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April 1, 2005

Jonah Infill Drilling Project Comments
Bureau of Land Management – Pinedale Field Office
P.O. Box 768
Pinedale, WY 82941

To the Pinedale Field Office,

Following are the comments from the Wyoming Department of Agriculture (WDA) on the Draft Environmental Impact Statement for the Jonah Infill Drilling Project which proposes to develop the natural gas resource in the Jonah Infill Drilling Project Area (JIDPA).

Our comments are specific to our mission within state government which is to be dedicated to the promotion and enhancement of Wyoming's agriculture, natural resources, and quality of life. As this ongoing project will have major impacts upon our agriculture industry, our natural resources, and the welfare of our citizens for the life of the project (up to 105 years), we believe it's important that we be kept informed of all actions and decisions and that we continue to be provided the opportunity to express pertinent issues and concerns.

Please accept my sincere appreciation for allowing the participation of state and local government officials as cooperators. We believe that the interchange of information and active consideration of suggestions is valuable.

With the ongoing and increasing energy needs of our nation, the federal government will continue to develop energy, affecting the natural resource base of our public lands. Development of gas resources will occur and intensify. Our comments intend to ensure the natural resource base receives the least possible impact, while allowing this area to continue to meet the energy needs of our nation.

The WDA supports the BLM Preferred Alternative. This alternative addresses our concerns over surface disturbance, monitoring of reclamation, and the use of adaptive management for decision making. We support the gas operators establishing a fund to finance compensatory mitigation for impacts that cannot be fully mitigated onsite.

The Wyoming Department of Agriculture

is dedicated to the promotion and enhancement of Wyoming's agriculture, natural resources and quality of life.

With a Proposed Action to develop the natural gas resource by drilling up to 3,100 new wells on up to 16,200 acres of new surface disturbance, our comments on the Proposed Action and the BLM Preferred Alternative focus on three areas:

1. Livestock grazing and its economic viability
2. Environmental impact and the reclamation of surface disturbance
3. Compensatory mitigation

Livestock Grazing and its Economic Viability

Livestock grazing can be used to change the seral stage of the plant community, remove decadent plant growth to rejuvenate forage species, and improve the quality of forage for wildlife. Livestock grazing is an excellent tool for the reduction of hazardous fine fuels, thus reducing the potential for catastrophic wildfire and improving the wildland/urban interface. Grazing will also aid in the disappearance of noxious weeds and invasive species.

As discussed in Section 4.5.2.11, the cumulative short-term impact of this proposed action is expected to result in the loss of approximately 1,766 AUMs, or a 17.9% reduction in grazing on the combined allotments. We agree that this project will result in the temporary and probable long-term loss of livestock forage and available AUMs. However, how was this anticipated impact derived? There is no discussion as to how these calculations were made.

The grazing of domestic livestock in the Boundary Allotment, Blue Rim Desert Allotment, Sand Draw Allotment and Stud Horse Common Allotment is critical to the economic viability of the affected grazing permittees. These four allotments cover 120,597 acres and contain a total of 9,876 active AUMs. As stated in 4.5.2.2 The Proposed Action, *the JIDPA contains a total of approximately 2,604 AUMs or 26% of the total 9,876 permitted AUMs distributed among three grazing allotments* (WDA emphasis added). The calculations and statements are incorrect in this section.

Since the total AUMs in the Blue Rim Desert Allotment are not included within the JIDPA, we do not believe they can be counted toward determining surface disturbance impact. There will be no significant impact to livestock utilization patterns or AUM reductions of the Blue Rim Desert Allotment as a result of increased gas development in the JIDPA. Therefore, the active AUMs for the Boundary Allotment, Sand Draw Allotment and Stud Horse Common Allotment total 7,050 AUMs. The short-term loss impact is then increased from 17.9% to 25%, and the total AUMs present in the three allotments rises from 26% to 37%.

