

THE COALITION OF CONCERNED
NATIONAL PARK SERVICE RETIREES, ET AL.

IBLA 2004-286, 2006-78

Decided August 22, 2006

Appeals from decisions of the Colorado State Office, Bureau of Land Management, dismissing protests against offering certain parcels in competitive oil and gas lease sales. COC-67400 through COC-67426; COC 68533.

Affirmed.

1. Environmental Policy Act--Environmental Quality:
Environmental Statements--National Environmental
Policy Act of 1969: Environmental Statements--Oil and
Gas Leases: Discretion to Lease--Oil and Gas Leases:
Competitive Leases

A BLM decision dismissing a protest to a competitive oil and gas lease sale is properly affirmed on appeal when the appellant fails to demonstrate with objective proof that BLM's decision was premised on a clear error of law or demonstrable error of fact, or that BLM's analysis failed to consider a substantial environmental question of material significance to the proposed action.

2. Environmental Policy Act--Environmental Quality:
Environmental Statements--National Environmental
Policy Act of 1969: Environmental Statements--Oil and
Gas Leases: Discretion to Lease--Oil and Gas Leases:
Competitive Leases

In considering the potential impacts of oil and gas development when BLM proposes to lease public lands for oil and gas purposes, BLM may properly use "Documentation of Land Use Plan Conformance and NEPA Adequacy" worksheets (DNAs) to assess the adequacy of previous environmental review documents.

Where pre-leasing documents, including an EIS, adequately address the environmental consequences of issuing oil and gas leases both with and without special protective stipulations, BLM's decision denying the protest is properly affirmed.

APPEARANCES: Keith G. Bauerle, Esq., Earthjustice, Denver, Colorado, for appellants; Jennifer E. Rigg, Esq., Office of the Regional Solicitor, U.S. Department of the Interior, Lakewood, Colorado, for the Bureau of Land Management.

OPINION BY ADMINISTRATIVE JUDGE ROBERTS

The Coalition of Concerned National Park Service Retirees (the Coalition), The Wilderness Society (TWS), the Natural Resources Defense Council (NRDC), and the Colorado Environmental Coalition (CEC) (collectively the Coalition) have appealed the June 18, 2004, decision of the Deputy State Director, Division of Energy, Lands and Minerals, Colorado State Office, Bureau of Land Management (BLM), dismissing their protest of an offering of 27 parcels of land (COC-67400 through COC-67426) included in wilderness study areas (WSAs) and citizens' wilderness proposed areas (CWPs) near Dinosaur National Monument (the Monument) in Moffat and Rio Blanco Counties, Colorado, at a February 12, 2004, Federal competitive oil and gas lease sale.^{1/} The Board has docketed this appeal as IBLA 2004-286. By order dated September 13, 2004, the Board denied the Coalition's petition for a stay.

The Coalition, as just identified, along with the Colorado Mountain Club (again, collectively the Coalition), has appealed the November 22, 2005, decision of the Deputy State Director dismissing their protest of BLM's decision to offer parcels COC 68533 and COC 68534 at the May 2005 competitive oil and gas lease sale. The Coalition's appeal, which relates only to COC 68533, has been docketed by the Board as IBLA 2006-78. The Coalition has filed a motion to consolidate these two appeals because they raise the same legal and factual questions. The Coalition explained that parcel COC 68533 "is wedged in between the February 2004 parcel COC 67419 and Harper's Corner Drive," and that "[g]iven the May 2005 parcel's location is amongst the 13 other February 2004 parcels flanking Harper's Corner Road to the south of the

^{1/} In The Coalition of Concerned National Park Service Retirees, 165 IBLA 79, 87-88 (2005), the Board ruled that the Coalition, TWS, NRDC, and CEC all have standing to appeal BLM's decision dismissing the protest as to all 27 parcels involved in the lease sale.

Monument, the factual issues in this appeal are identical to those in IBLA 2004-286.” (Motion to Consolidate at 3.) By order dated February 22, 2006, the Board granted that motion.

The 28 parcels at issue in these appeals are administered by BLM’s White River Field Office, located in Meeker, Colorado. BLM analyzed the potential environmental impacts of leasing the subject parcels in the environmental impact statement (EIS) done as part of the land use planning process that resulted in the adoption of the White River Record of Decision and Approved Resource Management Plan (RMP), dated July 1, 1997. See also White River Resource Area Draft RMP/EIS (DEIS), dated October 1994, and Proposed Resource Management Plan (PRMP) and Final Environmental Impact Statement (FEIS), dated June 1996, and approved July 1, 1997. The DEIS and FEIS show that BLM initially considered four different leasing alternatives and then added a fifth alternative, with each alternative considering different scenarios regarding potential oil and gas leasing, and involving varying levels of exploration and development. See 1994 DEIS at S-2, S-4 (Summary of Proposed Management Actions and Impacts); 1996 FEIS at Table 1-1 (Summary of Management Actions and Impacts by Alternative and Proposed Management). Moreover, BLM analyzed the potential environmental impacts to a wide variety of resources for each alternative, including, inter alia, air quality, big game, greater sage grouse, special status wildlife, visual resources, and wilderness resources. See DEIS at S-2 to S-3, S-9 to S-15; FEIS at Table 1-1.

On December 8, 2003, BLM completed a Documentation of Land Use Plan Conformance and NEPA Adequacy (DNA) for the February 2004 Oil and Gas Lease Sale of 42 parcels of land containing Federal minerals, covering 59,411.55 acres, including the 27 parcels at issue in IBLA 2004-286. In addition, on February 15, 2005, BLM completed a DNA for the sale of 11 parcels at the May 2005 Sale, including the one parcel at issue in IBLA 2006-78. In each DNA, BLM found that the proposed sale was in conformance with the White River RMP because the Record of Decision (ROD) for the RMP specifically provided for such oil and gas leasing. See RMP at 2-5. Each DNA stated: “With the exception of certain formally identified [WSAs], the White River [FEIS] provides for oil/gas leasing throughout the resource area, subject to stipulations and conditions of approval identified in Appendix A and Appendix B to the ROD/RMP.” (DNA at 2.) Thus, BLM concluded that each lease sale “conforms to the applicable land use plan and that the NEPA documentation fully covers the proposed action and constitutes BLM’s compliance with the requirements of NEPA.” Id. at 3. Attached to each DNA was a list of parcel locations and special stipulations specifically applicable to each parcel. Id.

