. Action #7002)) for areas with significant rock sites and their viewsheds (*id.* at 2-91 (Mgmt. Action #5100)), among others. The number of acres designated as ROW exclusion will have a significant impact on resource development, recreation, and livestock grazing, as well as conflict with current federal policy to advance renewable energy on federal lands.

The amount of ROW exclusion and avoidance areas identified under Preferred Alternative B specifically conflicts with the Proposed RMP's overarching goal to: Manage public lands to meet transportation and



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ROW needs consistent with goals and objectives of other resources while supporting the national energy plans and policies " Compare DEIS at 2-115 (Mgmt. Action #6202 and Maps 2-22 and 2-24) *with id* at 2-114 (Goal LR 06) It also directly conflicts with the Energy Act of 2020 and Executive Order 14008. The Energy Act of 2020 established a minimum goal of "authoriz[ing] production of not less than 25 gigawatts of electricity from wind solar and geothermal energy projects [on public lands] by not later than 2025." 43 U.S.C. § 3004(b) Executive Order 14008 sets the goal of reaching 100 percent carbon pollution free electricity by 2030 net-zero emissions by 2050, and doubling renewable energy production on public lands by 2030. However, this goal will be difficult if not impossible, to obtain if the BLM continues its direction of closing public lands

BLM admits that "ROW exclusion areas would preclude renewable energy development" and greater restrictions would "limit access to development sites the placement of facilities structures, and transmission/pipelines, and site preparation and construction activities associated with renewable development." DEIS at 4-224. With the proposed closure dates of the coal plant facilities in Wyoming and renewable energy development planned in the future to replace it such widespread ROW exclusion areas will result in the inability to provide sufficient power to Wyoming residents and others into the future

In addition to completely contradicting this administration's energy plans and policies, the ROW exclusion areas also conflict and will significantly impact other development and use of federal land It would limit future access to mineral exploration and development sites (*id* at 4- 136) and to grazing allotments by federal permittees The Preferred Alternative B ROW exclusion areas will have a direct and immediate impact on currently proposed projects For example, the ROW exclusion areas will impact an existing Trona mine project that is currently working with the BLM Kemmerer Field Office The DEIS is proposing ROW exclusion areas in Township 18 North, Range 108 West, Sections 4, 8 and 6 that will impact the future site for a Trona mine processing facility. The applicant Pacific Soda is proposing their plant in a location that will be less impactful to the environment but located within these ROW exclusion areas The water line for the project will also be impacted in Township 18 North, Range 108 West Section 2, which the DEIS is proposing as a ROW exclusion area.

Alternative B ROW exclusion areas will also impact an economic diversification project in Sweetwater County. The County has been developing a large industrial complex south of the airport that will help to diversify the County's economy. The site requires access and development of infrastructure across federal lands that are currently proposed for ROW exclusion including: Sections 22, 26, 28, 32, and 34 of Township 19 North, Range 108 West; and Sections 2, 6, 8, 10, and 14 of Township 19 North, Range 108 West. The ROW exclusion will prohibit construction of this future industrial complex.

In addition, Preferred Alternative B's proposed ROW exclusion areas fall within the Checkerboard DEIS at Map 2-22. Sweetwater County objects to designating any ROW exclusion areas within the Checkerboard due to the impact it will have on the alternating sections of private lands and state lands. ROW exclusion areas infringe on private property rights by preventing the ability to access the private and state lands and to develop them when infrastructure (i.e. roads pipelines, electric lines, etc.) cannot be placed on the neighboring public lands. This raises the question of whether the ROW exclusion, in



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addition to other restrictions such as VRM Class II within the Checkerboard would result in the taking or partial taking of private property. *See North Mill Street LLC v. City of Aspen* 6 F.4th 1216, 1224 (10th Cir. 2021) (When regulations "deprive an owner of 'all economically beneficial use' of her property' it will be recognized as a taking" (quoting *Lingle v Chevron U.S.A., Inc.* 544 U.S. 528 537 (2005))

Sweetwater County requests the BLM to remove all ROW exclusion areas within the Checkerboard. The County further supports Alternative D as it relates to the identification of ROW exclusion areas in areas where it is appropriate (i.e. within WSAs). DEIS at Map 2-24.

