



April 27, 2015

Via E-mail and USPS Priority Mail

BLM Director
Attention: Protest Coordinator
WO-210
PO Box 71383
Washington, D.C. 20024
protest@blm.gov

Re: Protest of Proposed Oil and Gas Development Resource Management Plan Amendment and Final Environmental Impact Statement for the White River Field Office of Colorado

Dear BLM Director:

Pursuant to 43 C.F.R. § 1610.5-2, WildEarth Guardians hereby protests the Bureau of Land Management's ("BLM's") proposed Oil and Gas Development Resource management Plan Amendment ("RMPA") and Final Environmental Impact Statement ("FEIS") for the White River Field Office of Colorado. Notice of the proposed RMPA and FEIS was published on March 27, 2015. *See* 80 Fed. Reg. 16,424 (March 27, 2015). Under the proposed RMPA, the BLM would adopt Alternative E, as analyzed in the FEIS. Under Alternative E, 15,040 new oil and gas wells would be developed in the White River Field Office, a more than threefold increase in what was originally predicted by the BLM under the current RMP. Rather than temper such a massive increase in oil and gas development with reasonable environmental safeguards, the BLM appears to be proposing to open the floodgates entirely, allowing public lands in northwestern Colorado to be further industrialized.

The BLM's proposed RMPA would authorize a massive increase in oil and gas development, including drilling and fracking. Although the impacts of this development can be measured in many ways, one particularly poignant method is to assess the greenhouse gas emissions that would result from the projected drilling and fracking. According to the BLM's own FEIS, a total of nearly 4.2 million metric tons of carbon dioxide equivalent are expected to be released annually from oil and gas development.

Project Carbon Emissions Resulting from the RMPA. *See* FEIS at 4-49.

Pollutant	Projected (metric tons)
CO ₂	2,486,525
Methane (CO ₂ e)	1,702,738
Total CO ₂ e	4,195,059

According to the U.S. Environmental Protection Agency's ("EPA's") greenhouse gas equivalency calculator website (*see* <http://www.epa.gov/cleanenergy/energy-resources/calculator.html#results>), this equals the amount of carbon released annually by 1.1 coal-fired power plants. This is an astonishing amount of carbon pollution, particularly given that the BLM would likely never contemplate allowing a coal-fired power plant to be constructed in the White River Field Office. Here, however, the agency is proposing to approve the equivalent.



According to the EPA, the greenhouse gas emissions that would result from the White River RMPA would equal 1.1 coal-fired power plants.

What's more, the BLM's estimates do not even account for the downstream greenhouse gas emissions that would result from oil and gas transmission, refining, processing, distribution, and consumption. Put another way, it appears the global warming footprint of the proposed RMPA would be far larger than a coal-fired power plant. Given that President Obama has called for greenhouse gas emissions reductions in order to combat climate change, the BLM's proposed RMPA stands directly at odds with the Administration's carbon policies. Worse, it stands to undermine the progress this nation is struggling to make in terms of curtailing greenhouse gas emissions and overcoming the economic and environmental damages caused by climate change.

We file this protest on the basis that the BLM did not adequately analyze and assess the air quality and climate impacts of this massive increase in oil and gas development in accordance with the National Environmental Policy Act ("NEPA"), 42 U.S.C. § 4331, *et seq.*, as well as that the agency failed to appropriately safeguard clean air in accordance with the Federal Land Policy and Management Act ("FLPMA"), 43 U.S.C. § 1701, *et seq.* Below, we detail our concerns and request that the Director withhold approval of the proposed RMPA unless and until additional analysis and assessment can be prepared under NEPA and actual protection of air quality standards is assured consistent with FLPMA.

I. The BLM Failed to Adequately Analyze and Assess Impacts to Ozone Ambient Air Quality Standards In Accordance with NEPA

NEPA is our "basic national charter for protection of the environment." 40 C.F.R. § 1500.1(a). The law requires federal agencies to fully consider the environmental implications of their actions, taking into account "high quality" information, "accurate scientific analysis,"

“expert agency comments,” and “public scrutiny,” prior to making decisions. *Id.* at 1500.1(b). This consideration is meant to “foster excellent action,” meaning decisions that are well informed and that “protect, restore, and enhance the environment.” *Id.* at 1500.1(c).

To this end, NEPA requires federal agencies, like the BLM, to analyze the environmental impacts of major actions and to assess their significance. This is often referred to as the “hard look” requirement. *See* BLM NEPA Handbook, H-1790-1, Section 6.8.1.2 (stating, “A ‘hard look’ is a reasoned analysis containing quantitative or detailed qualitative information.”). The BLM is required to analyze (*i.e.* take a “hard look”) at the environmental impacts of its actions in both EAs and EISs. *See* 40 C.F.R. §§ 1502.16 (detailing requirements for analyzing impacts in an EIS) and 1508.9(b) (stating that EAS must discuss environmental impacts of proposed action).