By protest dated February 11, 2004, the Coalition challenged the 2004 lease sale decision insofar as it included the 27 parcels at issue in IBLA 2004-286. See Ex. A to the Coalition’s Petition for Stay. By decision dated June 18, 2004, the

Deputy State Director found the Coalition's arguments against the 2004 lease sale to be without merit and dismissed its protest. By decision dated November 25, 2005, he dismissed the Coalition's protest against the May 2005 lease sale for the same reasons. In each of its appeals, the Coalition contends that BLM has violated two mandates of section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. § 4332(2)(C) (2000), *i.e.*, one, that BLM has failed to take a "hard look" at the impacts that development of the leases would have on the Monument and the resources shared by the lease parcels with the Monument; and two, that BLM has failed to consider recent "new significant information" which required it to conduct supplemental NEPA review before issuing the subject leases. See Statement of Reasons (SOR) at 2-3, 34.

[1] At the outset, we will set forth the legal standards which apply to the Coalition's appeals. This case is governed by the rule, followed by the Board, that the appropriate time for considering the potential impacts of oil and gas exploration and development is when BLM proposes to lease public lands for oil and gas purposes because leasing, at least without no-surface occupancy (NSO) stipulations, constitutes an irreversible and irretrievable commitment to permit surface-disturbing activity, in some form and to some extent. Southern Utah Wilderness Alliance (SUWA), 166 IBLA 270, 276-77 (2005); Wyoming Outdoor Council, 164 IBLA 84, 103 (2004); Western Slope Environmental Resource Council (WSERC), 163 IBLA 262, 285 (2004); Colorado Environmental Coalition (CEC), 149 IBLA 154, 156 (1999); *see also* Conner v. Burford, 848 F.2d 1441, 1448-51 (9th Cir. 1988), and Sierra Club v. Peterson, 717 F.2d 1409, 1414-15 (D.C. Cir. 1983). We must measure the adequacy of BLM's analysis by whether it reflects a "hard look" at the potential environmental impacts of the proposed leasing, considering all relevant matters of environmental concern. WSERC, 163 IBLA at 285; CEC, 149 IBLA at 156.

As the party challenging BLM's decisions to lease the 28 disputed parcels, the Coalition bears the burden of demonstrating with objective proof that the decisions are premised on a clear error of law or demonstrable error of fact, or that the analysis failed to consider a substantial environmental question of material significance to the proposed actions. WSERC, 163 IBLA at 286; Native Ecosystems Council, 160 IBLA 288, 292 (2003). Mere differences of opinion provide no basis for reversal of a BLM decision, and the Coalition bears the burden of demonstrating error by a preponderance of the evidence. WSERC, *supra*.

In SUWA, *supra*, the Board analyzed "the leasing process and its relationship to land use planning." 166 IBLA at 277. The Coalition contends that the White River RMP/FEIS, which embraces all 28 parcels at issue herein, fails to adequately address the impacts of oil and gas development in the Monument area. The posture of the instant case mirrors that in SUWA, in which the Board evaluated the adequacy of BLM's NEPA analysis at the point of offering the parcels for oil and gas lease sale.

In SUWA, BLM conducted “a second, more site-specific tier of NEPA analysis based on the identified or nominated parcels,” relying on DNA worksheets in concluding that existing environmental analyses, including that contained in EISs and EAs, were adequate under NEPA. 166 IBLA at 278-82. Similarly, in this case BLM utilized the DNA option in evaluating the adequacy of the analysis of the environmental impacts of oil and gas leasing in the Monument area. As we stated in SUWA: “The Board has declined to prohibit BLM from using DNAs as a means of assessing previously prepared NEPA studies considering environmental effects, provided that an EIS or EA had been prepared at the planning stage, either for an MFP [Management Framework Plan] or RMP.” 166 IBLA at 282. We will adhere, however, to the standard that “DNAs cannot properly be used to supplement previous EAs or EISs or to address site-specific environmental effects not previously considered in them.” Id. at 283.

These cases present the clear question of whether the Coalition has demonstrated with objective proof that BLM has failed to consider significant impacts associated with oil and gas leasing and development in the Monument area. Answering this question turns upon whether the White River RMP/EIS reflects a hard look on BLM’s part at the probable environmental impacts of the proposed action. We will consider the Coalition’s detailed but straightforward argument that the White River RMP/EIS, as relevant to oil and gas leasing in the Monument area, is inadequate under NEPA, and in the process evaluate BLM’s response to the contrary. For the reasons that follow, we conclude that the Coalition has not carried its burden.

The Coalition’s SOR in IBLA 2004-286^{2/}

In its SOR, the Coalition emphasizes that BLM conducted no new NEPA analysis when it sold the disputed parcels in February 2004, but rather prepared a DNA concluding that the environmental impacts of the proposed leasing had been adequately considered in the 1996 White River RMP/FEIS. The Coalition asserts that in dismissing its protest BLM relied solely upon its DNA checklist in concluding that the leases were sold in conformance with the White River RMP/FEIS. (SOR at 7-8; see Petition for Stay, Ex. A.) The Coalition emphasizes that “[b]ecause they are not NEPA documents, neither the DNA nor the dismissal can suffice to fill any gaps in the White River RMP/EIS’s analysis,” and that “this Board must decide whether the White River RMP/EIS, as the operative NEPA document, provides a ‘reasonably thorough discussion of the significant aspects of the probable environmental consequences’ of

^{2/} The Coalition’s arguments in IBLA 2006-78 are, as stated by BLM in its answer to that appeal, “virtually identical to those made in the 2004 appeal.” (Answer at 1.) Accordingly, our discussion of the parties’ arguments in IBLA 2004-286 are generally applicable to the parcel at issue in IBLA 2006-78.

the proposed action.” (SOR at 8, quoting Southwest Center for Biological Diversity, 154 IBLA 231, 236 (2001).) The Coalition contends that it demonstrates with “objective proof” that the White River RMP/EIS does not meet this standard because its analysis failed to consider substantial environmental questions of material significance to issuance of the 28 leases on the outskirts of the Monument. Id. at 8-9.

