

November 13, 2008

Ryan Lance  
Deputy Chief of Staff  
Governor Dave Freudenthal  
State Capitol Building  
200 West 24<sup>th</sup> Street  
Cheyenne, WY. 82002

Dear Ryan,

We the undersigned groups are writing to urge the Governor to continue to weigh in with the BLM on the Pinedale Resource Management Plan (RMP) and to specifically highlight some priority changes to the RMP that should still be secured via the language in the forthcoming Record of Decision (ROD).

Overall we feel that the Pinedale Final RMP is a significant improvement over the Draft RMP's preferred alternative and includes some critical measures for better balancing oil and gas activity in the Upper Green River Valley, such as its provision making 440,000 acres of the planning area unavailable for new leasing. The Governor's strong and sustained engagement in the Pinedale RMP process helped tremendously to achieve these improvements. Furthermore, the Governor's October 17 consistency review letter to the Wyoming BLM Director should hopefully further enhance this plan (notably, by clarifying limitations on the use of categorical exclusions under EPACT, expanding the Trappers Point ACEC, adding defined "trigger" thresholds for future RMP revision, and clarifying the current air quality situation and processes). Nevertheless, our assessment is that several serious weaknesses still exist with the Final Pinedale RMP and that the potential consequences are quite significant, given that this plan will fundamentally guide landscape level oil and gas decisions on over a million acres for the next 15-20 years.

It is thus our hope that the Governor will weigh in soon to the BLM on three critical items detailed in this letter. This would be both through informal discussions with Wyoming BLM staff and formally via written appeal of the Governor's consistency review letter to the BLM National Director, if necessary. Here are the three items in the Pinedale Final RMP we think the Governor should engage BLM on:

1) Sage Grouse:

The Governor wisely noted in his consistency review letter that the Final RMP does not even reference his sage grouse executive order or the new state sage grouse stipulations (for that matter, the Pinedale RMP does not even show the core sage grouse areas within the Pinedale Field office). But the Pinedale Final RMP needs to be improved beyond just referencing the impressive work achieved by the state sage grouse working group. It is without dispute that this part of the state is considered one of the most crucial areas for larger sage grouse conservation efforts in the state. Furthermore, the Wyoming BLM office has already embarked on changing its management in the Powder River planning area because of the Governor's sage grouse Executive Order (and even the Kemmerer RMP, which was developed on the same timeline as the Pinedale RMP, institutes a .6 mile NSO and 3 miles seasonal restriction – both stronger than the Pinedale RMP). So at the very least, we believe the following language should be incorporated into the Pinedale RMP via the upcoming Record of Decision:

*In approving this plan, the BLM recognizes and supports state Executive Order #2008-2 regarding protection measures for greater sage grouse. Therefore, with respect to Core Sage Grouse Areas within the Pinedale Resource Area, the BLM hereby incorporates the state's*

*stipulations into future leasing and development decisions carried out under the Pinedale RMP. This is not limited to but includes the stipulations limiting development in core areas to one well pad per 640 acres, no more than 11 well pads within 1.9 miles of occupied leks with densities not to exceed 1 pad per 640 acres, surface disturbance limited to less than 5% of sagebrush habitat per 640 acres, and no surface occupancy within .6 miles of occupied leks.*

We should note that with respect to the BLM's Executive Order and how BLM feels about it, the language in the June 12, 2008 letter from Acting State Director Don Simpson to the Governor is important. It reads in part (emphasis added):

I am aware of your Sage-Grouse Implementation Team's work to define "core areas" for sage-grouse within the Powder River Basin and across Wyoming. We have received maps of the core areas identified by the Team along with recommendations to you and understand that the U.S. Fish and Wildlife Service have provided an endorsement of both the areas and strategy. Consequently, it seems appropriate ***to base our management strategy on these "core areas."***

Air:

We wholly agree with the point made by the Governor in his consistency review letter that the Pinedale RMP Record of Decision needs to expressly recognize the forthcoming Memorandum of Agreement (MOA) between DEQ and BLM regarding air mitigation lease stipulations and development conditions of approval – and that the Record of Decision should detail the parameters and objectives of this agreement. While we understand the importance of maintaining state primacy and not having any BLM requirements limit DEQ authority, we also feel it is imperative that there be explicit, detailed statements in the Pinedale Plan and ROD on the possible air mitigation measures likely to come from this MOA that would affect BLM's future leasing in this part of Wyoming. This will ensure that potential future leaseholders or drilling applicants are accurately informed early on of the unique Pinedale area situation, help re-build public trust in the BLM and RMP process, and keep needed options available for addressing what could be possibly even worsening air quality in the future. Furthermore, BLM fundamentally makes the decision about whether to allow a well to be drilled, so we feel it is crucial for BLM to acknowledge they need to protect air quality, too, and to have an obligation to do so under the ROD. So here is sample language we suggest the Governor present to BLM for inclusion in the Pinedale RMP Record of Decision:

