

WYOMING OUTDOOR COUNCIL

IBLA 96-128

Decided December 22, 1999

Appeal from a Record of Decision of the State Director, Wyoming State Office, Bureau of Land Management, approving the Greater Wamsutter Area II Natural Gas Development Project. WY-030-05-1310-01.

Affirmed.

1. Environmental Quality: Environmental Statements--National Environmental Policy Act of 1969: Environmental Statements

An EIS must ensure that a Federal agency, in exercising the substantive discretion afforded it to approve or disapprove a project, is fully informed regarding the environmental consequences of an agency action. In deciding whether an EIS has done so, it is well settled that a rule of reason will be employed such that the question becomes whether the statement contains a reasonably thorough discussion of the significant aspects of the probable environmental consequences.

2. Environmental Quality: Environmental Statements--National Environmental Policy Act of 1969: Environmental Statements

Section 102(2)(C) of NEPA provides that BLM "shall consult with and obtain the comments of any Federal Agency which has jurisdiction by law or special expertise with respect to any environmental impact involved." 42 U.S.C. § 4332(2)(C) (1994). Assuming BLM was required to consult with the U.S. Department of Agriculture, Forest Service, regarding impacts from a natural gas development project, where BLM publishes notice of the DEIS for that project in the Federal Register with a 60-day period for comment and the Forest Service fails to comment and there is no evidence that BLM's environmental analysis was in any way compromised by lack of consultation with the Forest Service, failure to consult is not a prejudicial error.

3. Environmental Quality: Environmental Statements--National Environmental Policy Act of 1969: Environmental Statements

Sections 102(2)(C) and 102(2)(E) of NEPA require an agency to present alternatives to the proposed action and to "study, develop and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources." 42 U.S.C. § 4332(2)(C) and (E) (1994). NEPA requires that the range of alternatives be reasonably related to the purposes of the project and sufficient to permit a reasoned choice. Where the record shows that this was done, there has been compliance with this NEPA requirement.

APPEARANCES: Debra Asimus, Esq., Robert Wiygul, Esq., Denver, Colorado, for Wyoming Outdoor Council; Lynnette J. Boomgaarden, Esq., Jack D. Palma, II, Esq., P.C., Cheyenne, Wyoming, Marilyn S. Kite, Esq., Jackson, Wyoming, for Union Pacific Resources Company, Intervenor.

OPINION BY DEPUTY CHIEF ADMINISTRATIVE JUDGE HARRIS

The Wyoming Outdoor Council (WOC) has appealed from a Record of Decision (ROD) of the State Director, Wyoming State Office, Bureau of Land Management (BLM), dated November 21, 1995, approving the "Greater Wamsutter Area II Natural Gas Development Project" (GWA II Project). <sup>1/</sup> In the ROD, the State Director approved, subject to numerous mitigation measures, a plan proposed by the Union Pacific Resources Company (UPRC) and other Federal oil and gas lease operators under which they would engage in full field development of Federally owned natural gas resources expected to underlie Federal, State, and private lands situated in Sweetwater and Carbon Counties, Wyoming, within BLM's Great Divide Resource Area. The State Director based his action on BLM's analysis, in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. § 4332(2)(C) (1994), of the environmental impacts of the proposed action and alternatives thereto in a Draft Environmental Impact Statement (DEIS), dated January 1995, and a Final Environmental Impact Statement (FEIS), dated July 1995. <sup>2/</sup>

<sup>1/</sup> The GWA II Project area encompasses 334,191 acres of mixed Federal, State, and private lands and is situated in Ts. 16 through 22 N., Rs. 92 through 95 W., Sixth Principal Meridian, Sweetwater and Carbon Counties, Wyoming. (ROD at 2.)

<sup>2/</sup> The FEIS is not a complete reprinting of the DEIS. It incorporates by reference the materials presented in the DEIS.

