

STATE OF COLORADO

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DEPARTMENT OF
NATURAL
RESOURCES

Bill Ritter, Jr.
Governor

Harris D. Sherman
Executive Director

December 20, 2007

Sally Wisely
Colorado State Director
Bureau of Land Management
2850 Youngfield Street
Lakewood, Colorado 80215-7093

Re: *Comments on Proposed ACEC Provisions in the Roan Plateau Resource Management Plan Amendment*

Dear Director Wisely:

The Colorado Department of Natural Resources (Department) respectfully submits the following comments regarding the Department of the Interior, Bureau of Land Management's (BLM) proposed management measures applicable to four Areas of Critical Environmental Concern (ACEC) within the Roan Plateau Planning Area (Roan Plateau). We appreciate the opportunity to weigh in on this important subject.

The biological and ecological attributes of the Roan Plateau are well documented. The ecological diversity of the Roan is unique, due to the topographical extremes found within the planning area as well as the Roan's location near the boundary of the Colorado Plateau and the Southern Rocky Mountain geologic provinces. The planning area supports regionally important habitat for mule deer and Rocky Mountain elk, the most intensively managed and sought-after big game species in Colorado. The top of the Roan also supports several special status fish species, including genetically pure populations of the Colorado River cutthroat trout. All involved in the Roan debate agree that it is ecologically unique, a truly special place.

On June 11, 2007, the BLM published notice of the availability of a Record of Decision (ROD) pertaining to all lands within the Roan Plateau. 72 Fed. Reg. 32,138 (June 11, 2007). In this notice, the BLM announced an additional comment period, pursuant to 43 C.F.R. § 1610.7-2(b), regarding four proposed ACECs identified in the Proposed Resource Management Plan Amendment/Final Environmental Impact Statement (Plan), August 2006, for the Roan Plateau.

The BLM Plan identifies ACECs where surface-disturbing activities are prohibited to protect the extraordinary natural resources and natural systems found on the Roan Plateau. The current ACECs, however, are inadequate to protect all of the valuable fish and wildlife habitat within the Planning Area. The BLM should extend the ACECs to encompass additional areas that will fully protect the watershed values and important big game winter range and Colorado River cutthroat trout habitat on the Roan Plateau. As explained below, doing so would not interfere with development of the natural gas resources beneath the Plateau. Note that while we are submitting these comments on the ACECs now, this is not the State's final position on all of the issues surrounding the BLM Plan for the Roan Plateau. There are additional matters that we will raise in the ongoing discussions with BLM and the Interior Department in the coming weeks.

Fish and Wildlife Habitat Values on the Roan Plateau

The Colorado Natural Heritage Program's (CNHP) *Biological Survey of the Naval Oil Shale Reserve No 1, Final Report* (1996) documents the rich diversity of species of the Roan Plateau. The CNHP found 17 significant plant communities, 24 species of special concern, genetically pure strains of Colorado River Cutthroat trout, deer, elk, black bear, puma, bald and golden Eagles, peregrine falcon, northern harrier, Coopers hawk, boreal and long-eared owls, black swift, purple martin, three-toed woodpecker, ring-tailed cat, sage grouse, blue grouse, wild turkey, and other wildlife species. Further, the CNHP report states, "[w]e are aware of only three other Colorado areas which compare to the richness of the Roan Plateau's rare flora and fauna. All three of these areas (Colorado and Dinosaur National Monuments and Mesa Verde National Park) are federally protected lands."

The biological and ecological attributes of the Roan Plateau Planning Area are further documented in several BLM documents, including BLM's *ACEC Management Considerations* (Dec. 2002), *ACEC Amendment Evaluation* (Aug. 2002), and *Wild and Scenic River System Eligibility Report* (Sept. 2002). These reports provide detailed findings about the regionally and globally significant ecological and biological resources of the Anvil Points, Magpie, East Fork Parachute Creek and Trapper/ Northwater areas, and they recommend that surface activities be restricted in areas corresponding to the ACECs in Alternative II of the BLM Plan.

For areas atop the Plateau, the *ACEC Amendment Evaluation* (Aug. 2002) report explains the need to protect high value watershed processes for fisheries and plant communities found in the East Fork of Parachute Creek and the Trapper/ Northwater ACECs. Any degradation of these watershed processes, it found, could imperil the Colorado River cutthroat trout populations on the Roan Plateau. The *ACEC Amendment Evaluation* and the BLM Plan both conclude that,

Given the results of the DNA analyses, the Roan Plateau populations of Colorado River cutthroat trout are considered nationally and regionally significant. The Roan Plateau contains one of only a few remaining watersheds where genetically pure, reproducing populations of Colorado River cutthroat trout are found in all

streams capable of sustaining a fishery. Maintaining or expanding these populations would play an important role in the overall recovery of this subspecies.

See RMPA/EIS at 3-64. Further, the Department has made clear that “the loss of any of the CRN populations atop the plateau [would] be an undue and unnecessary impact.” (CDOW, April 2005).

Analysis of BLM’s Plan for ACECs

The Department’s 2005 proposal to BLM for management of the Roan was predicated upon protecting these ecological and biological resources through designation of 36,184 acres of ACECs with corresponding NSO stipulations. One of the basic compromises inherent to the Department’s 2005 proposal for the Roan was that leasing 100% of the natural gas resource could be supported only if the ACECs as geographically delineated in Alternative II of the Plan were protected with an NSO lease stipulation.