*The BLM recognizes that at this date (fall 2008) air quality in parts of the Pinedale Resource Area has been severely degraded, to the point that some air quality standards may have been exceeded. Therefore, the BLM is approving this plan with the understanding that new air quality based stipulations and conditions of approval (COAs), developed jointly with the Wyoming DEQ, will soon be forthcoming and applied to leasing and development decisions carried out under this plan. These stipulations and COAs will impose mitigation measures and possible restrictions on development in order to mitigate air quality impacts. Measures that could be incorporated in these new State-BLM developed stipulations/COAs include but are not limited to requirements for fluid gathering systems and piping of produced waters to centralized facilities, Tier 2 or better drilling rig engines, gas turbines for compressors, wind or other electrified power sources, and a reduced pace of drilling.*

Water:

Concerns over well contamination and needed protections for ground and surface water is a growing concern amongst citizens throughout the Upper Green River Valley (and beyond). While the state of Wyoming clearly has primacy and is the lead agency when it comes to water quality and quantity regulation (as noted on page 4-198 of the Final RMP), the BLM still has a supportive role to play and a responsibility via the FLPMA to protect water quality, and should

ensure in its land management decisions that there are measures to prevent contamination as well as support swift, effective remediation should pollution occur. Right now, the Final Pinedale RMP fails to incorporate any such guidance. So here is proposed language we would like to see in the ROD that we feel would improve water quality protection and remediation efforts while still respecting the state's authority in managing water (and air) issues:

*The BLM will strive in its management of the Pinedale Resource Area to maintain or enhance the excellent watershed and water quality (including groundwater quality) that now exists there. This goal seeks to cooperate with and support the state of Wyoming as the primary authority, in its policy of preventing, reducing, and eliminating water pollution. Furthermore, this decision incorporates any water pollution control stipulations and remediation measures specific to oil and gas operations that the BLM and State DEQ should jointly develop. These could include but are not limited to requirements for non-toxic pipe compound, backflow preventers, limits on and standards for hydraulic fracturing chemicals, pit design and clean up, stormwater controls, enhanced remediation planning, and other measures.*

In support of this language (and the above language on air related stipulations and COAs) we draw your attention to the provision in FLPMA that requires the BLM in preparing an RMP to, "provide for compliance with applicable pollution control laws . . ." 43 U.S.C. § 1712(c)(8). We feel this emphasizes BLM's ability and indeed responsibility to make the above provisions.

There are certainly several other areas for improvement with the Pinedale RMP. But the above proposed ROD language for sage grouse, air, and water issues are of the highest priority and we thought it best to limit ourselves to these three issues given that there is not much time left to influence this plan and given that the air and sage grouse items are consistent with points raised in the Governor's consistency review letter.

Again, we deeply value the long-term commitment and engagement you and the Governor have put into helping positively shape the Pinedale RMP. This Final plan has come a long way over the years and is certainly better than earlier drafts. But, as implementation of other Pinedale area plans demonstrate, the devil is in the details and having clear, explicit language can be tremendously important to successful implementation. So now, in the final months before its adoption, we ask that the Governor weigh in one last time to ensure that such details end up in the Pinedale RMP's Record of Decision.

If you are amenable, we would like to soon schedule a conference call to further discuss the points and language raised in this letter. With the BLM likely to respond to the Governor's consistency review letter before Thanksgiving (as well as issue the Pinedale RMP Record of Decision in December), there is no time to waste. Please contact Peter Aengst (406-586-1600) or Steff Kessler (307-332-3462) on your interest/availability and they can set up such a call.

Sincerely,

Peter Aengst and Steff Kessler  
The Wilderness Society

Brian Ruteledge  
Wyoming Audubon

Bruce Pendery  
Wyoming Outdoor Council

Linda Baker  
Upper Green River Valley Coalition

Brian Sybert and Lloyd Dorsey  
Greater Yellowstone Coalition

Dan Heilig  
Western Resource Advocates