In the ROD, the State Director authorized the Great Divide Resource Area Manager to proceed, after processing appropriate applications, to issue the necessary permits and right-of-way grants for construction, maintenance, and operation of a maximum of 750 wells, at 300 locations, as well as related access roads, gathering pipelines, a compressor station, and other facilities, within the project area. (ROD at 1, 2.) In accordance with established spacing orders, wells would generally be located with at most two per section, and pipelines would, where practical, be placed along existing and/or new roadways. Id. at 4, 8. Each of the well sites was expected to disturb five acres during construction, and 3.67 acres thereafter. Id. at 4. The typical road/pipeline accessing each site would disturb an additional 3.03 acres. Id. Construction of all of these facilities was expected to result in a total surface disturbance of 2,416 acres, or less than 1 percent of the entire project area, with 1,500 acres estimated for well sites, 909 acres for roads and pipelines, and 7 acres for a compressor station. Id. When added to existing surface disturbances, the total was estimated to be 14,943 acres, or 4.5 percent of the project area. Id. The State Director also adopted numerous measures designed to minimize or eliminate adverse environmental impacts during construction and operation of the field. Id. at 12, 14.

The State Director stated that "[t]he precise number of wells, location of wells, and timing of drilling will be directed by the success of developing effective drilling and production technologies and economic considerations. This decision does not approve any specific Applications for Permit to Drill (APDs)." (ROD at 2.)

He explained that "[b]efore any permit is issued authorizing an action on public lands (i.e., Application for Permit to Drill (APD), Sundry Notice, or right-of-way) the final location for each well site, access road, gathering pipeline segment, or other facilities will be evaluated site-specifically through an environmental assessment \* \* \*." Id. Thus, the ROD did not allow UPRC or any other operators immediately to commence any of the operations described in the ROD.

In an order dated March 26, 1996, the Board denied WOC's petition for a stay of the effect of the ROD and intervener UPRC's motion for expedited consideration. After a comprehensive discussion of the arguments raised by WOC in support of its petition for stay, we concluded that WOC was not likely to succeed on the merits of any of those arguments. In addition, we concluded that WOC had "failed to show the likelihood of immediate and irreparable harm to its interests, if a stay is denied, regardless of what proportion of the Project goes forward during the pendency of this appeal." (Order at 11.)

Following receipt of our March 26, 1996, order, WOC filed a response to UPRC's answer, which UPRC had filed prior to the issuance of that order. UPRC filed a reply to WOC's response. Thereafter, WOC filed a supplement to its statement of reasons (SOR), with attached materials consisting of a copy of a May 28, 1996, letter from the U.S. Department of Agriculture,

Forest Service, to BLM, with attached "Comments on Moxa Arch & Fontenelle EIS Air Quality Technical Support Document Cumulative Impacts Analysis," by Douglas G. Fox, Ph.D., Forest Service; a copy of a letter from the Environmental Protection Agency (EPA) to BLM, dated July 9, 1996, with attachments; and excerpts from the FEIS for the Expanded Moxa Arch Natural Gas Development Project, dated June 1996. UPRC filed a reply to that submission addressing each document provided by WOC, but ultimately requesting that the supplemental materials be stricken from the record and not considered by the Board. That request is denied and the supplemental materials provided by WOC are accepted and made part of the record in this case. <sup>3/</sup>

[1] An EIS must ensure that a Federal agency, in exercising the substantive discretion afforded it to approve or disapprove a project, is fully informed regarding the environmental consequences of an agency action. In deciding whether an EIS has done so, it is well settled that a rule of reason will be employed such that the question becomes whether the statement contains a reasonably thorough discussion of the significant aspects of the probable environmental consequences. Northern Alaska Environmental Center v. Lujan, 961 F.2d 886, 890 (9th Cir. 1992); Trout Unlimited v. Morton, 509 F.2d 1276, 1283 (9th Cir. 1974).

