THE WILDERNESS SOCIETY

Four Corners States Regional Office

November 23, 2005

Delivered via electronic mail and overnight mail

Office of Electricity Delivery and Energy Reliability
Room 8H-033
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, DC 20585

Re: Scoping Comments for the West-wide Energy Corridor Programmatic Environmental Impact Statement

To Whom It May Concern:

Please accept and fully consider these comments on behalf of The Wilderness Society and others on behalf of whom these comments are also submitted. The Wilderness Society, founded in 1935, strives to deliver to future generations an unspoiled legacy of wild places. Our 250,000 members nationwide care deeply about the management of our public lands. We appreciate the opportunity to submit these comments to the Department of Energy, the Bureau of Land Management, the U.S. Forest Service and their cooperating agencies. We are submitting these comments today via electronic mail and also forwarding a copy with attachments to you separately.

Issues Addressed: **Page**

I.	Areas for Further Analysis	2
	A. Issues to be Addressed in Continuing Analysis After Scoping	2
	B. Appropriate Level of NEPA Analysis	5
II.	Considerations for Siting of Energy Corridors	13
	A. Areas to Avoid	13
	B. GIS Data Needed to Complete the PEIS	15
	C. Maximize Use of Existing Infrastructure Where Appropriate	18
III.	Use of Existing Wind Energy EIS as Model for Approach	19
IV.	Avoiding and/or Mitigating Habitat Fragmentation	20

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I. Areas for Further Analysis

A. Issues to be Addressed in Continuing Analysis After Scoping:

The list of potential environmental issues in the Notice of Intent (NOI) issued by the Departments of Energy and Interior on September 28th, 2005 includes:

- Socioeconomic and recreational impacts of development of the land tracts and their subsequent uses;
- Impacts on protected, threatened, endangered, or sensitive species of animals or plants, or their critical habitats;
- Impacts on floodplains and wetlands;
- Impacts on archaeological, cultural, or historic resources;
- Impacts on human health and safety;
- Impacts on existing and future land uses;
- Visual impacts; and
- Disproportionately high and adverse impacts on minority and low-income populations, also known as environmental justice considerations.

We agree that these issues must be addressed, fully explored and studied, and potential mitigation measures discussed in appropriate detail in both the Draft and Final PEIS. Each of these issues must be analyzed at the landscape level including additional development supported by new corridors (discussed in greater detail bellow in Section I.B. of these comments).

1. Socioeconomic analysis.

In the last 30 years, the West has evolved beyond being a region whose economy was largely focused on extractive industries, into a more diverse economy (Bennett and McBeth, 1998; Johnson, 2001). As the economies of rural communities in the West evolve, the impact of public land management on these economies also evolves, and the management of our public lands must as well. There is a vast and growing body of research that indicates that the environmental amenities provided by public lands are an important economic driver in the rural West (Rudzitis and Johansen, 1989; Johnson and Rasker, 1993, 1995; Rasker 1994; Power, 1995, 1996; Duffy-Deno, 1998; Rudzitis, 1999; Rasker,et al. 2004; Holmes and Hecox, 2004). In a letter to the President and the Governors of the western states, economists from universities and other organizations throughout the United States point out that the environment is the West's greatest long-term economic asset (Whitelaw, et al. 2003).

The PEIS must consider the increasing importance of industries and economic sectors that rely on public lands for environmental amenities. Recent research has concluded that the presence of protected public lands strengthen western rural economies (Power, 1995, 1996; Rasker 1994; Rasker,et al. 2004; Rudzitis, 1999; Rudzitis and Johansen, 1989; Johnson and Rasker, 1993, 1995; Whitelaw, et al. 2003).

Today's western economy is characterized by certain indicators that must be considered in the economic analyses performed as part of the PEIS. These parameeers include the growing importance of non-labor income from investments and retirement, increasing employment in high technology, knowledge-based, and service industries, the important role that recreation and tourism plays in providing jobs and income, and the rise of small businesses and other entrepreneurial endeavors. **The PEIS must present data and analysis that fully accounts for negative impacts from habitat fragmentations, loss of quality of life, loss of quality recreation that corridors might have on tourism, recreation and hunting and fishing**. The recreation opportunities provided by wilderness quality lands yield direct economic benefits to local communities. **The PEIS socio-economic analysis must include an analysis of the income and jobs associated with recreation, hunting and fishing from each alternative.** We have provided a document entitled "Socio-Economic Framework for Public Land Management Planning: Indicators for the West's Economy," which details our expectations for the baseline analysis of the region's economy as well as the analysis of the potential impacts of this program. **We request that your analysis of the expanded energy corridors follow the approach set out in this document**.

In analyzing the socioeconomic impacts of proposed energy corridors, the agencies must complete a full accounting of the costs and benefits associated with this development. The agencies' accounting should recognize the multiple use aspects and the full extent and value of existing wilderness character and wildlands as a resource within and near the proposed corridors, which include formally designated Wilderness and Wilderness Study Areas, as well as other areas with wilderness and special characteristics identified by citizens and proposed for protective management. The multiple benefits that derive from protecting wilderness quality and other undeveloped lands include positive economic impacts to local communities. The PEIS should not only protect all existing wilderness character and wildlands in a manner that protects against impairment but also consider how managing these lands will affect wildlands and wildlife in other locations.

To facilitate informed decisions about publicly owned wildlands, economic analysis must take into consideration both market and nonmarket benefits and costs (Loomis 1993). To account for the full array of market and nonmarket wildland benefits, economists have derived the total economic valuation framework (TEV). TEV is the appropriate measure to use generally when evaluating the benefits of conserving wilderness character and wildlands. Figure 1 summarizes the seven categories of wildland benefits (Morton, 1999).

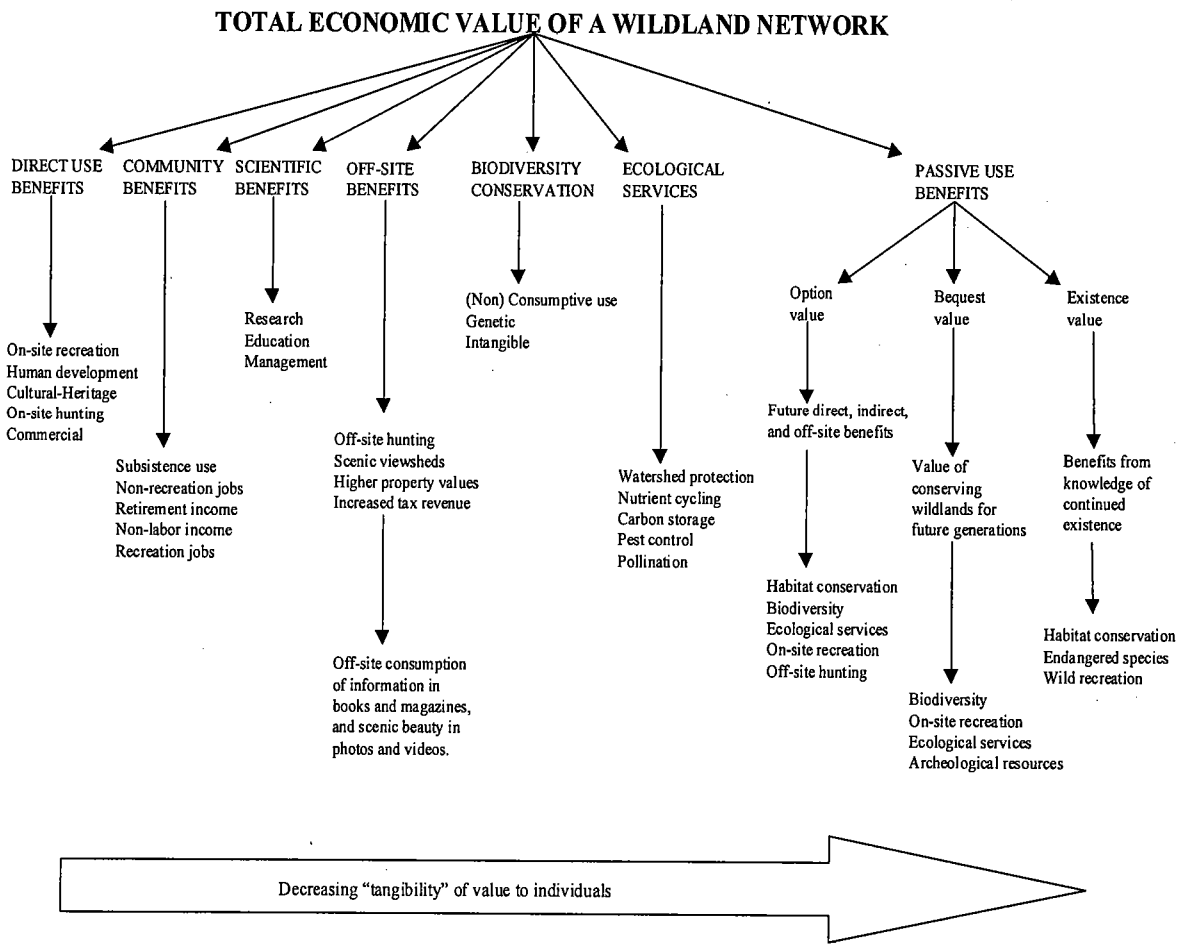

Figure 1. Total Economic Valuation Framework for Wildlands
Source: Morton, 1999

With respect to estimating the economic impacts (e.g. income to communities) of various management alternatives, the agencies should avoid the IMPLAN model or other input-output models that are grounded in economic base theory, as research has shown that IMPLAN is a static model that is inadequate for planning purposes. IMPLAN models also do not consider the impacts of many important variables that affect regional growth in the rural west, such as regional amenities like high quality hunting, fishing and recreational opportunities, open space, scenic beauty, clean air and clean water, a sense of community, and our overall high quality of life. Many of these amenities are associated with attracting new migrants as well as retaining long-time residents -- both of whom earn retirement and investment income. Unfortunately, most IMPLAN models completely fail to consider the important economic role of retirement and investment in the economy of a community – which can be a fatal flaw of the model. **We recommend that the agencies rely on trend analysis of income and employment for the counties impacted using the EPS system developed by the Sonoran Institute** (www.sonoran.org).

2. Visual resources

We are particularly encouraged that visual impacts has been separately and specifically identified as one of the issues to be further addressed through the PEIS. Analysis of visual resources is required by federal law (the National Environmental Policy Act requires that measures be taken to "assure for all Americans. . .aesthetically pleasing surroundings)." Further, scenic values are identified as one of the resources of the public lands (for instance, the Federal Land Policy and Management Act requires that "public lands will be managed in a manner which will protect the quality of scenic values of these lands") and are likely to be affected by use of right-of-way corridors.

3. Additional issues for further analysis

While the list of issues included in the NOI is a good starting point, it is not complete and we encourage the agencies to expand the list based on scoping comments received. **Most notably absent from the list of environmental issues is the impact of energy corridors on wilderness quality lands and on the fragmentation of wildlife habitat, in general, which the agencies should thoroughly address in this PEIS. We recommend that the PEIS specifically address these issues.** Further discussion of these issues is also included.

B. Appropriate Level of NEPA Analysis:

The National Environmental Policy Act (NEPA) requires the agencies to take a "hard look" at the potential environmental consequences of this proposed action, so that they must assess impacts and effects that include: "ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative." 40 C.F.R. § 1508.8.

1. Analysis of environmental impacts should be conducted at the landscape level.

The scope of NEPA analysis must be appropriate to the scope of the proposed action.[1] **In the context of this PEIS, the agencies should look to the overall effect on the landscape of these contiguous eleven Western States, and the many resources it contains.**

A landscape level analysis of proposed energy corridors will take into account the distribution of resources across the affected states, complying with the agencies' legal obligations to truly assess potential impacts and yielding management decisions that will balance and protect the multiple resources of these public lands. The placement of and conditions placed on energy corridors can define which areas will remain or become roadless, and which areas will be disturbed and how. By affecting the fragmentation of the landscape, energy corridors can affect how naturally or unnaturally a landscape will behave in terms of water flow and quality, wildlife migration, and species composition and function. In considering the potential impacts of permitting an entire network of energy corridors, the agencies must consider how this placement will change the landscape and interfere with species' ability to migrate and survive.

[1] Kern v. United States Bureau of Land Management, 284 F.3d 1062, 1072 (9th Cir. 2002).

The correct scope of analysis necessitates consideration of the connected landscapes of these states. As documented in the *Heart of the West Conservation Plan* (copy enclosed for your reference) -- a science-based spatial analysis of the relative importance of various wildlife habitat cores and linkages throughout the Heart of the West ecoregion -- the areas of northeastern Utah, northwestern Colorado, and southwestern Wyoming are inextricably linked in an ecoregion with core habitat areas and key migratory linkages. As a result, impacts to wildlife habitat in one part of the Heart of the West ecoregion will affect wildlife viability throughout the ecoregion. Similarly, there are basin-wide impacts, in terms of changes to the water quantity and quality in the Green River system, and cumulative impacts to the common airshed, all of which affect the entire Heart of the West ecoregion.

A landscape approach is supported by NEPA guidance on cumulative impacts, which requires that the entire area potentially affected be included in a cumulative analysis and holds that a failure to include an analysis of actions within a larger region will render NEPA analysis insufficient.[2] Thus, in order to accurately evaluate the potential environmental consequences of west-wide designation of energy corridors, the cumulative impact analysis would necessarily look at the cumulative impacts on all of the directly and indirectly affected landscapes. The Environmental Protection Agency, in providing direction to its reviewers, emphasizes the importance of ensuring that the cumulative impact analysis is based on "geographic and time boundaries large enough to include all potentially significant effects on the resources of concern. The NEPA document should delineate appropriate geographic areas including natural ecological boundaries, whenever possible, and should evaluate the time period of the project's effects."[3]

The Council for Environmental Quality's (CEQ) guidelines on cumulative effects analysis provide the following steps for determining the appropriate geographic boundary of cumulative impact analysis:

1. Determine the geographic area that will potentially be directly affected by an action – known as the "project impact zone";
2. Identify resources in the project impact zone that could be affected by the action;
3. Determine the geographic areas occupied by the resources outside the project impact zone.
4. Identify the appropriate area for analysis of cumulative effects based on the largest of the areas determined in step 3.[4]

For the energy corridors, the geographic area of impact will include the resources, such as wildlife, within areas of proposed development and their habitat extending outside such areas. The agencies can and should take the overall impacts of the corridors on the affected

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[2] *See, e.g.,* Kern v. U.S. Bureau of Land Management, 284 F.3d 1062, 1078 (9th Cir. 2002) (analysis of root fungus on cedar timber sales was necessary for entire area).

