

October 13, 2026

Steve Pearce
BLM Director
Attention: Protest Coordinator (HQ210)
PO Box 151029
Lakewood, CO 80215

RE: Protest Regarding Carlsbad Proposed Resource Management Plan and Final Environmental Impact Statement

Submitted electronically via BLM e-Planning project website:

<https://eplanning.blm.gov/Participate-Now/?id=88f989ad-e6ad-f111-aaab-001dd8029bbb&ppid=c752f38d-a7f2-f011-8407-001dd803d067>

Dear Director Pearce:

Pursuant to 43 C.F.R. § 1610.5-2, The Wilderness Society (TWS), the New Mexico Wilderness Alliance (New Mexico Wild), and the National Parks Conservation Association (NPCA), the Sierra Club, and New Mexico Interfaith Power and Light protest the Carlsbad Proposed Resource Management Plan (RMP) and Final Environmental Impact Statement (FEIS).

The Wilderness Society (TWS) is a national non-profit organization that works to unite people to protect America's wild places. Founded in 1935, TWS is headquartered in Washington, D.C., with offices throughout the country. TWS has over one million members, supporters and followers nationwide. TWS has longstanding expertise and a history of engagement on a wide range of matters concerning public lands, including land management planning.

New Mexico Wild is a 501(c)(3) nonprofit organization dedicated to the protection, restoration, and continued enjoyment of the wilderness, wildlife, and waters of New Mexico's public lands. New Mexico Wild has a long-standing interest in the management of Bureau of Land Management (BLM) lands in New Mexico and engages frequently in the decision-making processes for land use planning and project proposals that could potentially affect wilderness-quality lands and other important natural and cultural resources managed by the BLM in New Mexico. New Mexico Wild has been an engaged stakeholder in the planning process for the Carlsbad RMP since 2010.

National Parks Conservation Association is the oldest and largest nonpartisan nonprofit advocacy organization for our national parks, with over 1.9 million members and supporters across the country, and 13,000 here in New Mexico. Working with the National Park Service, partners, and communities, we are committed to the protection of national parks as anchors for resilience in an evolving landscape, classrooms to preserve the diverse histories of this country, and as places for recreation and leisure for generations to come. The health of Guadalupe Mountains National Park and Carlsbad Caverns are dependent on one another, as well as on management of BLM lands beyond their boundaries.

The Sierra Club Rio Grande Chapter is the New Mexico chapter of the Sierra Club, with more than 7,000 members in New Mexico and West Texas, including members who live in Eddy, Lea and Chaves Counties and members who hike, cave, camp and birdwatch on public lands within the Carlsbad Field Office planning area and in Carlsbad Caverns and Guadalupe Mountains National Parks. The chapter works on methane, ozone and clean-air policy affecting the Permian Basin counties, including the State's oil and gas ozone-precursor rule (20.2.50 NMAC) and its methane waste rule, and on public-lands planning in southeastern New Mexico. The chapter's members breathe air that the Final EIS itself reports exceeds the ozone standard, and their health, use and enjoyment of the planning area will be adversely affected by approval of the Proposed RMP.

New Mexico Interfaith Power and Light helps mobilize and equip people of faith and conscience across the state for climate action and environmental justice.

Standing to Submit a Protest

Our organizations have standing to submit this protest based on our rigorous participation throughout the Carlsbad RMP planning process and because the approval of the Proposed RMP/FEIS would adversely affect our interests in how public lands are managed in the Carlsbad planning area. In 2010, New Mexico Wild submitted scoping comments through Steve West, raising issues concerning special designations.¹ In 2010-2011, New Mexico Wild submitted nominations for four Areas of Critical Environmental Concern (ACECs). In 2012, New Mexico Wild submitted comments on issues raised during BLM's public workshops for special designations.² In 2015, New Mexico Wild submitted information on nine citizen-proposed Lands with Wilderness Characteristics (LWC) units for areas within the Carlsbad Field Office.³ And, in October 2018, our organizations submitted the Black River Comprehensive Energy Development Plan (CEDP), a proposed RMP alternative under the National Environmental Policy Act (NEPA) to provide a focused approach to managing oil and gas leasing and development while reducing resource conflicts.⁴

On the Draft RMP/EIS, TWS, New Mexico Wild, NPCA submitted two comment letters. On October 12, 2018, we submitted initial comments related to Lands with Wilderness Characteristics (LWCs), Areas of Critical Environmental Concern (ACECs), proactive management of oil and gas, the need for coordination with the National Park Service (NPS), and wasted gas/methane.⁵ In addition, on November 5, 2018, we, along with the Southwest

¹ See Dep't of Interior, BLM Pecos District, Carlsbad Field Office, Scoping Report for the Carlsbad Field Office Resource Management Plan Revision/Environmental Impact Statement, at 40 (May 13, 2010).

² New Mexico Wilderness Alliance, Comments on Public Workshops for Special Designations (February 8, 2012). Attached as Appendix A, Exhibit 1.

³ New Mexico Wilderness Alliance, Nominations for Areas of Critical Environmental Concern. Attached as App. A, Exh. 2; New Mexico Wilderness Alliance, Inventory of Lands with Wilderness Characteristics (April 2, 2015). Attached as App. A, Exh. 3.

⁴ Black River Comprehensive Energy Development Plan: A Citizens Proposed Alternative to the BLM Carlsbad Field Office (October 2018). Attached as App. A, Exh. 4.

⁵ TWS, NM Wilderness Alliance, NPCA Comments on Carlsbad Draft RMP/EIS (October 12, 2018). Attached as App. A, Exh. 5; Black River Comprehensive Energy Development Plan: A Citizens Proposed Alternative to the BLM Carlsbad Field Office (October 2018). Attached as App. A, Exh. 4.

Environmental Center, submitted comments related to including the citizens' proposal for the Black River comprehensive energy development plan (CEDP), inconsistencies in the Draft RMP/EIS and failure to facilitate meaningful participation, inaccurate baseline information, LWC- and ACEC-related matters, National Park coordination and impacts, and climate change.⁶ Finally, also on November 5, 2018, TWS, NPCA, Sierra Club and New Mexico Power and Light, together with multiple other organizations ("Methane Coalition"), submitted comments on the Draft EIS/RMP regarding natural gas waste, increase in drilling activities causing increased greenhouse gas (GHG) emissions and methane emissions, failure to analyze those emissions and impacts stemming from them, and the need for measures, stipulations and conditions of approval to reduce methane waste, among other issues.⁷

On June 2, 2026, TWS, New Mexico Wild, NPCA, and Sierra Club, along with multiple other organizations, wrote to BLM to request that the agency supplement its environmental analysis to consider substantial new information and changed circumstances in and affecting the planning area, and allow for renewed public participation, due to the considerable length of time since BLM released the Draft RMP/EIS.⁸

Rachel Kondor of The Wilderness Society is authorized to submit this protest on behalf of our organizations and members. BLM released its Proposed RMP/FEIS on September 11, 2026. This protest is timely filed on October 13, 2026.

Purpose of Protest

BLM's Carlsbad Proposed RMP/Final EIS does not adequately resolve issues timely raised in our comment letters submitted October 12, 2018, and November 5, 2018. BLM's responses frequently state that existing regulations, other resource prescriptions, or future implementation-level decisions will address the concerns, without demonstrating that the Proposed RMP will protect the affected values. The Proposed RMP continues to prioritize mineral development across the vast majority of the planning area without adequately accounting for the scarcity of remaining undeveloped lands and the need to protect conservation, recreation, wildlife, wilderness, national-park, and other multiple-use values.

BLM notes in its proposed RMP that this protest "constitutes the final opportunity for administrative review of the proposed land use planning decision prior to the BLM adopting an Approved RMP revision." Proposed RMP/Final EIS at 5. However, given the length of time and substantial and significant changes to the affected planning area since 2018, the agency must now supplement its environmental analysis to consider changed circumstances and new information, update its inventories, and reengage the public with current and accurate data regarding the impacts of this plan, in order to meet its obligations under the Federal Land Policy and Management Act (FLPMA) and the National Environmental Policy Act (NEPA).

⁶ TWS, NM Wilderness Alliance, NPCA, Southwest Environmental Center Comments on the Carlsbad Draft RMP and EIS (November 5, 2018). Attached as App. A, Exh. 6.

⁷ TWS et al. (Methane Coalition) Comments on the Carlsbad Draft RMP and EIS (November 5, 2018). Attached as App. A, Exh. 7.

⁸ TWS et al., Supplemental Comments on the Revision of the Carlsbad RMP (June 8, 2026). Attached as App. A, Exh. 8.

Each issue below identifies the specific planning decision being protested, the issue previously raised during the planning process, the legal or factual error in BLM's resolution of that issue, and the corrective action requested. The organizations incorporate their 2018 comments and June 2026 supplementation request as attachments and rely on those materials to document the substance and timing of the issues preserved for protest.

For clarity, protesting parties submit a table identifying the party or parties that previously raised each issue, attached as Appendix B, Exhibit 1.

I. Statement of the Issues Being Protested

- A. BLM Erred in Failing to Conduct the Required Analysis Under the National Environmental Policy Act. This includes BLM's failure to supplement its environmental analysis, take a hard look at reasonably foreseeable impacts, analyze lifecycle and cumulative greenhouse-gas emissions and their consequences, evaluate a reasonable range of alternatives including the Black River Comprehensive Energy Development Plan, and prepare and integrate a current reasonably foreseeable development scenario and production forecast.
- B. BLM Erred by Failing to Consider Public Input on Its Outdated Plan and Environmental Analysis Under FLPMA and NEPA.
- C. BLM Failed to Base the Proposed RMP on Current Inventory Information.
- D. BLM Erred in Not Managing for Multiple Use and Sustained Yield and Failing to Prevent Unnecessary or Undue Degradation Under FLPMA. This includes BLM's failure to grapple with the changes made by the 2025 Reconciliation Act and to provide adequate recreation management and Delaware River protections.
- E. BLM's Proposed RMP Fails to Prioritize Designation and Protection of Areas of Critical Environmental Concern.
- F. BLM's Proposed RMP Does Not Adequately Analyze or Protect Lands with Wilderness Characteristics.
- G. BLM Failed to Meaningfully Coordinate with the National Park Service to Protect Nearby Parks.
- H. BLM Failed to Adopt Adequate Air-Quality Protections or Mitigation Measures.
- I. BLM Failed to Protect Cave and Karst Resources.
- J. BLM Failed to Establish Adequate Methane-Mitigation and Waste-Prevention Measures.

II. Statement of the Parts of the Proposed Plan Being Protested

Environmental Impacts and the Environmental Baseline are addressed in the Executive Summary at ES-2; Chapter 3 (affected environment and environmental effects); Section 3.1.1.1.2 (reasonably foreseeable oil-and-gas development); Appendix E (air emissions and greenhouse-gas analysis); Appendix U (responses to comments).

Greenhouse gas and climate change are discussed in Chapter 3 discussions of air quality, greenhouse-gas emissions, climate change, and climate-related impacts; Section 3.1.1.1.2;

Chapter 2 fluid-minerals allocations, stipulations, and management measures; Appendix E, including E-10–E-11 and E-27 et seq.; Appendix L; Appendix U.

Alternatives are addressed in Chapter 2 comparison of alternatives; Section 2.1; Part 2.34 (alternatives considered but eliminated from detailed analysis); Appendix U at U-59–U-60 (responses concerning the Black River CEDP).

The Reasonably Foreseeable Development Scenario is addressed in Section 3.1.1.1.2; Chapter 3 effects analyses that rely on development projections; Chapter 2 leasing allocations, stipulations, mitigation measures, and related management decisions; July 2023 Reasonably Foreseeable Development Scenario incorporated into the analysis.

Public participation is addressed in Section 1.5.2 (planning process, public involvement, and coordination); Appendix U (responses to comments); the decision to proceed from the 2018 Draft RMP/EIS to the 2026 Proposed RMP/FEIS without renewed public review.

Inventories are addressed in Chapter 3 affected-environment baseline; resource inventories supporting Chapter 2 allocations and management decisions; Section 2.13 and Appendix S (LWCs); Section 2.26 and Appendices K and L (ACECs); resource-specific sections addressing recreation, wildlife, water, scenic values, caves and karst, and cultural resources.

FLPMA multiple use and sustained yield, including the Proposed RMP's balance between mineral development and conservation and other nonmineral uses, are addressed in the Executive Summary; Chapter 1's purpose-and-need, planning-criteria, and legal-framework discussions; Chapter 2's comparison of alternatives and management allocations, including the fluid-minerals leasing allocations and stipulations; Chapter 3's environmental-effects analysis; and the resource-specific sections addressing recreation, Wild and Scenic Rivers, ACECs, LWCs, wildlife, water, air quality, and other public-land values; Appendix L (fluid-mineral stipulations and lease notices); and Appendix O (conditions of approval and best management practices).