To fulfill the goals of NEPA, federal agencies are required to analyze the “effects,” or impacts, of their actions to the human environment prior to undertaking their actions. 40 C.F.R. § 1502.16(d). To this end, the agency must analyze the “direct,” “indirect,” and “cumulative” effects of its actions, and assess their significance. 40 C.F.R. §§ 1502.16(a), (b), and (d). Direct effects include all impacts that are “caused by the action and occur at the same time and place.” 40 C.F.R. § 1508.8(a). Indirect effects are “caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable.” *Id.* at § 1508.8(b). Cumulative effects include the impacts of all past, present, and reasonably foreseeable actions, regardless of what entity or entities undertake the actions. 40 C.F.R. § 1508.7.

Here, the FEIS failed to adequately analyze and assess direct, indirect, and cumulative air quality impacts under NEPA. The FEIS continues to assert that compliance with National Ambient Air Quality Standards (“NAAQS”) for ozone, the key ingredient of smog, will be assured under the proposed RMPA. However, this assertion is not supported by more recent analysis, as well as actual on-the-ground air quality conditions.

The FEIS notes that impacts under Alternative E will be “similar” to impacts under Alternatives A and B. FEIS at 4-53. For both Alternatives A and B, the BLM asserts that oil and gas development will not cause or contribute to violations of the ozone NAAQS. In support of this assertion, the FEIS relies on an Air Resources Technical Support Document prepared by URS in 2011, namely “Section 5.0” of the Air Resources Technical Support Document. FEIS at 4-31. This Technical Support Document, however, is inaccurate and fails to adequately analyze and assess impacts to the ozone NAAQS.

WildEarth Guardians submitted information in 2013 informing the BLM that the analysis in the Air Resources Technical Support Document failed to account for recent violations of the ozone NAAQS at a monitor in Rangely, Colorado, as well as generally relied on outdated and unsupported assumptions to conclude that emissions from 15,040 new oil and gas wells would not cause or contribute to violations of the ozone NAAQS. In a petition to the BLM requesting that the draft EIS for the RMPA be revised due to its severe inadequacies, WildEarth Guardians pointed out, among other things, that:

- The BLM’s conclusions were erroneously premised on the assumption that all air quality monitors within the White River Field Office were complying with the ozone NAAQS.
- The analysis only utilized ozone monitoring data from one site in the Uinta Basin, both as an input and as a reference. As the report discloses, this was the site at Dinosaur National Monument, located in Utah and outside of the White River Field Office.
- The report relied on data up to only 2008, and that was gathered only during March-September, not during the winter months.
- The report projected that this monitoring site is not violating and will not violate the ozone ambient air quality standards. Yet as WildEarth Guardians’ petition demonstrated, the monitoring site at Dinosaur National Monument was in violation of the ozone NAAQS (and has violated since the three year period of 2012-2014), indicating the modeling is not accurate in terms of analyzing or assessing ozone impacts within the Uinta Basin.

See Exhibit 1, WildEarth Guardians Petition to Revise and/or Supplement the Draft Environmental Impact Statement for the Resource Management Plan Amendment for Oil and Gas Development Within the White River Field Office of Colorado; Petition to Revise and/or Supplement Existing NEPA Documents for Ongoing Agency Action(s) Within the White River Field Office, including the Final Environmental Impact Statement Prepared for the 1997 White River Field Office Resource Management Plan; and Petition to Refrain from Undertaking Actions that May Potentially Significantly Impact the Environment, Including Issuance of Drilling Permits, Oil and Gas Leases, and Sale and Issuance of Coal Leases Within the White River Field Office (May 15, 2013) at 13-14.

Although the Technical Support Document acknowledged high ozone levels at the Rangely monitor, it did not acknowledge recent violations and the BLM made no effort to analyze how future oil and gas development will affect ozone concentrations at this site. *See Air Resources Technical Support Document at 5-76—5-77.* Most troublesome is that the report did not analyze or assess the impacts of oil and gas development to wintertime ozone concentrations, which are the key air quality problem in the White River Field Office. As the report fully acknowledges, ozone modeling was only conducted for the months of April and July. *See id.* at 5-77.

Rather than actually analyze and assess ozone impacts, the BLM instead seems to punt on this NEPA duty. In the FEIS for example, the agency asserts that future decisions based on the RMPA will rely on a “Colorado-wide oil and gas modeling study (CARMMS).” FEIS at 4-57; *see also* FEIS at 4-59. Although the BLM is fundamentally obligated under NEPA to analyze and assess the reasonably foreseeable impacts of its actions in an EIS and therefore cannot kick the can down the road as far as air quality analyses are concerned, the agency’s reliance on a “yet to be completed” CARMMS report, or the Colorado Air Resources Management Modeling Study, is misplaced as the CARMMS report is completed and its shows that cumulatively, the White River Field Office will contribute to ozone violations as a result of reasonably foreseeable oil and gas development.