[3] U.S. Environmental Protection Agency, 1999, *Consideration Of Cumulative Impacts In EPA Review of NEPA Documents.* (emphasis original).

[4] Council on Environmental Quality, 1997, *Considering Cumulative Effects Under the National Environmental Policy Act.*

landscapes into account when considering their potential environmental consequences.[5] A landscape level analysis is an important part of a programmatic EIS, even if site-specific analysis might be deferred until authorization of specific projects. For instance, the U.S. Court of Appeals for the Ninth Circuit has held that analyzing the overall environmental risks involved in transporting oil from off-shore leases was appropriate and necessary in a PEIS, although specific analysis of individual pipeline locations could be deferred.[6] In order to fulfill the mandate of NEPA that the agencies make an informed assessment of the environmental consequences of its actions, the landscape level effects of an expanded large-scale corridor system must be assessed.

2. Cumulative impact analysis should include other pending programmatic efforts and additional development to be supported by new corridors.

As noted above, NEPA requires the agencies to consider the cumulative impacts of the proposed corridors. The CEQ's NEPA regulations define "cumulative impact" as:

> the impact on the environment which results from the **incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions**. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

40 C.F.R. § 1508.7. (emphasis added).

The analysis of impacts included in the PEIS must address the cumulative impacts of both the proposed energy corridors and other foreseeable connected activities within the same general areas. As noted above, the resources that allow an ecosystem to function often share a common geography, such that changes to the water quantity and quality in a river system or impacts to an airshed (which may be affected by activities such as oil and gas drilling), all contribute in common. Similarly, changes to these resources may affect the core habitat and linkages that are critical for survival of wildlife and vegetation in a region. Accordingly, where there are shared environmental resources that can act as indicators of the health of ecosystems, the agencies must analyze all of the direct and indirect impacts that affect them.

The Environmental Protection Agency provides the following guidance to its reviewers on assessing the range of other activities to be considered in cumulative impacts analysis:

1. the proximity of the projects to each other either geographically or temporally;
2. the probability of actions affecting the same environmental system, especially systems that are susceptible to development pressures;

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[5] *See, e.g.*, Newmont Mining Corp., 151 IBLA 190 (1999) (Where the Bureau of Land Management could take into account the overall degradation from existing and connected proposed operations, a cumulative analysis of all impacts was required); Kern v. United States Bureau of Land Management, *supra.* (BLM must perform cumulative impact analysis of reasonably foreseeable future timber sales on spread of root fungus before approving single proposed sale).

[6] County of Suffolk v. Secretary of Interior, 562 F.2d 1368, 1376-1377 (2nd Cir. 1977) (It was "essential to consider and weigh the environmental aspects of transportation, as well as of exploration and production.").

3. the likelihood that the project will lead to a wide range of effects or lead to a number of associated projects; and
4. whether the effects of other projects are similar to those of the project under review.
5. the likelihood that the project will occur -- final approval is the best indicator but long range planning of government agencies and private organizations and trends information should also be used;
6. temporal aspects, such as the project being imminent.[7]

In this case, the agencies' obligation to analyze impacts must encompass not only the proposed corridors, but also the cumulative impacts of the corridors, taken together with the impacts of existing, proposed, or reasonably foreseeable projects, on the environment. Thus, the agencies must analyze the cumulative impacts not just of the proposed corridors, but also of other projects that will impact resources in common with this proposed action. For instance, the BLM is currently evaluating or has approved a number of other programmatic environmental impact statements, such as the Programmatic Vegetation Treatments EIS and Environmental Report, the PEIS on Wind Development and programmatic environmental impact statements for development of oil shale and tar sands, as required by Section 369 of the Energy Policy Act of 2005. Section 1221 of the Energy Policy Act of 2005 also requires DOE to conduct a study and designate national interest electric transmission corridors. Section 368 of the Energy Policy Act of 2005 requires not only this PEIS for the eleven contiguous Western States, but also a follow-on PEIS for the rest of the nation.

In addition, once energy corridors are put in place, it is reasonably foreseeable that energy development projects will proceed and increase based on the location of those corridors – indeed, that is the entire purpose of this initiative: to increase the opportunities for energy development projects. The increased level of projects that is likely to occur around these corridors will have a correspondingly increased level of impacts on the surrounding lands. For instance, branch powerlines will need to be constructed to make best use of the powerlines in the approved corridors. Similarly, pipelines will likely support additional oil and gas development projects and also require construction of feeder pipelines. As noted by the Environmental Protection Agency in commenting on a Draft EIS for the Piceance Basin Expansion Pipeline (copy attached for your reference):

> **Increased gas transportation capacity will facilitate increased density and intensity of gas development. Increased transportation capacity will also increase the rate of gas development.** The FEIS should examine the indirect environmental impacts associated with increasing capacity for natural gas transportation and identify mitigation that will be implemented to reduce these impacts. Although the Piceance Basin DEIS did include a section on the cumulative impacts of oil and gas in the Piceance Basin, the analysis did not identify the indirect impacts that will be induced by increasing gas transportation capacity nor was any mitigation identified for impacts other than the impacts directly resulting from construction of the pipeline. (emphasis added)

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[7] U.S. Environmental Protection Agency, 1999, *Consideration Of Cumulative Impacts In EPA Review of NEPA Documents.*

The reasonably foreseeable growth of projects related to the corridors requires a thorough discussion of the "growth-inducing impacts" of the actions contemplated by the PEIS.[8]

In determining the appropriate scope of environmental analysis for an action, the Government must consider not only the single proposed action, but also three types of related actions:

> (1) Connected actions - Actions which are closely related and:
>
> (i) Automatically trigger other actions which may require environmental impact statements.
>
> (ii) Cannot or will not proceed unless other actions are taken previously or simultaneously; or
>
> (iii) Are interdependent parts of a larger action and depend on the larger action for their justification.
>
> (2) Cumulative actions – Actions, which when viewed with other proposed actions, have cumulatively significant impacts.
>
> (3) Similar actions – Actions, which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography.

40 C.F.R. § 1508.25. Under any of these classifications, the coordinated actions that the agencies are taking though this PEIS trigger a broader assessment of the cumulative impacts. The designation of individual corridors triggered by the PEIS may well require preparation of an EIS; and the corridor designations are all a part of the mandate from Section 368 of the Energy Policy Act of 2005. In addition, this PEIS and the other corridor programs identified above are all part of a policy to increase transmission and distribution facilities. So, the resulting agency actions are connected as "interdependent parts of a larger action," all of which "depend on the larger action [the Government policy] for their justification." Further, the many corridors that may be authorized based on this EIS, plus the other corridor designation efforts, the oil shale and tar sands development, and vegetative treatments will all have a compounding impact on natural resources, such as air and water, as well on species and habitat, causing a "cumulatively significant" impact. Finally, since the PEIS covers corridors in the eleven contiguous Western States, and the Wind Development PEIS, oil shale EIS, tar sands EIS and vegetative EIS also focus on these areas and are all in process or recently completed, these reasonably foreseeable actions will have "common timing and geography" and will be similar in terms of permitting more activities on these same lands, possibly even in the same places.

The increased level of energy development projects that will follow these corridors are also connected, as the individual projects (such as an oil and gas development project) are likely to

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[8] Davis v. Mineta, 302 F.3d 1104, 1122-1123 (10th Cir. 2002) (Indirect impacts of proposed highway construction project would be to support increased development, so "the agency must provide an adequate discussion of growth-inducing impacts." (citing Laguna Greenbelt, Inc. v. United States Dep't of Transp., 42 F.3d 517, 526 (9th Cir. 1994)).

trigger preparation of an EIS. Similarly, the clustering of projects to access the transmission corridors is likely to have a cumulatively significant effect on the resources in the area. And, since the additional energy development projects will be tied, at least to some extent, to the location of the corridors, these projects are certainly similar in terms of geography.

Both the various programs and the increased development projects will have a connected and cumulative effect on resources ranging from elk and pronghorn herds to bird of prey populations, sage grouse populations, air quality, water quality (and erosion and sedimentation), and overall potential for primitive recreation. Therefore, their combined impact should be taken into account as part of the analysis of cumulative impacts associated with this PEIS.

Courts have held that there are situations where an agency must consider several related actions in a single NEPA document. For instance, the U.S. Court of Appeals for the Fifth Circuit held that in a cumulative impact analysis, an agency should consider "(1) past and present actions without regard to whether they themselves triggered NEPA responsibilities and (2) future actions that are 'reasonably foreseeable,' even if they are not yet proposals and may never trigger NEPA-review requirements.[9] The court noted that the applicable law "does not limit the inquiry to the cumulative impacts that can be expected from proposed projects; rather, **the inquiry also extends to the effects that can be anticipated** from "reasonably foreseeable future actions."[10] Similarly, the U.S. Court of Appeals for the Ninth Circuit has specifically required analysis of activities on both public and private land, since both may impact federal resources, and has also found cumulative impacts analysis insufficient where it did not include foreseeable projects in the same geographical region.[11]

In this case, BLM's obligation to analyze impacts extends beyond the immediate impacts of the proposed corridor initiative to include the cumulative impacts of this project, taken together with the impacts of existing, proposed, or reasonably foreseeable projects, on the environment. As noted above, an insufficient cumulative impact analysis of actions within a larger region will render NEPA analysis insufficient.[12]

In order to fulfill the mandate of NEPA that the agencies make an informed assessment of the environmental consequences of their actions, the agencies can and should take these connected, cumulative and similar actions into effect and perform a cumulative impact analysis of their potential effects on the overall Western landscapes. "It is not appropriate to defer consideration of cumulative impacts to a future date when meaningful consideration can be given now."[13]

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[9] Fritiofson v. Alexander, 772 F.2d 1225, 1245 (5th Cir. 1985).
[10] Id. at 1243. (emphasis added).
[11] *See*, Natural Resources Defense Council v. U.S. Forest Service, 421 F.3d 797, 815-16 (9th Cir. 2005); Muckleshoot Indian Tribe v. U.S. Forest Service, 177 F.3d 800 (9th Cir. 1999).
[12] *See, e.g.*, Kern v. U.S. Bureau of Land Management, 284 F.3d at 1078.
[13] Kern v. United States Bureau of Land Management, 284 F.3d at 1075.

3. Site- and use-specific analysis must be conducted prior to designation and approval of energy corridors.

As noted above, the scope of NEPA analysis must be appropriate to the scope of the proposed action.[14] In the context of this PEIS, the future approval of individual corridors must be based on specific analysis of the proposed locations and uses of the corridors. If the PEIS will not seek to approve individual corridors or take the place of site-specific analysis, then the scope of NEPA analysis can be focused more on the general types of impacts and the overall effect of this policy initiative, as is most common for a programmatic EIS.[15] However, if the PEIS will commit the agencies to a specific course of action, such as authorizing actual corridors for use, then a site-specific and use-specific analysis of each corridor must be completed.[16] While this may require significant efforts, the Energy Policy Act of 2000 and the agencies have defined the scope of this project and "NEPA contains no exemptions for projects of national scope."[17] This standard has been applied to require that the Forest Service make a site-specific analysis as part of a PEIS that allocated millions of acres of land to non-wilderness use.[18] **For purposes of the PEIS for energy corridors, if this document will be used to justify placement of corridors or take the place of later analysis based on the site and anticipated use of individual corridors, then this document must contain thorough site and use-specific analysis for each corridor.**

We would recommend that the PEIS include definitive commitments to conduct site-specific NEPA analyses when individual corridor locations and proposed uses are identified. In fact, BLM's resource management plans and project-level EISs often state that site-specific analysis is not possible until a particular activity, such as a pipeline, is proposed. This approach would also be consistent with the NEPA regulation governing tiering environmental analysis for a site-specific action to a broader programmatic EIS. The regulation envisions that agencies can tier to a "broad environmental impact statement" so that the subsequent environmental document "shall concentrate on the issues specific to the subsequent action." 40 C.F.R. § 1502.20. In the context of the PEIS, this broader programmatic document should analyze the general effects of an increased network of corridors. However, tiering to this type of analysis cannot support the approval of individual corridors, which would require a NEPA analysis of the environmental consequences, as "specific to the subsequent action," be included in the PEIS.

Further, any potential use of the new categorical exclusions (CXs) contained in Section 390 of the Energy Policy Act of 2005 will require that site-specific analysis be required. For instance, the CX for placing a pipeline in an approved right-of-way corridor applies only if "**the corridor was approved** within 5 years before placement of the pipeline." (emphasis added). This language contemplates that the specific corridor was approved, requiring that the direct,

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[14] Kern v. United States Bureau of Land Management, 284 F.3d 1062, 1072 (9th Cir. 2002).
[15] See, Northcoast Envt'l v. Glickman, 136 F.3d 660, 688 (9th Cir. 1998) (Programmatic EIS is used to examine "an entire policy initiative.").
[16] *See*, State of California v. Block, 690 F.2d 753, 765 (9th Cir. 1982); County of Suffolk v. Secretary of Interior, 562 F.2d at 1378.
[17] State of California v. Block, 690 F.2d at 765..
[18] State of California v. Block, *supra.*

indirect and cumulative effects of the location and the uses of the corridor were considered, mitigated as appropriate, and then approved in compliance with applicable laws. **The PEIS is not an appropriate or legally sufficient vehicle to be used to justify approval of individual corridors or to support the application of CXs.**

4. The range of potential uses of the corridors must be considered.

In order to adequately analyze the potential environmental impacts of these corridors, the agencies must consider the different types and degrees of effects that could result from different uses. The scoping notice confirms that these corridors may be used for "oil, gas and hydrogen pipelines and electricity transmission and distribution facilities." The effects of these uses may be quite different, due to the differences in equipment, construction efforts, maintenance needs, etc. Conceivably, some or all of these uses may occur in the same corridor. **The agencies should identify the likely environmental consequences from the full range of these uses – both alone and in combination.**

5. Range of alternatives should include more environmentally protective approaches.

The range of alternatives is "the heart of the environmental impact statement." 40 C.F.R. § 1502.14. NEPA requires BLM to "rigorously explore and objectively evaluate" a range of alternatives to proposed federal actions. *See* 40 C.F.R. §§ 1502.14(a) and 1508.25(c). "An agency must look at every reasonable alternative, with the range dictated by the nature and scope of the proposed action."[19] This evaluation extends to considering more environmentally protective alternatives and mitigation measures.[20] The purpose of NEPA's alternatives requirement is to ensure agencies do not undertake projects "without intense consideration of other more ecologically sound courses of action, including shelving the entire project, or of accomplishing the same result by entirely different means."[21]

Whether an alternative is "reasonable" or not turns on whether it will accomplish the stated purpose for the project.[22] For this PEIS, the stated purpose is to designate corridors on federal land in the eleven contiguous Western states for oil, gas and hydrogen pipelines and electricity transmission and distribution facilities. In order to fulfill this purpose, the PEIS must contain a range of alternatives that takes into account the many values of the public lands that are likely to be impacted by the designation of corridors, including the direct, indirect and cumulative impacts of the corridors, as discussed in detail above, and which contemplates "more

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[19] Northwest Envt'l Defense Center v. Bonneville Power Admin., 117 F.3d 1520, 1538 (9th Cir. 1997).