ACECs are addressed in the following parts of the Proposed RMP/FEIS: Executive Summary, Section 1.5.2.4, Pages 1-14 to 1-15, Section 2.26, Appendix K, and Appendix L.

LWCs are addressed in the following parts of the Proposed RMP/FEIS: Executive Summary, Section 1.5.2.4., Pages 1-14 to 1-15, Section 2.13, Appendix L, and Appendix S.

Coordination with the National Park Service is addressed in Section 1.5.2.1 (cooperating agency coordination), Appendix U (responses to NPS comments); Appendix E of the Proposed RMP/FEIS; as well as the Carlsbad Field Office Photochemical Air Quality Modeling Report; management decisions affecting Carlsbad Caverns and Guadalupe Mountains National Parks.

Air/Visual Resource sections are addressed in Vol 1, Section 3.2.11.1.1, Section 3.2.11.1.2, and Section 3.2.11.2.

Air quality protection and mitigation measures are addressed in the following parts of the Proposed RMP/ FEIS: Section 3.2.11.1.1, Section 3.2.11.1, Section 3.2.11.2, and Appendix E.

Cave and karst resources protections and mitigation measures are addressed in the following parts of the Proposed RMP/FEIS: Section 2.5, Section 3.2.2, pages 30-43, and Appendices L, O, and T, and leasing allocations for high and medium karst occurrence zones.

Recreation and Delaware River management are addressed in Section 1.1.2.2; Chapter 2 Recreation and Visitor Services section and comparison of recreation management areas; Chapter 3 recreation effects analysis; Appendix B § B.3.5 and Tables B.50–B.51. Delaware River: Chapter 2 Wild and Scenic Rivers alternatives table, including pp. 2-72–2-73; Chapter 3, including pp. 3-30 and 3-103; Appendix B §§ B.2.2 and B.4.6 and Tables B.58–B.59; Appendix N, Table N.2.

Methane mitigation and waste prevention are addressed in Chapter 2 fluid-minerals allocations and management measures; Appendix E at E-27 et seq.; Appendix L (fluid-mineral stipulations and lease notices); Appendix O (conditions of approval and best management practices); Appendix U (responses concerning methane emissions, natural-gas waste, phased leasing, mitigation, and monitoring).

III. Argument

As a threshold matter applicable to each of the protest grounds below, BLM’s responses to comments do not cure these deficiencies where they merely refer commenters to existing regulations, other resource prescriptions, future implementation-level review, or generalized portions of the FEIS without directly addressing the organizations’ material factual and legal objections. Because the comments identified specific shortcomings in the alternatives, impacts analysis, inventories, mitigation, and resource protections, BLM was required to respond in a manner that demonstrated reasoned consideration of those concerns and disclosed whether and how the Proposed RMP or FEIS was changed in response.

A. BLM Failed to Conduct the Required Analysis under the National Environmental Policy Act.

1. BLM Erred by Failing to Supplement its Environmental Analysis under NEPA, Failing to Take a Hard Look, and Failing to Consider Reasonably Foreseeable Impacts.

More than 16 years ago, on June 10, 2010, BLM published its Notice of Intent (NOI) to revise and replace the 1988 Carlsbad RMP, as amended in 1997 and 2008, initiating the beginning of the scoping process. BLM issued its scoping report on May 13, 2011, followed by an Analysis of the Management Situation (AMS) in September 2014. BLM released the Draft RMP/EIS in 2018, with a public comment period that ran from August 3 through November 5, 2018.

Over the intervening years since BLM solicited public input on the Draft RMP/EIS, the Carlsbad Planning Area has experienced rapid and extensive oil and gas development and is now in a

materially different condition than in 2018. In addition, since 2018, substantial new information bearing on the management of public lands in the region has emerged, while policies and legal developments affecting public land management have also profoundly changed.

In June 2026, TWS, NPCA, New Mexico Wild, and Sierra Club, along with several other organizations wrote to BLM describing changed circumstances and providing a sample of new information that has arisen during this long delay.⁹ On September 11, 2026, without revising the RMP or FEIS to account for current conditions, and without reopening its Proposed RMP or EIS for public comment, BLM released its Proposed RMP/Final EIS.

BLM itself now acknowledges that an updated plan for the planning area is needed due to changes that have occurred in the planning area. Proposed RMP/FEIS, Executive Summary at ES-2. BLM states that “new resource issues and uses have emerged; new resource data are available for consideration; and new policies, guidelines, and laws have been established,” while “changes to fluid and solid mineral extraction and energy development within the planning area, as well as new technologies for extracting these resources, have also prompted the present RMP revision.” *Id.* Having acknowledged that multiple elements of the present-day situation have changed, BLM then refers readers to the 2014 *Analysis of the Management Situation* for a description of these changed conditions. *See id.* This document is more than a decade old, and is based on even older data.

To fulfill NEPA’s purpose, federal agencies are required to prepare an EIS for all “major Federal actions significantly affecting the quality of the human environment.” 42 U.S.C. § 4332(C). The EIS must, among other things, describe the “environmental impact of the proposed action,” and evaluate “alternatives to the proposed action.” 42 U.S.C. § 4332(C)(i), (iii). Examining the effects of the proposed action in an EIS will ensure “that the agency, in reaching its decision, will have available, and will carefully consider, detailed information concerning significant impacts,” and “the relevant information will be made available to the larger audience that may also play a role in both the decisionmaking process and the implementation of that decision.” *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989).

NEPA also requires that agencies supplement their analyses prior to taking action in order to “ensure[] that the agency will not act on incomplete information, only to regret its decision after it is too late to correct.” *Marsh v. Oregon Natural Resources Council*, 490 U.S. 360, 371–72 (1989).¹⁰ In deciding whether supplementation is necessary, an agency must apply a “rule of reason” similar to:

the decision whether to prepare [] an EIS in the first instance: If there remains ‘major Federal actio[n]’ to occur, and if the new information is sufficient to show that the remaining action will ‘affec[t] the quality of the human environment’ in a significant

⁹ See TWS et al. supplemental comment letter) at App. A, Exh. 8.

¹⁰ (“It would be incongruous with this approach to environmental protection, and with the Act’s manifest concern with preventing uninformed action, for the blinders to adverse environmental effects, once unequivocally removed, to be restored prior to the completion of agency action simply because the relevant proposal has received initial approval.”).

manner or to a significant extent not already considered, a supplemental EIS must be prepared.

Id. at 374, *citing* 42 U.S.C. § 4332(2)(C).

In developing and then analyzing future impacts of a proposed action, NEPA requires that agencies take a “hard look” at the possible environmental consequences. *Dine Citizens Against Ruining Our Env’t v. Haaland*, 59 F.4th 1016, 1034 (10th Cir. 2023), *citing Methow Valley*, 490 U.S. at 350. The purpose of that hard look is to ensure that an agency identifies and evaluates “the adverse environmental effects of the proposed action” prior to taking action. *Ctr. for Biological Diversity v. U.S. Dep’t of the Interior*, 72 F.4th 1166, 1191 (10th Cir. 2023)(Rossman, J., concurring in part and dissenting in part)(*quoting Methow Valley*, 490 U.S. at 350); *also see High Country Conservation Advocs. v. U.S. Forest Serv.*, 52 F. Supp. 3d 1174, 1190 (D. Colo. 2014). When a federal action is ongoing or not yet completed, supplementation of an environmental analysis may be necessary in order to consider new information and thus satisfy that “hard look” requirement. *See Norton v. S. Utah Wilderness All.*, 542 U.S. 55, 72-73 (2004).

To satisfy NEPA’s hard-look requirement, an agency must describe existing environmental conditions with sufficient accuracy and detail to provide a meaningful baseline against which the reasonably foreseeable effects of the proposed action and alternatives can be evaluated. Without such a baseline, neither the agency nor the public can determine how the proposed action would change the affected environment. *See Half Moon Bay Fishermans’ Marketing Ass’n v. Carlucci*, 857 F.2d 505, 510 (9th Cir. 1988).

The need to supplement the Carlsbad Proposed RMP and EIS turns not merely on the passage of time, but on whether BLM has evaluated the significant impacts of the proposed action using current, accurate information. Because BLM did not have today’s available data regarding present conditions when it prepared the 2018 Draft RMP/EIS, and because conditions have so dramatically changed in the interim, the agency could not have assessed the significance of impacts against present conditions. *See South Trenton Residents Against 29 v. Federal Highway Admin.*, 176 F.3d 658, 663 (3d Cir. 1999).

NEPA’s requirement to evaluate the reasonably foreseeable effects of the proposed agency action under 42 U.S.C. § 4332(C)(i) is necessarily informed by the *current* state of scientific knowledge, not at data available at the time of a prior, obsolete analysis. Furthermore, Congress directed that agencies “ensure the professional integrity, including scientific integrity, of the discussion and analysis in an environmental document,” and “make use of reliable data and resources” in carrying out NEPA. *Id.* § 4332(D)–(E). These provisions, taken together, impose an obligation on BLM to incorporate new scientific studies and other pertinent information into its analysis and not merely push forward relying on old or obsolete information.

Much of the information underlying the 2018 Draft RMP/EIS is no longer current, and any conclusions about present-day impacts drawn from that outdated baseline would not be supported. As we raised in our June 8, 2026, letter to BLM, the agency cannot satisfy NEPA’s “hard look” requirement, or meaningfully disclose the action’s reasonably foreseeable

environmental effects to the public, by relying on a stale analysis grounded in data that is at least eight years old, and, in some cases, much older.

While we will not reiterate all the substantial new information and significant changed circumstances outlined in our June 8, 2026, letter here, we incorporate that letter by reference as Appendix A, Exhibit 8 and summarize below several notable matters that BLM must consider in a supplemental EIS.

- **Rapid expansion of oil and gas development**
Oil and gas activity in the New Mexico Permian Basin reportedly tripled between 2018 and 2024. The resulting increases in wells, infrastructure, surface disturbance, emissions, water use, waste, and spills have materially altered the affected environment and the cumulative-impact context used in the 2018 Draft RMP/EIS.
- **New evidence of serious air-quality and public-health impacts**
Recent monitoring and studies link Permian Basin oil and gas operations to elevated ozone, hazardous air pollutants, methane, and fine particulate pollution. Ozone at Carlsbad Caverns National Park frequently exceeds the federal health standard, putting park visitors and employees at risk, and new research quantifies substantial premature mortality and economic damages associated with Permian Basin PM_{2.5} emissions.
- **New species listings and worsening habitat fragmentation**
Since the draft was issued, the dunes sagebrush lizard was listed as endangered (now since vacated and undergoing a new status review), and additional information has emerged concerning the Texas hornshell, lesser prairie-chicken, riparian species, and other sensitive wildlife. Updated information also shows expanding habitat fragmentation and connectivity losses from industrial development, requiring reconsideration of habitat protections and ESA consultation.
- **New information about spills, produced water, and induced geologic hazards**
Recent data document thousands of oil and gas spills, millions of gallons of released waste, and significant toxicological risks from produced water. New studies also connect wastewater injection to earthquakes, surface deformation, sinkholes, wastewater migration, well blowouts, and possible groundwater contamination, risks which are not adequately reflected in the earlier or the current Proposed RMP/FEIS analysis.
- **Increased induced seismicity and related geologic hazards**
Several new studies document increasing earthquake activity in the Permian Basin caused by wastewater injection associated with oil and gas development. Recent research identifies multiple distinct induced-seismicity systems and links injection-related pressure changes not only to earthquakes, but also to surface deformation, sinkholes, wellbore damage, wastewater migration, and well blowouts. This new information materially changes the understanding of geologic risks since the 2018 Draft RMP/EIS and requires BLM to reassess where development and injection should be allowed and what plan-level protections are necessary.
- **Changes in federal law and administrative regulations affecting leasing and mitigation**
As discussed in detail below, the recently enacted 2025 Reconciliation Act contains several amendments to the statute governing BLM's management of oil and gas

development. *See* discussion *infra* Section III.D.1. The 2025 Reconciliation Act and implementing regulatory changes may increase the likelihood that lands designated as open will be leased and may limit BLM's ability to add stipulations or mitigation measures that are not included in this RMP. This makes the RMP's leasing allocations and plan-level protections substantially more consequential than they were under the legal framework as it existed in 2018. BLM must therefore grapple with these significant changes as part of its NEPA analysis. BLM may not rely on future implementation-level review as a substitute for this analysis, given the constraints that the 2025 Reconciliation Act may impose. And where the FEIS relies on mitigation to support its impact conclusions, BLM must identify the mitigation measures, explain their effectiveness, make them enforceable through the plan, and build in sufficient flexibility to make them adaptable to changing circumstances, all of which is more important now given the potential constraints that the Act imposes on BLM's ability to add mitigation measures that are not included in this RMP.