The Coalition notes that at the same time BLM was planning to offer these parcels for sale in Colorado, it was planning to lease parcels on the Utah side of the Monument for sale a few days later. The Coalition has prepared and submitted a map depicting the fact that Federal oil and gas leasing “in the Monument’s vicinity has increased dramatically since 1996, the year the White River RMP/EIS was published,” and that the leases issued in Colorado, “when combined with those in Utah, are beginning to turn the Monument into an island in a sea of oil and gas development.” (SOR at 9; Map, Ex. 1.) According to the Coalition, the “geographic proximity” of the Utah and Colorado leases “may result in enhanced or modified impacts” to the Monument’s resources.

The Coalition renews the basic argument, offered in its protest, that “development of the leases at issue threatens the Monument’s viewsheds and natural quiet,” and that “these attributes were substantial components of the Monument’s wilderness character, and that currently, the National Park Service currently manages 90 percent of the Monument in a way to preserve its wilderness character.” (SOR at 10; see Petition for Stay, Ex. A at 5-19.) The Coalition asserts that the National Park Service (NPS) manages the majority of the Monument as wilderness, and that BLM is required to protect the wilderness character of the Monument under the Wilderness Act of 1964, 16 U.S.C. § 1131(c) (2000),^{3/} by considering impacts to the Monument resulting from oil and gas leasing which may affect “the spectacular scenery and very low ambient noise levels that contribute to the ‘outstanding opportunities for solitude’

^{3/} Section 1131(c) of the Wilderness Act of 1964 provides the following definition of “wilderness:”

“[A]reas where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean * * * an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which * * * (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man’s work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation.”

enjoyed by visitors.” (SOR at 11, quoting section 1131(c) of the Wilderness Act.) The Coalition asserts that the “primeval character” of the Monument is an integral part of a visitor’s visit to the Monument.

The Coalition claims that it “has demonstrated that many of the spectacular vistas from the Monument’s many scenic overlooks view unprotected BLM lands outside of the Monument, and that these unprotected lands encompass critical Monument viewsheds.” (SOR at 12.) According to the Coalition, “virtually all of the Colorado parcels will be visible from two of the most popular overlooks in and around the Monument—the Escalante and Canyon overlooks—meaning that development of these parcels would confront the great majority of Monument visitors with views of oil and gas drilling to the detriment of their visitor experience.” Id.

Especially critical, in the Coalition’s view, is the fact that certain of the leases flank Harper’s Corner Drive, “the primary access route to the Monument in Colorado, * * * currently provid[ing] stunning vistas to visitors on the way to the heart of the Monument.” Id. The Coalition states that “BLM has surrounded the Monument’s Visitor Center with leases that will be visible to every visitor to that facility.” Id. The Coalition points out that the Superintendent of the Monument voiced concerns regarding leasing the parcels at issue:

We are concerned with those parcels located along the southern boundary of the park, those situated along the Harpers Corner road, and parcels adjacent to and surrounding park headquarters (COC67400 through COC67403, COC67409 through COC67421, and COC67424 through COC67426). Oil and gas activities on these parcels would impair the viewshed looking both into the park as well as out of the park. Most of the parcels can be directly viewed from the primary areas of visitor activities at the park, most especially along the Harper’s Corner Road. Our first choice would be to withdraw the aforementioned parcels of concern from this sale.

(SOR at 13, quoting Feb. 5, 2004, Letter from Monument Superintendent to Colorado State Director, BLM, Ex. 5 at 1.)

The Coalition argues that “BLM cannot refute this objective proof, demonstrating that oil and gas development on these leases would impact the Monument and its visitors, by pointing to any analysis in the White River RMP/EIS.” (SOR at 3-14.) In commenting on the White River RMP/EIS, the NPS expressed its concern that oil and gas development would have “potentially significant adverse impacts to the high public values associated with the Dinosaur National Monument,” and recommended that the areas adjacent to the Monument be withdrawn from oil and gas leasing or subject to an NSO stipulation. (SOR at 14, quoting White River

RMP/EIS (excerpt attached as Ex. 6) at A-26.) In fact, the Coalition argues that the White River RMP/EIS “by its very terms * * * does not provide any ‘discussion of the significant aspects of the probable environmental consequences’ of oil and gas development of these leases on any Monument resources, much less the ‘reasonably thorough’ analysis required by NEPA.” (SOR at 15, quoting Southwest Center for Biological Diversity, 154 IBLA at 236.)

The Coalition rejects BLM’s claim that only four of the Colorado leases can be seen by a casual viewer from within the Monument, and that the “only real view” from the headquarters and its parking lot is to the south, in which direction “all but approximately 160 acres of one parcel are effectively hidden behind a reef, or ridgeline.” Id., quoting BLM Decision at 2. The Coalition states that its viewshed analysis demonstrates “the truth of the [Monument] Superintendent’s statements” that drilling activities will impact “the park viewshed, dark night skies, and soundscapes,” and that “[m]ost of the parcels can be directly viewed from the primary areas of visitor activities at the park, most especially along Harper’s Corner Road.” (SOR at 16-17, quoting Feb. 5, 2004, letter of Superintendent to Colorado State Office, BLM.) The Coalition states its position in the following terms:

[M]ost of parcel UT 118 will be visible from the Echo Park overlook located on the Colorado side of the Monument. Development virtually anywhere on that particular lease would therefore mean that Monument visitors, after viewing exploration and/or development occurring on the Colorado leases flanking Harper’s Corner Drive on their way up to Echo Park, would only have to turn around from the spectacular view of Steamboat Rock and the confluence of the Green and Yampa Rivers to be confronted with views of oil and gas exploration and/or development to the south across the border.

(SOR at 17.) In support, the Coalition refers to James M. Chudnow, 67 IBLA 360, 361 (1982), in which Utah BLM is quoted as saying that the “high quality scenery adjacent to portions of the Dinosaur National Monument would be diminished by oil and gas operations.” The Coalition concludes that “this ‘objective proof,’ Southern Utah Wilderness Alliance, 164 IBLA at 36, amply demonstrates that the ‘geographic proximity’ of the Colorado and Utah leases ‘may result in enhanced or modified impacts’ to the Monument’s viewsheds and visitor experience. Wyoming Outdoor Council, et al., 158 IBLA at 172.” (SOR at 18.)

The Coalition claims that “exploration and development on the leases at issue would introduce noise including sounds made by heavy exploration, drilling, and extraction equipment and that one of the wilderness characteristics that potential nearby oil and gas development threatens to impair is the solitude provided by the absence of man-made sounds.” Id. The Coalition offers what it considers “objective

proof” that “the Monument’s nighttime soundscapes are so quiet that the level of sound was so low that equipment could not even measure it.” Id.