[20] *See, e.g.,* Kootenai Tribe of Idaho v. Veneman, 313 F.3d 1094,1122-1123 (9th Cir. 2002) (and cases cited therein).

[21] Envt'l Defense Fund., Inc. v. U.S. Army Corps. of Eng'rs, 492 F.2d 1123, 1135 (5th Cir. 1974); *see also,* City of New York v. Department of Transp., 715 F.2d 732, 743 (2nd Cir. 1983) (NEPA's requirement for consideration of a range of alternatives is intended to prevent the EIS from becoming "a foreordained formality."); Davis v. Mineta, 302 F.3d 1104 (10th Cir. 2002); Or. Envtl. Council v. Kunzman, 614 F.Supp. 657, 659-660 (D. Or. 1985) (stating that the alternatives that must be considered under NEPA are those that would "avoid or minimize" adverse environmental effects).

[22] Custer County Action Ass'n v. Garvey, 256 F.3d 1024, 1041 (10th Cir. 2001); *City of* Carmel-By-The-Sea v. United States Dep't of Transp., 123 F.3d 1142, 1155 (9th Cir. 1997) ("[t]he stated goal of a project necessarily dictates the range of 'reasonable' alternatives").

ecologically sound courses of action" to protect these values. This approach is also consistent with NEPA's requirement for agency's to seek to mitigate identified environmental impacts and discuss mitigation measures in an EIS. 40 C.F.R. §§ 1502.14, 1502.16.

In addition to the alternatives identified in the scoping notice, **we recommend that the agencies consider the following, environmentally preferable alternatives in detail**:

1. **Limit corridors to areas adjacent to federal highways and other major state and municipal roadways** – these areas are already established corridors and placing corridors in these areas is unlikely to significantly increase the environmental consequences of the existing uses and will be less damaging than creating new corridors. This aspect of appropriate siting of corridors is discussed in more detail below;
2. **Limit all rights-of-way for the stated uses to the appropriately sited corridors** – this would prevent similar impacts from being caused both by the corridors designated pursuant to this PEIS and by other corridors designated separately;
3. **Do not designate corridors in sensitive areas** – the agencies can take this opportunity to contribute to the protection of sensitive areas and resources, such as critical wildlife habitat and lands with wilderness characteristics. Appropriate siting is discussed in more detail below;
4. **Limit the uses approved for corridors based on the other values that may be affected** – for instance, if a corridor is designated in important wildlife habitat, then uses of the corridor could be limited to activities that have a one-time construction effort and limited maintenance requirements.

II. Considerations for Siting of Energy Corridors

The location of the energy corridors identified in the PEIS will have lasting and far reaching consequences. An inappropriately sited and constructed energy corridor has the potential to cause significant damage to the environment and to human health. **Accordingly, it is crucial that the agencies commit to avoiding sensitive areas, obtain necessary information on lands with wilderness characteristics and consider maximizing use of existing infrastructure (where appropriate) in siting the corridors.**

A. Areas to Avoid:

Based on their important natural values and potential for damage from the construction, use and maintenance of the corridors, **we recommend that the PEIS include a commitment not to permit siting of energy corridors in the following types of areas**:

1. Wilderness Areas;
2. Wilderness Study Areas (WSAs);
3. National Parks;
4. National Wildlife Refuges;

5. National Monuments;
6. National Conservation Areas;
7. Other lands within BLM's National Landscape Conservation System (NLCS), such as Outstanding Natural Areas;
8. National Historic and National Scenic Trails;
9. National Wild, Scenic, and Recreational Rivers, study rivers and segments, and eligible rivers and segments;
10. Areas of Critical Environmental Concern (ACECs);
11. Forest Service Roadless Areas;
12. Threatened, endangered and sensitive species habitat, as well as critical cores and linkages for wildlife habitat;
13. Citizen Proposed Wilderness Areas; and
14. Other lands with wilderness characteristics.

The land classifications listed above apply to all 11 states considered in the PEIS. While we believe it is of primary importance that no energy corridor pass directly through any of the types of areas listed above, it is equally important that energy corridors do not infringe on the recreational enjoyment of certain types of areas or otherwise interfere with their natural function or other special values. **As a result, we recommend that energy corridors not be sited immediately adjacent to these areas, particularly if doing so would degrade the viewshed or likewise invalidate an area's potential for designation as wilderness.**

We would also note that the current map, entitled "Examples of Possible Energy Corridors" fails to display sufficient information to protect these places and also identifies potential corridors through the protected lands identified above. This map was provided by the PEIS team, who have emphasized that it depicts only "conceptual" energy corridors. However, we remain concerned with some of the glaring omissions and improper locations, so we are highlighting those in our comments. For instance, both National Park Service lands (such as Yellowstone National Park, Rocky Mountain National Park and Dinosaur National Monument) and National Wildlife Refuges (such as the Malheur Wildlife Refuge) are colored as private lands. Also, corridors are shown through Grand Staircase-Escalante National Monument and Cascade-Siskiyou National Monument. Similarly, two dotted red transmission corridors pass through or near proposed wilderness in the Fishlake National Forest north of Cedar City, Utah and in Wasatch-Cache National Forest in northwest Utah. While we understand this is just a preliminary, conceptual map, **it is critical that special areas are accurately identified and protected in any future maps of potential corridor locations.**

Furthermore, the West-wide Energy Corridor PEIS presents an opportunity for the agencies to conduct a west-wide inventory of their lands for wilderness characteristics. Many of the lands at issue in this PEIS contain wildlands, including numerous areas proposed for wilderness designation in citizen's wilderness inventories and previously submitted to the agencies. The agencies' governing laws and policy provide for ongoing inventory of wilderness characteristics and management to protect wilderness characteristics through management prescriptions or other administrative designations, such as ACECs on BLM lands, including as a priority over other uses.

Further, the April 2003 settlement agreement (Utah Settlement) between Secretary of the Interior Norton and the State of Utah (in which BLM abdicated its authority to designate any additional Wilderness Study Areas (WSAs)), does not affect BLM's obligation to value wilderness character or its ability to protect it, including in management designations which would also merit exclusion of energy corridors. We maintain that this agreement is invalid and will ultimately be overturned in pending litigation. Recently, a federal court in Utah revoked its approval of the Utah Settlement, stating that its approval of the initial settlement was never intended to be interpreted as a binding consent decree. [*Salt Lake Tribune* August 10, 2005: "Wilderness Deal No Longer OK with Judge," copy attached]. Recognizing that the court's decision undermined the legal ground for the Utah Settlement, the State of Utah and the Department of Interior have now formally withdrawn the settlement as it was originally submitted. *See*, Motion to Stay Briefing and for a Status Conference, September 9, 2005, copy attached. This casts serious doubt upon BLM's current policy not to consider designating new WSAs. Because the State of Utah and the Department of Interior have withdrawn their settlement and do not intend to seek a new consent decree, there is currently no binding consent decree and the BLM has not even issued any updated guidance seeking to continue applying this misguided, and illegal, policy. [23]

The Instruction Memoranda (IMs) 2003-274 and 2003-275, which formalize BLM's policies concerning wilderness study and consideration of wilderness characteristics in the wake of the settlement contemplate that BLM can continue to inventory for and protect land "with wilderness characteristics," such as naturalness or providing opportunities for solitude or primitive recreation, through the planning process. The IMs further provide for management that emphasizes "the protection of some or all of the wilderness characteristics as a priority," even if this means prioritizing wilderness over other multiple uses. In a February 12, 2004, letter to William Meadows, President of The Wilderness Society (copy attached for your reference), Assistant Secretaries of the Interior Rebecca Watson and Lynn Scarlett stated: "Wilderness characteristics can be protected by imposing a variety of designations and management prescriptions that are available to BLM as part of its resource management planning process."

Prior to designating energy corridors, we recommend that the agencies inventory the wilderness characteristics of these lands and exclude lands with wilderness characteristics from the lands available for designation of energy corridors.

B. GIS Layers Needed to Complete the PEIS:

Prior to siting energy corridors as part of the PEIS, it is imperative that the agencies gather the necessary information to ensure that wilderness quality lands are not disturbed. The agencies have before them a unique opportunity to act as stewards of the public domain on a west-wide scale. By collecting and using appropriate GIS data layers before siting energy corridors, the agencies can ensure that they avoid disturbing our nation's wild places. **We recommend that the agencies collect and use the following GIS data layers to map areas that are**

[23] Consequently, IM Nos. 2003-274 and 2003-275, which are explicitly based on an April 2003 settlement that no longer exists, are arguably invalid and do not apply to restrict BLM from designating new WSAs.

unacceptable for siting corridors and in siting corridors to avoid impacting the identified areas:

1. Designated Wilderness Areas (Available from USFS, BLM, NPS, NWR);
2. Wilderness Study Areas (WSA) (Available from BLM and USFS);
3. National Parks (Available from NPS);
4. National Wildlife Refuges (Available from US Fish and Wildlife Service);
5. National Monuments (Available from NPS and BLM);
6. National Conservation Areas (Available from BLM);
7. Other lands within BLM's NLCS (Available from BLM);
8. National Historic and National Scenic Trails (Available from BLM, USFS, NPS);
9. National Wild, Scenic, and Recreational Rivers, study rivers and segments, and eligible rivers and segments (Available from BLM, USFS, NPS);
10. ACECs (Available from BLM);
11. Forest Service Roadless Areas (Available from USFS);
12. Threatened, endangered and sensitive species habitat (available from USFWS, state wildlife agencies and, for BLM lands, from NatureServe[24]; critical cores and linkages for wildlife habitat (available from USFWS and state wildlife agencies); and
13. Citizen Proposed Wilderness Areas: Below is contact information where the agencies can obtain GIS Data Layers for Citizen Proposed Wilderness Areas in each state affected by the PEIS:

State	Contact Information
Arizona	**Address:** Arizona Wilderness Coalition PO Box 529 Alpine, AZ 85920 **Website:** www.azwild.org **Phone:** (928) 339-4426 **Email:** azwild@azwild.org
California	**Address:** California Wilderness Coalition 1212 Broadway, Suite 1700 Oakland, CA 94612 **Website:** www.calwild.org **Phone:** (510) 451-1450 **Email:** info@calwild.org
Colorado	**Address:** Colorado Environmental Coalition **Phone:** (303) 534-7066

[24] NatureServe was contracted to identify and map locations of threatened and endangered species habitat that exist only on BLM lands – making these areas even more critical to the survival of the species. Our understanding of the contact person at NatureServe for this information is: Nancy Benton, Project Manager, NatureServe, 1101 Wilson Blvd, 15th Floor, Arlington, VA 22209; Phone: 703/908-1886; Fax: 703/908-1917; nancy_benton@natureserve.org

	1536 Wynkoop Street #5C Denver, CO 80202 **Website:** www.ourcolorado.org	**Email:** info@cecenviro.org
Idaho	**Address:** Phinney Hall, Room 413 College of Natural Resources University of Idaho PO Box 441134 Moscow, ID 83844-1134 **Website:** www.cnrhome.uidaho.edu/pag/	**Phone:** (208) 885-5776 **Email:** pag@uidaho.edu
Montana	**Address:** Montana Wilderness Association PO Box 635 Helena, MT 59624 **Website:** www.wildmontana.org	**Phone:** (406) 443-7350 **Email:** mwa@wildmontana.org
Nevada	**Address:** Nevada Wilderness Project 8550 White Fir Street Reno, NV 89523 **Website:** http://www.wildnevada.org	**Phone:** (202) 266-0465 **Email:**
New Mexico	**Address:** New Mexico Wilderness Alliance 202 Central SE Suite 101 Albuquerque, NM 87102 **Website:** www.nmwild.org	**Phone:** (505) 843-8696 **Email:** Emailnmwa@nmwild.org
Oregon	**Address:** Oregon Wild 5825 North Greeley Portland, OR 97217-4145 **Website:** www.oregonwild.org	**Phone:** (503) 283-6343 **Email:** info@oregonwild.org
Utah	**Address:** The Wild Utah Project 68 South Main Street, Suite 400 Salt Lake City, UT 84101 **Website:** http://www.wildutahproject.org	**Phone:** (801) 328-3550 **Email:** wup@xmission.com
Washington	**Address:** The Wilderness Society, Seattle 1424 Fourth Ave. Suite 816 Seattle, WA 98101 **Website:** www.wilderness.org	**Phone:** (206) 624-6430 ext. 233 **Email:** bo_wilmer@tws.org

Wyoming	**Address:** Biodiversity Conservation Alliance P.O. Box 1512 Laramie, WY 82073 **Website:** www.biodiversityassociates.org **Phone:** (307) 742-7978 **Email:** maggie@voiceforthewild.org

The Wilderness Society has contacted all of the organizations listed above and encouraged them to provide the agencies a complete set of the GIS data layers for their Citizen Proposed Wilderness Areas prior to the November 28, 2005 deadline. In addition, The Wilderness Society will attempt to obtain the GIS data layers for all 11 states affected by the PEIS and provide the agencies a full set of Citizen Proposed Wilderness Areas GIS information. Unfortunately, we were unable to complete this task by the scoping deadline but understand that the agencies will accept this information after the official scoping deadline.