- BLM must also analyze the intersecting and reasonably foreseeable impacts of other administrative actions on this plan, such as BLM's upcoming Oil and Gas Leasing Rule revisions that, if finalized, will significantly restrict public participation in future lease sales and eliminate the leasing preference criteria. Additionally, BLM must consider its planned Off-Road Vehicle revisions and the Forest Service's recently finalized Oil and Gas Rule. None of these actions are mentioned in the FEIS.

Given the failure to consider new information and changed circumstances over the last eight years, and the significantly altered state of the planning area, the Proposed RMP and Final EIS are insufficient to permit the required analysis of impacts or to support BLM decisionmaking. BLM has not taken the requisite "hard look" at the environmental consequences or the "reasonably foreseeable impacts" of imposing this plan on the public and on the public's lands for the next 20-30 years. Proceeding directly to a final plan based on the 2018 draft is arbitrary, capricious, and contrary to law.

Requested Remedy: BLM must consider new information and changed circumstances in a supplemental EIS, taking a hard look at the reasonably foreseeable environmental impacts of the proposed action based on present-day conditions. Then, once an updated, accurate analysis is prepared, the agency must conduct additional outreach and engagement with the public, Tribal Nations, and other stakeholders.

2. BLM Erred in Failing to Analyze Lifecycle and Cumulative Greenhouse-Gas (GHG) Emissions and Their Consequences.

BLM's climate analysis does not provide the reasoned evaluation NEPA requires. Although the Proposed RMP/FEIS quantifies certain greenhouse-gas emissions, it does not meaningfully assess their lifecycle and cumulative significance, connect those emissions to foreseeable climate impacts on planning-area resources, or account for substantial new climate information developed since the 2018 Draft RMP/EIS.

Our November 5, 2018, comment letter on the Draft RMP/EIS explained that BLM must quantify direct methane emissions and lifecycle greenhouse-gas emissions from oil and gas related activities and analyze the reasonably foreseeable climate effects on vulnerable planning-area resources.¹¹ We also asked BLM to evaluate alternatives and enforceable measures that would reduce emissions and natural-gas waste rather than defer those issues to future project-level decisions.

BLM did not meaningfully evaluate the climate significance of the plan's emissions. Our 2018 comments argued that BLM must quantify direct methane emissions and reasonably foreseeable lifecycle emissions from the production, transport, and end use of oil and gas authorized under the RMP; evaluate those emissions cumulatively; and use available methods to explain their significance and compare alternatives.¹² Although the FEIS presents updated emissions estimates in Appendix E, it still largely treats projected emissions as quantities and percentages rather than analyzing their contribution to cumulative climate harm. Nor does it adequately connect those emissions to the climate-driven impacts the FEIS recognizes will affect water, vegetation, wildlife, wildfire, air quality, and cave and karst resources in the planning area. BLM therefore has not resolved our comments or taken the required hard look at the consequences of the plan's greenhouse-gas emissions.

The Proposed RMP/FEIS cites BLM's 2023 *Specialist Report on Annual Greenhouse Gas Emissions and Climate Trends*, published in 2024,¹³ but not BLM's more recent report from 2025.¹⁴ This omission further demonstrates the need for supplementation. In a supplemental EIS, BLM should incorporate the findings of its latest agency report, together with the latest findings of the Intergovernmental Panel on Climate Change (IPCC),¹⁵ when evaluating new information and changed circumstances related to greenhouse-gas emissions and climate impacts.

BLM must supplement the EIS to consider significant new climate information and changed circumstances. The climate analysis remains rooted substantially in the scientific record and analytical assumptions available for the 2018 Draft EIS, notwithstanding eight years of intervening research, observed warming and aridification, expanding Permian Basin production, and improved methods for evaluating greenhouse-gas emissions and climate damages. This information bears directly on both the magnitude of foreseeable emissions and the vulnerability of planning-area resources. Before issuing a Record of Decision, BLM must prepare a supplemental EIS that uses a current production forecast and emissions inventory; analyzes direct, indirect, and cumulative greenhouse-gas emissions across alternatives; applies available

¹¹ TWS et al. (Methane Coalition) comment letter at 2. Attached as App. A, Exh. 7. Wasted gas/methane were also raised in TWS, NM Wilderness Alliance, NPCA preliminary comments on October 12, 2018. Attached as App. A, Exh. 5.

¹² *Id.* Attached as App. A, Exh. 7 and 5.

¹³ Proposed RMP/FEIS, Vol. 2, App. § B.2.12, App. E. E-10-E-11.

¹⁴ BLM Specialist Report on Annual Greenhouse Gas Emission Trends in 2025 from Coal, Oil, and Gas Exploration and Development on the Federal Mineral Estate (June 8, 2026), https://www.blm.gov/sites/default/files/docs/2026-06/BLM-2025-GHG-Report-Final_508.pdf.

¹⁵ IPCC, AR6 Synthesis Report, Climate Change 2023. Available at <https://www.ipcc.ch/report/ar6/syr/>. Attached as App. C, Exh. 1.

methods to disclose their climate significance; evaluates the effects of climate change on affected resources; and provides the updated analysis for public review.

Requested Remedy: BLM must address issues raised in our 2018 comments and supplement its EIS to consider new climate information and changed circumstances, using a current production forecast to quantify direct methane emissions and reasonably foreseeable lifecycle emissions from the production, transport and end use of oil and gas under each alternative, then evaluate those emissions cumulatively, explain their significance, and connect projected climate effects to vulnerable planning-area resources.

3. BLM Erred in Failing to Evaluate a Reasonable Range of Alternatives under NEPA.

Under NEPA, BLM must evaluate a reasonable range of alternatives. 42 U.S.C. § 4332(2)(c)(iii). More specifically, NEPA requires agencies to “study, develop, and describe appropriate alternatives to recommended courses of action in any proposal that involves unresolved conflicts concerning alternative uses of available resources.” 42 U.S.C. § 4332(E). Under FLPMA regulations, BLM must “consider all reasonable resource management alternatives and develop several complete alternatives for detailed study...reflect[ing] the variety of issues and guidance applicable to the resource uses.” 43 C.F.R. § 1610.4-5. The alternatives analysis is the heart of a NEPA document because “[w]ithout substantive, comparative environmental impact information regarding other possible courses of action, the ability of [a NEPA analysis] to inform agency deliberation and facilitate public involvement would be greatly degraded.” *New Mexico ex rel. Richardson*, 565 F.3d 683, 708 (10th Cir. 2009). Analyzing a reasonable range of alternatives allows the agency to make an informed choice from the spectrum of reasonable options.

In October 2018, during the public comment period on the Draft RMP/EIS, our organizations proposed the Black River Comprehensive Energy Development Plan (CEDP) as a citizens’ alternative for BLM to consider for the Carlsbad Field Office.¹⁶ This alternative focused on minimizing oil and gas disturbance within the greater Carlsbad Caverns landscape and, as a result, providing for increased management of other multiples uses and protection of resource values.

BLM states its plan for Carlsbad:

strives to resolve competition between resources values and uses while simultaneously promoting the resilience of distinct biological resources and ecosystem functions, preserving and enhancing important cultural resources, and being responsive and upholding tribal rights and interests. This plan enhances energy independence in the United States by encouraging environmentally responsible development and facilitating shared conservation stewardship throughout the planning area.

In reality, BLM’s proposed plan heavily favors resource extraction, at the expense of conservation of natural values, recreation, visual and cultural resources and wildlife habitat.

¹⁶ Black River CEDP. Attached as App. A, Exh. 4.

The Black River CEDP, on the other hand, is a unique middle-ground approach to management of the field office and to future leasing for oil and gas that is both consistent with the BLM's purpose and need as well as BLM's mandate to manage for multiple uses. This balanced approach would ensure long-term protection of the lands, caves and karst, and other resources surrounding Carlsbad Caverns National Park, while allowing leasing to continue in other areas.

Federal courts have recognized the importance of analyzing specific alternative approaches to oil and gas development. For example, in *Colorado Environmental Coalition v. Salazar*, the court found a community alternative for protecting the top of the Roan Plateau while keeping the majority open to leasing through use of no-surface-occupancy stipulations was feasible and distinct from other alternatives under consideration and BLM's failure to separately analyze the Community Alternative violated NEPA. 875 F. Supp. 2d 1233, 1249-50 (D. Colo. 2008).

BLM did not consider the Black River CEDP as an alternative in its environmental analyses, merely finding in its responses to comments that "[t]he range of alternatives within the RMP includes the actions proposed in the Black River CEDP," and "required no further analysis."¹⁷ BLM then goes on to treat the CEDP as a collection of individual management tools (dismissing each element), rather than evaluating the alternative as a comprehensive landscape-scale strategy.

A reasonable alternative under NEPA, however, is not simply a list of isolated management measures; instead, it is a coherent management strategy. The defining feature of the CEDP is the integrated application of those measures across a specific landscape within the Black River region. BLM's assertion that individual CEDP components appear somewhere among the alternatives does not demonstrate consideration of the CEDP as a whole itself. In its response to comments, BLM responded to various elements of the CEDP, stating that some elements were already considered, outside the scope of the RMP, unnecessary, or not possible due to policy changes. However, BLM does not evaluate whether the remaining components, taken together, constitute a reasonable alternative.

BLM does not demonstrate in its analysis that any other alternative replicates the CEDP either, e.g., by showing a side-by-side comparison of the CEDP and other alternatives, by showing acreage comparisons or maps with equivalent management areas, or by analyzing environmental outcomes within the proposed CEDP boundary. BLM's conclusion that the CEDP falls within the range of alternatives is unsupported by the Proposed RMP/FEIS because the document does not identify any analyzed alternative with a materially equivalent set of prescriptions to the same geographic area.

BLM also makes unsupported assumptions about the feasibility of phasing out leasing in certain areas, due to expiring or suspended leases. However, BLM provides no lease-by-lease analysis other transparent data to support that prediction.

In its treatment of the citizens' alternative CEDP, BLM has not provided a reasoned basis for concluding that the CEDP was fully considered or that separate analysis was unnecessary.

¹⁷ Proposed RMP/FEIS for Carlsbad Field Office, Volume II at U-59-60.

Requested Remedy: In a supplemental EIS and revised RMP, BLM must consider the Black River CEDP as a reasonable alternative to address resource conflicts, reduce the environmental impacts of oil and gas leasing on Carlsbad Caverns National Park, as well as on resource values throughout the planning area, and allow for management for other uses, such as recreation.

4. BLM Cannot Rely on an Outdated Reasonably Foreseeable Development Scenario.

In 2023, BLM prepared a new RFD for the Carlsbad Field Office, but that update does not cure the Proposed RMP/FEIS's reliance on an outdated environmental record. An RFD is a forecasting tool, not a substitute for the comprehensive analysis NEPA requires, that estimates the location, pace, scale, and characteristics of future oil and gas development. Those projections supply key assumptions for analyzing surface disturbance, habitat loss and fragmentation, air emissions, water demand, produced water, spills, traffic, noise, induced seismicity, and cumulative effects. They also inform central RMP choices, including which lands will be open or closed to leasing and what stipulations, mitigation measures, and other constraints are necessary. The RFD therefore cannot be assessed in isolation from the environmental analysis and plan decisions that depend on it. Updating the forecast alone does not cure BLM's failure to revise the EIS and RMP to incorporate and evaluate the updated development projections.

Although BLM updated the RFD in July 2023, the document does not provide a current forecast of conditions as of the Proposed RMP/FEIS's September 2026 issuance. Its principal assumptions largely reflect a 2021 or early-2022 analytical vantage point: the surface-disturbance scenario relies on 2020 aerial imagery; the near-term development projection uses oil-price projections from EIA's 2022 Annual Energy Outlook; the drilling model assumes an older two-mile lateral rather than newer "super-lateral" wells; and the water-use assumptions rely on 2010–2021 well data.¹⁸ The RFD also predates material post-2023 information identified in our June 2026 supplementation request concerning the intensity and geography of development, air pollution, produced-water volumes and toxicity, spills, induced seismicity, habitat fragmentation, and other effects, as well as material changes in the legal and administrative framework governing leasing and mitigation.¹⁹ Thus, although the 2023 RFD is newer than the forecast used for the 2018 Draft RMP/EIS, its publication date does not establish that its inputs, assumptions, and projections reliably describe reasonably foreseeable development under present conditions.

Unless BLM integrates a current development forecast into the EIS, neither the agency nor the public can determine whether the FEIS's impact conclusions remain valid.