In further support of its argument, the Coalition relies upon the Draft EIS for the Jonah Infill Drilling Project in Wyoming as providing a catalog of the noises created by natural gas development. Id.; see Draft EIS, Jonah Infill Drilling Project at 4-62 (excerpts attached as Ex. 8 to SOR). This Draft EIS provides data regarding the noise levels associated with development activities, stating that “[p]roject noise may be heard 20 or more miles from the area, and * * * could affect resident and recreating visitor perceptions of solitude.” (SOR at 19-20, quoting Draft EIS at 4-63.) Such development “would likely affect some aspect of the Monument’s visitor experience, whether at the Monument, the Visitor Center, or on Harper’s Corner Drive.” (SOR at 21.) The Coalition asserts that “BLM has provided no data and no analysis to say how much topography or regulatory noise limits would reduce industrial noise impacts on the Monument.” Id.

The Coalition refers to an “ambient sound study prepared for the Monument” as specifying the manner in which the “expected sound level at a particular location can be accurately determined.” Id., Ex. 7 to SOR at 1. According to the Coalition, BLM was armed with sufficient data regarding ambient sound levels for it “to conduct the requisite NEPA analysis of noise impacts to the Monument.” (SOR at 21-22.) In failing to respond to the “objective proof” that oil and gas development on the parcels “could ‘result in enhanced or modified impacts’ to a Monument visitor’s experience of natural quiet” (SOR at 22, quoting Wyoming Outdoor Council, 158 IBLA at 172), the Coalition contends that BLM “failed to consider [] substantial environmental question[s] of material significance to the proposed action.” (SOR at 22, quoting SUWA, 164 IBLA at 36.)

Such failure requires this Board to reverse BLM’s decision, argues the Coalition. In making this argument, the Coalition points to CEC, 108 IBLA 10 (1989), as being “almost precisely on point with respect to the BLM’s failure to consider impacts on Monument visitor’s views.” (SOR at 23.) In responding to the argument that proposed drilling outside of Hovenweep National Monument, which also straddles the Colorado-Utah border, could create cumulative impacts on cultural and visual resources, the Board ruled:

Drilling and associated road improvement activity have an undeniable impact on surface resources. Furthermore, where a number of wells are to be drilled in reasonably close proximity, such activity together may cumulatively affect surface resources, not necessarily confined within the limits of a productive field. That cannot be discounted in the absence of a proper assessment by BLM. [Emphasis added by the Coalition.]

108 IBLA at 18. The Coalition emphasizes that in CEC BLM had failed to consider whether the impacts of a single well could “generally affect a visitor’s enjoyment of the historic scene by increasing the noise and contemporary structures visible from the ruins and the protection zone.” (SOR at 23, quoting CEC, 108 IBLA at 18.) The Coalition concludes that “[b]ecause BLM conducted no analysis of noise impacts to the Monument in this case, this Board * * * should reverse the BLM’s decision with instructions to prepare a NEPA document analyzing ‘cumulative noise impact on the Park against which the additional noise impact of [exploration or development of the leases] can be evaluated.’” (SOR at 24, quoting Granite Canyon Trust v. Federal Aviation Admin., 290 F.3d 339, 347 (D.C. Cir. 2002).)

The Coalition contends that it offered objective proof that the Monument is home to a variety of wildlife species including sage grouse, elk, mule deer, and bighorn sheep. Again, the Coalition relies upon the DEIS for the Jonah Infill Drilling Project to show that oil and gas development can harm these species, and result in the severe fragmentation of wildlife habitat which could last for up to a century. (SOR at 24-25; see Jonah Infill Drilling Project DEIS, Ex. 8 to SOR at 4-75 to 4-77.) In addition, the Coalition bolsters its analysis with evidence compiled by the Wyoming Game and Fish Department (WGFD) regarding the consequences of oil and gas development on wildlife populations, which could include “displacement and competition, * * * lower reproductive success, lower recruitment, and ultimately lower carrying capacity and reduced populations.” (SOR at 26, quoting WGFD, *Recommendations for Development of Oil and Gas Resources within Crucial and Important Wildlife Habitats* (2004), Ex. 9 to SOR at 5.) In sum, oil and gas development “would affect animals within and outside the Monument.” (SOR at 26.) Further, the Coalition provides what it terms “substantial evidence, specific to each species, of the likelihood that oil and gas exploration and development activities on the leases at issue would impact the Monument’s wildlife species,” and concludes that “BLM’s NEPA analysis does not contain any discussion ‘of the significant aspects of the probable consequences’ of the proposed action on Monument wildlife resources.” Id. at 26-34.

Finally, the Coalition contends that BLM failed to consider whether significant new information required it to conduct supplemental NEPA review before offering the leases at issue. Under NEPA, a Federal agency is required to take a hard look at new information or circumstances concerning the environmental effects of the proposed action if the new circumstances “raise significant new information relevant to environmental concerns.” (SOR at 35, quoting Portland Audubon Society v. Babbitt, 998 F.2d 705, 708-09 (9th Cir. 1993).) Moreover, an “agency must be alert to new information that may alter the results of its original environmental analysis, and continue to take a ‘hard look’ at the environmental effects of [its] planned actions.” (SOR at 35, quoting Friends of the Clearwater v. Dombeck, 222 F.3d 552, 557 (9th Cir. 2000).) Under this standard, according to the Coalition, the Board’s

role is two-fold: “First, the [Board] must determine whether the agency took a hard look at the proffered new information. Second, if the agency did take a hard look, the [Board] must determine whether the agency’s decision not to prepare a supplemental EIS was arbitrary or capricious.” (SOR at 36, quoting, Hughes River Watershed Conservancy v. Glickman, 81 F.3d 437, 443 (4th Cir. 1996).)

More specifically, the Coalition contends that it has offered objective proof “that the biological status of the greater sage grouse, and consensus on what is required to protect the species, had changed dramatically since the 1996 RMP/EIS was published.” (SOR at 37.) In the Coalition’s opinion, BLM’s failure to consider new information with respect to the sage grouse was “most egregious,” with recent scientific studies demonstrating that a ¼-mile NSO stipulation around sage grouse leks is insufficient for their protection, and that the WGFD has adopted a 2-mile buffer. The Coalition states that Colorado should follow the example of Utah BLM in deferring the leasing of 31 parcels at the February 2004 lease sale in order to consider significant new information in a new NEPA analysis to decide whether and, if so, how the parcels should be leased. In particular, the Coalition contends that BLM’s failure to consider new information concerning the imperiled status of the sage grouse violated NEPA’s hard look requirement.