C. Maximize Use of Existing Infrastructure as Appropriate

The West-wide Energy Corridor PEIS presents the agencies an opportunity to limit the disruption and disturbance of energy corridors throughout the west. **Rather than placing these corridors through wilderness and/or wilderness quality lands, we recommend that the agencies place the corridors along existing interstate highways and U.S. highway corridors, as well as major secondary state-designated paved highways whenever possible and appropriate.** There are two main advantages to using this approach: reduction in time from planning to implementation and reduction in overall cost.

First, by siting energy corridors along or immediately adjacent to existing infrastructure, the NEPA analysis needed during the planning phase may be reduced and, at a minimum, are likely to have previous environmental analysis regarding the potential effects of use of the area as a starting point. Often, areas that have been previously disturbed require less analysis for expansion of existing disturbance than would be required for new disturbance of pristine and/or wild areas.

Second, by using existing infrastructure, construction costs and times will be greatly reduced. Construction supplies can be easily transported to and from job sites without the cost or time needed for constructing new routes. In addition, maintenance costs and times will also be greatly reduced. By placing corridors on or adjacent to existing highways and population centers, maintenance crews will be able to service the corridors quickly and efficiently, saving both time and money.

However, the agencies should bear in mind that use of these highway corridors is not always appropriate. Existing highway corridors may be adjacent to or impact areas that should be avoided, as addressed detail above. For instance, on the map of possible corridors, a north-south corridor near the Utah line west of Meeker, Colorado appears to follow State Highway

139, but is close to seven citizen-proposed wilderness areas, so that expansion of the corridor could impair their wilderness character.

Finally, new road construction and major improvements (such as paving and widening two-track dirt routes) should be minimized in favor of using existing interstate highways and U.S. highway corridors, as well as major secondary state-designated paved highways. Best management practices on everything from road location to grading and maintenance should be required to minimize erosion, sedimentation of surface waters, forage losses, invasive species and habitat disruption.

The agencies can mitigate the affects of the energy corridors on wildlife, recreational activities, and visual resources by placing energy corridors along existing infrastructure. By identifying energy corridors along existing interstate highways and U.S. highway corridors, as well as major secondary state-designated paved highways and strictly enforcing their use, the agencies have an opportunity to protect wilderness quality lands.

III. Use of Existing Wind Energy EIS as Model for Approach

In June, 2005, the Department of the Interior released its Final Programmatic Environmental Impact Statement on Wind Energy Development on BLM-Administered Lands in the Western United States. **Many aspects of the Wind Energy PEIS represent a well thought out structure for completing a programmatic environmental impact statement, which includes a broad analysis of environmental consequences and mandatory mitigation measures, as well as a directed approach for completing project-specific analysis. We recommend that the agencies utilize a similar approach for completing the West-wide Energy Corridor PEIS.**

Specifically, the PEIS explicitly outlined Best Management Practices (BMPs) and made the incorporation of these BMPs mandatory for all projects. In addition, the Wind Energy PEIS required development of additional site-specific mitigation measures in connection with the analysis and approval of individual projects. **We recommend that the agencies include mandatory BMPs in this PEIS at both the general and specific level**. In addition, many of the BMPs identified in the Wind Energy PEIS are also applicable to the development of energy corridors as part of this PEIS. The Wind Energy PEIS identified BMPs for five stages of development: Site Monitoring and Testing, Plan of Development Preparation, Construction, Operation, and Decommissioning. For each stage in the development of wind energy, BMPs were identified to mitigate the effects of or on the following:

1. Wildlife and Other Ecological Resources;
2. Visual Resources;
3. Roads;
4. Transportation;
5. Noise;
6. Noxious Weeds and Pesticides;
7. Cultural/Historic Resources;

8. Paleontological Resources;
9. Hazardous Materials and Waste Management;
10. Storm Water;
11. Human Health and Safety;
12. Air Emissions; and
13. Excavations and Blasting Activities.

The Wind Energy PEIS listed the Resource Management Plans (RMPs) that must be amended or revised in order to comply with the PEIS. The agencies should likewise identify RMPs, Forest Plans or other governing agency documents affected by this PEIS.

The Wind Energy PEIS also specifically acknowledged the importance of keeping development out of special lands and identified areas from which wind energy development would be excluded. The PEIS excluded all Wilderness, BLM NLCS lands and ACECs from consideration for development of wind energy (including transmission lines). While this is a good start, the agencies should go a step further and adhere to the list of places to avoid provided for in Section II(A) of these comments.

IV. Avoiding and Mitigating Habitat Fragmentation

As discussed above and as shown in *Heart of the West*, the lands under consideration in the PEIS contain core habitat areas and migration linkages between those core areas, all of which need to be preserved in order for the regional ecosystems to continue to function. Fragmentation of wildlife habitat affects the ecological composition, structure, and functions of a landscape. Habitat fragmentation has been defined as the "creation of a complex mosaic of spatial and successional habitats from formerly contiguous habitat" (Lehmkuhl and Ruggiero 1991). **Although fragmentation can be difficult to measure, there are a variety of metrics that can be used to assess the degree of existing habitat fragmentation and the condition of the landscape, then applied to available data regarding distribution of wildlife and habitat, and ultimately used to make decisions regarding appropriate locations for energy corridors. We recommend that the agencies complete such an analysis as part of the PEIS.**

Existing road density can be calculated by measuring the length of linear features in a given sub-area at regular intervals and then reported as miles of route per square mile (mi/mi^2). The degree of habitat fragmentation, the distribution of unroaded areas, or core areas, can also be measured and calculated based on the amount of land beyond a given distance or effect zone, from transportation routes (Forman, 1999). Wildlife species respond to disturbances related to this type of network at varying distances, so determining the size distribution of core areas for a range of effect zones (i.e., of 100ft, 250ft, 500ft and 1320ft) from all routes is also important. Wildlife literature will yield information on the effect zones for different species. For instance, Rost and Bailey (1979) used mule deer pellet counts as an indication of winter habitat use, reporting lower density of deer in more open mixed shrub and forest habitat than in sites with more forest cover. Their data show that deer were three times more likely to occur 984 - 1312 feet from a road than 328 feet from a road. An ongoing study by Sawyer et al. (2005, 2004, 2001) of GPS collared deer on the Pinedale Anticline observed that deer utilized habitat

progressively further from roads and well pads over three years of increasing gas development and showed no evidence of acclimating to energy-related infrastructure.

Wildlife habitat fragmentation caused by transmission lines (including branch powerlines), pipelines (including feeder pipelines) and roads generally fall into three broad categories:

1. Construction impacts (access, right-of-way clearing, construction of towers, stringing of cables);
2. Line maintenance impacts (inspection and repair); and
3. Impacts related to the physical presence and operation of the transmission line.

As such, wildlife habitat must be examined on an individual project and site-specific basis. The only way to accomplish this requirement is to ensure that each individual corridor is spatially evaluated for direct, indirect and cumulative impacts.

Specific activities that negatively impact wildlife and cause habitat fragmentation include the construction of towers, blading and scraping of the ground, disturbance of soil by the use of heavy, noisy machinery during construction and line maintenance, noise from helicopters, removal of vegetation, blasting, filling depressions (a.k.a. recontouring the landscape), disposal of waste and chemicals on site, use of herbicides, and the use of burrow pits.

The effects of these activities on wildlife can be severe and include removal of habitat, fragmentation of habitat, and the creation of edge effect vegetation and habitat (changes in composition, structure, microclimate, etc. of area adjacent to corridor). Species shown to avoid edges include red-backed vole, snowshoe hair, pine marten and red squirrels. In addition, it is logical to suspect that construction of energy corridors in previously undisturbed areas will lead to a direct loss of life to wildlife during construction, operation and service of transmission lines.

The Wyoming Game and Fish Department (WGFD) has recently completed a report containing guidelines for wildlife protection in areas of energy development, which includes a review of the literature on the impacts of roads, other infrastructure, and human activities associated with energy development on sagebrush and grassland habitats and their associated wildlife species in Wyoming.[25] The report also demonstrates the likelihood of habitat fragmentation from energy development, which not only includes the corridors, but also, as discussed above, includes the increased development likely to occur once the corridors are designated. WGFD's report (at p. 5) states:

> Adverse effects of oil and gas development can be divided into 6 general categories: 1) direct loss of habitat; 2) physiological stress to wildlife; 3) disturbance and displacement of wildlife; 4) habitat fragmentation and isolation; 5) introduction of competitive and predatory organisms; and 6) secondary effects

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[25] *Recommendations for Development of Oil and Gas Resources within Crucial and Important Wildlife Habitat: (A Strategy for Managing Energy Development Consistently with the FLPMA Principles of Multiple Use and Sustained Yield).* This voluminous document is available on WGFD's website at: <http://gf.state.wy.us/habitat/index.asp>.

> created by work force assimilation and growth of service industries. The direct loss or removal of habitat is always a concern, however oil and gas developments are typically configured as point and linear disturbances scattered throughout broader areas. **Collectively, the amount of disturbance may encompass just 5-10% of the land. However, avoidance and stress responses by wildlife extend the influence of each well pad, road, and facility to surrounding habitats.**

The WGFD provides further discussion on how oil and gas development causes habitat fragmentation:

> As densities of wells, roads, and facilities increase, the effectiveness of adjacent habitats can decrease until most animals no longer use the habitat. Although vegetation and other natural features may remain unaltered within areas near oil and gas features, wildlife make proportionately less use of these areas than their availability. Animals attempting to forage inside the affected zones are also subjected to increased physiological stress. The avoidance/stress effect impairs function by reducing the capability of wildlife to use the habitat effectively. In addition, physical or psychological (i.e., disturbance-related) barriers lead to fragmentation of habitats and further reduce the availability of effective habitat. These impacts can be especially problematic when they occur within limiting habitat components such as crucial winter ranges and reproductive habitats.[26]

WGFD further notes that oil and gas activities will harm wildlife populations even if there is suitable habitat nearby: "When activities associated with energy development displace animals from otherwise suitable habitats, the animals are either forced into marginal habitats or they compete with animals that already occupy the unaffected habitats. Consequences of such displacement and competition are lower survival, lower reproductive success, lower recruitment, and ultimately lower carrying capacity and reduced populations."[27]

Analyses prepared by The Wilderness Society likewise demonstrate the need for analyzing this indirect habitat loss resulting from designation of energy corridors and related development. For example, the analysis of gas development contained in Thomson et al, 2005, *Wildlife at a Crossroads* (copy attached for your reference), which reviews and discusses wildlife literature linking spatial measures of habitat fragmentation to affects on specific wildlife species, shows how the ecological effects of energy development extend well beyond the physical footprint of the roads, well pads, and pipelines. Similarly, the analysis in Weller et al, 2002, *Fragmenting Our Lands* (copy attached for your reference), exposes the fallacy of only considering oil and gas development's direct footprint on wildlife. The report demonstrates that while only 4% of the study area is covered by oil and gas infrastructure (roads, pipelines, pads, waste pits, etc.), the effect of that infrastructure is much greater. The entire landscape of the field is within one-half mile of a road, pipeline corridor, well head, retention pond, building, parking lot, or other component of the infrastructure. 97% of the landscape falls within one-quarter mile of the infrastructure, only 27% of the study area is more than 500 feet from infrastructure, and only

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[26] Id.
[27] Id. at pp. 6-7.

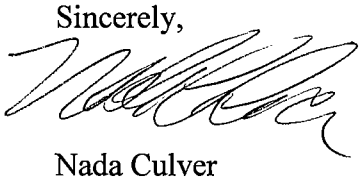
3% is more than one-quarter mile away. These results clearly show that oil and gas drilling and extraction cause significant fragmentation of habitat.

The agencies likewise have the capacity to measure habitat fragmentation. For instance, in the Draft Resource Management Plan/Environmental Impact Statement released by the BLM's Vernal, Utah Field Office in January, 2005, included extensive measurement of potential habitat fragmentation using a range of effect zones and specific impacts to be expected for different affected species. *See, e.g.,* Vernal DEIS, Appendix I and Section 3.19.2. The fragmentation that is likely to result from the designation and use of corridors contemplated by the PEIS, as well as the foreseeable other uses and expanded energy development, could cause irreparable damage to wildlife habitat throughout these eleven Western states. The agencies must specifically investigate these potential environmental consequences and take steps to avoid or minimize them.

V. CONCLUSION

Thank you again for this opportunity to provide input regarding the management of our public lands and the spectacular resources they hold. The agencies collectively manage some of the most beautiful and biologically and geologically diverse lands in the country, and the American public is counting on you to protect these values for the future. We look forward to continuing our positive working relationship. Please feel free to contact us if you have any questions or need additional information. We would also welcome the opportunity to meet with you to present and discuss these comments in person.

Sincerely,



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Attachments and References

Attachments:

1. *Socio-Economic Framework for Public Land Management Planning: Indicators for the West's Economy*, 2005, The Wilderness Society.
2. Heart of the West Coalition. 2004. *Heart of the West Conservation Plan*
3. Environmental Protection Agency comments on Draft EIS for the Piceance Basin Expansion Pipeline, June 23, 2005.
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Attachment 1

THE WILDERNESS SOCIETY

SOCIO-ECONOMIC FRAMEWORK FOR PUBLIC LAND MANAGEMENT PLANNING

INDICATORS FOR THE WEST'S ECONOMY

November 10, 2005

I. PURPOSE

This brief is submitted as part of the NEPA process for this land use plan proposal. It is intended to identify issues that must be analyzed in the plan and offer methodologies to assist agencies responsible for analyzing the impacts of proposed land use decisions on Western economies.

In making land use decisions, federal agencies have an obligation under the National Environmental Policy Act (NEPA) to take a "hard look" at the environmental consequences of a proposed action and the requisite analysis "must be appropriate to the action in question." This brief presents a framework and indicators to be used in analyzing the impact of public land management proposals on the economies of Western communities. Federal agencies cannot evaluate the consequences of proposed decisions or determine how best to avoid or mitigate negative impacts without adequate data and analysis. Through the application of the methodology we have provided below, using data collected from identifies sources and measuring potential impacts through key indicators, federal agencies can best fulfill their obligations to evaluate the direct, indirect, and cumulative impacts of various alternative decisions.