¹⁸ See generally Thomas W. Engler, Reasonably Foreseeable Development Scenario for Oil and Gas Activities, Carlsbad Field Office, Eddy County, Southeastern New Mexico (July 10, 2023) ("2023 RFD"); see *id.* at 16; Miguel L. Villarreal et al., Geodatabase of Oil and Gas Pads and Roads Within the Bureau of Land Management's Carlsbad Field Office Administrative Boundary, New Mexico, U.S. Geological Survey data release (2023) (underlying disturbance dataset ending in 2020; Jorge A. Gonzalez-Salvat et al., Data to Estimate Water Use Associated with Oil and Gas Development Within the Bureau of Land Management Carlsbad Field Office Area, New Mexico, U.S. Geological Survey data release (2023)).

¹⁹ See Sec. III.D.1, *infra*.

The same defect carries through to the Proposed RMP, whose management choices rely on the development forecast and the FEIS's evaluation of resulting impacts. If a current RFD projects more intensive development, different technologies, greater water demand or spill risks, different surface disturbance, or other risks than BLM previously assumed, the agency must reconsider whether the plan's leasing allocations, closures, stipulations, mitigation measures, and resource protections remain adequate. BLM cannot update the predicate forecast while leaving unchanged the decisions and environmental conclusions built on older assumptions; doing so would sever the analytical link among the RFD, the EIS, and the RMP and would use new information for forecasting while disregarding its implications for the ultimate decision.

Requested Remedy: Before issuing a Record of Decision, BLM must prepare a new RFD and production forecast using current data, technologies, development patterns, scientific information, and governing legal assumptions; incorporate the forecast into a supplemental EIS that reassesses the environmental baseline, reasonably foreseeable and cumulative effects, and alternatives; revise the Proposed RMP's allocations, stipulations, mitigation measures, and other management decisions as necessary; and provide the updated materials for meaningful public review and comment.

B. BLM Erred by Failing to Consider Public Input on its Outdated Plan and Environmental Analysis Under FLPMA and NEPA.

FLPMA requires BLM to involve the public and other stakeholders in planning. 43 C.F.R. § 1610.3-1; *also see* 43 U.S.C. § 1712(c)(9). BLM's planning regulations require transparency and rigorous public engagement by providing the public with opportunities to "meaningfully participate in and comment on the preparation of plans, amendments and related guidance and be given early notice of planning activities." 43 C.F.R. § 1610.2. These requirements include, but are not limited to, public notice of BLM planning actions, publication of relevant documents for review, and opportunity to provide written comments. *Id.* BLM must also ensure coordination with other federal agencies, and state and local governments and invite those entities to participate as cooperating agencies. *Id.* § 1610.3-1(a-b).

BLM erred by proceeding directly from the 2018 Draft RMP/EIS to the 2026 Proposed RMP/Final EIS without reengaging the public on the materially changed conditions, new information, and revised analyses that now underpin the plan.

Meaningful participation requires more than an opportunity to comment on an eight-year-old draft (based on even older data) or to file a protest after BLM has selected a proposed plan; it requires disclosure of current, understandable information at a point when public input can still influence the agency's analysis and choices. While BLM may have, in a piecemeal fashion, updated some information in its analysis, BLM did not provide the public an opportunity to review and comment on any new information BLM incorporated. Nor did BLM update its underlying environmental baseline, its inventories, or the 2023 RFD and production forecast, based on a comprehensive review of new scientific information, changed legal and regulatory circumstances, or the effects of intervening development across the planning area. By withholding those updated materials from public review until the Proposed RMP/Final EIS—and limiting the public to a protest process that is not a substitute for notice and comment, BLM

deprived affected communities, Tribal Nations, cooperating agencies, and other stakeholders of a meaningful opportunity to test the agency's assumptions, identify errors and omissions, submit responsive information, and propose informed alternatives or mitigation.

Requested Remedy: BLM must supplement and update its analysis, disclose the supporting information in a form the public can evaluate, and reopen the process for meaningful public review and comment before issuing a Record of Decision for the Carlsbad RMP.

C. BLM Failed to Base the Proposed RMP on Current Inventory Information.

FLPMA requires BLM to prepare and maintain a continuing inventory of all public lands and their resource and other values, including, but not limited to, outdoor recreation and scenic values, and to give priority to ACECs. 43 U.S.C. § 1711(a). Inventories “must be kept current ‘to reflect changes in conditions and to identify new and emerging resource and other values.’” *Utah v. U.S. Dep’t of the Interior*, 535 F.3d 1184, 1187 (10th Cir. 2008) (quoting 43 U.S.C. § 1711(a)). That statutory duty is not limited to any single resource category. Rather, FLPMA requires BLM to maintain a current, comprehensive inventory of the broad range of values relevant to land-use planning so that plan decisions rest on an accurate and up-to-date understanding of present conditions.

Here, BLM proceeded from the 2018 Draft RMP/EIS to the 2026 Proposed RMP/FEIS despite eight years of intensive development and material changes affecting wildlife habitat, wilderness characteristics, recreation, scenic values, cultural resources, riparian areas, caves and karst, and areas BLM had already determined met ACEC designation criteria. BLM could not rationally determine the appropriate allocations, protections, or balance of uses for the planning area without first updating the inventories on which those decisions depend. This inventory failure also reinforces the need for a supplemental EIS: just as NEPA requires BLM to evaluate the plan in light of significant new information or changed circumstances, the supplemental analysis must incorporate updated FLPMA inventories so that BLM can reassess affected resources, alternatives, and mitigation using present conditions rather than stale information.

Requested Remedy: Before issuing a Record of Decision, BLM must update the relevant inventories, incorporate them into a supplemental EIS, revise the Proposed RMP as necessary, and provide the updated information and analysis for meaningful public review.

D. BLM Erred in Not Managing for Multiple Use and Sustained Yield and Failing to Prevent Unnecessary or Undue Degradation Under FLPMA.

Under FLPMA, BLM must manage public lands according to “multiple use” and “sustained yield” and “in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resources, and archeological values; that will preserve and protect certain public lands in their natural condition; [and] that will provide food and habitat for fish and wildlife and domestic animals.” 43 U.S.C. §§ 1701(a)(7) & (8), 1712(c)(1), 1732(a). Multiple use obligates the agency to make the “most judicious use” of public lands and their resources to “best meet the present and future needs of the American people.” *Id.* § 1702(c). This requires taking “into account the long-term needs of future generations” and ensuring

“harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment.” *Id.* In managing for multiple use, BLM must consider the relative scarcity of resources, weigh long-term benefits to the public against short-term benefits, and give priority to the designation and protection of ACECs. *Id.* § 1712(c). Sustained yield mandates “achiev[ing] and maint[aining] in perpetuity . . . a high-level annual or regular periodic output of the various renewable resources of the public lands consistent with multiple use.” *Id.* § 1702(h). “It is past doubt that the principle of multiple use does not require BLM to prioritize development over other uses. . . . Development is a *possible* use, which BLM must weigh against other possible uses—including conservation to protect environmental values. . . .” *New Mexico ex rel. Richardson*, 565 F.3d at 710 (emphasis in original). FLPMA also requires the BLM to “take any action necessary to prevent unnecessary or undue degradation of the lands.” 43 U.S.C. § 1732(b).

1. BLM failed to grapple with changes made by the 2025 Reconciliation Act to demonstrate its compliance with FLPMA.

In order to comply with the aforementioned FLPMA resource conservation mandates, BLM has traditionally exercised broad discretion under the Mineral Leasing Act (MLA) over whether to lease lands for oil and gas development as well as over the conditions under which leasing occurs.²⁰ However, the recently enacted 2025 Reconciliation Act contains several amendments to the statutes governing BLM’s management of oil and gas development that may undermine its discretion. *See* Pub. L. No. 119-21, § 50101, 139 Stat. 72, 137-39 (2025). BLM must grapple with these changes at the RMP stage in order to ensure that it is complying with its statutory obligations under FLPMA.

BLM has traditionally followed a three-step process for managing oil and gas development on public lands: first, BLM develops RMPs for each land management unit which specify those lands that will be open or closed to oil and gas leasing and under what conditions; second, BLM may (but is not required to) offer leases in areas designated as open, subject to the requirements of the RMP; and third, lessees file applications for permits to drill (APDs), and BLM reviews those applications before deciding whether to approve and issue the permit. *W. Energy All. v. Zinke*, 877 F.3d 1157, 1161 (10th Cir. 2017); 43 U.S.C. § 1712(a); 43 C.F.R. § 1601.0-5(n); *New Mexico*, 565 F.3d at 689 n.1; 43 C.F.R. § 1610.5-3; 43 C.F.R. § 3162.3-1(c). The fundamental assumption in this multi-stage development process—and one on which all pre-2025 Reconciliation Act RMPs rest—is that the designation of lands as open to leasing at the RMP-

²⁰ *See Udall v. Tallman*, 380 U.S. 1, 4 (1965) (“The Mineral Leasing Act of 1920 . . . left the Secretary discretion to refuse to issue any lease at all on a given tract.”); *United States ex rel. McLennan v. Wilbur*, 283 U.S. 414, 419 (1931) (ruling that the Interior Secretary possesses “general powers over the public lands as guardian of the people,” which include the authority to deny oil and gas lease applications); *Mont. Wildlife Fed’n v. Haaland*, 127 F.4th 1, 44–45 (9th Cir. 2025) (“We note that there is no doubt that the government has the authority affirmatively to determine which parcels shall be offered for oil and gas leasing”); *Bob Marshall All. v. Hodel*, 852 F.2d 1223, 1230 (9th Cir. 1988) (“[T]he Mineral Leasing Act gives the Interior Secretary discretion to determine which lands are to be leased under the statute. . . . Thus refusing to issue the . . . leases . . . would constitute a legitimate exercise of the discretion granted to the Interior Secretary under that statute.”).

stage is *not* a decision that those lands will be offered for lease or leased. BLM has long exercised discretion to determine—in service of its FLPMA obligations to manage for multiple-use and sustained-yield—not to offer to lease or to ultimately lease lands designated as open. Indeed, based on this fundamental assumption, BLM’s RMPs list the vast majority of public land—over 80%—as open to oil and gas leasing.²¹ But the BLM has elected not to lease the majority of these lands.²²

Among other changes to the leasing process, the 2025 Reconciliation Act amends the MLA to replace language providing that lands subject to disposition which are known or believed to contain oil or gas deposits “*may* be leased,” 30 U.S.C § 226(a) (2024) (emphasis added), with a provision stating that such lands “*shall* be made available for leasing . . . not later than 18 months after the date of receipt . . . of an expression of interest in leasing the applicable parcel.” 30 U.S.C. § 226(a) (2025) (emphasis added).

Since the passage of the 2025 Reconciliation Act, BLM has been inconsistent with respect to how it has interpreted the Act’s impact on its discretion to defer parcels nominated for leasing. While BLM has not yet issued formal guidance outlining how it will implement the 2025 Reconciliation Act, in some instances, the agency has interpreted the Act as leaving room for this discretion. In response to public comment on the New Mexico Second Quarter 2026 lease sale, for example, the agency unequivocally stated that it has discretion to defer parcels, quoting from the 2025 Reconciliation Act to support the proposition:

The BLM has discretion to offer or defer any parcel during any sale. 30 U.S.C. § 226(a) (“Any parcel of land subject to disposition . . . that is known or believed to contain oil or gas deposits shall be made available for leasing . . . if the Secretary determines that the parcel of land is open to oil or gas leasing under the approved resource management plan applicable to the planning area . . . that is in effect on the date on which the expression of interest was submitted to the Secretary.”). . . . [T]he BLM AO retains the discretion to lease none, some, or all the nominated lease parcels.

BLM FARMINGTON FIELD OFFICE, COMPETITIVE OIL AND GAS LEASE SALE ENVIRONMENTAL ASSESSMENT, NEW MEXICO QUARTER 2 2026 DOI-BLM-NM-F010-2026-0001-EA, D-29 (Mar.

²¹ THE WILDERNESS SOCIETY, OPEN FOR DRILLING: THE OUTSIZED INFLUENCE OF OIL & GAS ON PUBLIC LANDS, 2 (2025). APP. C, EXH. 2.

https://www.wilderness.org/sites/default/files/media/file/Open%20for%20Drilling_TWS%20Report.pdf.

²² See U.S. GOV’T ACCOUNTABILITY OFF., GAO-22-103968, OIL AND GAS LEASING: BLM SHOULD UPDATE ITS GUIDANCE AND REVIEW ITS FEES, 18 (Nov. 2021) (finding that between 2009 and 2019, the BLM nominated 87 million acres for leasing but only offered 18 million acres—or 21% of nominated land—at auction). Attached as App. C, Exh. 3.