The WDA believes that all AUMs in each allotment should be analyzed for discussion of utilization. The AUMs considered available for utilization in the two most impacted allotments are 4,465 AUMs for the Sand Draw Allotment and 2,303 AUMs for the Stud Horse Allotment, versus the listed 2,324 AUMs and 1,730 AUMs respectively. These figures include all suspended AUMs, which should be included in the discussions.

Livestock grazing is considered by the BLM as a privilege, and it can therefore adjust AUM levels at will. At any time when livestock AUMs are decreased, these should be listed as a temporary non-use permit, thus retaining the AUMs for future reinstatement. All livestock AUMs should be retained for future use in the allotments. Livestock grazing should ultimately continue on all allotments within the JIDPA with no net loss of AUMs. Following successful reclamation, all AUMs in the allotments should be analyzed for evaluation of an updated allotment carrying capacity. This analysis should include active and suspended AUMs.

The Secretary of the Interior has always had the authority under the Taylor Grazing Act and Federal Land Policy and Management Act (FLPMA) to reclassify and withdraw range land from grazing use. Yet, the Supreme Court stated in their decision for 98-1991 on May 15, 2000, that suspended AUMs will continue to be recognized and have a priority for additional grazing use within the allotment. Also stated in the decision is, "the regulations specify that regular grazing permits will be issued for livestock grazing or suspended use." In a concurring statement, Justice O'Connor noted that should a permit holder find the Secretary "deprives the permit holder of grazing privileges to such an extent that the Secretary's conduct can be termed a failure to adequately safeguard such privileges, the permit holder may bring an as-applied challenge to the Secretary's action at that time. The affected permit holder remains free to challenge such an individual [denial of] grazing privileges, and the courts remain free to determine its lawfulness in context." In other words, permit holders may request grazing privileges on an active, renewable basis.

The WDA recognizes there will be direct and indirect impacts on livestock grazing, as a result of increased gas development in the JIDPA. Under Section 4.5.2 *Livestock / Grazing Management*, "impacts would primarily result from surface disturbing activities and/or presence of oil and gas developments and associated disturbance to livestock." Also stated is that "the principal impact to livestock/grazing management would be . . . resulting from the removal of forage due to proposed surface disturbance."

The WDA believes that direct impacts will occur by either livestock being removed entirely from the JIDPA to ensure successful reclamation, or by livestock being displaced throughout the allotment due to the removal of forage by gas development. Either of the direct impacts result in a direct alteration of the ranching operations for the affected permittees. Mitigating these impacts is discussed below under Compensatory Mitigation.

Many indirect impacts will occur that will cause the continual underutilization of the allotments. The DEIS in 4.5.2 lists only vehicle/livestock collisions, livestock movement onto lowland and reclamation areas, and an increase of dust pneumonia; yet there are additional indirect impacts.

The inventory value of livestock in Sublette County alone exceeds \$35,580,000 per year (NASS-USDA, 2003). Any negative impact or alteration to the livestock industry can

lead to a significant decrease to the value of agriculture. In neighboring Fremont County, a 100 percent reduction in BLM grazing estimates to reduce the average annual net income for the model ranch to -\$59,848. Any business activity that has an average net income of -\$59,848 is probably not economically viable. Even a 24 or 52 percent reduction in profitability might financially stress many livestock operations (Taylor, Coupal, Foulke and Thompson, 2004).

Overall firm-level economic impacts of reducing BLM forage on a representative ranch operation can be quite significant depending upon the quantity of BLM forage that is made unavailable. An important aspect of ranching in the Rocky Mountain area is that summer grazing on public lands has no viable substitute during that season. Therefore reducing public lands grazing makes other forage sources less available because of conflicting seasonal uses. Private meadows are being hayed for winter feed and cannot be used as a summer grazing alternative. As BLM forage resources are removed from consideration, the operation becomes more of a hay selling enterprise. However, since this is clearly a less profitable alternative, the pressure to sell out and remove the private lands from ranching altogether increases (Taylor, Coupal, Foulke and Thompson, 2004).