II. INTRODUCTION

We have organized this paper to facilitate the identification of key issues related to the impact of federal public land decisions on Western economies, and to provide key indicators for analyzing the impacts of those decisions on the economy of the West. The first section describes the changing economy of the western region, and how pubic land management planners should evaluate the economic impacts of land management alternatives. Next, we present key economic indicators for the West's economy and discuss the implications of these indicators for the selection and analysis of land management alternatives. We provide examples of the statistics and data available to analyze each of the key indicators. These examples focus on the five Rocky Mountain states which are currently facing accelerated development of oil and gas on their federal public lands while at the same time realizing the potential embodied in the amenity-base economy of the West. These states are: Colorado, Montana, New Mexico, Utah, and Wyoming. The next section presents sources of data which are readily available for states and counties, to which land managers should refer when preparing economic analyses for public lands. Next we outline the methodology by which the West's economy should be analyzed in order to fully account for information that is traditionally absent in public land management assessments. Finally we provide a detailed list of our NEPA scoping questions which include specific recommendations for analyzing economic trends and conditions affected by the proposed management decisions.

III. OVERVIEW OF THE WESTERN ECONOMY

In the last 30 years, the West has evolved beyond being a region whose economy was largely focused on extractive industries, into a much more diverse region, with a more diverse economy (Bennett and McBeth, 1998; Johnson, 2001). Recent research shows that most western counties are not "resource dependent." According to Rasker et. al (2004) out of 450 counties in the West, only 6 are mining and energy dependent and only 6 are timber dependent. Public land management decisions based on a misconception of the rural West as resource dependent will exclude and even harm the economy of the region in the long run.

As the economies of rural communities in the West evolve, the impact of public land management on these economies also evolves, and the management of our public lands must as well. Merely counting jobs in resource extraction is not sufficient. Many of these communities have diversified economies that are no longer dependent solely on the export of fossil fuels or logs. Management plans for public lands need to account for all aspects of the economic and social system of these communities when evaluating alternatives.

There is a vast and growing body of research that indicates that the environmental amenities provided by public lands are an important economic driver in the rural West (Rudzitis and Johansen, 1989; Johnson and Rasker, 1993, 1995; Rasker 1994; Power, 1995, 1996; Duffy-Deno, 1998; Rudzitis, 1999; Rasker,et al. 2004; Holmes and Hecox, 2004). In a letter to the President and the Governors of the western states, economists from universities and other organizations throughout the United States point out that the environment is the West's greatest long-term economic asset (Whitelaw, et al. 2003).

The western United States is growing at a rate faster than any other region (U.S. Census Bureau, 2001). Vias (1999) demonstrated that as rural western communities grow, employment also grows. Furthermore, as McGranahan (1999) shows, counties with a high rating on a natural amenities index are more likely to grow. Demographic characteristics are also important indicators of the potential economic response to land management activities. As Shumway and Otterstrom (2001) point out, "Population change represents more than a simple redistribution of people; it is an indicator and, in many instances an instigator, of a wide range of economic, social, cultural, political/policy, and environmental changes (p. 492)." As more people move from urban areas to rural communities they bring with them expectations about how the public lands of an area ought to be managed. Changing community values need to be accounted for in land management planning.

Management plans for the public lands in the West need to consider the increasing importance of industries and economic sectors which may rely on these public lands, but not necessarily on the extraction of their natural resources. As the population of the entire country grows, the presence of open lands becomes more and more important. Indeed, much recent research has concluded that the presence of protected public lands strengthen western rural economies (Power, 1995, 1996; Rasker 1994; Rasker,et al. 2004; Rudzitis, 1999; Rudzitis and Johansen, 1989; Johnson and Rasker, 1993, 1995; Whitelaw, et al. 2004). The public lands have the ability to meet the growing need for clean water, wildlife habitat and recreation opportunities.

IV. KEY ECONOMIC INDICATORS OF THE WEST'S ECONOMY

The West's economy is characterized by certain indicators that must be considered in the economic analyses performed by land management agencies. These include the growing importance of non-labor income from investments and retirement, increasing employment in high technology, knowledge-based, and service industries, the important role that recreation and tourism plays in providing jobs and income, and the rise of small businesses and other entrepreneurial endeavors. Other features of the western economy include the decline in extractive industries, the increase in public awareness and appreciation of the environmental and recreation amenities of their home counties, and the diversification of rural economies. This section describes a concise set of indicators which land use planners should examine as part of the description of the socio-economic profile of an area, and presents example data for the Rocky Mountain states for each indicator.

A. Non-labor income

A complete analysis of regional economic trends should include an analysis of total personal income, including all sources of income, rather than relying solely on employment. A full accounting of income is necessary to an understanding of the important role that non-labor income, such as retirement income, interest payments, rents, and profits, have upon the regional economy. Investment and retirement income makes up nearly one quarter of total personal income in the Rockies, which would make it the top "industry" in the region. An economic impact analysis that excludes this income is inadequate and misleading.

Researchers have found that areas with high levels of natural amenities attract residents, many of whom rely on non-traditional sources of income (Duffy-Deno, 1998; Nelson, 1999; McGranahan, 1999; Rudzitis, 1999; Shumway and Osterstrom, 2001; Lorah and Southwick, 2003). When an investor living in a community receives a dividend on their portfolio, that money represents an influx of income for the local community. The same thing is true of a retiree's income. These non-labor sources of income are becoming concentrated in the coastal and mountain regions of the West due to these area's high levels of natural amenities (Nelson, 1999). An influx of retirees in a rural community has been shown to have positive effects on both income and employment (Deller, 1995). The increase in residents relying on non-labor income fuels increases in income and employment for many other sectors including health, financial and real estate services.

Figure 1 shows the trend in total personal income for the five-state Rocky Mountain region. Service sector income has been rising while extractive industry income has fallen in recent years. Non-labor income makes up the largest proportion of total personal income.

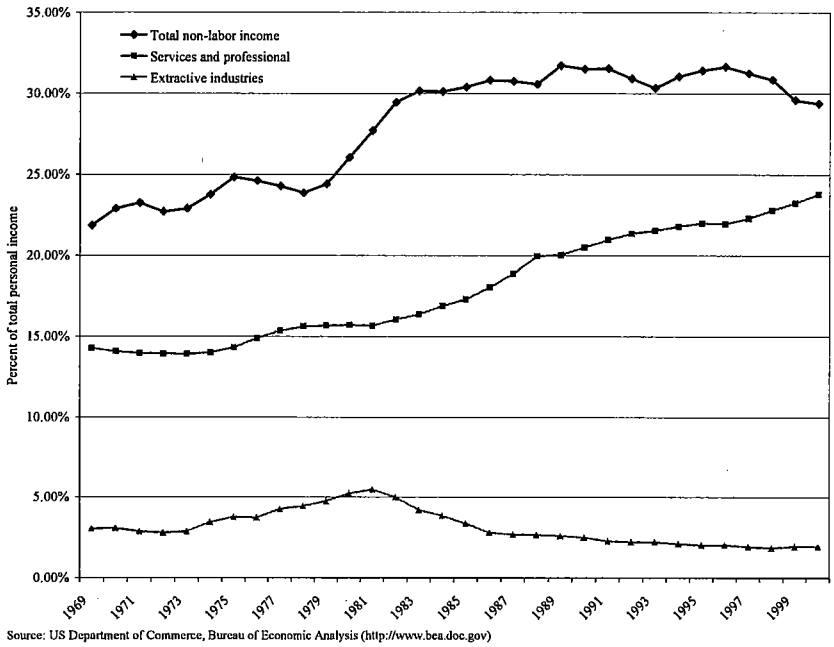

Figure 1. Total Personal Income in the Rocky Mountains

It should be noted that non-labor income also includes income support payments such as Medicaid, welfare and unemployment. However this category is consistently a small portion of total non-labor income and therefore a small portion of total personal income. Income support is less than 4% of total personal income and only 14% of non-labor income in the Rockies. It is important for a complete analysis of non-labor income to make a distinction between income support and other forms of non-labor income. Table 1 shows non-labor income, broken into its components as a percentage of total personal income for the five Rocky Mountain States. Income support is a small portion of non-labor income for each state, investment and retirement income is the largest portion of non-labor income.

Table 1. Non-labor income as a percent of total personal income (2003)

	Colorado	Montana	New Mexico	Utah	Wyoming	United States
Investment income [a]	17%	19%	15%	15%	23%	16%
Retirement income [b]	6%	11%	10%	7%	9%	9%
Income support [c]	3%	4%	7%	3%	3%	5%
Other [d]	0.7%	1.1%	1.4%	1.1%	0.8%	0.8%
All non-labor income	26%	35%	33%	26%	36%	31%

[a] Dividends, interest, and rent

[b] Includes veterans, military, and Medicare

[c] Welfare, Medicaid, unemployment

[d] Includes Federal education and training assistance, settlements between individuals and businesses and transfer payments from non-profit institutions

Source: U S Department of Commerce, Bureau of Economic Analysis (http://www.bea.doc.gov)

A complete analysis of an area's economy must consider non-labor income, and a thorough evaluation of land management alternatives must consider the impacts of each alternative on non-labor income.

B. Knowledge-Based, Service Sector and Other Non-Recreation Businesses

Bennett and McBeth (1998) cite the emergence of a trend toward increasing western rural populations as early as the 1970s and state that this trend was partly motivated by the high quality of life in these areas. Johnson (2001) points out the importance of technology in this transition. He credits the advancement of technology with both the downward trend in extractive employment and the potential (currently being realized in many communities) for economic growth and stability. Johnson also points out that improving technology, especially in information and communication, mitigates the constraints imposed by remoteness. Shumway and Otterstrom, (2001) find that counties in the Rocky Mountain West with economies that are characterized by a predominance of service industries have the highest incomes.

Over the past quarter century, the US economy has seen a shift from extractive and primary manufacturing industries to service oriented businesses. A common misconception about the service sector is that it includes only low paying jobs. This is not the case, the service sector includes several high-paying industries which are a large part of many western economies. Some of these are linked closely with the increase in non-labor income. Employment and income in the health care services increases as the number of retirees in an area increases. As people with investment income move into a region, the demand for financial, insurance, and real-estate service increases.

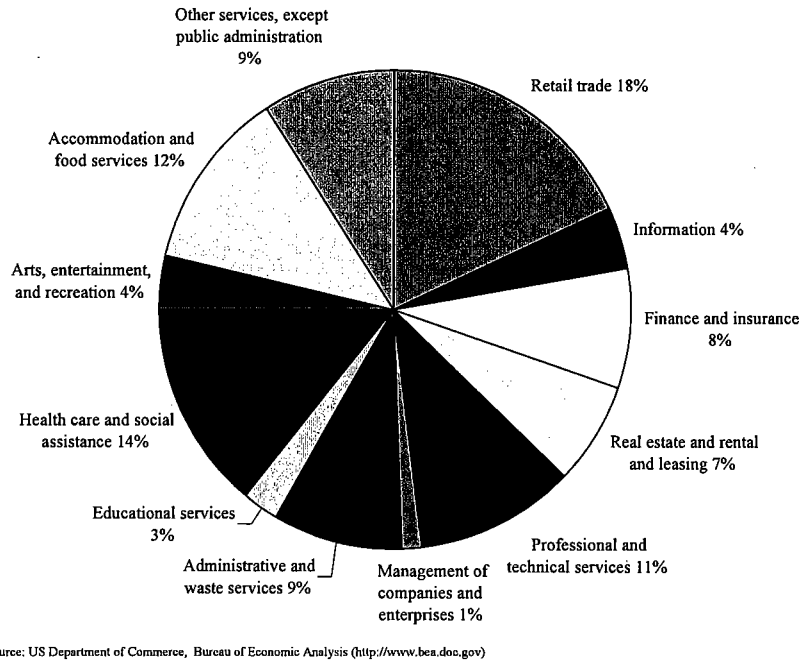

Figure 2. Service and Professional Employment in the Rocky Mountains (2003)

This sector includes occupations and industries that are classified as "knowledge based," defined by Henderson and Abraham (2004):

> "Knowledge-based activities emerge from an intangible resource that enables workers to use existing facts and understandings to generate new ideas. These ideas produce innovations that lead to increased productivity, new products and services, and economic growth." (page 72)

Knowledge-based occupations have grown nationwide since 1980, with growth in the Rocky Mountain region being among the highest (Henderson and Abraham, 2004). Local amenities that enhance quality of life were among the factors which correlated with this growth. Other factors contributing to the growth of knowledge-based occupations were a high quality workforce, colleges and universities, infrastructure in the area, and the size and diversity of the local economy. These factors are likely to be interrelated and in many cases dependent on the quality of the environment and the availability of public lands. Among the strategies Henderson and Abraham examined, "leveraging

scenic amenities" was discussed as both a way to attract high quality workers and knowledge-based industries to a region. Other research confirms the role that amenities, including environmental and recreational amenities, play in attracting businesses to locations in the rural Rocky Mountain West (Whitelaw and Niemi, 1989; Johnson Rasker, 1993 and 1995). The most recent income data available from the Bureau of Economic Analysis includes a category called "information" which captures a good deal of the new knowledge-based industry.

The impact of land management decisions on income and employment in the service and professional sectors must be addressed when evaluating alternatives.

C. Recreation & Tourism

Many rural communities in the Rocky Mountain region have experienced first hand the surge in demand for recreation experiences outdoors, especially on the federal public lands. Moab, Utah is a good example. This town was once a dying mining center and is now a top destination for recreation seekers of all sorts. Other towns around the West have seen an upswing in migration and economic health as they become "discovered" by recreationists (Rasker, et al. 2003, 2004; Holmes & Hecox, 2004).

A 2005 report by the Outdoor Industry Association estimates that 159 million Americans participate in outdoor recreation each year. A 2002 study by the same organization estimates annual spending on outdoor recreation at $18 billion.. The public lands provide much of the open space that makes this important economic activity possible.

The Forest Service estimated the economic impacts of their strategic plan program areas in 2000. These estimates account for the impact in terms of both income and employment for a range of activities. Recreation and protection programs account for a much greater economic impact than do extractive programs (Alward et al. 2003).