On appeal, WOC asserts that in its environmental review BLM failed to (1) consider the direct, indirect, and cumulative impacts of the GWA II Project on air quality; (2) consider those same impacts on wildlife; (3) consult with the Forest Service; (4) consider cumulative impacts on recreational and visual resource values; (5) prepare a regional EIS; and (6) consider reasonable alternatives.

WOC's arguments (1), (2), and (3) were the principal contentions offered in its petition for stay and were essentially adjudicated in our March 26, 1996, order. Therein, regarding WOC's assertion that BLM's environmental review completely ignored the impact of production activities on air quality, we stated at page 4:

Based on its determination that the production phase would result in "only negligible pollutant emitting activity," BLM focused on the construction phase of operations, concluding that the cumulative effect of that phase would "fully comply with the allowable Wyoming air quality standards" (DEIS at 4-15).

Although WOC offered a statement by Dr. Howard M. Liljestrang, an environmental engineering professor at the University of Texas, who specializes in air pollution engineering, in support of its position that "air

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<sup>3/</sup> The Office of the Solicitor sought and received numerous extensions of time to file an answer in this case. No answer has been filed; nor has any written explanation for the failure to do so been provided.

pollutant outputs from production activities, far from being insignificant, are large" (SOR at 17), our examination of that statement led to our conclusion that "[h]is declaration does not contradict BLM's conclusion that the construction phase would result in far greater air pollution than the production phase and that construction-phase air pollution would fully meet air quality standards." (Order at 5.)

WOC also directed our attention to a report entitled "Cumulative Impact Analysis of Southwestern Wyoming Natural Gas Development Projects on Acid Deposition" (CIA Report), dated September 26, 1995, prepared by a BLM consultant, TRC Environmental Corporation (TRC), arguing that "outputs of oxides of nitrogen are greater for production than for exploration activities." (SOR at 17.) We examined the CIA Report and explained that the statement relied on by WOC was made based on a comparison of the construction of about 13 wells during a year with the routine operation of 100 wells during the same period. We stated that, according to the CIA Report, the tons per year of oxides of nitrogen generated by construction of a well was more than five times greater than that estimated per year for the operation or production phase. We found this to be consistent with BLM's position that there would be only negligible pollutant emitting activity when viewed from the standpoint of each well, judged by Federal and State air quality standards.

In addition, WOC alleged that BLM failed to assess the cumulative impacts of the GWA II Project and all reasonably foreseeable development on air quality. WOC emphasized a failure to consider two other development projects, one of which had been approved (Creston/Blue Gap Project (250 wells)) and the other which was undergoing environmental review (Continental Divide Project (400 to 3,000 wells)). In reviewing the record, we agreed with BLM's conclusion that activities on the GWA II Project would not cause significant risks because of the timing of activities and the well spacing requirements. Due to those factors, BLM projected "no appreciable interaction [of air pollutants] between construction activity or operations at the well sites" and, thus, no cumulative impact to air quality outside the boundary of the GWA II project. (DEIS at 4-9.) Nevertheless, BLM noted in its ROD that it had undertaken a cumulative impact analysis of the effect of all ongoing and proposed natural gas development on acid deposition in the "Prevention of Significant Deterioration" Class I areas closest to the project area, i.e., the Bridger and Fitzpatrick Wilderness Areas.

That analysis, contained in the CIA Report, supported BLM's conclusion that no adverse acid deposition effects were expected as a result of the cumulative proposed field development expansions.

In its response to UPRC's answer, WOC asserts that BLM completely ignores the cumulative impacts on visibility of the GWA II Project and other projects proposed or approved in the Green River Basin. WOC alleges that such impacts will be significant and that BLM's failure to address those impacts merits reversal of the ROD.