20, 2026).²³ Moreover, BLM has in many cases continued to exercise its authority to defer lease sale parcels since the passage of the 2025 Reconciliation Act.²⁴

On the other hand, the agency has elsewhere interpreted the Act as significantly altering its discretion throughout the oil and gas development process, potentially requiring BLM to offer for lease all lands designated as open if requested by industry. In its recently proposed Oil and Gas Leasing rule, for example, the agency stated that the 2025 Reconciliation Act “requires the BLM to offer a parcel within 18 months of receipt of the lands within an [expression of interest].” 91 Fed. Reg. 38084, 38103 (June 24, 2026) (to be codified at 43 CFR Parts 3000, 3100, 3110, 3120, 3130, 3140, 3150, 3160, and 3180). The agency has also proffered this interpretation in a recent court filing. *See* Federal Defendants’ Opening Brief at *44, *Mont. Wildlife Fed’n v. Burgum*, No. 22-35367 (9th Cir. filed Jan. 14, 2026) (“[T]he [Act] requires the [BLM] to offer parcels nominated by industry through an expression of interest for lease within 18 months of receipt of the nomination, so long as those lands are open to leasing under the applicable resource management plan.”). The BLM Bakersfield Field Office offered a similar interpretation in an errata to its Supplemental EIS for its RMP. *See* BLM BAKERSFIELD FIELD OFFICE, ERRATA FOR BAKERSFIELD FIELD OFFICE COMMENT RESPONSE (June 4, 2026) (“The BLM issues this errata to clarify that, under the [2025 Reconciliation Act], BLM must offer for lease within 18 months of receipt of an expression of interest any parcel subject to disposition under the MLA that is known or believed to contain oil or gas deposits, so long as the parcel is open to leasing under the applicable approved resource management plan.”). And, in the oil and gas lease sale context, the BLM Montana-Dakotas office recently stated that “BLM’s discretion at the leasing stage is limited by the [2025 Reconciliation Act’s]’s amendments to the Mineral Leasing Act and, regardless, does not create a mandatory duty to exercise deferral in the absence of

²³ Similarly, in its protest dismissal for the Utah Quarter 1 2026 lease sale, the agency stated that “[t]he Reconciliation Act requires the BLM to offer at least 50 percent of available parcels nominated for oil and gas development in a minimum of 4 oil and gas lease sales in Utah each fiscal year. Nothing in the Reconciliation Act precludes the BLM from considering alternatives that would offer fewer than 50 percent of the nominated parcels in any single lease sale.” BLM UTAH STATE OFFICE, DECISION ON PROTEST OF THE INCLUSION OF 57 PARCELS IN THE MARCH 2026 COMPETITIVE OIL AND GAS LEASE SALE, 10 (Apr. 2026).

²⁴ *See, e.g.*, BLM WYOMING, DECISION RECORD DOI-BLM-WY-0000-2026-0001-EA, 1–2 (June 9, 2026) (for the Wyoming Second Quarter 2026 lease sale, selecting Alternative 3, which defers parcels based on sage-grouse prioritization, the need for Surface Management Agency (SMA) consent, conflicts with existing coal leases, and tribal consultation requirements); BLM WYOMING, DECISION RECORD DOI-BLM-WY-0000-2025-0003-EA, 1–2 (May 11, 2026) (for the Wyoming First Quarter 2026 lease sale, selecting Alternative 3, which defers parcels based on sage-grouse prioritization); BLM WYOMING, 2025 FOURTH QUARTER COMPETITIVE OIL AND GAS LEASE SALE DECISION RECORD DOI-BLM-WY-0000-2025-0002-EA, 2 (Dec. 3, 2025) (for the Wyoming Q4 2025 lease sale held on December 3, 2025, deferring parcels due to sage-grouse prioritization and lack of SMA consent); BLM COLORADO, DECISION RECORD FOR SEPTEMBER 2025 COMPETITIVE OIL AND GAS LEASE SALE DOI-BLM-CO-0000-2025-0001-EA (Sept. 8, 2025) (for the Colorado Q3 2025 lease sale held on September 9, 2025, deferring portions of two parcels due to their overlap with the Yellow Creek Area of Critical Environmental Concern); BLM WYOMING, 2025 THIRD QUARTER COMPETITIVE OIL AND GAS LEASE SALE DECISION RECORD DOI-BLM-WY-0000-2025-0001-EA, 3 (Sept. 16, 2025) (for the Wyoming Q3 2025 lease sale held on September 16, 2025, deferring five parcels based on greater sage-grouse prioritization).

supporting analysis. The exercise of discretion occurs within the bounds of existing RMPs.” BLM MONTANA-DAKOTAS, APPENDIX K MONTANA-DAKOTAS QUARTER 3 2026 OIL AND GAS LEASE SALE RESPONSE TO COMMENTS, 167 (June 1, 2026).

The organizations submitting this protest do not endorse these interpretations.²⁵ However, the position advanced by the agency in its recent proposed rule and elsewhere gives rise to serious questions about BLM’s ability to balance oil and gas development against other public-land values and achieve its statutory obligations.

To the extent that BLM believes that the 2025 Reconciliation Act removes the agency’s discretion not to offer for lease or to lease areas designated as open in an RMP, and instead obligates the agency to offer for lease or to lease any open land for which it receives an industry expression of interest, BLM’s assessment of its compliance with its duties under FLPMA must account for that fundamental change. Accordingly, before finalizing the Carlsbad RMP, BLM must disclose and explain its own interpretation of the 2025 Reconciliation Act and demonstrate its continued compliance with FLPMA in light of its interpretation. And, if the Act increases the likelihood that lands designated as open will in fact be leased and developed, then BLM must revisit its designations in light of that major change.

Another major change in the 2025 Reconciliation Act is that it provides that any oil and gas leases issued “may not require any stipulations or mitigation requirements not included in the approved resource management plan.” 30 U.S.C. § 226(a)(2)(A)(ii).²⁶ BLM must seriously grapple with this major change as well. If BLM determines that the 2025 Reconciliation Act precludes the agency from imposing lease stipulations or other mitigations beyond those included in the governing RMP, then BLM must ensure that the Carlsbad RMP contains all of the stipulations and mitigation measures necessary to comply with FLPMA and protect sensitive

²⁵ Note too that the District of Montana court recently issued an order taking issue with these interpretations as well. There, the judge stated that “FLPMA’s requirements to maintain sustainable wildlife populations and avoid unnecessary or undue degradation of public lands . . . remain in force under [the 2025 Reconciliation Act]. . . . The statutory text of [the 2025 Reconciliation Act] does not effectively eliminate BLM’s discretion so broadly as to mandate the sale and issuance of leases without oversight.” *Mont. Wildlife Fed’n v. Burgum*, No. CV-18-69-GF-BMM, 2026 WL 1707576, at *5 (D. Mont. June 12, 2026). The court also looked to the 2025 Reconciliation Act’s legislative history to determine that the “shall be made available” language in the 2025 Reconciliation Act means something different than “shall offer” and does not require leasing. Indeed, on May 20, 2025, “Congress contemplated, and ultimately rejected,” language requiring “that BLM ‘shall . . . offer’ lands within 18 months,” *id.* (quoting H.R. 1, 119th Cong. § 80101(a)(1) (May 20, 2025)), and “later amended the bill to require only that the lands ‘shall be made available for leasing’ within 18 months,” *id.* (first quoting 30 U.S.C. § 226(a)(1); and then quoting *INS v. Cardoza-Fonseca*, 480 U.S. 421, 442–43 (1987) (“Few principles of statutory construction are more compelling than the proposition that Congress does not intend sub silentio to enact statutory language that it has earlier discarded in favor of other language.”)). And, as the court stated, the 2025 Reconciliation Act defines lands that are eligible for leasing to exclude lands that cannot be leased due to a statutory prohibition, which “restrict[s] BLM from selling and issuing leases that violate FLPMA’s mandates for the protection of public lands and resources.” *Id.* (citing 30 U.S.C. § 226(b)(1)(A)).

²⁶ Note that while the 2025 Reconciliation Act may prohibit the application of stipulations or mitigation requirements not included in the RMP at the leasing stage, the agency has correctly interpreted this requirement as not applying to conditions of approval or mitigation that can be implemented at the permitting stage, nor does it apply to the agency’s ability to apply stipulations specified by Federal surface management agencies for lands managed by those other agencies. 91 Fed. Reg. at 38097.

resources, habitat, air quality, water resources, cultural values, and other competing uses across the planning area. On the other hand, if BLM believes it continues to have discretion to impose additional conditions on leases beyond those in the RMP, it needs to make that clear.

Requested Remedy: In short, BLM should not finalize the Carlsbad RMP unless and until it has squarely addressed the 2025 Reconciliation Act's amendments to the MLA and revised the plan as necessary to account for the changes. At a minimum, the agency must explain whether and how the new law limits its leasing-stage discretion; assess the resulting increase in leasing and development pressure on lands designated as open; and include in the final plan all closures, stipulations, and mitigation measures needed to comply with FLPMA and other applicable legal obligations. Finalizing the plan without doing so will fail to pass legal muster.

2. BLM Erred in Failing to Provide Adequate Recreation Management and Delaware River Protections

The Proposed RMP does not provide the balanced management required by FLPMA. Although BLM identified recreation as a central reason for revising the 1988 RMP when the agency issued its Draft RMP/EIS, the Proposed RMP would reduce the acreage managed specifically for recreation and would not adopt the more protective recreation designations considered in Alternative B, including designation of the Pecos River corridor as a Special Recreation Management Area and Hay Hollow as an Extensive Recreation Management Area. Instead, BLM would leave approximately 97 percent of the Field Office open to oil and gas leasing while relying principally on limited stipulations and future recreation-area management plans to address conflicts after the plan's basic allocations have been made. That approach does not demonstrate that BLM has weighed recreation alongside mineral development or ensured that recreation opportunities and experiences will be maintained over the life of the plan.

BLM's treatment of the Delaware River in the Proposed RMP further illustrates this imbalance and fails to adequately address resource-protection concerns raised during the Draft RMP comment period. Although our 2018 comments did not specifically request a Wild and Scenic River suitability recommendation for the Delaware River, Our comments urged BLM to protect the Delaware River and its associated riparian and ecological values through designation of the Proposed Chihuahuan Desert Rivers ACEC, emphasizing the scarcity of water in this desert ecosystem, the river corridor's outstanding biodiversity and sensitive species, and the Delaware River's recognition as an Important Bird Area. Those comments were submitted in response to a Draft RMP/EIS in which BLM itself analyzed recommending the eligible Delaware River segment as suitable for inclusion in the National Wild and Scenic Rivers System in Alternative A.

Yet the Proposed RMP does not adopt the more protective management BLM itself considered in Alternative A, under which BLM would recommend the eligible Delaware River segment as suitable for inclusion in the National Wild and Scenic Rivers System. Instead, BLM relies primarily on a no-surface-occupancy stipulation for Segment 1. Although that stipulation provides some protection against surface disturbance, it does not provide the same management approach BLM analyzed under Alternative A for protecting the river and its outstanding remarkable values.

By favoring extensive mineral availability while declining more protective recreation designations and river-management measures, BLM has not made the “most judicious use” of the public lands, accounted for the relative scarcity of intact recreation and riparian resources, or weighed their long-term public benefits against the short-term benefits of mineral development, as FLPMA requires. The Proposed RMP therefore fails to provide the harmonious and coordinated management of resources necessary to satisfy BLM’s multiple-use and sustained-yield duties.

In addition, the RMP/FEIS is internally inconsistent in its treatment of the Delaware River’s outstandingly remarkable values. Appendix B, Table B.58 and Appendix N, Table N.2 identify fish, wildlife, cultural, and “other”/paleontological values, while Chapter 2, page 2-72, Table 2.28-1 refers to scenic, recreational, and geological values.

Requested Remedy: Before issuing a Record of Decision, BLM should resolve internal inconsistencies and then adopt and reconsider whether the Proposed RMP adequately protects the Delaware River values raised in our prior comments. In doing so, BLM should adopt the more protective recreation designations proposed in Alternative B and the Wild and Scenic River management analyzed in Alternative A, including recommending the Black and Delaware River segments as suitable for inclusion in the National Wild and Scenic Rivers System, together with enforceable plan-level protections sufficient to prevent impairment of their recreational, scenic, riparian, wildlife, and other outstandingly remarkable values.

E. BLM’s Proposed RMP Fails to Prioritize Designation and Protection of Areas of Critical Environmental Concern (ACECs).

BLM has failed to prioritize the designation and protection of Areas of Critical Environmental Concern (ACECs) in the Proposed RMP and FEIS, as required by law. This section of our protest arises under FLPMA,²⁷ NEPA,²⁸ and BLM regulations²⁹ and guidance³⁰ addressing the inventory, designation, and management of ACECs.