Table 2. Economic Significance of Forest Service Program Activities (for 1999)

	% of TotalValue Added (GDP)	% of Total Income	% of Total Wages	% of Total Jobs
Recreation and Landscape Protection *Recreation, Heritage & Wilderness; Wildlife, Fish & Rare Plants; Watershed & Air Mg.t; Ecosystem Mgt. Coord.; Access & Travel Mgt.*	70%	69%	71%	76%
Extraction of Commercial Resources *Range Mgt.; Forest Mgt.; Minerals & Geology Mgt.*	22%	22%	20%	17%
Other *Lands & Realty Mgt.; Fire & Aviation Mgt.; Law Enforcement; Facilities Mgt., General Admin.; S&P Forestry; R&D*	9%	9%	8%	7%

Source: Alward, G. S., J. R. Arnold, M. J. Niccolucci, and S. A. Winter. 2003. Evaluating the economic significance of the USDA Forest Service strategic plan (2000 revision): Methods and results for programmatic evaluations. Fort Collins, CO: USDA Forest Service Inventory and Monitoring Report No. 6. 45 p.

Quality hunting and fishing opportunities require wildlife habitat, which generally means large areas of open land. As the population grows, these are increasingly found only on the federal and other public lands. A 2004 study by Pickton and Sikorowski estimates the total economic impact of hunting, fishing, and wildlife watching in Colorado at over $1.8 billion, with corresponding employment at 33,000 full-time jobs. An April 2004 report from the Center for the Study of Rural America calls wildlife recreation "rural America's newest billion dollar industry" (Henderson, 2004), with wildlife-related activities boosting tourism, spurring business growth and contributing to increased property values. The US Fish and Wildlife Service and the Census Bureau team up to track participation and expenditures on wildlife-related recreation. Nationwide these activities generate $108 billion for local economies. Much of these expenditures are in the Rocky Mountain West, with hunters, anglers, and wildlife watchers spending nearly $6 billion in the five state region alone in 2001 (FWS and Census, 2001). Table 3 presents the participation in and expenditures on wildlife recreation for Colorado, Montana, New Mexico, Utah and Wyoming.

Table 3. Participation and expenditures from hunting, fishing, and wildlife associated recreation in the Rocky Mountains (2001)

	Participation	Expenditures
Colorado	2.1 million	$2 billion
Montana	871,000	$943 million
New Mexico	884,000	$1 billion
Utah	1.1 million	$1.4 billion
Wyoming	662,000	$634 million

Source: U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of Commerce, U.S. Census Bureau. 2001. National Survey of Fishing, Hunting, and Wildlife-associated Recreation (http://www.census.gov/prod/www/abs/fishing.html)

Management of public lands must present data and analysis that fully accounts for the important role that tourism, recreation and hunting and fishing play in ensuring a sustainable and diversified economy for rural western communities.

D. Entrepreneurs

All of the indicators previously discussed are related to the phenomenon of increasing entrepreneurial activity being experienced West-wide. Entrepreneurs in high technology and knowledge-based industries can often choose their location, and are likely to choose high-amenity locations (Rasker and Glick, 1994; Snepenger, et al. 1995; Johnson and Rasker, 1995; Beyers and Lindahl, 1996; Rasker and Hansen, 2000; Low, 2004; Henderson and Abraham, 2004). Recreation and tourism oriented businesses are often founded by entrepreneurs seeking to live and work in places rich in amenities. Retirees and others relying on investment income also choose locations rich in amenities including certain businesses and services. These new migrants bring with them entrepreneurial opportunities for those who can provide the services they seek.

Figure 3 shows personal income by type for the Rocky Mountain region. While wage and salary income is still the largest portion of total personal income, non-farm proprietors' income has shown an upturn in recent years.

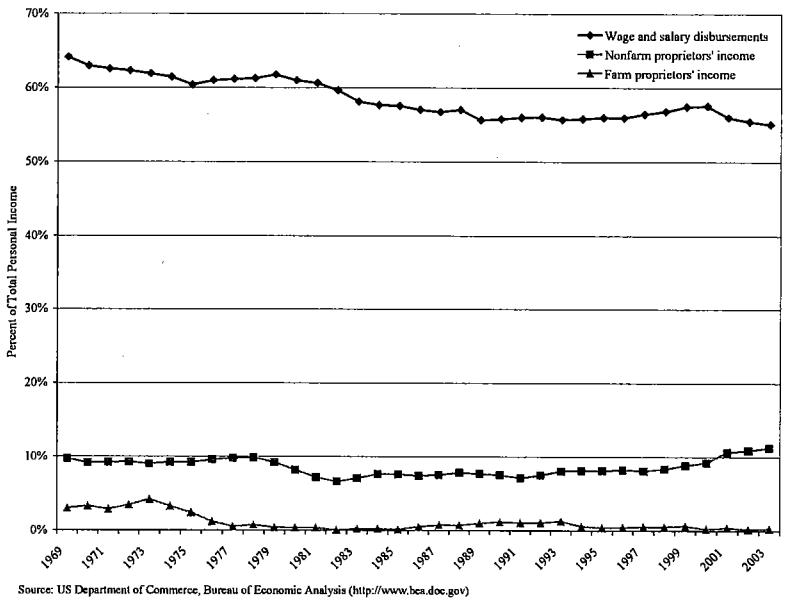

Figure 3. Rocky Mountain Personal Income by Type

As the proportion of total personal income from non-farm proprietors grows, implications for rural communities and for management of the public lands that surround them also grows. As more and more people are able to create their own employment by starting businesses, they are increasingly able to choose where they live. These footloose

entrepreneurs are more likely to choose to live in areas that are rich in amenities. As Low (2004) points out: "Entrepreneurs create local jobs, wealth, and growth -- and are themselves innovative users of other regional assets and resources." Furthermore, Low notes: "Entrepreneurs bolster a region's quality of life while promoting economic prosperity. Research has found a strong correlation between entrepreneurship and long-term regional employment growth."

Beyers and Lindahl (1996) specifically examine business which provide "producer services" and find these businesses are expanding rapidly in rural areas, and most of them conduct much of their business interregionally or even internationally, bringing income into the rural region where they are located. These researchers also found that the decision to locate in rural areas is mostly for quality of life reasons, providing further evidence of the importance of such factors to local economies and thus the need to examine public land management activities and the potential impacts on quality of life.

Local communities with protected wildlands reap measurable benefits in terms of employment and personal income. For instance, as recently reported by the Sonoran Institute (Sonoran Institute, 2004b) protected lands have the greatest influence on economic growth in rural isolated counties that lack easy access to larger markets. From 1970 to 2000, real per capita income in isolated rural counties with protected land grew more than 60 percent faster than isolated counties without any protected lands.

These findings confirm earlier research, showing that wilderness is in fact beneficial for local economies. Residents of counties with wilderness cite wilderness as an important reason why they moved to the county, and long-term residents cite it as a reason they stay. Recent survey results also indicate that many firms decide to locate or stay in the West because of scenic amenities and wildlife-based recreation, both of which are strongly supported by wilderness areas (Morton, 2000).

As noted by Freudenburg and Gramling (1994):

> "...it needs to be recognized as a serious empirical possibility that the future economic hope for resource-dependent communities of...the United States could have less to do with the consumption of natural resources than with their preservation." (p. 19)

This sentiment is reiterated by Deller et al. (2001):

> "Rural areas endowed with key natural resource amenities can manage those resources to capture growth more effectively. This may entail expansion beyond policies that have historically been focused on extraction of the resource base." (p. 363)

Resource managers, economic planners and community leaders must become aware of this potential. We therefore request that the economic importance to local communities from protecting public wildlands from resource extraction be fully addressed as part of the NEPA process.

E. The Role of Protected Public Lands

More and more people in the West, and all over the US, are able to choose where they live and work. Technology makes it easier for professionals to "telework" using electronic communications. Many businesses are able to conduction national or international commerce from any location they choose. Other entrepreneurs simple choose to live in a particular place and build a business in response to local needs. Retirees and others who collect non-labor income are not tied by a job to a specific location. All of these people seek an attractive place to live. More and more, as development pressures increase, public lands become a backdrop or setting which contributes or even creates the amenities on which a community's economy will thrive and grow. Research supports the assertion that protected public lands contribute to rural economic health (Rudzitis and Johansen, 1989; Rudzitis and Johnson, 2000; Rasker, et al. 2004).

V. SOURCES OF DATA

This section presents selected sources of economic, demographic, and recreation data.

A. Economic and Demographic Data

Data are available on several economic indicators by county from the US Department of Commerce, Bureau of Economic Analysis and the US Department of Labor, Bureau of Labor Statistics. The US Census Bureau also tracks economic trends along with demographic trends, most by county as well. Economic profiles showing these and other trends by state, county or groups of counties are available form the Sonoran Institute's Economic Profile System.

Federal economic and demographic data sources:

Bureau of Economic Analysis (Department of Commerce): http://www.bea.doc.gov
Date on income, farm income, transfer payments, and employment for states, counties, and regions. Annual data, 1969 - 2000 (SIC) and 2001-2003 (NAICS)

Bureau of Labor Statistics (Department of Labor): http://www.bls.gov
Data on income, wage & salary, employment, unemployment rates by industry, for counties, states and regions. Monthly data, 1990 - 2005

Census Bureau (US Department of Commerce): http://www.census.gov
Data on population, demographics, business and economics for states and counties

The Sonoran Institute - Economic Profile System: http://www.sonoran.org
Will generate a detailed economic profile including trends in employment and income, farm income, economic resilience, and demographics for states, counties, or groups of counties. The companion, Economic Profile System - Community, will generate profiles to reflect just the rural or urban areas of a county.

The National Survey on Hunting, Fishing and Wildlife-Associated Recreation, (US Department of the Interior, Fish and Wildlife Service and US Department of Commerce, Census Bureau): http://www.census.gov/prod/www/abs/fishing.html
Data at the state level on participation and expenditures by state residents and non-residents.

State economic and demographic data sources:

Colorado Economic and Demographic Information System: http://www.dola.state.co.us/is/cedishom.htm
Montana Census and Economic Information Center (CEIC): http://ceic.commerce.state.mt.us/
New Mexico Labor Market Information: http://www.dol.state.nm.us/dol_lmif.html
New Mexico Economic Development Data Center: http://ww1.edd.state.nm.us/index.php?/data/C31/
Utah Governor's Office of Planning and Development, Demographic and Economic Analysis: http://www.governor.utah.gov/dea/
Wyoming Department of Administration and Information, Economic Analysis Division: http://eadiv.state.wy.us/

B. Recreation Data

Data on recreation use in the area where a land management plan is being developed is critical to making an informed decision. Surveys of users at recreation areas can be used to obtain information on the levels and types of recreation use, as well as expenditures in the area. Information on users expenditures in the area is also important to learn the overall impact of public lands recreation.

Other information may be obtained through surveys of local residents, recreation visitors and through using existing data on the recreation and tourism revenues to local businesses, and the values of these activities to participants. The lack of visitation data does not justify ignoring the jobs and income from recreation. Furthermore making decisions without complete and reliable data on all impacts and affected sectors of the economy violates the Data Quality Act.

The National Survey on Hunting, Fishing and Wildlife-Associated Recreation (noted above) is also a source of state-wide data on participation in wildlife recreation that should be used to supplement more specific studies for the

location in question. State agencies are also a source of data on fishing and hunting and other wildlife-associated recreation.

Colorado Division of Wildlife: http://wildlife.state.co.us/index.asp
Montana Fish, Wildlife, and Parks: http://fwp.state.mt.us/default.html
New Mexico Game and Fish: http://www.wildlife.state.nm.us/index.htm
Utah Division of Wildlife Resources: http://wildlife.utah.gov/index.php
Wyoming Game and Fish: http://gf.state.wy.us/

C. Data Gaps and Other Issues

Land managers may encounter gaps in county or state level economic data or may notice that data series are not continuous. These are not, however, obstacles to doing a thorough and comprehensive analysis of the trends in the economies of the local area.

1. Disclosure Gaps

Some data gaps are due to disclosure restrictions. The Bureau of Economic Analysis and the Bureau of Labor Statistics will suppress data in cases where disclosing it may reveal private information about individuals. For example, there may only be one establishment in an industry in a particular area. In such a case the data on employment and/or income will not be disclosed since it may be possible to identify an individual's private information. Where data are suppressed to prevent disclosure of private information a "D" will appear instead of a number. This is more likely to be a problem in counties with small populations. The Sonoran Institute (2004b) suggests several potential techniques to address the issue of data gaps due to disclosure. The Economic Profile System will also automatically estimate the data gaps for major industry categories. These are described in detail in the User's Manual for the EPS (Sonoran Institute, 2004b.)

2. Other Data Gaps

BEA and BLS data are sometimes not available for certain industries and/or certain years. Other data are suppressed, but are identified as falling within a range of values. Data gaps where an "L" appears instead of a number are described as follows:

Less than 10 jobs, but the estimates for this item are included in the totals, or
Less than $50,000 (for income data), but the estimates for this item are included in the totals

3. Industry Classification Using SIC and NAICS

Income and employment data from the Bureau of Economic Analysis and the Bureau of Labor Statistics for 1969-2000 are classified according to the Standard Industry Classification system (SIC), while the most recent data (2001 and forward) are classified by the North American Industry Classification System (NAICS). NAICS was developed jointly by the U.S., Canada, and Mexico in order to make statistics comparable across all three countries.

The NAICS provides greater detail for the service and professional sectors which are of growing importance in the rural West, and indeed all over the country. This classification scheme also includes some emerging industries such as "information" which includes the growing internet and information phenomenon. Bureau of Economic Analysis' Regional Economic Information System (REIS) uses SIC to classify industries and the Sonoran Institute's EPS system uses SIC data from the REIS, in order to show trend analyses, along with NAICS data.

VI. RECOMMENDED METHODS FOR ANALYSIS

In general, it is inappropriate to examine a region's economy solely as a single point in time. To the extent that data are available, the economic profile of an area should be developed based on the trends in key economic indicators. This can help guide resource management by showing the likely future situation in an area and can point out periods of economic downturn. It may be instructive to look at other variables during these periods to see if there are correlations between land management activities and economic activity.

Looking at the changes in the employment and income (including non-labor income) is important to understanding the overall direction an area's economy is moving. Trend analysis will show long-term patterns in

income and employment that may be masked when looking at only a point in time. Data on employment and income are available from 1969-2000 from the Bureau of Economic Analysis under the Standard Industry Classification system. The BEA changed to the North American Industry Classification System in 2001, planned reconstructed NAICS data for years prior to 2001 are not yet available (see the Appendix B for a comparison of industries between the SIC and NAICS). However, one can certainly look at a general picture of the economy over time by using both sets of data. This analysis should be applied to all the segments of the economy to see the long-term trends in both extractive and other industries along with non-labor income.