UPRC argues that BLM, in fact, considered potential impacts on visibility in the Class I areas of the Wind River Mountains, the results of which are contained in the DEIS at 4-11. <sup>4/</sup> It did so, UPRC alleges, even though Wyoming law requires that such an analysis be undertaken "only when major sources are constructed." (UPRC's Reply at 4.) UPRC states that emissions from the construction of a typical well were evaluated and

[t]he visibility impairment computed in the above-described analysis was so small that the impact from as many as 4,000 wells constructed simultaneously would remain below the accepted perceptible level of 5%. Based on these results, the BLM reasonably determined to forego any additional analysis of emissions from all possible wells occurring at the same time.

Id. at 5.

WOC also cites to a copy of a letter from the Forest Service to BLM, dated March 7, 1996, providing comments on the DEIS for the Moxa Arch and Fontenelle Projects and a TRC report on air quality. WOC contends that the Forest Service found that the cumulative impacts to visibility from those projects and other adjacent projects had the potential significantly to exceed the limits of acceptable change for the Class I wilderness areas in the Wind River Range. WOC asserts that cumulative damage to visibility is highly likely and that impact must be included in BLM's EIS for the GWA II Project.

We disagree. The very document relied on by WOC as a basis for its complaint states: "That [GWA II] analysis accurately recognized and quantified possible impacts to these wilderness areas [Wind River wilderness areas]." (WOC Response, Exh. A at 5.) WOC has failed to show that BLM erred in assessing the potential visibility impacts of the GWA II Project. <sup>5/</sup>

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<sup>4/</sup> UPRC states that the details regarding the methodology for the analysis are contained in "Technical Memorandum, GWA II Natural Gas Project, Air Quality Impacts Analysis," TRC, July 26, 1994. (UPRC Reply at 4.)

<sup>5/</sup> In its response to UPRC's answer, WOC argues, for the first time, that BLM should have analyzed the air quality impacts on two other wilderness areas. UPRC responds that those areas, the closest of which is not a Class I air quality area, were never mentioned during the scoping and comment process on the EIS as areas that need to be studied. In addition, UPRC asserts that "the wind blows [from the GWA II Project area] in the direction of these wilderness areas less than 4% of the year." (UPRC's Reply to WOC's Response at 7.) WOC also complains that BLM should have considered the cumulative output of volatile organic chemicals (VOC's) and hazardous air pollutants (HAP's). Again, UPRC responds that no one suggested during the scoping or comment process that VOC's or HAP's were a concern. These arguments by WOC do not establish any error in BLM's analysis.

WOC complains about BLM's particulate analysis for well construction, alleging that it is based on mitigating standards, which it asserts are discretionary. In essence, WOC complains that BLM will not properly enforce mitigating measures to control particulate emissions. We find no basis for such a conclusion. The ROD contains a commitment from BLM to impose appropriate mitigating measures. See ROD at 13-14, A-7.

The documents provided by WOC as a supplement to its SOR do not support reversal of the ROD as urged by WOC. In Fox's commentary on the environmental analysis for the BLM's Moxa Arch and Fontenelle natural gas development projects, he concluded that air quality in "the Bridger wilderness will be impacted by the project[s]," and that the TRC analysis could be improved by adopting more appropriate modeling techniques. In the copy of the May 28, 1996, letter to which the Fox commentary was attached, the Forest Service endorsed Fox's conclusions and recommended that BLM develop mitigation measures to keep impacts to air quality and related resources in Wind River wilderness areas at negligible levels.

WOC admits that Fox did not mention the GWA II Project but contends that the GWA II Project as well as numerous other projects in the area should be included in "an analysis of total emissions." (Supplemental SOR at 2.)

In the copy of the July 9, 1996, letter to BLM the EPA Region VIII Director, Ecosystems Protection Program, stated, with respect to the environmental analysis for the Moxa/Fontenelle Projects, that EPA would continue to view these projects as having the potential to cause significant environmental degradation in terms of visibility and acid deposition "as long as no substantive enforceable mitigation measures are in place." WOC asserts that EPA's concerns apply to GWA II and to numerous neighboring projects as well, and that the flaws EPA identified in its review of the Moxa/Fontenelle Projects are also present in the GWA II Project analysis.