Though the BLM Plan acknowledges the important resource values in these ACECs, it inexplicably and dramatically decreases them in size from 36,184 acres to just 21,034 acres: Anvil Points ACEC is decreased from 10,226 acres to 4,955 acres; Magpie Gulch ACEC is decreased from 5,885 acres to 4,698; East Fork Parachute Creek ACEC is decreased from 9,777 acres to 6,571 acres; and Trapper/Northwater Creek ACEC is decreased from 10,296 acres to 4,810 acres. As decreased in the BLM Plan, these areas represent just 58% of the acreage previously recommended by the Department and delineated by BLM in the *ACEC Management Considerations* and *ACEC Amendment Evaluation* as necessary to protect biological and ecological resources. Only the Magpie ACEC remains substantially as recommended by the Department.

Under the present BLM proposal, the ecological and biological values of the East Fork of Parachute Creek and Trapper/ Northwater ACECs are protected by providing an NSO stipulation only to the “high” and “moderate” risk Colorado River cutthroat trout habitat. The “high” value watershed processes for Fisheries and Plant communities would instead be covered by Controlled Surface Use stipulations. The acreage reduction in the Anvil Points ACEC forgoes NSO protection of a large unroaded portion of important wildlife habitat below the rim. The BLM excludes these areas from the ACECs because they contain about 2,500 acres of existing leases. This existing lease information, however, was factored into the initial boundary review and evaluation process in the BLM’s *ACEC Management Considerations* (Dec. 2002), which recommended that the leased areas be included in the ACEC. Moreover, the BLM has affirmed its ability to assert this level of protection on existing leases with the use of mitigation plans tied to Applications for Permit to Drill (APD). See Glenwood Springs Field Office, RMP Amendment for Oil and Gas Leasing and Development (1999), FEIS at 2-28. In this way, the BLM reduced by about 25 square miles the area deemed necessary to protect the visual resources, aesthetic values, wildlife habitat, botanical values, ecological values, and fisheries habitat of the Roan Plateau.

BLM Should Protect Valuable Fish and Wildlife Habitat with Larger ACECs

We propose that BLM extend the ACECs to encompass all 36,184 acres previously contemplated. The additional acreage below the rim in the Anvil Points and Magpie Gulch ACECs is necessary to protect valuable and imperiled big game winter range, particularly for mule deer. Because much of the development at the base of the Plateau is on private lands, measures to preserve habitat on BLM land are all the more important. With directional drilling, the extended ACECs at the bottom would still allow complete recovery of the resource. The additional acreage above the rim in the East Fork Parachute Creek and Trapper/ Northwest ACECs is necessary to reach the crests of the ridge-tops. This is vital to preventing damage from erosion in order to protect high value watershed processes for fish and plants.

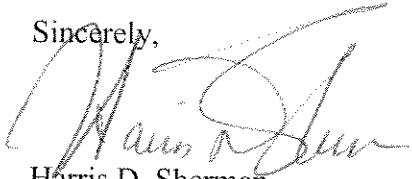
In order to facilitate the orderly recovery of natural gas beneath the top of the Roan, we propose that the BLM delineate a corridor for oil and gas development along the major ridge-top roads: Anvil Points Road, Long Ridge Road, Short Ridge Road, Cook Ridge Road, and Corral Gulch Road. This corridor would be defined by the line following the ridge-top roads and marking the boundary between slopes less than and greater than 20%. Consistent with the Department's original proposal, this corridor would allow oil and gas resources to be developed while still protecting watershed values and wildlife habitat. Our analysis has shown that the vast majority of the mineral resource beneath the top of the Roan can be developed by utilizing only the major arterial roadways atop the Plateau. According to industry representatives, operators are able to use directional drilling to reach resources up to 3,000 feet away from drill pads on top of the Roan. Therefore, drill pads atop the Plateau should be spaced no closer than one-mile apart. We have determined that limiting development to these major roads on one-mile surface spacing would still allow for the extraction of 82% of the natural gas utilizing existing directional drilling technologies. With further improvements to such technologies, we anticipate that substantially all of the recoverable natural gas could be extracted.

An NSO prescription for these ACECs would not preclude the active management necessary to protect or enhance their biological and ecological values. Moreover, we propose developing exception criteria for the ACECs, whereby under limited and tightly controlled criteria jointly administered by the Department and BLM, an operator could apply for an exception to the NSO restriction in order to deviate from the ridge-top corridor. Such an exception could only be granted by the Department and BLM after a site specific consultation and after the Department and BLM review and analyze attributes of the proposed site such as slope, proximity to known or identified biological or ecological values, and consideration of a site plan. This review would include discussion of operational and procedural practices designed to avoid, minimize or mitigate the potential impact to the biological or ecological values. Our analysis shows that development that might occur in limited circumstances along administrative roads deviating from the major ridge-top roads and otherwise-applicable NSO stipulations would likewise result in recovery of virtually all of the natural gas beneath the top of the Roan.

We believe that the measures described above are necessary to protect, preserve, and enhance the biological and ecological values and wildlife and recreational resources of the Roan Plateau in perpetuity. Based upon our discussions with oil and gas industry representatives, these measures would not impede the recovery of the energy resources beneath the Roan Plateau. The BLM has not yet finalized ACEC designations for the Roan, and we urge the agency to protect the important habitat and watershed values present on the top of the Roan by adopting our proposal through expansion of the ACECs.

Again, thank you for the opportunity to submit these comments. We feel that with the measures described above, the energy resources beneath the Roan Plateau may be developed in a way that will protect, preserve, and enhance the wildlife and recreational resource of the Roan Plateau in perpetuity. We look forward to working with you on this and other important issues concerning the Roan Plateau in the coming weeks.

Sincerely,

A handwritten signature in cursive script, appearing to read "Harris D. Sherman".

Harris D. Sherman
Executive Director