Wyoming ranchers and their private ranch land rely on federal grazing for social and economic productivity. The ability for ranchers to graze federal lands is critical for their operation to remain economically viable. The loss of ranchlands is a very crucial issue, as the impacts of subdividing private ranch land in the surrounding area will have an extreme-demonstrative effect on the wildlife populations, their prey base, and available open space and habitat. This subdivision of private ranchland is far worse on the ecosystem, especially when compared to the minuscule utilization of forage by livestock in an allotment. If grazing permits are permanently removed, the BLM can count on the eventual removal of habitat on the private ranchland.

Agricultural land is being converted into rural residences at an unprecedented rate in the Inter-mountain West. Survey data have been collected for Sublette County, Wyoming concerning preferences for private land use and land use controls (McLeod, Woirhaye, Kruse and Menkhaus, 1998).

Because agriculture is the dominant private land use in Wyoming, the future of open spaces on such land in the state will depend to a large extent on what happens to agriculture. A number of factors adversely affect the retention of agricultural land in Wyoming. One factor is the continued uncertainty about livestock grazing on federal lands (Taylor, 2003).

Sublette County, Wyoming policy encourages conservation of agricultural and ranch lands and related land uses through various voluntary and incentive-based programs and policies (Sublette County Comprehensive Plan, 2003).

As an impact from gas development is imminent, ensure that the efforts of gas operators and those of the BLM will not have a significant adverse financial impact on ranching, and, therefore a potentially devastating impact on wildlife and the natural resource base.

Environmental Impact and the Reclamation of Surface Disturbance

The DEIS calls for up to 16,200 acres of new surface disturbance in the JIDPA, which totals 30,500 acres. This level of impact is enormous, meaning 53% of all JIDPA surface will be disturbed. Impacts of this size tremendously affect the natural resources and environment, as well as contribute to the cumulative negative impacts of all gas development within the Green River basin. Due to this extreme level of impact, the WDA recommends to gas operators that all efforts be made to minimize the impacts on forage, water, air and the local communities. Any increase in surface disturbance above the proposed levels will contribute to a greater impact on the affected natural resources, including livestock grazing.

The WDA recommends that facilities be consolidated to minimize surface and environmental impacts. At the level of development to date, an environmental impact has already occurred. "Spoke and hub" development is one consideration that gas operators can undertake to minimize surface disturbance, traffic and emissions.

The WDA strongly recommends that the BLM improve their counting methods in order to track wellheads on BLM surface. We believe that the BLM does not have an accurate count of current wellheads and development impact. Quarterly reporting of surface disturbance and reclamation efforts should be implemented between the BLM and all gas operators. GIS technology is simple and available to track, record and evaluate the surface impact on the JIPDA. GIS may also be used to monitor the success of reclamation efforts.

The WDA insists any disturbed surface, where applicable, be reclaimed as soon as possible. Once initial drilling has occurred, efforts should be made to reclaim as much as the area immediately, while continuing to allow access to the wellhead for maintenance. It is our desire to have the JIDPA return to the "wellhead in the sagebrush" concept as quickly as possible. To ensure the completion of reclamation, the WDA suggests bonding be increased to cover reclamation costs. This increase in bonding will ensure that reclamation be completed regardless of the gas operator.

At any pace of development, the topsoil being removed from one drill pad can immediately be relocated to the reclamation site of a prior pad. This "leapfrogging" of topsoil will allow the soil to remain productive, viable and present, as less will be removed through pile erosion. Every effort should be made to minimize topsoil being removed from a future drill pad site, only to be piled and stored for future use. Leapfrogging of topsoil initiates immediate reclamation and minimizes the surface impacts of drilling. Interim and immediate reclamation protects the natural resource

base, predominately forage for wildlife and livestock. Invasive and noxious weed infestations will not allowed to establish and develop a stronghold.