BLM’s Answer

BLM responds generally that the Coalition has not met its burden of establishing by a preponderance of the evidence that the “proposed leasing would result in significant effects in the quality of the human environment not already analyzed in existing NEPA documents.” (Answer at 4, citing WSERC, 163 IBLA at 286; SUWA, 163 IBLA at 16. BLM asserts that the Coalition must do more than “simply show that the lease sale would result in a commitment of resources or could potentially disturb the environment.” (Answer at 4.)

BLM argues that it need not refrain from offering leases in areas included in nearby WSAs and/or CWPs under the following rationale:

BLM’s decision to lease is based on existing land use plans. * * * BLM is not required to undertake a site-specific environmental review prior to issuing an oil and gas lease when it previously analyzed the environmental consequences of leasing the lands, and declined to designate the land for further study and protection as a WSA under section 603 of FLPMA[, 43 U.S.C. § 1782 (2000).]

(Answer at 5, quoting SUWA, 163 IBLA at 20.)

BLM states emphatically that it shares the Coalition's concern that the Monument's "visual resources be protected." (Answer at 6.) In fact, the record in this case demonstrates that BLM's objective has been to honor the Department's policy to manage the public lands in the Monument area so as to "protect the quality of the scenic values of the land." *Id.*; see BLM Manual 8400 § .02 (Attachment B to Answer). In carrying out this aim, BLM utilizes the Visual Resource Management (VRM) System as "a tool * * * to inventory and manage visual resources on public lands," with "VRM classes [being] used to identify the degree of acceptable visual change within a characteristic landscape." (Answer at 6.) The BLM Manual sets forth VRM objectives in "the design and development of future projects and for rehabilitation of existing projects:"

Visual design considerations shall be incorporated into all surface disturbing projects regardless of size or potential impact. Emphasis shall be placed on providing these inputs during the initial planning and design phase so as to minimize costly redesign and mitigation at later phases of project design and development. Ensuring early visual design inputs into non-Bureau initiated projects in many cases is beyond Bureau control. However, every effort should be made to inform potential applicants of the visual management objectives so they can adequately incorporate visual design considerations into their initial planning and design efforts.

(BLM Manual 8400 § .06(A)(5).)

Consistent with the BLM Manual, BLM states that the White River RMP provides:

Proposed management actions and projects will be evaluated for consistency with VRM classification objectives. Management actions and projects that would noticeably change the characteristic of the more sensitive landscapes would either be modified to blend in with * * * that landscape, denied, or moved to another more suitable location.

Stipulations or other management actions will be developed through environmental analysis and placed on approvals to mitigate the visual resources.

The areas of primary concern and focus will be the areas having sensitive landscapes such as * * * all VRM Class I and II areas.

(White River RMP at 2-39.)

BLM states that 17 of the parcels at issue, those located between the Monument and Highway 40, are identified as VRM Class II areas, and are in an area deemed to have low potential for oil and gas development. The other 10 parcels, located south of Highway 40, are identified as VRM Class III areas deemed to have high potential for oil and gas development. See White Water RMP, Map 2-19; DEIS, Map 2-6. As for the 17 parcels designated as VRM Class II, BLM states that the BLM Manual provides: “The level of change to the characteristic landscape should be low. Management activities may be seen, but should not attract the attention of the casual observer. Any changes must repeat the basic elements of form, line, color, and texture found in the predominant natural features of the characteristic landscape.” (BLM Handbook 8410-1 § V(B)(2), Attachment C, at 6.)

BLM relates that the primary potential impacts to viewsheds take place during active drilling, which typically lasts from 45 to 60 days, and “[i]f production occurs, the potential visual impacts can be mitigated through the use of best management practices (BMPs),” which are described as follows:

BMPs are innovative, dynamic, and economically feasible mitigation measures applied on a site-specific basis to reduce, prevent, or avoid adverse environmental or social impacts. BMPs are applied to management actions to aid in achieving desired outcomes for safe, environmentally sound resource development, by preventing, minimizing, or mitigating adverse impacts and reducing conflicts. The early incorporation of BMPs into Application[s] for Permit to Drill (APDs) by the oil and gas operator helps to ensure an efficient and timely APD process.

(BLM Instruction Memorandum (IM) No. 2004-194 (June 22, 2004), Attachment E.) BLM states that “[a] wide variety of methods and techniques can be used to minimize and mitigate potential impacts of oil and gas development to viewsheds.” (Answer at 8, citing Visual Resource Management: Best Management Practices for Fluid Minerals (BLM Slide Presentation), Attachment F.) BLM states that its “policy is to consider incorporating BMPs into APDs and associated on and off-lease rights-of-way approval after appropriate NEPA analysis.” (IM No. 2004-194.) BLM explains the context for proper use of BMPs:

BLM can condition approval of APDs on the utilization of BMPs to ensure that any future development does not violate the VRM Class II objectives. The appropriate time for determining exactly what measures will be required to comply with the VRM objectives is when site specific activities are proposed. Colorado Environmental Coalition,

161 IBLA 386, 400 (2004). BLM can enforce compliance by, among other things, denying approval of nonconforming proposals.

(Answer at 8-9.)

In responding to the Coalition's claim that "all of the protested lease parcels * * * will be visible either from within the Monument or from roads providing access to it" (SOR at 12), BLM addresses separately three areas of potential impacts: the Monument, Harper's Corner Road, and the Visitor Center. BLM states that the actual distance between the leased parcels and the Monument undercut the Coalition's argument that negative impacts to viewsheds from the Monument itself will accompany oil and gas development. In support of its position, BLM has submitted a color topographic map (Answer, Attachment H) which shows:

[T]he closest parcel to the southern Dinosaur boundary is COC 067412 which is located about ½ mile south of the Dinosaur boundary. There is a ridge line, identified as Round Top Mountain on the map that cuts across COC 067412 in the northwest corner of the parcel. That same ridge line then extends further west across COC 067413. In addition, there is very steep topography to the northeast of COC 067412. The great majority of COC 067412, then, and more than half of COC 067413, would not be visible from within the Monument, due to distance and topography.