Responding to WOC's supplementary SOR, UPRC asserts that the Moxa/Fontenelle Projects are irrelevant to the GWA II environmental analysis, that the administrative record for the GWA II Project speaks for itself, and that neither the Forest Service nor EPA found fault with the air quality analysis for that project. UPRC also states that the Moxa/Fontenelle Projects are "approximately 120 kilometers west of, and upwind from, the GWA II Project," that the Moxa/Fontenelle Projects are not contemporaneous with the GWA II Project, and that the Fox's criticism of the Moxa/Fontenelle Projects do not apply to the GWA II Project. (UPRC's Response to WOC's Supplemental SOR at 2.) UPRC explains:

Dr. Fox's comments address the technical means by which the impacts of the proposed Moxa Arch and Fontenelle projects were analyzed. More specifically, Dr. Fox criticized BLM's use of a "non-conventional . . . deposition algorithm" to model the potential dispersion of pollutants from Moxa Arch and Fontenelle sources. These criticisms simply do not apply

to the GWA II project since the dispersion modeling performed for the GWA II project was significantly different than that performed for the Moxa Arch and Fontenelle projects. The GWA II analysis did not employ a deposition algorithm at all. Rather, BLM assumed that all pollutants released from GWA II sources traveled in a straight line to the Bridger Wilderness, dictated by a single meteorological data set, without any regard for deposition. By Dr. Fox's own account, the GWA II model is conservative and predicts concentrations larger than those that actually would occur.

Id. at 2-3.

WOC also submitted excerpts from the FEIS for the Moxa Arch Project, including a section on cumulative impacts on air quality. WOC commented: "In this section, BLM finally admits that there will be serious cumulative impacts on air quality caused by the numerous oil & gas projects in southwestern Wyoming." (Supplemental SOR at 4-5.) WOC asserts that the Moxa Arch FEIS included GWA II and that the GWA II analysis should be supplemented to include, at a minimum, the conclusions of the Moxa Arch FEIS.

We disagree with WOC's characterization of the excerpts. In fact, BLM engaged in a "worst case" analysis and compared that with a more realistic development scenario. Only in the "worst case" scenario would there be significant impacts to visibility. BLM stated at page 2-3 of that FEIS:

The "worst case" emission scenario represents an upper bound which would not be exceeded. Review of current production activities in the area suggests that this level of air emissions and impacts would not be reached. Thus the impacts projected in this report should be viewed as a conservative upper bound estimate of potential air quality effects. It is also important to note that before development could occur, the Wyoming Department of Environmental Quality (WDEQ) would require very specific air quality preconstruction permits which must examine project specific air quality effects.

As part of these permits, (depending on source size), WDEQ would require a cumulative air quality impacts analysis. Thus, as development occurs additional site specific air quality analysis must be performed to ensure protection of air quality resources.

NEPA requires the analysis of cumulative impacts and an evaluation of whether the proposed action will have cumulative impacts in conjunction with other reasonably foreseeable projects. 40 C.F.R. § 1508.7; San Carlos Apache Tribe, 149 IBLA 29, 47 (1999). The fact that the Moxa Arch FEIS included in its air quality assessment the approved GWA II Project does not dictate that the completed GWA II Project environmental analysis must

be retroactively amended to include analysis from the Moxa Arch EIS. WOC's position envisions a never ending process. The positions of other Federal agencies represented in the documents submitted by WOC are not binding on BLM, but are part of the overall record to be considered by BLM.

Having reviewed the record and the pleadings of the parties, as they relate to air quality issues, we find that WOC has failed to establish any error in BLM's analysis or the ROD.