FLPMA imposes a mandatory duty on BLM to identify, designate, and protect ACECs in the RMP planning process. When enacting FLPMA, Congress directed BLM to promptly develop regulations and plans for the protection of public land ACECs.³¹ FLPMA defines ACECs as “areas within the public lands where special management attention is required . . . to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards.”³² FLPMA established an ongoing statutory obligation for the Secretary of Interior to

²⁷ Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. §§ 1701-1785.

²⁸ National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321-4370h.

²⁹ See 43 CFR Part 1600; 43 CFR § 1610.7-2.

³⁰ See BLM Policy Manual 1613 – Areas of Critical Environmental Concern (9/29/88; rescinded 4/17/25).

³¹ *Id.* § 1701(a)(11) (“The Congress declares that it is the policy of the United States that . . . regulations and plans for the protection of public land areas of critical environmental concern be promptly developed.”).

³² *Id.* § 1702(a); see also 43 C.F.R. § 1601.0-5.

“prepare and maintain on a continuing basis an inventory of all public lands and their resource and other values (including, but not limited to, outdoor recreation and scenic values), *giving priority to areas of critical environmental concern.*”³³ Further, during the land use planning process, FLPMA dictates that “the Secretary *shall give priority to the designation and protection of areas of critical environmental concern.*”³⁴

To comply with FLPMA, BLM’s regulations reiterate the obligation to identify and consider areas for ACEC designation throughout the planning process,³⁵ including areas that have been nominated by the public for designation.³⁶ This requires BLM to assess proposed areas and determine whether they meet three criteria: relevance, importance, and the need for special management attention.³⁷ An area meets the criterion for “relevance” when it has “a significant historic, cultural, or scenic value; a fish or wildlife resource or other natural system or process; or natural hazard.”³⁸ An area meets the criterion for “importance” when the identified value, resource, system, or process has “substantial significance and values,” which “generally requires qualities of more than local significance and special worth, consequence, meaning, distinctiveness, or cause for concern.”³⁹ Finally, BLM describes the special management criterion as follows:

The BLM is required to manage each ACEC in a manner that protects against and prevents irreparable damage of the relevant and important values identified during land use planning. The activities allowed or restricted within each ACEC depend on the resources and natural values the area is designated to protect. ACEC designations always recognize valid existing rights, and because their management is especially flexible and site-specific, they can work alongside, or together with, other uses on a landscape.

Development may continue in an ACEC, but additional information may be needed to ensure that a proposed project or activity will be consistent with special management attention. An ACEC can also provide opportunities for recreation and education, which yield tangible benefits for local communities through recreation and tourism.⁴⁰

³³ *Id.* § 1711(a) (emphasis added).

³⁴ *Id.* § 1712(c)(3) (emphasis added).

³⁵ 43 C.F.R. § 1610.7-2.

³⁶ 43 C.F.R. § 1610.4-1.

³⁷ Proposed RMP/FEIS, Vol. I, at 2-53 (explaining that the goal of ACEC designation is to prescribe special management prescriptions “to protect the important biological, cultural, scenic, and historic resources that meet the criteria for relevance and importance and require special management attention”).

³⁸ 43 C.F.R. § 1610.7-2(a)(1).

³⁹ *Id.* § 1610.7-2(a)(2).

⁴⁰ U.S. Dep’t of Interior, BLM, Areas of Critical Environmental Concern, <https://www.blm.gov/programs/planning-and-nepa/planning-101/special-planning-designations/acec-s> (last visited Sept. 29, 2026).

In the current planning effort for the Carlsbad Field Office, BLM published its Notice of Intent (NOI) to develop the Carlsbad RMP/EIS in the Federal Register on June 10, 2010, which formally began the scoping process.⁴¹ During public scoping, commenters raised issues that laid the foundation for four ACEC nominations subsequently submitted by New Mexico Wild in 2010 and 2011.⁴² These included proposals to protect as ACECs the Pecos, Black, and Delaware Rivers; all desert heronry areas (stands of trees where great blue herons nest); and a collection of salt lakes and playas.⁴³

In 2010 and 2011, New Mexico Wild formally submitted ACEC nominations for the following four areas: Birds of Prey Grasslands, Carlsbad Chihuahuan Desert Rivers, Desert Heronries, and Salt Playas.⁴⁴

In September 2014, BLM issued its Analysis of the Management Situation (AMS), which addressed the designation of ACECs and the way that an ACEC designation informs future management and proposed projects. As explained in the AMS,

The ACEC designation indicates to the public that the BLM recognizes that an area has significant values and has established special management measures to protect those values. In addition, the ACEC designation also serves as a reminder that significant values or resources exist that must be accommodated for future management actions and land use proposals. The designation may also support a funding priority. Although federal, state, and private lands may be located within the boundaries of an ACEC, only BLM-managed lands are managed under the ACEC prescriptions.

The ACEC designation is an administrative designation that is accomplished through the land use planning process. It is unique to the BLM in that no other agency uses this form of designation. *The intent of Congress in mandating the designation of ACECs through FLPMA was to give priority to the designation and protection of areas containing unique and significant resource values.* ACECs differ from other special management designations, such as WSAs, in that ACEC designation by itself does not automatically prohibit or restrict uses. The one exception is that a mining plan of operation is required for any proposed mining activity within a designated ACEC.⁴⁵

The AMS listed the five existing ACECs within the Carlsbad Field Office and acknowledged New Mexico Wild's submission of four new ACEC nominations.⁴⁶

⁴¹ Dep't of Interior, BLM Pecos District, Carlsbad Field Office, Scoping Report for the Carlsbad Field Office Resource Management Plan Revision/Environmental Impact Statement, at 1 (May 13, 2010).

⁴² *Id.* at 21-22.

⁴³ *Id.*

⁴⁴ ACEC Nominations. Attached as App. A, Exh. 2.

⁴⁵ Dep't of Interior, BLM, Analysis of the Management Situation for the BLM Carlsbad Field Office, at 2-146 (Sept. 2014) (emphasis added).

⁴⁶ *Id.* at 2-146 to 2-150.

In August 2018, BLM issued its Draft RMP/DEIS.⁴⁷ In the Draft, BLM documented its finding that all four of New Mexico Wild's nominations met the relevance and importance criteria for ACEC designation. Despite this, the BLM did not include any citizen-nominated ACECs in Alternative C, BLM's preferred alternative.⁴⁸ BLM did propose to designate seven other ACECs: Cave Resources, Lonesome Ridge, Serpentine Bends, Pecos Rivers Canyons Complex, Pecos Bluntnose Shiner Habitat, Seven Rivers Hills, and Gypsum Soils.⁴⁹ The Draft explains,

For eight other proposed ACECs not included for designation in Alternative C, the proposed management prescriptions that are more restrictive than current management are sufficient to protect the resource or value from risks or threats of damage/degradation. The eight proposed ACECs not included for designation in Alternative C are Laguna Plata, Birds of Prey Grasslands, Six Shooter Canyon, Boot Hill District, Maroon Cliffs, Desert Heronries, Carlsbad Chihuahuan Desert Rivers, and Salt Playas.⁵⁰

In our comments on the Draft, we argued that "BLM must designate additional ACECs in the Carlsbad RMP, including the ACECs nominated by the New Mexico Wilderness Alliance and found by BLM to meet the relevance and importance criteria, in accordance with the agency's mandates under FLPMA to prioritize ACECs and manage for multiple use."⁵¹ We expressed concern that BLM had not included any of our proposed ACECs in the preferred alternative, especially considering BLM's statutory mandates.⁵² We described the mandatory language in FLPMA, directing BLM to prioritize the designation of ACECs, as well as the guidance in BLM Manual 1613 on how to evaluate potential ACECs and make decisions about their management.⁵³ We noted that although BLM did not propose to designate any of our nominated ACECs, BLM's preferred alternative did include "some special management prescriptions in each ACEC to protect the values for which each area was nominated, indicating that BLM believes special management *IS* required to protect those values."⁵⁴ Our nominations were supported by public comments,⁵⁵ and scientific information, including reports assessing the ecological significance of the Birds of Prey and Chihuahuan Desert Rivers ACECs.⁵⁶

⁴⁷ Dep't of Interior, BLM, Draft Resource Management Plan and Environmental Impact Statement, Carlsbad Field Office (Aug. 2018).

⁴⁸ *Id.* at Vol. I, pp. 2-51 to 2-71.

⁴⁹ Draft RMP/DEIS, Vol. I, at 2-52.

⁵⁰ Draft RMP/DEIS at 2-51.

⁵¹ TWS, NM Wilderness Alliance, NPCA, Southwest Environmental Center Comment Letter at 15 (Nov. 5, 2018). Attached as App. A, Exh. 6.

⁵² TWS, NM Wilderness Alliance, NPCA Comment Letter at 2 (Oct. 12, 2018), attached as App. A, Exh. 5; TWS, NM Wilderness Alliance, NPCA, Southwest Environmental Center Comment Letter at 11-15 (Nov. 5, 2018). Attached as App. A, Exh. 6.

⁵³ *Id.* at 11-12.

⁵⁴ *Id.* at 12.

⁵⁵ See, e.g., Proposed RMP/FEIS, Vol. II, at U-127.

⁵⁶ Conservation Science Partners Final Report, A landscape-level assessment of the Area of Critical environmental Concern (ACEC) criteria in the proposed Birds of Prey ACEC (Jan. 20, 2017), attached as App. D, Exh. 1; Conservation Science Partners Final Report, A landscape-level assessment of the Area of Critical

Finally, our comments on the Draft reiterated the relevant and important values and resources present in our proposed ACECs and the need to prevent intensive oil and gas development from compromising these areas, as follows:

i. Birds of Prey ACEC

The Birds of Prey ACEC, totaling 340,500 acres, is in the northwest section of CFO, and was nominated for its grasslands and for its extraordinarily high levels of raptor diversity. The habitat in the area provides the necessary food, water, shelter, and space for the recognized avian diversity because the cliffs provide ideal nesting sites, while the grasslands support large populations of small mammal and grassland bird prey species. The area supports grasses, forbs, and shrubs, which in turn sustain many small mammals, birds, reptiles, and invertebrates. The co-occurrence of abundant nesting sites and food supplies is the chief factor in the area functioning as year-round avian habitat. In addition, a substantial number of birds migrate through the ACEC each spring and fall season. The nominated ACEC is located between two principal routes of the Central Flyway, which is one of four flyways in North America.

ii. Chihuahuan Desert Rivers ACEC

The Chihuahuan Desert Rivers ACEC, totaling approximately 103,800 acres along the Texas border and which includes the riparian corridors of the Delaware, Pecos, and Black rivers. It was nominated because of the scarcity of water in desert ecosystems, and because of its outstanding biodiversity, including listed state species, BLM sensitive species, and possibly a federally listed species, the Texas Hornshell Mussel. The Delaware River has been designated an Important Birding Area by the Audubon Society. The full ACEC nomination is included with this protest. It is important to note that this ACEC was also the site of Chevron's Hayhurst Master Development Plan, and the subject of an IBLA appeal brought in 2016 by New Mexico Wilderness Alliance, The Wilderness Society, and National Parks Conservation Association. This IBLA appeal ultimately resulted in settlement discussions and an agreement between Chevron, BLM, and conservation groups which emphasized the critical importance of this area.

iii. Salt Playas ACEC

The Salt Playas ACEC, totaling approximately 58,000 acres, was proposed to protect Carlsbad's salt lakes, which serve as essential stops for migratory shore birds and as water recharge areas which accumulate rain and snow. Most of the salt playas contain water year-round, and many have a spring system associated with them. They provide a type of habitat which is very limited but vital to the overall

environmental Concern (ACEC) criteria in the proposed Desert Rivers ACEC (Jan. 20, 2017), attached as App. D, Exh. 2.

biodiversity in southeast New Mexico, and the list of shorebirds that use them in Carlsbad may be unequalled by any other site in the state. The salt playas also have significant archeological and historical value. Unfortunately, these areas are often used for waste.

iv. Desert Heronries ACEC

The Desert Heronries ACEC, totaling approximately 48,500 acres, was proposed to protect a possibly unique population of desert-dwelling herons which are entirely dependent on riparian ecosystems near the Pecos River, which is also a significant stop along the migratory path of many other bird species. These herons nest specifically in Western Soapberry trees in this area, and the ACEC boundary was drawn to protect these plants. In-depth review of a large volume of research does not suggest similar isolated desert-nesting of any species of Heron. It is necessary to protect active nesting sites, historic nesting sites, and potential nesting sites in stands of Western Soapberry and other large trees in the desert east of the Pecos River.⁵⁷

In the intervening eight years between BLM's issuance of the Draft RMP/DEIS and the Proposed RMP/FEIS, our organizations have participated in the NEPA process for numerous oil and gas lease sales. In our comments, we have repeatedly urged BLM to refrain from leasing within proposed ACECs pending the adoption of a final RMP.⁵⁸ As further discussed below, despite our persistent engagement, there has been additional development in the proposed ACECs, including new oil and gas leases and rights-of-way, during the pendency of this planning process.