The parcel immediately to the west of COC 067412, COC 067413, is more than a mile south of the Dinosaur boundary. The next parcel to the west of COC 067413 is COC 067414. Approximately half of COC 067414 is more than a mile away from the Dinosaur boundary and the other half of the parcel is more than 2 miles south of the Dinosaur boundary. The entire lease parcel COC 067426, which lies to the west of COC 067414, is more than 2 miles from Dinosaur. Moreover, another ridge line, Stuntz Ridge blocks the view from the north of approximately half of COC 067414 and some of COC 067426.

(Answer at 10.)

BLM states that although some of the parcels are visible from the Monument, "potential development activities would not attract the attention of the casual observer, especially in light of the fact that any future operator must comply with VRM Class II objectives." *Id.* In this regard, future operators may be required to ensure that any changes to the characteristic landscape comport with those objectives by not attracting the attention of the casual observer, and such changes "must repeat the basic elements of form, line, color, and texture found in the predominant natural

features of the characteristic landscape.” Id. at 11. As illustrated by BLM’s Slide Presentation, “a wide variety of BMPs can be employed in connection with any future oil and gas exploration and production activities to ensure compliance with VRM objectives.” Id., Attachment F. BLM asserts that “the spectacular scenery that attracts most casual visitors to the Dinosaur is not the view to the south of the Dinosaur boundary, but instead, the dramatic canyons and cliff areas along the Yampa and Green Rivers,” and that “[i]t is absolutely impossible to see the lease parcels from the river canyons.” Id.

As for Harper’s Corner Road, BLM states that the Secretary selected a 1,000-foot wide road location and scenic easement pursuant to a Congressional authorization. See Pub. L. No. 86-729, 74 Stat. 861 (Sept. 8, 1960). The lease parcels along Harper’s Corner Road are not part of the Monument, and are not subject to the scenic easement for the road. Rather, they are multiple-use lands that the White River RMP specifies as open to oil and gas leasing. BLM notes, however, that the parcels are situated within a VRM Class II area, and thus, any future operations must comport with the existing character of the landscape, must keep the level of change to the characteristic landscape at a low level, must ensure that the activities not attract the attention of the casual observer, and must repeat the basic elements of form, line, color, and texture found in the predominant natural features of the landscape. A wide variety of BMPs may be employed in ensuring compliance with VRM objectives.

In addressing the visual impacts of oil and gas development on the Monument headquarters site, BLM shows that the lease parcels nearby are, in accordance with the White River RMP, available for oil and gas leasing. The site is located close to the highway and within a mile and a half of the town of Dinosaur, Colorado. Nevertheless, at the request of the Monument Superintendent, BLM deferred leasing strips of land approximately ½ mile in width on both the east and west sides of the headquarters site. See Answer, Attachment H. BLM explains that topography to the north, east, and west of the headquarters site is “quite steep and obscures the view of the casual observer of the parcels” in those directions. (Answer at 13.) In addition, “the only real view from the headquarters and parking lot is to the south and all but around 160 acres of one parcel (COC 67404) are effectively hidden behind a reef or ridgeline.” Id.; see Attachment J. Future oil and gas development on the parcels visible from the headquarters site must comply with VRM Class III objectives, which allow a moderate level of change to the characteristic landscape, with such change repeating the basic elements found in the predominant natural features of the characteristic landscape.

In response to the Coalition’s charge that noise from oil and gas activities will adversely impact the wilderness qualities of the Monument and nearby WSAs and CWPs, BLM states that the potential noise impacts would be at the drilling site, which normally does not extend beyond 45 to 60 days. See Answer, Attachment D (June 1,

2005, Declaration of Vernon Rholl, BLM White River Field Office, Staff Supervisor, Non-Renewable Resources). In the event of production, BLM asserts that there would be little, if any, noise-related impacts associated with a well, and should a compressor be needed, BMPs, such as the use of mufflers, directing stacks away from sensitive areas, and placement of facilities behind topographic features can substantially reduce noise-related impacts. Id.

In addressing the Coalition's argument that the Monument and nearby WSAs "currently enjoy dark night skies that allow for unobscured stargazing impossible in brightly lit urban and industrialized areas" (Petition for Stay at 18), BLM emphasizes that lighting associated with oil and gas activities is normally limited to the drilling stage, i.e., 45 to 60 days. See Answer, Attachment D. BLM asserts that the lighting associated with drilling would be more like a "single, well-lit carnival ride than a 'brightly lit urban and industrialized area.'" (Answer at 14, quoting Attachment D.)

In addition, BLM states that the White River DEIS and FEIS thoroughly analyzed potential impacts to air quality in the Monument area, and that all alternatives considered, at a minimum, compliance with local, state, and Federal air quality laws and regulations, including ambient air quality standards and increments for prevention of significant deterioration of Class I, II, and III areas. (Answer at 15; see DEIS, S-3; FEIS, Table 1-1.) Further, "[p]rojects would be designed to minimize further degradation of existing air quality," and "[n]ew emission sources would be required to apply control measures to reduce emissions." (DEIS at 2-1.)

BLM responds to the Coalition's concern that the lease sale could result in adverse impacts to various wildlife species. As for the bighorn sheep population, BLM relies upon the explanation provided in Attachment K to its Answer, a June 1, 2005, declaration by Edward Hollowed, its Wildlife Management Biologist. BLM states that "the Yampa River corridor within the Dinosaur National Monument is the core of bighorn sheep distribution in Game Management 10," that "[o]verall summer use habitat as mapped by the State includes about 80 acres of rugged BLM terrain on the eastern margin of COC067412 and 200 acres of an isolated BLM parcel within the Monument boundary," and that the Colorado Division of Wildlife (CDW) managers and biologists responsible for monitoring bighorn sheep have not reported "ever seeing bighorns using BLM lands along the southern margin of the Monument with the inconsistent and infrequent exception of transient individuals or small numbers of rams seeking domestic sheep along the U.S. Highway 40 corridor during the breeding season." (Answer at 16-17.) Further, BLM states that based upon CDW's "most current habitat mapping, there are no lambing areas (i.e., production

areas) or winter ranges delineated within 1 mile of the lease parcels.” Id. at 17; see Attachment L (Map of bighorn sheep seasonal ranges).