In our order, we also addressed WOC's allegations concerning the impacts of the GWA II Project on wildlife. Therein, we made the following findings: "First, the direct impacts of the Project itself to wildlife habitat must be described as minimal." (March 26, 1996, Order at 7.) "Second, the record reveals that BLM did consider cumulative impacts that might result from the GWA II Project and certain other projects, including the current Creston/Blue Gap Project." Id. at 8. "Third, BLM recognized the likelihood of harassment and displacement of antelope and other wildlife due to operations under the Project and attraction of members of the general public to the area, and provided for avoidance and mitigation of these impacts." Id. "Fourth, BLM did not consider cumulative impacts to wildlife from the Continental Divide Project." Id. With regard to that fourth finding, we explained that the operators of the Continental Divide Project had not filed with BLM a definite proposal for activities in that project area during BLM's environmental review of the GWA II Project. We then stated:

In the face of a less than definite proposal for the Continental Divide project, BLM adopted what appears to be a reasonable approach. It decided that, when a proposal for that Project is finalized, the cumulative impacts of that Project together with the GWA II Project and all other past, present, and reasonably foreseeable actions will be analyzed in the Continental Divide EIS cumulative impact analysis. In addition, in approving the GWA II Project, BLM reserved the right to impose on that Project additional appropriate mitigation measures subsequently required by the Continental Divide ROD or the Wyoming Department of Environmental Quality, or recommended by the Wyoming Game and Fish Department or the U.S. Fish and Wildlife Service (ROD at 10).

(March 26, 1996, Order at 10.) In support of that statement we quoted from a document provided by UPRC with its answer, the affidavit of Larry Hayden-Wing, the wildlife ecologist who performed the wildlife analysis contained in the GWA II DEIS and FEIS.

In response to UPRC's answer, WOC complains that BLM's analysis only considers impacts to crucial winter range and ignores impacts to summer and transitional ranges, a complaint raised for the first time in the response. We find no error. As Hayden-Wing stated in his affidavit at page 2: "Crucial winter range is the key limiting factor utilized

by land management agencies to meet the management objectives for herd units." (UPRC's Answer, Exh. E.) WOC provides the second declaration of Dr. Stephen C. Torbit, a senior scientist with the Western Division of the National Wildlife Federation, who stated that "winter presents the greatest nutritional challenge to mule deer, pronghorn and elk," but that "[a]ny analysis of impacts to northern ungulates must also consider impacts to summer and transitional ranges because these ranges provide the nutrition to prepare the ungulates for winter." (WOC's Response to UPRC's Answer, Exh. C.) <sup>6/</sup>

The record demonstrates that BLM did not limit its consideration of the impacts of the project on big game merely to winter range (see DEIS at 1-17, 1-18, 1-19, 1-25, and 1-28); however, it is clear that BLM, in fact, concentrated its analysis on crucial winter range. WOC has provided no evidence that further analysis of impacts to summer and transitional ranges is necessary.

In its analysis, BLM considered the potential for displacement of wildlife and the effects of eventual habituation. It concluded that with appropriate lease stipulations and mitigating measures, there would be no significant impacts to wildlife. Although WOC and Torbit disagree with that conclusion, based on Torbit's opinion that displacement and/or habituation of pronghorn antelope caused by the project will risk the viability of the herd (see WOC's Response to UPRC's Answer, Exh. C at 4), we are not persuaded that the impacts of the project will threaten the viability of the herd.

In its response, WOC also complains that the project will have a significant impact due to the potential illegal killing of pronghorn antelope and it iterates its assertion contained in its SOR that BLM has failed adequately to address impacts to wildlife species other than big game. The record shows otherwise. Both the DEIS and the FEIS discuss impacts on wildlife and the ROD at A-12 expressly includes mitigating measures requiring GWA II operators, *inter alia*, to restrict construction in active raptor nest areas during the critical nesting season; conduct aerial surveys prior to any construction to identify the location of sage grouse leks and restrict construction around those areas; and relocate drill sites to avoid white-tailed prairie dog colonies of a certain size containing active towns.