VI **Consistency with Local Plans is Lacking in the DEIS**

Pursuant to FLPMA the BLM must ensure that "land use plans of the Secretary under this section shall be consistent with State and local plans to the *maximum extent* he finds consistent with Federal law and the purposes of this Act" 43 U.S.C. 1712(c)(9) (emphasis added) The BLM must keep apprised of state and local land use plans, give consideration to such plans and assist in resolving inconsistencies between Federal plans and local government plans. 43 C.F.R. §§ 1610.3-1(a)(1) (3), 1610.3-2(a). The regulations require federal agencies to address how inconsistencies between a proposed action and local lands use plans are addressed and resolved. *Am. Motorcyclist Ass'n v. Watt* 534 F. Supp. 923, 936 (D. Cal. 1981)

NEPA further requires the BLM to discuss within the EIS any inconsistencies of a proposed action with State and local plans and the extent to which such inconsistencies could be reconciled 40 C.F.R. §§ 1502.16(a)(5), 1506.2(d). It is not enough for the BLM Field Manager to state that the consistency review will occur after the FEIS has been filed because NEPA requires that the consistency discussion be included within the EIS *See Quechan Tribe of Ft. Yuman Indian Reservation v. U.S. Dep't of the Interior*, 927 F. Supp. 2d 921, 946 (D. Cal. 2013) (BLM's consistency analysis was sufficient due to the FEIS containing a "General Plan Policy Consistency Analysis which addresses the consistency between the Project and local regulations and law.).

The DEIS currently lists the Local, State, and Federal Management Plans but excludes Sweetwater County's Federal Lands and Resources Plan that was adopted by the County in June of 2022. DEIS at 1-6 While this County Plan is newer, the County did provide it to the Field Manager months before the Proposed RMP and DEIS was released to the public. In addition, the DEIS provides no discussion on how the Preferred Alternative B is consistent or inconsistent with local, state or federal land use plans let alone explain how it attempts to resolve any inconsistencies.

The County provides the Sweetwater County Federal Lands and Resource Plan (Attach 14) and the attached table (Attach 8 Consistency Analysis Table) to explain ways in which the Preferred Alternative B is consistent or inconsistent with its local land use plans. Overall, Alternative B is largely inconsistent with Sweetwater County's Comprehensive Plan and the Federal Lands and Resources Plan. The County supports managing federal lands for multiple use and sustained yield, and specifically managed for **the**



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primary multiple uses of "domestic grazing, minerals timber, wildlife recreation and rights of way " Sweetwater County's Federal Lands and Resources Plan at Section 2.1.1 (June 2022). The County also "discourages and vigorously opposes federal land use restrictions or special designations that eliminate multiple uses and constrain economic growth and activity " *Id.* at Section 2.2.2; *see id.* at Section 21.4.2 (County "opposes broad scale ACEC classifications") Instead the County "encourages growth and development to continue in location that contribute to the economic social well being of County residents." Sweetwater County Comprehensive Plan at p 2.4 (2002) The Preferred Alternative B is replete with management actions that move away from multiple use over utilizes special designations to restrict multiple use of public lands and deters economic growth and activity throughout the County. *See* DEIS at 4-258-4-260 (describing the extensive economic impact of Alternative B) Furthermore the Sweetwater County Federal Lands and Resource Plan provides standards criteria, and methodologies for special designations and management actions that were not addressed in any fashion.

Not only does Preferred Alternative B's management action overall conflict with the County's land use objectives and policies, but it also has the potential to conflict with the County's plans for development of its neighboring lands and resources This is a serious concern within the Wyoming Checkerboard, where private state and federal lands alternate section to section For example Alternative B's ROW exclusion area and VRM Class II designation neighbors the County's economic diversification project. *Compare* DEIS at Maps 2-18 and 2-22 with Attach 9 Economic Diversification Project "SWC Industrial Development Plan". The County has been working on developing a large industrial complex south of the airport to diversify its economy, and due to its location within the Checkerboard it requires access and infrastructure across federal lands. However, the Preferred Alternative B is proposing a ROW exclusion area and VRM Class II designations in the federal lands surrounding this County project area that will prevent the development and construction of the industrial complex

The BLM must address the inconsistencies between Preferred Alternative B and local state and other federal land use plans before the release of the FEIS The BLM must also work with cooperators in resolving the vast amount of inconsistencies before moving forward with this planning effort

VII Additional Comments on Other Specific Management Actions and Special Designations

a. Management Actions #4428 and #4430 under Preferred Alternative B and other alternatives, could close areas where historic raptor nests are located instead of limiting it to only occupied nests. DEIS at 2-72-27-3 The County questions the protection of historic nests when the DEIS provides no explanation or scientific evidence establishing the need to protect historic nests *See* BLM Handbook, Section 6.8.1.1 (requiring the identification of known and predicted effects that are related to the issues within an EIS). In addition to the issue of historic raptor nests, MA#4431 places a buffer requirement of 2 miles from surface disturbing facilities which is more restrictive than United States Fish and Wildlife standards The BLM has not provided information to support a 2 mile buffer zone The BLM arbitrarily applied a 2 mile buffer zone. (See Attach. 13, Wyoming Ecological Field Office Protections for Raptors)