In September 2026, BLM issued the Proposed RMP/FEIS, which failed to include any of our proposed ACECs in the preferred alternative, as requested in our previous comments. BLM did, however, make other substantial revisions to the ACEC designations in the preferred alternative. Specifically, only "[t]wo ACECs [Cave Resources and Seven Rivers Hill] are now proposed to be designated under [the preferred] alternative. Some management prescriptions would be administered to protect resource values within five other areas that were proposed to be designated as ACECs in the Draft RMP/EIS under this alternative, but the areas will retain the same management prescriptions."⁵⁹ Thus, rather than designating *more* ACECs in accordance with FLPMA's mandate to prioritize the designation and protection of ACECs in the planning process, BLM proposes to designate even *less* ACECs than BLM had proposed in the Draft.

⁵⁷ TWS, NM Wilderness Alliance, NPCA, Southwest Environmental Center Comments at 13-14 (November 5, 2018), attached as App. A, Exh. 6; see also App. E, Exh. 1, N.M. Wilderness Alliance & TWS Comments on Hayhurst Master Development Plan (Sept. 14, 2016) (urging BLM to defer leasing in proposed ACECs pending completion of the Carlsbad RMP planning process).

⁵⁸ See, e.g., App. E, Exh. 2, TWS et al. Comments on Draft EA for May 2023 Lease Sale (Feb. 6, 2023); App. E, Exh. 3, New Mexico Wild Comments on Draft EA for Q2, 2024 Lease Sale (Dec. 20, 2023); App. E, Exh. 4, New Mexico Wild Scoping Comments for Q3, 2025 Lease Sale (Nov. 5, 2024); App. E, Exh. 5, TWS et al. Scoping Comments on Q1, 2026 Lease Sale (June 11, 2025); App. E, Exh. 6, TWS et al. Comments on Draft EA for Q2, 2026 Lease Sale (Feb. 20, 2026).

⁵⁹ Proposed RMP/FEIS, Vol. I, at 1-14.

BLM's preferred alternative, Alternative C, is inconsistent with the statutory mandate set forth in FLPMA to prioritize the designation and protection of ACECs as part of the agency's multiple use mission. When BLM issued its NOI in 2010, the Carlsbad Field Office was already 78% leased for oil and gas development.⁶⁰ That percentage has steadily increased throughout this protracted planning process, with production in the Permian tripling in just the five years after BLM released the Draft RMP/DEIS in 2018.⁶¹ Despite the heavy emphasis on oil and gas leasing as the dominant use in the Field Office, BLM's proposed RMP would open 97% of the Carlsbad Field Office to oil and gas leasing.

To comply with FLPMA, in the Final RMP and Record of Decision, BLM should designate the four ACECs nominated by New Mexico Wild, including Birds of Prey Grasslands, Carlsbad Chihuahuan Desert Rivers, Desert Heronries, and Salt Playas, all of which are included within the range of alternatives.⁶² Additionally, BLM should designate the other ACECs that BLM has included within the action alternatives, which have been identified as having met the criteria for relevance and importance, and for which BLM has developed tailored management prescriptions, including Lonesome Ridge, Pecos River Canyons, Boot Hill District, Cave Resources, Tres Rios, Laguna Plata, Mescalero Plains, Pecos Bluntnose Shiner Habitat, Pope's Well, Serpentine Bends, Seven Rivers Hills, and Six Shooter.

We are concerned that significant new development has occurred within the nominated ACECs between the time the nominations were submitted in 2010 and 2011 and the release of the Proposed RMP in 2026. The following table and attached maps⁶³ reflect the number of new oil and gas wells, the acreage covered by new lease parcels, and the acreage covered by new rights-of-way that have occurred within our proposed ACECs since 2012, based on a preliminary GIS desktop analysis performed by New Mexico Wild.⁶⁴

⁶⁰ BLM Public Scoping Report for the Carlsbad Field Office RMP Revision/EIS, at 6 (May 13, 2011).

⁶¹ U.S. Energy Information Administration, Associated natural gas production has tripled since 2018 in top three Permian oil plays (Dec. 6, 2023), *available at* <https://www.energy.gov/documents/12-exh-h-eia-associated-natural-gas-production-has-tripled-2018-top-three-permian-oil>.

⁶² Alternative A includes designation of the Carlsbad Chihuahuan Desert Rivers ACEC and Birds of Prey Grasslands ACEC, and Alternative B includes designation of the Birds of Prey ACEC, Desert Heronries ACEC, and Salt Playas ACEC. See Proposed RMP/FEIS, Vol. I, at 2-54.

⁶³ See App. F, Exh. 1, maps of impacts to nominated ACECs prepared by New Mexico Wild in September 2026 as a demonstrative exhibit to this protest.

⁶⁴ The data in this table were accessed in September 2026. The data for new oil and gas wells were accessed from the New Mexico Energy, Minerals and Natural Resources Department, Oil Conservation Division Geospatial Hub, *available at* <https://ocd-hub-nm-emnrd.hub.arcgis.com/>. The data for new oil and gas leases were accessed from the U.S. Department of Interior, BLM Mineral & Lands Record System (MLRS), Oil and Gas Leases database, *available at* <https://gbp-blm-egis.hub.arcgis.com/>. The data for new rights-of-way were accessed from the U.S. Department of Interior, BLM Mineral & Lands Record System (MLRS), Rights-of-Way database, *available at* <https://gbp-blm-egis.hub.arcgis.com/>.

New Impacts Identified by New Mexico Wild Between 2012-2026					
	Nominated acreage	Oil Wells	Gas Wells	Lease Parcels (Acres)	ROW (Acres)
Birds of Prey Grasslands	364,451	5	9	16,919	119,902
Carlsbad Chihuahuan Desert Rivers	121,629	288	367	21,821	184,146
Desert Heronries	51,005	439	451	4,746	250,534
Salt Playas	54,697	187	7	2,318	76,544

We acknowledge that any new ACEC designations included in the Record of Decision and Final RMP will recognize and respect valid existing rights, including new mineral leases and rights-of-way that have been granted during the pendency of this planning process. Despite the new development, the nominated areas retain relevant and important values and resources that require special management under FLPMA's mandates to (1) manage for multiple use and sustained yield and (2) prioritize ACECs in the planning process. Notably, ACECs are the only component of an RMP that BLM must prioritize in the land use planning process. Federal courts have recognized that the "priority [that FLPMA] afforded ACECs reflects Congress' intent to elevate the designation and protection of ACECs over BLM's default management for 'multiple use.'"⁶⁵

If anything, the new development within the proposed ACECs compounds the need to protect remaining fish and wildlife resources, habitat areas, and cultural values within those areas. ACEC designations are flexible and tailored to the specific values and resources at stake, allowing flexible, targeted management. Through this planning process and in the Proposed RMP/FEIS, BLM has determined that the nominated areas meet the relevance and importance criteria; moreover, BLM proposes targeted management prescriptions to protect values and resources within the potential ACECs.⁶⁶ Having recognized that our nominated areas meet all three criteria for ACEC designation, BLM should proceed to formally designate these areas in the Record of Decision. In addition to meeting BLM's legal obligations, designating ACECs will help BLM staff and the public efficiently ascertain the applicable management prescriptions that apply to future lease sales, projects, and other implementation-level management decisions in these areas throughout the decades-long life of this RMP.

⁶⁵ *Rags Over the Arkansas River, Inc. v. Bureau of Land Mgmt.*, 77 F. Supp. 3d 1038, 1056 (D. Colo. 2015) (quoting FLPMA, 43 U.S.C. § 1732(a); see also *San Juan Citizens All. v. Norton*, 586 F. Supp. 2d 1270, 1282 (D.N.M. 2008) ("when developing and revising land use plans, the FLPMA requires BLM to give priority to the designation and protection of areas of critical environmental concern").

⁶⁶ Proposed RMP/DEIS, Vol. I, at 2-58 (Birds of Prey Grasslands); 2-59 to -60 (Carlsbad Chihuahuan Desert Rivers); 2-64 (Desert Heronries); Salt Playas (2-68).

Requested Remedy: Designate the four ACECs nominated by New Mexico Wild in the Record of Decision and Final RMP and impose the special management prescriptions identified in the Proposed RMP/FEIS. Designate the other ACECs identified in the range of action alternatives for the Proposed RMP/FEIS that have met the relevance and importance criteria and for which BLM has proposed specific management prescriptions.

F. BLM's Proposed RMP Does Not Adequately Analyze or Protect Lands with Wilderness Characteristics (LWCs).

BLM has failed to adequately inventory, analyze, and consider lands with wilderness characteristics (LWCs) during this planning process.⁶⁷ This section of our protest arises under FLPMA,⁶⁸ NEPA,⁶⁹ the Wilderness Act,⁷⁰ and BLM regulations⁷¹ and guidance⁷² addressing inventory and management of LWCs.

There are two primary components to BLM's legal obligation to identify, analyze, and protect LWCs in an RMP. First, FLPMA Section 201 imposes an affirmative legal duty on BLM to "prepare and maintain on a continuing basis an inventory of all public lands and their resource and other values (including, but not limited to, outdoor recreation and scenic values), giving priority to areas of critical environmental concern."⁷³ This foundational management directive includes the requirement to inventory wilderness resources, and it stands independent from and extends beyond the one-time wilderness review mandated by FLMPA Section 603.⁷⁴ Second, FLMPA's multiple use and sustained yield mandates encompass the requirement for BLM to protect "the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; . . . *preserve and protect certain public lands in their natural condition*; [and] provide food and habitat for fish and wildlife."⁷⁵ Managing LWCs to protect wilderness characteristics addresses the requirement to preserve and protect some public lands in their natural condition and furthers BLM's ability to protect related natural and cultural resources and values as part of the agency's multiple use and sustained yield

⁶⁷ *Ore. Natural Desert Ass'n v. BLM*, 625 F.3d 1092, 1111, 1112 (9th Cir. 2008) (holding that "wilderness characteristics are among the values the FLPMA specifically assigns to the BLM to manage in land use plans").

⁶⁸ FLPMA, 43 U.S.C. §§ 1701-1785.

⁶⁹ NEPA, 42 U.S.C. §§ 4321-4370h.

⁷⁰ Wilderness Act of 1964, 16 U.S.C. §§ 1131 to 1136.

⁷¹ See generally 43 C.F.R. Part 1600.

⁷² See BLM Policy Manual 6310 — Conducting Wilderness Characteristics on BLM Lands (01/08/2021), available at <https://www.blm.gov/sites/default/files/docs/2021-01/BLM-Policy-Manual-6310.pdf>; BLM Policy Manual 6320 — Considering Lands with Wilderness Characteristics in the BLM Land Use Planning Process (10/15/2024), available at <https://www.blm.gov/sites/default/files/docs/2024-11/MS%206320%20Rel.%206-143.pdf>.

⁷³ FLPMA, 43 U.S.C. § 1711(a).

⁷⁴ 43 U.S.C. § 1782 (requiring the Secretary to review roadless areas of 5000 acres or more by 1991 and to "report to the President his recommendation as to the suitability or unsuitability of each such area or island for preservation as wilderness").

⁷⁵ *Id.* § 1701(a)(8) (emphasis added).

mandates. Based on these provisions, federal courts have consistently recognized that FLPMA imposes on BLM both a broad mandate to preserve and protect certain public lands in their natural condition and a continuing obligation to inventory lands with wilderness characteristics as part of the land use planning process.⁷⁶

BLM has acknowledged the need to inventory wilderness characteristics throughout this planning process. In July 2014, BLM conducted a workshop to review BLM's LWC policy and inventory process, disclose findings of BLM's inventory, and explain the results of the process and how it would be applied to LWC management in the plan revision.⁷⁷ At the time of the workshop, BLM had identified seven LWC units collectively totaling 58,001 acres.⁷⁸

In the 2014 AMS, BLM explained that the agency had inventoried wilderness characteristic resources between 1978 and 1980, and that the inventory had been "updated for acquired lands between 1986 and 1994."⁷⁹ The AMS expressed BLM's intent to further "analyze and inventory lands with wilderness characteristics inventory as part of the revision for the Carlsbad RMP."⁸⁰

On March 4, 2015, BLM met with New Mexico Wild to discuss LWCs identified in New Mexico Wild's citizen inventory, including issues with rights-of-way, pipelines, and well constructions located within some of the inventoried units.⁸¹ On April 2, 2015, New Mexico Wild submitted data for nine LWC units totaling 76,255 acres and asked BLM to evaluate the new information in accordance with BLM Manual 6310.⁸² The cover letter explained that New Mexico Wild had made changes to some of the mapped units based on the meeting with BLM and urged BLM to "consider deferring potential harm to recognized LWC units until a management decision is made for each one."⁸³

In the August 2018 Draft RMP/DEIS, BLM identified eleven units that met the definition of LWCs. The preferred alternative, Alternative C, included just three of those units, Unit 801 (82

⁷⁶ *Oregon Natural Desert Ass'n v. Bureau of Land Mgmt.*, 625 F.3d 1092 (2010) (acknowledging BLM's duty under NEPA to address wilderness characteristics in an EIS for an RMP); *Center for Biological Diversity v. Bureau of Land Mgmt.*, 35 F. Supp. 3d 1137 (2014) (making clear that FLPMA makes wilderness characteristics among the values which BLM can address in its land use plans, and hence, needs to address in the NEPA analysis for a land use plan governing areas which may have wilderness values).