WOC alleges that the Hayden-Wing affidavit was provided by UPRC to "fill in the gaps in the EIS's analysis" and constitutes "post-hoc rationalization." (WOC's Response to UPRC's Answer at 12, 14.) We believe such a characterization to be inaccurate. The record shows that Hayden-Wing's affidavit was provided as an explanation of the analysis he undertook and to rebut the attack on it contained in Torbit's first declaration.

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<sup>6/</sup> Dr. Torbit's first declaration was submitted as Exhibit 5 to WOC's SOR.

[2] Section 102(2)(C) of NEPA provides that BLM "shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved." 42 U.S.C. § 4332(2)(C) (1994).

In our order dated March 26, 1996, we addressed WOC's argument that BLM violated section 102(2)(C) of NEPA and its implementing regulations by not consulting with and obtaining comments from the Forest Service, regarding impacts to air quality in national forests, including the wilderness areas, north of the project area.

In our order, we assumed, for purposes of addressing WOC's argument, that BLM was required to consult with the Forest Service as an agency with special expertise on the effects of air pollution on national forests. We concluded that a failure to consult did not merit a reversal of the BLM action, where BLM had published notice of the action and supporting DEIS in the Federal Register, the Forest Service could have, but did not, submit comments on the action, and WOC had presented no evidence that BLM's air quality impacts analysis was in any way compromised by the failure to consult. Finally, we noted, citing Warm Springs Dam Task Force v. Gribble, 621 F.2d 1017, 1022-23 (9th Cir. 1980), that failure to consult is a nonprejudicial error. (March 26, 1996, Order at 11.) WOC has presented nothing in its subsequent filings to warrant changing those conclusions.

In its response to UPRC's answer, WOC also alleges that BLM failed to consider the cumulative impacts to recreation and visual resources of the GWA II Project and the Continental Divide Project. As we noted in our March 1996 order in which we considered WOC's contention that BLM should have analyzed the cumulative impacts on wildlife of the Continental Divide Project: "[T]he record fails to show that Amoco [the operator of the Continental Divide Project] had submitted to BLM, during its environmental review of the GWA II Project, a definite proposal for the Continental Divide Project." (March 26, 1996, Order at 9.) We find the State Director's explanation on page 10 of the ROD of the basis for not including the Continental Divide Project, which we quoted in our order, persuasive and responsive to WOC's present argument:

The BLM concurs that the cumulative impacts from gas well development proposed by Amoco's Continental Divide project should be considered together with other projects in the area. The cumulative impacts of the Continental Divide Project will be analyzed together with the GWA II project in the Continental Divide EIS cumulative impact analysis.

WOC further contends in its SOR and in its response to UPRC's answer that the only way in which BLM could comply with NEPA would be to "complete a programmatic or cumulative [EIS] for southwestern Wyoming analyzing the significant cumulative impacts of this massive mineral

development on the region's wildlife, air quality, wilderness and other non-mineral resources." (SOR at 35; see WOC's Response to UPRC's Answer at 18-20.)

UPRC denies that a region-wide EIS is required. UPRC asserts that "WOC cannot fairly characterize the entire southwest quadrant of Wyoming as a common environment that is uniquely sensitive and entirely within BLM's regulatory control," given that the area encompasses 19 million acres, in which 30 to 40 percent of the surface area is privately owned. (UPRC's Answer at 27-28.) Moreover, UPRC states that the area has distinct air sheds, drainage basins, and wildlife populations.

In determining whether a regional EIS is necessary, an agency must consider whether proposals for Federal action "are related to each other closely enough to be, in effect, a single course of action \* \* \*." 40 C.F.R. § 1502.4(a). In Kleppe v. Sierra Club, 427 U.S. 390 (1976), the Court considered the issue of whether a regional EIS was warranted for coal leasing operations in the Northern Great Plains region, embracing parts of Wyoming, Montana, North Dakota, and South Dakota. The Court stated that NEPA did not require the preparation of a regional EIS when there was no "report or recommendation on a proposal for major federal action with respect to the Northern Great Plains region." Id. at 399. It found that there was "no evidence that the individual coal development projects \* \* \* in that part of the country are integrated into a plan or otherwise interrelated." Id. at 401. It concluded that "there exists no proposal for regionwide action that could require a regional impact statement." Id. at 414-15.