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- b. Management Actions #7002 and #7004 under Preferred Alternative B would apply a VRM Class II objective within 15 miles in all directions of national historic trails, as well as designate lands with a buffer zone of 5 miles on each side of these trails as the trail management corridor (both buffer zones being arbitrary in nature) subject to the following restrictions: closed to mineral leasing, closed to mineral material sales, a withdrawal would be pursued, and designated as ROW exclusion. DEIS at 2-143. Management Action #7006 also states: "highly visible projects and/or projects out of scale with the surrounding environment... could be authorized within 20 miles of the NHTS only if the project causes no more than a weak contrast (VRM) to the setting of the NHTS." *Id.* at 2-145 said 20 mile buffer zone is similarly arbitrary. Sweetwater County objects to these expansive restrictions along historic trails considering the National Trails Act only affords protection within 4 mile of each side a historic trail. 16 U.S.C. § 1244(a)(3); *see supra* p. 9. The County supports Management Actions #7002 and #7004 for Alternative C, which [d]esignate 4 mile on either side of NHT trail segments as VRM Class II objectives and only limits surface disturbing activities within a 1/4 mile of any segment as it is consistent with the National Trails Act and utilized nationwide. DEIS at 2-143 - 2-144. The expansive trail buffers under Preferred Alternative B are also inconsistent with how neighboring BLM Field Offices treat historical trails. For example, for the Normally Pressured Lance Natural Gas Development Project in the Pinedale Field Office, the BLM prohibited surface disturbing activities within 4 mile of a historic trail unless the disturbance would not be visible from the trail or would occur in an existing visual intrusion.
- c. Management Action #7017 under Preferred Alternative B would apply a 1/2 to 5- mile buffer on either side of an intact trail or road segment that is eligible for protection but not congressionally designated, which depending on the distance would restrict development and implement ROW exclusion designation. The County objects to this Management Action for the same reason as noted above and because these historic trails and road segments have not been formally designated by Congress.
- d. The BLM failed to take into consideration the emerging carbon capture, utilization, and storage (CCUS) technology in addressing air quality impacts and modeling. The failure to consider this new technology and how it will help reduce air quality impacts from resource development has resulted in an over exaggeration of air quality impacts and subsequently additional restrictions on development under Preferred Alternative B. The BLM must provide a supplemental EIS that incorporates discussion on CCUS and the impact this technology has on reducing air pollution. The BLM also should include a management action for air quality that addresses CCUS technology. *See Attach 10 Final Report Integrated Commercial Carbon Capture and Storage (CCS) Prefeasibility Study at Rock Springs Uplift, Wyoming.*
- e. Sweetwater County objects to Management Action #6413 under Alternatives B, C, and D. DEIS at 2-122. Alternative B calls for the reduction of areas open to grazing and available AUMS when industrial activity conflicts with grazing operation and rangeland management objectives." *Id.* The BLM then lists examples of conflicts including loss of forage, unsuccessful



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rehabilitation of disturbed areas, invasive species, safety hazards, and improper livestock distribution. *Id.* Alternative D also states that "reductions in grazing use in industrialized areas could become necessary if mitigation is insufficient to maintain the current level of livestock grazing." *Id.* The County does not support the reduction in grazing when industrial activity is the cause of loss of forage, invasive species, unsuccessful rehabilitation, or others. The permittees should not be the ones to face reductions when their grazing activities were not the cause of any issue. Grazing permittees also have had longstanding relationships with resource developers and have had limited conflicts arising between grazing operations and development. This is due to proper planning and coordination between the developer and permittee, as well as implementation of a proper reclamation plan by the developer.

VIII Conclusion

Based upon all the foregoing comments, the City of Rock Springs requests that the BLM significantly revise its DEIS and Preferred Alternative selection in coordination with the cooperating agencies between now and the release of any FEIS. The County also believes that many of the issues to be resolved will require either the BLM to re-notice the DEIS or produce a supplemental EIS to provide sufficient opportunity for public comments before the FEIS is released. The BLM must reengage with the cooperating agencies if any of the issues are to be resolved collaboratively, allowing for a pragmatic revision process to occur moving forward.

Yours faithfully,

Max Mickelson, Mayor

City of Rock Springs, WY

Cc. Tracy Stone Manning, BLM Director
Andrew Archuleta, BLM Wyoming Director
Governor Mark Gordon
U.S. Congresswoman Harriet Hageman
U.S. Senator John Barrasso
U.S. Senator Cynthia Lummis