BLM provides a detailed response to the Coalition’s argument that the lease sale could result in adverse impacts to various other big game species, including elk and mule deer. BLM states that based on the White River RMP’s reasonably foreseeable development assumptions for oil and gas development, BLM analyzed impacts to elk and deer from CDW’s “broader Data Analysis Unit (DAU or herd area) and more specific Game Management Unit (GMU) perspectives, regardless of land ownership.” See Answer at 17, Attachment K. BLM explains that “[a]ssessment of direct and indirect habitat losses, including issues of reduced forage availability and habitat fragmentation, and estimates of relative depression in the capacity of each GMU’s important habitat components attributable to oil and gas development were disclosed on page 4-27 of the Final RMP.” (Answer at 18.) BLM describes the steps it took to minimize adverse impacts to big game:

Cumulative direct and indirect habitat effects on big game were thoroughly considered in the White River RMP and formed the basis for several new stipulations (e.g., TL-09; a timing limitation triggered when adverse direct and indirect influences affect greater than 10% of critical big game summer habitats, page A-21 of ROD) and a number of land use prescriptions that form limits on the adverse modification (i.e., abundance and distribution) of important big game forage stocks and cover types (page 2-27 and 2-28 of ROD) and prescribe road density objectives by habitat type (page 2-29 of ROD). [Attachment K.]

(Answer at 18.) BLM explains that it “took the initiative and developed a stipulation that applies to all summer habitats categorized as critical habitat by the Division of Wildlife:”

This stipulation, TL-09, provides a comparable level of protection for big game birthing and post-partum functions by limiting surface use activities detrimental to big game from May 15 through August 15 (45 days longer than TL-07) once direct and indirect impacts to big game habitats exceed 10% of that available within the particular Game Management Unit. This stipulation allows for a certain amount of pre-existing and/or modest level of new development activity before triggering imposition on further land use activity. This stipulation extends across 8,383 acres of the subject lease tracts and fully

encompasses all the currently delineated elk production areas newly described by the Division. [Citations omitted.]

(Answer at 19.) BLM adds that neither elk nor deer severe winter ranges in GMU 10 are considered critical habitat by the CDW, but that TL-08 “which limits development activity on big game severe winter ranges to periods outside a December 1 to April 30 time frame, applies to these leases.” (Answer at 20; see RMP ROD at A-20.) Further, CDW’s long-term population objectives for DAU E-21 (with GMU 10 being the only GMU making up DAU E-21) is 1,200 elk. Given that the post-hunt elk population at the end of the 2004 season was estimated at 3,000 head, BLM concludes that “application of extraordinary protection measures are [not] warranted at this time.” (Answer at 20.)

As to the Coalition’s contention that leasing the subject parcels could result in adverse impacts to bald eagles and ferruginous hawks, BLM responds that it thoroughly addressed the potential environmental impacts to those species in the adoption of the White River RMP (e.g., RMP at 2-35 and 2-50), and developed appropriate special stipulations for activities located within areas of potential impacts (e.g., RMP at A-5, A-14 through A-17). (Answer at 20.) BLM states that based upon its raptor nest survey and monitoring information, an NSO stipulation prohibiting surface occupation within a ¼-mile radius, applicable to special status species such as bald eagles and ferruginous hawks, is attached to leases COC-067403 through COC-067407 and COC-067421, and the timing limitation of TL-03, a stipulation developed specifically for application to ferruginous hawk nests, is attached to leases COC-067402 through COC-067408, COC-067421 and COC-067423, disallowing development within one mile of ferruginous hawk nest activity from February 1 until August 15, or until fledging and dispersal of young. (Answer at 20-21; Attachment K.)

Likewise, BLM describes the steps taken to protect the greater sage grouse population, even though the sage grouse was not considered a “sensitive species” when the White River RMP was developed. In fact, states BLM, it “recognized the sage grouse as a species deserving special attention and, accordingly, separately and fully analyzed potential impacts to grouse from the alternative management activities considered in the DEIS and FEIS.” (Answer at 21.) BLM states that it thoroughly examined and evaluated the effects of oil and gas development on sage grouse populations, and took the following steps for their protection:

Derived from these cumulative effects evaluations, a number of new land use decisions were installed that were designed to enhance the redevelopment and protection of sage-grouse habitats, including limitations on the cumulative extent of suitable sagebrush nesting habitat adversely modified by land use activities (page 3-18 of the Final RMP) and timing limitations applied to the sage-grouse nesting

season when direct and indirect adverse influences exceed 10% of suitable habitats within 2 miles of a lek (TL-06, page A-18 of ROD). The intent of these land use prescriptions was, and remains, to “restore, maintain, or enhance habitat conditions and features conducive to the maintenance or expansion of native grouse populations” (Page 3-17 of Final RMP) such that the integrity of these habitats, including those parcels held by the Monument, would be assured.

BLM’s NSO stipulation NSO-04 applies to individual lek features and associated display activity. This stipulation prohibits surface occupancy within 0.25 mile of a lek and has been applied to leases COC-067416, COC-067417, and COC-067419. The expanded protection afforded sage-grouse reproductive functions (i.e., conditional timing limitation TL-06) allows a certain amount of pre-existing and/or modest level of new development activity before triggering its imposition on further land use activity. This provision applies to suitable sage-grouse nesting habitat within 2 miles of a lek on a number of leases (COC-067412, COC-067413, COC-067416 through COC-067420, and COC-067426). [Citations omitted.]

(Answer at 22.)

Finally, in response to the Coalition’s contention that BLM was obligated to conduct supplemental NEPA analysis due to changed circumstances since issuance of the White River RMP, BLM states generally that such circumstances “are nothing more than implementation of pre-existing land use plans which were already the subject of extensive NEPA analyses.” (Answer at 24.) More specifically, BLM rejects without merit the Coalition’s argument that such supplemental NEPA analysis is required because “the amount of acreage covered by federal oil/gas leases in the vicinity of Dinosaur has increased dramatically since 1996.” *Id.* BLM questions the accuracy of the map offered by the Coalition which purports to differentiate leases sold before and after 1996, stating that most of the lands depicted on the map as having been leased after 1996, as well as most of the lands within the 27 protested parcels, had been encumbered by one or two previous authorizations to explore for and develop the oil and gas resources on a regular basis for over 80 years. BLM states further:

Lands in the vicinity of Dinosaur were authorized for oil and gas exploration and development under oil and gas ‘permits’ issued in the mid-1920’s, before the Colorado portion of the Monument was established, including lands now occupied by the Dinosaur headquarters and the Canyon Overlook. Moreover, these lands have been the subject of repeated oil and gas leasing actions since the mid-1940’s.