The CARMMS report is attached to this protest as Exhibit 2 and its analysis of ozone impacts is on pages 180-210. It shows that activities, including oil and gas development, in the White River Field Office are projected to be some of the highest contributors to ozone violations by 2021. *See e.g.* Exhibit 2 at 206. Together with other nearby BLM Field Offices, it appears the cumulative contribution will be even more acute. Overall, the CARMMS report appears to project future violations of the ozone NAAQS and to indicate that the White River Field Office will play a significant role in contributing to these violations.

The results of the CARMMS report underscores that the BLM failed to adequately analyze and assess ozone impacts under NEPA in the FEIS at hand. Rather than incorporate the findings of the CARMMS report into its analysis and assess impacts accordingly, the BLM deferred such analysis until some later, project-level decisionmaking. This is fundamentally counter to NEPA’s requirement that agencies analyze and assess the reasonably foreseeable impacts of their actions.

The failure of the BLM to analyze and assess air quality impacts using accurate and readily available information is especially troublesome given that the agency projects emissions of ozone forming pollutants, primarily volatile organic compounds (“VOCs”) and nitrogen oxides (“NOx”), under Alternative E will increase substantially. By 2028, VOCs are projected to increase by 397% and NOx emissions by 91%. *See* Table below.

VOC and NOx Emission Increases Under Alternative E.

Pollutant	Present (2006)	2028	% Increase
VOC	2,620	13,033	397%
NOx	2,884	5,517	91%

Although the BLM may claim that future mitigation measures will limit ozone impacts, the FEIS’s projection of such a substantial increase in emissions, coupled with the CARMMS findings that ozone violations are projected and that the White River Field Office will contribute to these violations, reliance on such speculative measures fails to demonstrate that the ozone NAAQS will be sufficiently protected. The BLM points to Appendix J, the “Comprehensive Air Resources Protection Protocol,” or CARPP, to support its assertion that air pollution will be sufficiently kept in check. However, CARPP mandates no specific action that the BLM must undertake to limit emissions in order to ensure that oil and gas activities in the White River Field Office actually protect the ozone NAAQS. Notably, nothing in the CARPP actually requires that emissions be limited so as to prevent violations, or even exceedances of the NAAQS. Even if the ozone NAAQS are exceeded, the CARPP only says that BLM “may” implement measures to reduce emissions. FEIS at J-9. There is no plan to ensure that emissions are limited such that ozone NAAQS will not be violated and therefore no basis for the agency’s conclusions in the FEIS that the ozone NAAQS will not be violated or that impacts to the NAAQS will not be significant under NEPA.

II. The BLM Failed to Comply with FLPMA in Failing to Ensure Protection of the Ozone NAAQS

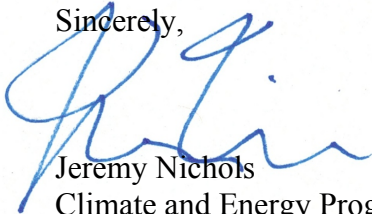
“In the development and revision of [RMPs],” BLM has a duty to ensure compliance with state and federal air quality standards under FLPMA. *See* 43 U.S.C. § 1712(c)(8). FLPMA, as well as regulations implementing FLPMA, specifically state the BLM shall, in the process of developing and revising RMPs, “provide for compliance with applicable pollution control laws, including State and Federal air, water, noise, or other pollution standard or implementation plans.” *Id.*; *see also* 43 C.F.R. § 1601.0-8 (stating that approval of RMPs shall be consistent with 43 U.S.C. § 1712).

Here, the BLM has not ensured that future oil and gas development under the RMPA will comply with the ozone NAAQS, a federal air quality standard, pursuant to FLPMA. Not only did the BLM fail to adequately analyze and assess impacts to the ozone NAAQS in the FEIS in accordance with NEPA, a clear sign that the agency’s FLPMA responsibilities have not been met, but the CARMMS report that the BLM refused to address demonstrates that oil and gas activities in the White River Field Office are projected to contribute to future ozone violations. Although the BLM may claim that compliance will somehow be assured through future, yet-to-be adopted, speculative project-level mitigation measures, given FLPMA’s mandate that compliance with air quality standards be demonstrated “in the development and revision of land use plans,” such deference to project-level decisionmaking is not allowed here. While it is true that projects must ensure compliance with FLPMA as RMPs are implemented, the statutory requirements of FLPMA are clear that, first and foremost, BLM must ensure that its RMPs, and the actions authorized thereunder, cumulatively comply with FLPMA.

The BLM’s decision to demonstrate compliance with FLPMA at the project-level stage, rather than at the RMP stage, is contrary to FLPMA.

In light of the foregoing, we request the Director order the Colorado State Office to remedy the deficiencies in the FEIS and assure compliance with FLPMA by developing an RMPA that ensures air pollution levels will not exceed and/or violate the ozone NAAQS as a result of any future oil and gas development.

Sincerely,



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