A 2003 on-the-ground review of the JIDPA found two problem weeds, Russian thistle and halogeton, established on reclaimed areas (ex. wellpads, pipeline and road right-of-ways) which were reseeded from 1992 through 2002. Both species are considered undesirable for livestock and wildlife forage. Please consider the following information from Weeds of the West (Western Society of Weed Science, 1996):

Since Russian thistle was introduced in the late 1800s, it has become one of the most common and troublesome weeds in the drier regions of the U.S. It is well adapted to cultivated dryland agriculture, but is also found on disturbed wastelands, over-grazed rangeland, and even some irrigated cropland.

Halogeton is a native of Asia that has rapidly invaded millions of acres in the western states. It seems ideally adapted to the alkaline soils and semi-arid environment of high-desert winter livestock ranges. Halogeton is readily grazed at times, and is responsible for thousands of livestock poisonings.

The WDA can provide information for the control of noxious weeds and a listing is provided in W.S. 11-5-102 (a)(xi). Sublette County has a weed and pest control agency that will enforce state law on plants which are considered detrimental, destructive, injurious or poisonous either by virtue of their direct effect or as carriers of diseases or parasites.

A native seed mix should be used to reestablish a desirable and diverse vegetative cover which will provide wildlife habitat, grazing and other land uses comparable to those available prior to disturbance. The native mix should include a combination of forbes, grasses and woody plants, which will maximize the benefit to wildlife and livestock while ensuring compatibility with the surrounding landscape. Planting should occur as late as possible in the fall prior to the first snow, or as soon as the site is accessible in the spring. Fall planting normally produces better results and is not as vulnerable to weather conditions. At either season, plant survival will increase if the planting stock is dormant when planted.

Following all projects and project impacts in the JIDPA, the WDA insists that once reclamation projects are successful and complete, the BLM will restore all active grazing to the permittees. The Stud Horse and Sand Draw Allotments should be monitored for the eventual reinstatement of suspended AUMs in the allotments. Due to successful reclamation, the carrying capacity for domestic livestock will be greater than the current conditions that are present in the allotments.

As mentioned in the BLM Instruction Memorandum No. 2005-069, Compensatory Mitigation Authorizations, impacts to livestock forage as a result of energy development are typically addressed through onsite mitigation using direct reclamation or

rehabilitation techniques to reestablish the lost vegetation. We strongly support the gas operators and the BLM to reestablish the lost vegetation immediately following drilling.

Compensatory Mitigation

The WDA supports compensatory mitigation discussions between gas operators and livestock permittees to lessen the burden, livestock stress and economic impact to a grazing permittee from this intense development. Such mitigation strategies and costs could include, but are not limited to, the following information:

1. Movement of livestock to an open allotment or pasture
For producers who desire to maintain their current herd size, an open federal allotment or private pasture may be found and utilized for the actual livestock that are displaced. The producer may also elect to absorb the displaced livestock into a surrounding or adjacent allotment. Where available, a pasture may be rented for the livestock producer.
Cost – additional pasture rental; trucking and freight to a different allotment or pasture; herding; water development; fencing.
2. Purchase hay in lieu of allotment use
Livestock producers may chose to graze their livestock at home on their hay meadows, and have hay purchased for them for use in lieu of grazing the affected allotment. This activity could serve as a temporary fix until other alternatives are found, or it may serve as a long-term mitigation strategy.
Cost – hay and forage purchase; trucking and freight; feeding and hay handling equipment improvements; water development; fencing; hay storage.
3. Monitoring of development impacts
Livestock producers may chose mitigation based on direct impacts, which are documented from on-the-ground monitoring. Rangeland monitoring can be used to make both short- and long-term management decisions. Monitoring can include utilization, plant community composition, cover, function, structure and species presence. Compensation can be based on a predetermined value which is placed on the recorded impact. Based on monitoring analysis, range improvements will be constructed. The WDA recommends the use of the Wyoming Rangeland Monitoring Guide (August, 2001).
Cost – water development; fencing; herding; actual monitoring; permittee time.
4. Develop water
Poor water distribution is the chief cause of poor livestock distribution on most ranges. In certain allotments in the west, water is the limiting resource for complete utilization of the allotment. By developing water, livestock are able to move throughout the allotment and utilize the forage, without concentrating in one particular area. Water developments in either the affected allotment or surrounding allotments will improve the carrying capacity for livestock. Water