Most of the lands have been leased three or four times since the 1940's. For example, some of the land within COC 67402 was part of a lease issued in 1985 that expired in 1995. By way of further example, some of the lands in parcels COC 67400 and COC 67401 were leased in 1991, but the lease was relinquished in 1996. The headquarters site was last leased in 1955. [Citations omitted.]

Id. at 25, citing Attachment D (Declaration of Vernon Rholl).

BLM states that approximately 50 wells were permitted in townships in which the parcels in question are located, with three such wells situated within ½ mile of the headquarters property. However, no wells have been permitted since 1992, and all but one of the wells, a shut-in well four miles southwest of the headquarters, were plugged and abandoned or were never drilled. At present, there are “no producing oil or gas wells between Highway 40 and the Monument per se.” (Answer at 25.) BLM concludes that not conducting supplemental NEPA analysis reflects its “determination that this general area has low potential for the development of oil and gas (see Map 2-6 in the DEIS), and a determination that oil and gas leasing would have minimal impacts.” Id.

The Coalition filed a Reply in which it responds extensively to BLM's Answer, contending that it has “demonstrated, with precision, the ‘substantial environmental problem[s]’ that development on these leases could visit on the Monument, its visitors and resources.” (Reply at 2.) The Coalition reiterates that the White River RMP/EIS fails to constitute “a detailed statement which takes a hard look at the environmental consequences of the proposed action, considering all matters of environmental concern.” Id., quoting Wyoming Outdoor Council, 156 IBLA 347, 357 (2002). The Coalition characterizes BLM's Answer as providing “non-NEPA analyses after the leases have been issued * * * to support its leasing decision a year and a half ago.” (Reply at 3.)

We reject the Coalition's characterization of BLM's Answer. First, as BLM asserts, the White River RMP specifically provides for oil and gas leasing, and the EIS addresses the probable environmental consequences of such leasing. Parcels identified as located in WSAs were excluded from the 2004 and 2005 lease sales, and the parcels included in the sale were subject to stipulations and conditions of approval as identified in Appendices A and B to the RMP. See DNA at 2; Answer at 2-3. What BLM accomplishes in its answer is to explain how it has implemented and applied those stipulations and conditions of approval. To use an example, the White River RMP provides: “Proposed management actions and projects will be evaluated for consistency with VRM classification objectives. Management actions and projects that would noticeably change the characteristics of the more sensitive landscapes would either be modified to blend in with * * * that landscape, denied, or moved to

another more suitable location.” (Answer at 7, quoting RMP at 2-39.) Further, the RMP states: “Stipulations or other management actions will be developed through environmental analysis and placed on approvals to mitigate the visual resources.” Id. In its Answer, BLM details how it has complied with this RMP objective, citing the White River DEIS which identifies the parcels at issue as VRM Class II or Class III and whether they have high potential for oil and gas development, and describing with particularity the Department’s policies in ensuring that oil and gas development does not violate clearly defined VRM objectives. (Answer at 7-15.) BLM offers these measures in explanation of how it has addressed VRM evaluations and findings set forth in the White River DEIS.^{4/}

BLM’s analysis shows that the Coalition lacks a convincing basis for contending that the pre-leasing environmental analysis in the White River RMP/EIS is inadequate to support leasing the parcels in question. In fact, we conclude not only that the Coalition has not offered objective proof that BLM has failed to consider a substantial environmental question of material significance to leasing in the Monument area, but that BLM has shown with specificity that in the White River RMP/EIS it thoroughly considered the potential environmental impacts of leasing in the Monument area, and in those planning documents set forth certain conditions of approval that must be imposed precedent to oil and gas leasing and development. The origination and implementation of new stipulations and conditions on oil and gas leasing in the Monument area were not intended to serve as post-lease corrections of deficiencies in

^{4/} To select another example, the Coalition argues that BLM’s analysis regarding cumulative effects on wildlife should have preceded the sale, rather than being provided in its answer. (Reply at 18.) However, BLM demonstrates that the cumulative direct and indirect effects on big game were considered in the White River RMP/EIS and formed the basis for several new stipulations which were developed to address “the adverse modification (i.e., abundance and distribution) of important big game forage stocks and cover types.” (Answer at 18.) In addition, BLM shows that as a result of cumulative impact assessments in the White River RMP, BLM implemented a number of land use decisions calculated to “enhance the redevelopment and protection of sage-grouse habitats,” and that the intended result of these new “land use prescriptions was, and remains, to ‘restore, maintain, or enhance habitat conditions and features conducive to the maintenance or expansion of native grouse populations.’” (Answer at 21-22, quoting Final RMP at 3-17.) Further, NSO stipulation NSO-04 affords “expanded protection” of sage grouse populations, and “allows a certain amount of pre-existing and/or modest level of new development activity before triggering its imposition on further land use activity.” (Answer at 22.)

the White River RMP/EIS. Rather, they demonstrate that BLM was and remains fully aware of the environmental impacts of leasing the subject parcels. The DNAs simply indicated what stipulations apply to each offered parcel.

We conclude that the Coalition has not demonstrated with objective proof that BLM's decisions are premised on a clear error of law or demonstrable error of fact, or that the analysis failed to consider a substantial environmental question of material significance to the proposed action. SUWA, 166 IBLA at 289; WSERC, 163 IBLA at 286; Native Ecosystems Council, 160 IBLA at 292. The Coalition has not established that BLM failed to conduct the necessary and appropriate NEPA analysis prior to the disputed lease sale, *i.e.*, at the land use planning stage. To the contrary, BLM has shown that the "new circumstances" cited by the Coalition as requiring additional NEPA analysis in fact amount to the implementation of pre-existing land use plans which were anticipated and discussed in the White River Approved RMP and FEIS. (Answer at 24.) The record shows that in the White River RMP/EIS, as catalogued in the DNAs, BLM took a hard look at the potential environmental impacts of leasing the parcels at issue and considered all relevant matters of environmental concern. SUWA, 163 IBLA at 16.

To the extent not specifically addressed herein, the Coalition's additional 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 CFR 4.1, the decisions appealed from are affirmed.

James F. Roberts
Administrative Judge

I concur:

Bruce R. Harris
Deputy Chief Administrative Judge