A lack of data on recreation activities on public lands is often cited as a reason to avoid analysis of potential impacts to this important sector. Several examples of research on recreation use, values to participants, and expenditures are available (a very limited sample includes: Fix & Loomis, 1997; Chakraborty and Keith, 2004; Cordell and Tarrant, 2002; Kaval and Loomis, 2003). Rosenberger and Loomis (2001) present a detailed bibliography of recreation valuation studies and present methods by which these values can be used to transfer estimates to other areas. Of course the best way to truly understand the value of recreation in the area is to conduct a survey specifically focused on that area. Recreation value includes the economic impacts to local communities, ,along with the value to participants. An estimate the economic impacts of recreation can be made by multiplying the total number recreation visitors in an area with the estimated expenditures per visitor day. These data need to be collected and analyzed as part of a comprehensive analysis of the socio-economic impacts of land management.

VII. RECOMMENDED ANALYSES

The preceding sections of this brief have presented the key indicators for performing economic analysis, identified sources of data for conducting analysis and provided methods for completing an analysis that more accurately reflects the West's economy. In making land use decisions, federal agencies have an obligation under the National Environmental Policy Act (NEPA) to take a "hard look" at the environmental consequences of a proposed action and the requisite analysis "must be appropriate to the action in question." [1] The impacts and effects of a proposed action, such as oil and gas development, that federal agencies are required to assess include: "ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative."[2] Under the Data Quality Act, federal agencies are required to use information that is of high quality and that is objective, useful, and verifiable by others.[3] The agency must also use "sound statistical and research" methods.[4]

Federal agencies cannot evaluate the consequences of proposed decisions or determine how best to avoid or mitigate negative impacts without adequate data and analysis. NEPA's hard look at environmental consequences must be based on "accurate scientific information" of "high quality."[5] Essentially, NEPA "ensures that the agency, in reaching its decision, will have available and will carefully consider detailed information concerning significant environmental impacts."[6] The Data Quality Act and the agencies' interpreting guidance expand on this obligation, requiring that influential scientific information use "best available science and supporting studies conducted in accordance with sound and objective scientific practices."[7]

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[1] 42 U.S.C. § 4321 et seq.; *Metcalf v. Daley*, 214 F.3d 1135, 1151 (9th Cir. 2000); *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 348 (1989).

[2] 40 C.F.R. § 1508.8.

[3] Treasury and General Government Appropriations Act for Fiscal Year 2001, Pub.L.No. 106-554, § 515. *See also*, Office of Management and Budget "Information Quality Guidelines," available at http://www.whitehouse.gov/omb/inforeg/iqg_oct2002.pdf and individual "Agency Information Quality Guidelines," available at http://www.whitehouse.gov/omb/inforeg/agency_info_quality_links.html.

[4] *Ibid.*

[5] 40 C.F.R. § 1500.1(b).

[6] *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989).

[7] Treasury and General Government Appropriations Act for Fiscal Year 2001, Pub.L.No. 106-554, § 515. *See also, See also,* Office of Management and Budget "Information Quality Guidelines," available at

Through the application of the methodology we have provided, utilizing data collected from identified sources and measuring the potential impacts through the key indicators, federal agencies can best fulfill their obligations to evaluate the direct, indirect, and cumulative impacts of various alternative decisions. In this section, we have provided both general recommendations on the scope of the socio-economic analysis that should occur and specific inquiries to be made in this analysis.

We formally request that the NEPA analysis fully reflect and account for the following scoping comments

A. The socio-economic analysis should include an analysis, graphs and discussion of the historic trends in the components of total personal income – including non-labor sources of income.

The analysis of regional economic impacts must include an analysis of all sources of income, including non-labor income. A full accounting of all sources of income is necessary to understand the important role that retirement and investment income as well as other sources of non-labor income, such as interest payments, rents, and profits have upon the regional economy. An economic impact analysis that excludes non-labor income is inadequate and misleading.

- **Specific Requests and Requirements for examining the Total Personal Income and the Importance of Non-Labor Income as Part of the NEPA Process:**

For all counties in the planning area, please show the role of non-labor income in the area's economy.

- Show the percentage of current total personal income that is non-labor income (excluding income support).
  - Discuss the role that retirement and investment income plays in the area's economy, including the spillover effects that retirees have for businesses in the area.
  - Discuss the role that amenities, including recreation opportunities and environmental quality, play in attracting and retaining non-labor income to the area.
  - Analyze and discuss the potential impacts that public land management alternatives will have on the level and trend of investment and retirement income in the area.
- Show the trend in non-labor income (again excluding income support) as a percent of total personal income.
  - Analyze and discuss the impacts that public land management policies and actions have played in attracting non-labor income to the area.

B. The socio-economic analysis must include an analysis and discussion on the indirect role public lands play in the regional economy in attracting knowledge-based businesses, service sector business, recreation and tourism businesses and other entrepreneurs.

Public wildlands often define the character of an area and are an important component of the quality of life for local residents and future generations. Their protection enables the customs and culture of western communities to continue. The socio-economic analysis also must account for these economic benefits.

A growing number of economists are recognizing that protecting the quality of the natural environment is key in attracting new residents and business and therefore the environment is the engine propelling the regional economy. A letter to President Bush from 100 economists concludes "The West's natural environment is, arguably, its greatest, long-run economic strength…A community's ability to retain and attract workers and firms now drives it prosperity. But if a community's natural environment is degraded, it has greater difficult retaining and attracting workers and firms" (Whitelaw, et. al, 2003). Given these findings, we request that the socio-economic analysis fully consider the

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http://www.whitehouse.gov/omb/inforeg/iqg_oct2002.pdf and individual "Agency Information Quality Guidelines," available at http://www.whitehouse.gov/omb/inforeg/agency_info_quality_links.html.

indirect role of public lands in attracting and retaining non-recreational businesses and retirees and encouraging entrepreneurial efforts when completing the economic impact analysis of management alternatives.

➢ **Specific Requests and Requirements for Examining the Role of Protected Public Lands in the Local Economy as Part of the NEPA Process:**

For all counties in the planning area, please show the role of various industries in the area's economy.

- Show the current distribution of employment and income by industry (show for each industry the employment as a percent of total jobs and income as a percent of total personal income).
  - Discuss the relative importance of each industry.
  - Analyze and discuss the impacts that public land management alternatives will have on non-extractive industries if extractive activities are accelerated on public lands in the area.
- Show a complete analysis of the segments of service and professional employment and income for the area.
  - Analyze and discuss the potential impacts of land management alternatives on these sectors of the economy.
- Show trends in employment and income by industry, including a detailed examination of the in the service and professional sector.
  - Discuss the level of diversity in the region's economy. Discuss trends in income and employment which have led to the current mix of industries
  - Analyze and discuss the potential impacts of public lands management alternatives on the overall makeup of the economy of the area.
- Show trends in non-farm proprietor's income as a percentage of total personal income for the area.
  - Collect data on the various sectors that make up non-farm proprietors' income. Analyze the sectors where entrepreneurship is growing.
  - Analyze and discuss the factors which have attracted new businesses to the area.
  - Analyze and discuss the potential impacts that public land management alternatives will have on these sectors and the ability of proprietors to start and grow businesses.

C. The socio-economic analysis must account for the economic importance of the recreation, hunting, and fishing that occurs on public land.

The recreation opportunities provided by wilderness quality lands also yield direct economic benefits to local communities. The socio-economic analysis must include an analysis of the income and jobs associated with recreation, hunting and fishing from each alternative.

➢ **Specific Requests and Requirements for Examining the Economic Importance of Recreation, Hunting and Fishing on Public Lands as Part of the NEPA Process:**

For all counties in the planning area, show the role of recreation, hunting and fishing in the area's economy.

- Collect data on participation in all recreation activities (hunting, fishing, hiking, camping, backpacking, biking, skiing, wildlife watching, boating, ORV use, etc.)
- Collect data on expenditures by recreation visitors in the region.
- Analyze the economic impact of hunters' and anglers' expenditures on area businesses and local economies.

Analyze the economic impact of other recreationists' expenditures on area businesses and local economies.

Show the impact of lodging taxes, sales taxes, and property taxes in the local economy.

Analyze and discuss the impact of public land management alternatives on recreation, hunting, and fishing businesses.

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Attachment 2

Heart of the West

Conservation Plan

Attachment 3

ORIGINAL

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June 23, 2005

Ref: 8EPR-N

Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, NE, Room 1A
Washington, D.C. 20426

Re: Piceance Basin Expansion Pipeline, DEIS
20050082; FERC Docket No. CP05-54-000

Dear Ms. Salas:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, Region 8 of the Environmental Protection Agency (EPA) has reviewed and rated the *Draft Environmental Impact Statement (DEIS) for the Piceance Basin Expansion Project*, dated May 2005. The project is a 142 mile long natural gas pipeline from Meeker, Colorado to Wamsutter, Wyoming. The new 24-inch diameter pipeline proposed by Wyoming Interstate Company (WIC) will include increasing compression at the existing Colorado Interstate Gas (CIG) Greasewood Compressor Station, valve and metering facilities, and associated facilities.

Based on the procedures EPA uses to evaluate the potential effects of proposed actions and the adequacy of the information in the DEIS, the project will be listed in the Federal Register in the category EC-2 (EC - Environmental Concerns, 2 - Insufficient Information). This rating means that the review identified environmental impacts that should be avoided in order to fully protect the environment and the DEIS does not contain sufficient information to thoroughly assess environmental impacts that should be avoided to fully protect the environment.

EPA's concerns with the project are the impacts to ecosystems in northwestern Colorado and northeastern Utah (Piceance and Uinta Basins) from actions connected to or induced by the WIC Pipeline. Of particular concern are:

- loss of wildlife habitat,
- habitat fragmentation,
- erosion reducing water quality,
- soil loss
- invasive and noxious weeds and
- air quality (regionally).

Increased gas transportation capacity will facilitate increased density and intensity of gas development. Increased transportation capacity will also increase the rate of gas development. The FEIS should examine the indirect environmental impacts associated with increasing capacity

for natural gas transportation and identify mitigation that will be implemented to reduce these impacts. Although the Piceance Basin DEIS did include a section on the cumulative impacts of oil and gas in the Piceance Basin, the analysis did not identify the indirect impacts that will be induced by increasing gas transportation capacity nor was any mitigation identified for impacts other than the impacts directly resulting from construction of the pipeline. Information is available on some of the indirect impacts from BLM's environmental analysis of oil and gas development. To date, the environmental impacts from oil and gas development have not been analyzed in a holistic manner for this area resulting in segmentation of the environmental analysis. The Roan Plateau DEIS is the most recent BLM environmental analysis for gas development. Unfortunately the Roan Plateau analysis only covers a small area that will be feeding into the proposed WIC pipeline and does not include increased leasing resulting from additional pipeline capacity. Similarly, the Vernal Utah Field office has completed a DEIS /Resource Management Plan which looks at some of the impacts of gas development in the Uinta Basin.

We are concerned by the segmenting of several gas pipeline projects currently proposed in the Piceance Basin. Many of these pipelines and other facilities appear to be "interdependent parts of a larger action and depend on the larger action for their justification" as discussed in the CEQ regulations regarding connected actions at 40 CFR 1508.25 (a)(1)(iii). The overall need for the project appears to be to construct facilities to increase natural gas production and transportation from northeastern Utah and northwestern Colorado to national markets.

In addition to the WIC and Entrega pipelines, there is a proposal by EnCana to build a 205 mile long pipeline from the Utah/Colorado border and southwest of the proposed Roan Plateau development to a new gas plant in Meeker near the termini of the Entrega pipeline (the Meeker Hub compression station). There is also a recent BLM Environmental Assessment for the "Meeker Pipeline and Gas Plant Project". Additional pipeline proposals are described in Table 3.12-1 and Figure 3.12-1 on pages 3-121 and 3-122 in the DEIS. It appears that the federal government has a major role in permitting/approving these pipelines and gas development. We recommend that the EIS be revised to look at all the interconnected natural gas transportation projects in the area and the additional natural gas development that will be induced by increasing pipeline capacity.

If you have any questions about these comments, please contact Dana Allen at (303) 312-6870. We appreciate your interest in our comments.

Sincerely,

Larry Svoboda, Director
NEPA Program
Ecosystem Protection and Remediation

Enclosure

cc: Gas Branch1, JPJ11.1, FERC

U.S. Environmental Protection Agency Rating System for Draft Environmental Impact Statements

Definitions and Follow-Up Action*

Environmental Impact of the Action

LO - - Lack of Objections: The Environmental Protection Agency (EPA) review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC - - Environmental Concerns: The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce these impacts.

EO - - Environmental Objections: The EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no-action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU - - Environmentally Unsatisfactory: The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

Adequacy of the Impact Statement

Category 1 - - Adequate: EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis of data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2 - - Insufficient Information: The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses or discussion should be included in the final EIS.

Category 3 - - Inadequate: EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the National Environmental Policy Act and or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

* From EPA Manual 1640 Policy and Procedures for the Review of Federal Actions Impacting the Environment. February, 1987.

Attachment 4

Salt Lake Tribune (Utah)

August 9, 2005, Tuesday

SECTION: Utah; Pg. B1

LENGTH: 607 words

HEADLINE: Judge pulls back from wilderness settlement ; '03 controversy: The ruling doesn't vacate the deal, but is meant to remove the courts from a policy dispute, jurist says; Wilderness ruling loses judge's approval

BYLINE: Joe Baird, The Salt Lake Tribune

BODY:
A federal judge on Monday at least temporarily withdrew his 2003 approval of the controversial "**No More Wilderness**" settlement between Utah and the Interior Department, saying he did not want the court to become part of what is essentially a policy dispute over how the federal government manages public lands in the state.

At the same time, U.S. District Court Judge Dee Benson emphasized that the settlement itself remains valid and in place.

During a motion hearing at the Frank Moss Federal Courthouse in downtown Salt Lake City, Benson said that he never intended for his approval of the settlement to be considered a consent decree -- and thus binding in perpetuity. He feared that such a reading of the agreement would tie the hands of future administrations in their ability to manage public lands as they see fit.