could also be developed on the producer's private land to increase AUMs or hay crop yield.

Cost – drilling and maintenance; water development; haying equipment purchase.

5. Purchase grazing land for Cattlemen's Association control

Gas operators will purchase private land in the area, turn the control over to the local grazing or cattlemen's association, in which they will utilize the land for grazing as displacement occurs in the oil and gas area. This effort will act as a grass bank until AUMs are returned on federal land.

Cost – land purchase; taxes.

6. Reimburse the producer for AUM loss

To temporarily offset the displacement of livestock due to oil and gas development, negotiate a settlement to reimburse the producer for lost AUMs until grazing resumes. This payment may be for a portion or for all AUMs located within the affected allotment. The reimbursement may continue for the life of the displacement of livestock, and cease following reclamation; upon which time livestock grazing will resume.

Cost – AUM purchase; fencing.

Additionally, future projects like range improvements and water developments that would enhance the natural resource base of the grazing allotments in the JIDPA should be addressed in an attentive manner by the BLM. Livestock permittees are currently aware of areas within the allotments that are underutilized by livestock. Addressing the potential for livestock to utilize these areas and implementing projects that would encourage this use should be supported. Projects could be placed not only with underutilization of forage in mind, but also with a concept of predicting the gas development location impact. As discussed in 5.1.9, there are numerous projects that would protect livestock from hazards associated with development. We strongly encourage the BLM to participate in discussions to mitigate for AUM loss.

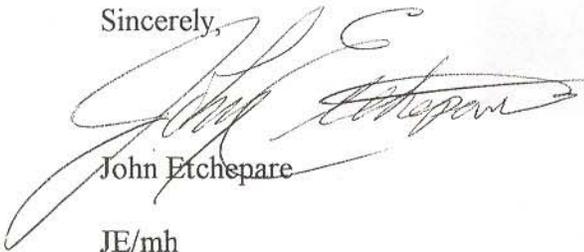
Mitigation projects performed offsite of the JIDPA will also have a direct impact on livestock grazing. Areas surrounding the JIDPA have already been identified for future offsite mitigation, and these areas have active grazing permits. It is important that compensation be similarly awarded to these permittees, as any offsite mitigation will undoubtedly result in an AUM decrease.

We support the efforts of the Wyoming Game and Fish Department and the BLM to find surrounding areas which would be improved by rangeland enhancements. Eventually, these rangeland enhancements will provide better forage for livestock and improve the carrying capacity of each allotment, as well as improve utilization and dispersal of livestock. Offsite mitigation of the environmental impacts occurring on the JIDPA can help improve the natural resources in the Green River basin. However, costs to livestock permittees in the surrounding allotments will rise, due to displacement during offsite

mitigation enhancements. We ask the gas operators to apply all mitigation opportunities to all affected permittees due to offsite mitigation resulting from impacts on the JIDPA.

We appreciate your active consideration of our comments and appreciate the opportunity to comment. We look forward to working with you to further improve the EIS analysis.

Sincerely,



John Etchepare

JE/mh

CC: Governor's Planning Office
Wyoming Farm Bureau Federation
Wyoming Stock Growers Association
Wyoming Wool Growers Association
Wyoming Game and Fish Department
Wyoming State Grazing Board
Rocky Mountain Farmer's Union
Upper Green River Cattlemen's Association
Eastfork Range Consulting