We recently stated in National Wildlife Federation, 150 IBLA 385, 400 (1999), in response to a similar argument relating to BLM's approval of the Stagecoach Draw Unit natural gas field development program in Wyoming:

The present case is not, because of the fact of other natural gas development in Wyoming, like the "segments of a proposed highway, which must be considered as part of one major federal development program [citation omitted]." Natural Resources Defense Council v. Calloway, 524 F.2d 79, 87-88 (2d Cir. 1975). It cannot fairly be said that all the existing and proposed projects and fields in southwestern Wyoming are so interdependent that it would be irrational or unwise to undertake one project if the other projects were not also undertaken. Cf. Concerned Citizens for Responsible Mining (On Reconsideration), 131 IBLA 257, 265-66 (1994), citing Thomas v. Peterson, 753 F.2d 754, 758-59 (9th Cir. 1985).

In the case before us, WOC argues for a regional EIS based on the fact that mineral development is ongoing and planned for the region. WOC ignores the fact that an agency must deal with specific actions of known

dimensions in preparing its environmental impact analyses. In the absence of a "regional plan," an impact statement could do little more than discuss estimates of potential development and attendant environmental consequences. See Kleppe, 427 U.S. at 402. We conclude that no regional EIS is required for the GWA II Project.

[3] Section 102(2)(C) of NEPA requires an agency to present alternatives to the proposed action and section 102(2)(E) requires an agency to "study, develop and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources." 42 U.S.C. § 4332(2)(C) and (E) (1994); see 40 C.F.R. § 1501.2(c); Howard B. Keck, Jr., 124 IBLA 44, 53 (1992); Bob Marshall Alliance v. Hodel, 852 F.2d 1223, 1228-29 (9th Cir. 1988), cert. denied, 489 U.S. 1066 (1989); Southern Utah Wilderness Alliance, 122 IBLA 334, 338 (1992). The range of alternatives must be "reasonably related to the purposes of the project," Trout Unlimited v. Morton, supra at 1285-86, in order to furnish a choice of other relevant courses of action having lesser or no impact. BLM has wide discretion in the alternatives to be considered. Where the range of alternatives is "sufficient to permit a reasoned choice," there has been NEPA compliance. California v. Bergland, 483 F. Supp. 465, 488 (E.D. Cal. 1980), quoting Brooks v. Coleman, 518 F.2d 17, 19 (9th Cir. 1975); Western Colorado Congress, 130 IBLA 244, 247-48 (1994).

The DEIS contains an entire chapter on the "Proposed Action And Alternatives." In addition to the proposed action, BLM considered three alternatives including a "no action" alternative. Under the no-action alternative, BLM would allow ongoing natural gas production with APD's and right-of-ways granted on a case-by-case basis but disallow the proposed full-field development program. (DEIS at 2-2.) In addition, BLM considered alternatives which reflected variations in well spacing but did not further analyze those alternatives because of well spacing restrictions imposed on the entire project area by the Wyoming Oil and Gas Conservation Commission. See DEIS at 2-50. Nevertheless, WOC complains that "[t]his ROD does not comply with NEPA because it does not give legitimate consideration to either the no action alternative or other possible development scenarios which would be less destructive to this delicate area, including staged development." (SOR at 34.)

WOC's objection, without further explanation, provides no basis for overturning BLM's action. The record shows that BLM selected a reasonable range of alternatives and provided a thorough analysis of them in its environmental review. No more is required.

To the extent not specifically addressed in this opinion, WOC's other arguments have been considered and rejected.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the Record of Decision appealed from is affirmed.

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Bruce R. Harris  
Deputy Chief Administrative Judge

I concur:

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Will A. Irwin  
Administrative Judge