"My present inclination," Benson said, "is to get the court out of an area where it shouldn't be."

The settlement, signed by former Utah Gov. Mike Leavitt and Interior Department Secretary Gale Norton on April 11, 2003, ended a lawsuit the state had brought against the federal government over wilderness area inventories conducted during the Clinton administration. The agreement froze the state's designated Wilderness Study Areas at 3.2 million acres and eliminated nearly 6 million acres of potential wilderness identified by the Clinton-era Bureau of Land Management and conservation groups.

Environmental groups challenged the settlement earlier this year before the 10th Circuit Court of Appeals in Denver, arguing that the deal was illegal, violated federal land management practices and made it impossible for the BLM to give future wilderness protections to lands around the West.

The appeals court sent the case back to Benson, ruling that the district court had not been given a chance to review the challenges to the settlement.

Earthjustice attorney Jim Angell, who is representing a consortium of environmental groups, called Benson's Monday ruling a good start.

"Today we got everything we could have asked for," he said, citing another ruling from the bench that gave environmentalists a chance to submit additional documents to the court. "We're hopeful because he's honed in on a real issue -- the Bush administration's use of the courts to forward its policy goals."

Benson was explicit in saying that the Bush policy will remain in place under his temporary pullback, and won't change should he make his withdrawal permanent.

"I am not in anyway vacating the settlement between the Department of Interior and the state," he said. "I am removing the court from it until we sort out this motion [request for the court to permanently withdraw]."

However, Utah attorney Constance Brooks said even a temporary removal of the court's approval could have ramifications for the BLM and the state. The BLM has another gas and oil lease sale scheduled for later this month. Brooks fears Monday's ruling will give prospective buyers pause, costing the BLM and Utah potential revenues.

"It will create confusion about the validity of those leases in [inventoried wilderness areas]," she said. "And it will create confusion within the agency as to whether to halt the lease sale."

Benson pointed out that given the agreement between the Bush administration and the state about public land management, that shouldn't be a problem. "There is no longer a dispute," he said.

But Brooks noted that it still took over two years of negotiations with the administration to reach a settlement.

The next hearing in the case is scheduled for Sept. 26.

jbaird@sltrib.com

LOAD-DATE: August 10, 2005

Attachment 5

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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

STATE OF UTAH, *et al.*, Plaintiffs, vs. GALE NORTON, in her official capacity as SECRETARY OF THE INTERIOR, *et al.*, Defendants. and SOUTHERN UTAH WILDERNESS ALLIANCE, *et al.*, Defendant-Intervenors	**2:96CV0870 B** **UNOPPOSED JOINT MOTION OF THE UTAH PLAINTIFFS AND FEDERAL DEFENDANTS TO STAY BRIEFING AND FOR A STATUS CONFERENCE TO CONSIDER THEIR RULE 41(a)(2) MOTION TO DISMISS PURSUANT TO MODIFIED SETTLEMENT AGREEMENT** Hon. Dee V. Benson

Plaintiffs, State of Utah, Utah School and Institutional Trust Lands Administration, and Utah Association of Counties (the "Utah Plaintiffs"), and the Federal Defendants hereby jointly request that this Court stay briefing and schedule a telephonic status conference to consider their Fed. R. Civ. P. 41(a)(2) motion to dismiss the Utah Plaintiffs' third amended and supplemented complaint pursuant to the modified settlement filed herewith, and to address whether the objections and claims raised by the Defendant-Intervenors, Southern Utah Wilderness Alliance *et al.* ("SUWA") are either mooted or rendered stale by the agreed upon modifications. Counsel for SUWA do not oppose this motion. This request is supported by good cause as set forth below:

1. The Court's April 14, 2003 Dismissal Order approving the Settlement Agreement incorporated its terms and retained jurisdiction over its enforcement, including the stipulation that the Bureau of Land Management ("BLM") will not establish, manage, or otherwise classify public lands, other than the Wilderness Study Areas ("WSAs") established pursuant to the Federal Land and Policy Act ("FLPMA") Section 603 wilderness review, as WSAs.

2. At the hearing on August 8, 2005, this Court vacated the Dismissal Order pending the conclusion of district court proceedings but left the underlying settlement intact. This Court also expressed concerns that continuing jurisdiction and enforcement as to future executive branch administrations would violate separation of powers principles, Hearing Transcript, pp. 17, 29, 40.

3. On August 18, 2005, the settling parties requested an unopposed extension of time to file responsive briefs to SUWA's dispositive motions from August 22, 2005 until September 9, 2005. The issues raised by the Court needed to be discussed with the respective clients, including whether some of the issues may drop out.

4. As a result of these discussions, Plaintiffs and Defendants have revised the settlement agreement and jointly move the Court to dismiss Plaintiffs' Third Amended and Supplemented Complaint. The revised executory settlement and proposed dismissal order remove the provisions for continuing jurisdiction from the settlement terms, and thus, the constitutional concerns raised by the Court are no longer implicated.

5. The modified executory settlement attached to the joint motion to dismiss now before the Court also disposes of SUWA's objection as to whether the consent decree unconstitutionally binds future administrations to a particular interpretation of FLPMA. Petition for Review 46-52.

6. A status conference, therefore, is requested for the Court to consider the Rule 41(a)(2) motion to dismiss, and to allow SUWA the opportunity to withdraw, revise, and/or supplement its objections based on the revision to the settlement. It would be a waste of judicial resources to continue briefing a superseded settlement, especially when the changes address both the Court's concerns and SUWA's objections. The Plaintiffs and Defendants request that the status conference be held telephonically.

WHEREFORE, the Utah Plaintiffs and Federal Defendants respectfully ask that the Court stay briefing and schedule a status conference to consider their Fed. R. Civ. P. 41(a)(2) motion to dismiss the Utah Plaintiffs' third amended complaint pursuant to the modified settlement, and to address SUWA objections and claims either mooted or rendered stale by the agreed upon modifications.

Respectfully submitted this 9th day of September, 2005.

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Attachment 6

United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

TAKE PRIDE IN AMERICA

February 12, 2004

Mr. William H. Meadows
President
The Wilderness Society
1615 M Street, NW
Washington, D.C. 20036

Dear Mr. Meadows:

Thank you for your letter dated November 12, 2003, regarding the settlement agreement reached between the Department of the Interior and the State of Utah in the matter of *State of Utah, et.al. v. Norton* (2:96CV0870 B). You inquired to what extent areas of public lands where wilderness characteristics have been identified by either the public or the Bureau of Land Management (BLM) will be protected by Area of Critical Environmental Concern (ACEC) designations or other protective measures.

Secretary Norton and we are committed to working with communities of interest and communities of place to ensure that, as we meet our stewardship responsibilities for America's public lands, we manage public lands in a manner consistent with our multi-faceted mission that includes protecting natural, cultural and historic places, providing recreational opportunities, and providing access to resources that enhance the quality of life for all Americans.

We believe conservation depends on a healthy, vibrant economy and thriving communities. We appreciate the values that public lands hold for many varied users. Our grazing lessees value the forage and quiet lifestyle. Many citizens value the wilderness characteristics of some public lands – the solitude, unmanaged scenery, and wildlife of our public lands. Indeed, the BLM is presently managing 22 million acres to protect wilderness characteristics. Approximately 43 million acres of the 262 million acres managed by BLM is managed under special designations such as National Conservation Areas, ACEC, Wilderness or Wilderness Study Areas, Wild and Scenic Rivers, and related designations. Finally, public lands hold value to the Nation as a source for oil and gas, wind, geothermal, and coal that can help meet the nation's energy needs. It is within this wide range of values that BLM must manage public lands in collaboration with others.

In the Utah settlement, the Department's counsel concluded that BLM does not have authority under section 202 of the Federal Land Policy and Management Act (FLPMA) to select and manage new land using wilderness non-impairment standards for lands not included in the President's 1992 recommendations to Congress for wilderness designation. The authority for BLM to recommend permanent wilderness status for its lands lapsed by the terms of FLPMA when the President submitted his wilderness

recommendations to Congress in 1992. FLPMA, however, also directs the Secretary of the Interior to inventory "all public lands and their resource and other values (including ...outdoor recreation and scenic values), giving priority to areas of critical environmental concern." Wilderness characteristics can be protected by imposing a variety of designations and management prescriptions that are available to BLM as part of its resource management planning process.

Specifically, you asked in light of BLM Instruction Memorandum (IM) 2003-274 and IM 2003-274, both dated September 29, 2003, if any of the BLM's new planning initiatives include a "preferred alternative" that proposes to utilize alternative management designations to protect wilderness characteristics. Since it is inappropriate for me to speculate about planning decisions to be made in future, I will respond to your question based on the land use plans issued since September 29, 2003, as Draft or Final Resource Management Plans (RMP), or their Records of Decisions (ROD).

Several plans provide examples of how, through the land use planning process, BLM uses the ACEC designation or other management prescriptions to protect wilderness characteristics or important natural and cultural resources.

Draft Resource Management Plans/Draft Environmental Impact Statements (RMP/EIS)

The preferred alternative in the Draft RMP/EIS for the **Andrews Management Unit/Steens Mountain Cooperative Management and Protective Areas** in Harney and Malheur Counties in Oregon includes a provision that protects wilderness characteristics on 358 acres of land through a land exchange within an existing Wilderness Study Area (WSA). The draft plan includes measures that protect wilderness values in the 170,084 acres of public lands recently designated as the Steens Mountain Wilderness.

Proposed Resource Management Plans/Final Environmental Impact Statements

The Proposed RMP for the **Gunnison Gorge National Conservation Area** in Montrose and Delta Counties in Colorado provides management direction for the 17,784 acre Gunnison Gorge Wilderness, retains an existing 161 acre Research Natural Area (RNA)/ACEC, and establishes 2 new ACECs: the Gunnison Sage Grouse Important Bird Area (22,200 acres) and the Native Plant Community Outstanding Natural Area (3,785 acres).

The Proposed RMP for almost two million acres of Federal public lands and mineral estate administered by the **Las Cruces Field Office in Otero and Sierra Counties** in southern New Mexico analyzes potential development of fluid minerals and identifies management measures necessary to protect the area's natural resources. Special conservation measures would be applied in ACECs, WSAs, intact grassland areas, plus three core habitat areas for the Aplomado falcon. Leasing will not be allowed in six existing and eight proposed ACECs (19,257 and 23,718 acres, respectively) and four WSAs (45,311 acres). Core areas for the Aplomado falcon (27,696 acres in Otero

County and 8,097 in Sierra County) will be withheld from leasing for at least 5 years until the effects of oil and gas development in adjacent areas are better understood and evaluated. Other areas, including cultural resource and recreation sites, wetlands, and riparian areas, will be open to leasing but will require no surface occupancy on the sites. In addition, no more than 5 percent of the surface within new leaseholds on 105,000 acres of grasslands on Otero Mesa and on the 16,000-acre Nutt grasslands in Sierra County may be disturbed; disturbed areas must be re-vegetated before other areas can be developed.

The **Proposed RMP/Final EIS for the Headwaters RMP** protects 4,400 acres of land with wilderness characteristics in Humboldt County, California. The plan outlines management direction for the 7,500-acre Headwaters Forest Reserve. The plan and accompanying EIS describe and analyze the environmental effects of management actions including watershed restoration, forest restoration and development of compatible recreation facilities, including provisions for public access. The plan also addresses research programs, fire and fuels management and special designations within the Reserve.

Record of Decisions

In November 2003, the Oregon State Director approved the ROD for the **Lakeview RMP,** covering 3.2 million acres of public land in Lake and Harney Counties in south central Oregon. The plan continues to protect wilderness character on 486,873 acres of existing WSAs, retains 4 existing ACECs (165,935 acres), expands an existing ACEC by 18,049 acres, and designates 12 new ACEC/RNAs totaling more than 131,000 acres.

The Secretary of the Interior approved the ROD for the **Final Northwest National Petroleum Reserve-Alaska (Northwest NPR-A)** Integrated Activity Plan/EIS on January 22, 2004. This plan describes the future multiple use management of 8.8 million acres, and emphasizes restrictions on surface activities, consultation with local residents, and coordinated scientific studies to protect wildlife habitat, subsistence areas, wetlands, fish and wildlife habitat, threatened and endangered species, subsistence use and access areas, water quality, vegetation, cultural and paleontological resources, and scenic and recreation values. For example, a stipulation that prohibits permanent surface occupancy will be imposed on leases along coastal areas, key rivers and deep water lakes. In total, these restrictions apply to approximately 1,515,000 acres (16% of the planning area).

The Secretary identified special study areas for brant and caribou, where multi-year surveys are required on a planning area-wide basis to prevent the taking of spectacled and Steller's eiders (listed as threatened species under the Endangered Species Act) and yellow-billed loons. Special restrictions will be imposed on oil and gas development activities within the Colville River Special Area to minimize loss of raptor foraging habitat and within the Teshekpuk Lake Special Area to protect birds. Other protective measures include designating the planning area as "limited" for recreational use of off-highway vehicles and identifying "Visual Resource Management" areas.

Finally, the Secretary deferred leasing on approximately 16% of the planning area and established a new 102,000-acre Kasegaluk Lagoon Special Area where permanent surface occupancy will be prohibited if the area is leased in the future.

These plans provide some examples of the use of the planning process to consider lands with wilderness characteristics and the application of the ACEC designation and other management prescriptions to protect important historic, cultural, and scenic values, fish, or wildlife resources or other natural systems or processes. I encourage you to contact the various BLM state offices regarding your interest in individual land use plans and the values you would like to see analyzed. The BLM website at www.blm.gov provides a link to each of the BLM offices.

Sincerely,

Rebecca W. Watson

Rebecca W. Watson
Assistant Secretary
Land and Minerals Management

P. Lynn Scarlett

P. Lynn Scarlett
Assistant Secretary
Policy, Management and Budget

Attachment 7

EFFECTS OF ROADS ON HABITAT IN THE UPPER GREEN RIVER VALLEY

Wildlife at a Crossroads:

Energy Development in Western Wyoming

Ecological Analysis:

SCIENCE FROM

THE WILDERNESS SOCIETY

Attachment 8

A SPATIAL ANALYSIS OF A WYOMING GAS FIELD

Fragmenting Our Lands:

The Ecological Footprint from Oil and Gas Development

Ecological Analysis:

SCIENCE FROM

THE WILDERNESS SOCIETY