Ore. Natural Desert Ass'n v. Bureau of Land Mgmt., 531 F.3d 1114, 1119 (9th Cir. 2008); see, e.g. *Utah v. Norton*, 2006 WL 2711798 (D. Utah 2006) (unpublished) (recognizing that FLPMA's mandate provides BLM with the authority to protect and prevent irreparable damage to areas with wilderness characteristics and that the BLM can manage lands in a manner that emphasizes the protection of wilderness characteristics as a priority over other potential uses).

⁷⁷ Slides, Lands with Wilderness Characteristics, Carlsbad Field Office BLM, Aaron Stockton & Owen Lofton (July 8 and 9, 2014).

⁷⁸ *Id.* at slide 19 of 27.

⁷⁹ BLM, Analysis of the Management Situation, at 2-81 (Sept. 2014).

⁸⁰ *Id.*

⁸¹ Proposed RMP/FEIS, Vol. II, Appendix U, at U-196.

⁸² New Mexico Wilderness Alliance Letter to BLM Carlsbad Field Office RE: Lands with Wilderness Characteristics inventory (Apr. 2, 2015). Attached as App. A, Exh. 3.

⁸³ *Id.*

acres), Unit 803A (1,139 acres), and Unit 815 (3,898 acres), to be managed to protect wilderness characteristics.⁸⁴ Although the Draft stated that “Alternative B includes all of the units within or in proximity to the citizen proposals submitted by the New Mexico Wilderness Alliance based on their inventory information,”⁸⁵ Alternative B included just one of the citizen inventory units, Unit 813 (“Guadalupe 5”), totaling 8,503 acres.⁸⁶ The Draft did not provide information about the other units submitted by New Mexico Wild or explain why those units were not addressed in the alternatives.⁸⁷

In our comments on the Draft RMP/DEIS, we objected to BLM’s proposal to manage only 5,000 out of 2.1 million acres of public land (.25% of the Carlsbad Field Office) to protect wilderness values, and we urged BLM to adopt a more balanced plan.⁸⁸ We urged BLM to analyze our inventory units and provide a response and management alternatives in the RMP.⁸⁹ We asserted that BLM had failed to take a “hard look” at the environmental consequences of the NEPA alternatives, including the “benefits that may accrue to other resource values and uses as a result of protecting wilderness characteristics,” such as scenic values; recreation; wildlife habitat, connectivity, and riparian areas; cultural resources; quality of life; and the economic benefits of protecting LWCs.⁹⁰ Finally, we argued that the Draft failed to comply with BLM’s multiple-use mandate because it lacked the required “combination of balanced and diverse resources uses” including “recreation, watershed, wildlife, fish, and natural scenic and historical uses,” thereby putting the Carlsbad Field Office at risk of being a single-use field office.⁹¹

In the intervening eight years between BLM’s issuance of the Draft RMP/DEIS and the Proposed RMP/FEIS, our organizations participated in the NEPA process for multiple oil and gas lease sales, and we urged BLM to refrain from leasing parcels within potential LWCs pending the adoption of a final RMP.⁹² As further discussed below, despite our persistent engagement, there has been additional development in our LWC units, including new leases and rights-of-way, during the pendency of this planning process.

In the Proposed RMP/FEIS, BLM continues to identify eleven units that meet the definition of LWCs. Based on updated GIS data and information, the eleven units collectively total 72,543 acres, approximately 3.5% of the public land in the Carlsbad Field Office. Like the Draft, the

⁸⁴ Draft RMP/DEIS, Vol. I, at 2-15.

⁸⁵ Draft RMP/DEIS, Vol. I, at 2-15.

⁸⁶ *Id.* Vol. I, at 2-15; Vol. II, Appendix S, at S-16.

⁸⁷ *Id.* at 2-14 to 2-21; Vol. II, Appendix A, at Maps 2-3 to 2-6; Vol. II, Appendix S, at S-11 to

⁸⁸ October 12, 2018 Comment Letter at 1-2; November 5, 2018 Comment Letter at 9.

⁸⁹ October 12, 2018 Comment Letter at 1.

⁹⁰ November 5, 2018 Comment Letter at 5-6 (citing BLM Manual 6320, Section 1.6.A(1)(b)).

⁹¹ November 5, 2018 Comment Letter at 8.

⁹² See, e.g., App. E, Exh. 2, TWS et al. Comments on Draft EA for May 2023 Lease Sale (Feb. 6, 2023); App. E, Exh. 3, New Mexico Wild Comments on Draft EA for Q2, 2024 Lease Sale (Dec. 20, 2023); App. E, Exh. 4, New Mexico Wild Scoping Comments for Q3, 2025 Lease Sale (Nov. 5, 2024); App. E, Exh. 5, TWS et al. Scoping Comments on Q1, 2026 Lease Sale (June 11, 2025); App. E, Exh. 6, TWS et al. Comments on Draft EA for Q2, 2026 Lease Sale (Feb. 20, 2026).

preferred alternative in the Proposed RMP would manage just three units (Unit 801, Unit 803A, and Unit 815) to protect wilderness characteristics.⁹³

In response to our comments, BLM has revised Appendix S to the Proposed RMP/FEIS. BLM removed the descriptions of the LWCs identified by the agency.⁹⁴ Instead, Appendix S in the Proposed RMP/FEIS provides more details about the BLM's LWC evaluation process and documents the submission of citizen-inventoried LWC units by New Mexico Wild as follows:⁹⁵

Table S.2. New Mexico Wilderness Alliance–Proposed Wilderness Inventory Units – 2015

Citizen Proposal Unit Name	Citizen Proposal Unit Acreage	Overlap with BLM Inventory Unit	BLM Inventoried Acres	Citizen Proposal has LWC?	Notes
Mescalero Sands	4,852	–	4,852	No	Initial GIS screening identified no areas greater than 5,000 acres.
Guadalupe 2-A; Guadalupe 2-B	9,715; 8,973	NM-CAD-052A1	68,971	No	Initial GIS screening identified no areas greater than 5,000 acres.
Guadalupe 3	11,202	NM-CAD-042A1	108,385	No	On-the-ground field review identified no wilderness characteristics.
Guadalupe 4	10,656	NM-CAD-041B1	10,656	No	On-the-ground field review identified no wilderness characteristics.
Guadalupe 5	8,528	NM-CAD-030A1	227,689	Yes	Was identified to have wilderness characteristics.
Guadalupe 7	6,811	NM-CAD-041A1	8,434	No	On-the-ground field review identified no wilderness characteristics.
Caverns	9,242	NM-CAD-074B	9,242	No	On-the-ground field review identified no wilderness characteristics.
Delaware River	6,276	NM-CAD-092A	48,660	No	Initial GIS screening identified no areas greater than 5,000 acres.
Pecos	14,015	NM-CAD-084A	8,949	No	On-the-ground field review identified no wilderness characteristics.
Total	85,418		490,986		

Appendix S also includes a table summarizing the eleven units that BLM found met the criteria for identification as LWCs:⁹⁶

⁹³ Proposed RMP/FEIS, Vol. I, at 2-18.

⁹⁴ Draft RMP/DEIS, Vol. II, Appendix S, at S-11 to S-16.

⁹⁵ Proposed RMP/FEIS, Vol. II, Appendix S, at S-8, Table S.2.

⁹⁶ Proposed RMP/FEIS, Vol. II, Appendix S, at S-7, Table S.1.

Table S.1. Lands with Wilderness Characteristics that met Criteria

County	Unit Number	Unit Name	Acreage	Notes (units less than 5,000 acres)
Eddy	NM-060-801	Lonesome Ridge	80	Adjacent to the Lonesome Ridge WSA
	NM-060-803A	Lechugilla South	3,571	Adjacent to designated wilderness in Carlsbad Caverns National Park
	NM-060-810	Texas Hill North	18,381	–
	NM-060-810B	Texas Hill South	6,730	–
	NM-060-815	Slaughter and Double Canyons	3,988	Adjacent to designated wilderness in Carlsbad Caverns National Park
	NM-060-922	Thurman Draw	5,751	–
Chaves	NM-060-813	–	8,503	–
	NM-060-902	Big Ox Yoke	9,834	–
	NM-060-909	Salt House Draw	9,114	–
	NM-060-810A	Texas Hill North	4,216	Spans CFO and LCDO; 4,216 acres are in Chaves County and 8,759 acres are in Otero County
	NM-060-125	Dry Peak	2,276	Spans the CFO and LCDO; 2,276 acres are in Chaves County and 21,135 acres are in Otero County, for a total of 23,412 acres

Although the additional tables and information are helpful, the Proposed RMP/FEIS does not address the concerns we raised in our 2018 comments. First, like the draft, BLM’s preferred Alternative C would manage only a minute fraction of the Carlsbad Field Office (7,684 acres, or .37%) to protect wilderness characteristics.⁹⁷ Due to the overwhelming prevalence of oil and gas development in the Carlsbad Field Office as the dominant use, BLM should maximize the protection of the few remaining fragments of wilderness quality lands for current and future generations in accordance with BLM’s statutory mandates in FLPMA. Second, while Appendix S expressly acknowledges that nine citizen inventory units submitted by New Mexico Wild, BLM has included only one of them (Unit 813) in the range of alternatives presented in the Proposed RMP/FEIS. The notes in Table S.2 appear to provide the only explanation for excluding the citizen inventory units from the alternatives. While we support the addition of new content to Appendix S, we are disappointed that BLM failed to further analyze and explain the reasons for omitting citizen units from the NEPA alternatives. We also object to BLM’s omission of the descriptions of the LWS units that were included in the Draft and urge BLM to add that information to the Final RMP.⁹⁸ Third, BLM has not conducted additional NEPA analysis to disclose and evaluate the environmental consequences of the various LWC alternatives. Like the Draft, the Proposed RMP/FEIS fails to provide an adequate NEPA analysis or to adhere to FLMPA’s multiple use mandate and the requirement to craft a balanced plan that preserves and protects certain public lands in their natural condition.

While we strongly urge BLM to manage more acreage to protect wilderness characteristics than proposed in Alternative C, we are concerned that the citizen inventory units submitted by New Mexico Wild were not included in any of the NEPA alternatives set forth in the FEIS. We are

⁹⁷ See Proposed RMP/FEIS, Vol. I, at 2-18. The discrepancy in acreage between the preferred alternatives in the Draft RMP and the Proposed RMP appears to be based on updated GIS data for Unit 803A.

⁹⁸ Draft RMP/DEIS, Vol. II, Appendix S, at S-11 to S-17.

further concerned that some of the units have been significantly degraded by development in the intervening years since they were submitted. As a result, we acknowledge that some of these areas may not qualify for protection as LWCs in the final RMP. The following table and attached maps⁹⁹ reflect the number of new oil and gas wells, the acreage covered by new lease parcels, and the acreage of new rights-of-way that have occurred within our LWC inventory units since April 2014, based on preliminary GIS desktop analysis.¹⁰⁰

New Impacts Identified by New Mexico Wild Between 2014-2026					
	Citizen Proposal Acreage	Oil Wells	Gas Wells	Lease Parcels (acres)	ROWs (acres)
Mescalero Sands	4852	0	1	986	659
Guadalupe 2-A; Guadalupe 2-B	18,688	0	2	7817	3302
Guadalupe 3	11,202	0	4	0	1113
Guadalupe 4	10,656	0	0	0	6430
Guadalupe 7	6,811	0	0	0	381
Caverns	9,242	0	0	948	1629
Delaware River	6,276	7	1	1560	1749
Pecos	14,015	53	119	262	6278

Due to BLM's failure to defer leasing and development in the citizen inventory units pending the issuance of a Record of Decision and Final RMP, there are less wilderness resources remaining in the Carlsbad Field Office than there were when this planning effort commenced. These losses heighten the need for BLM to manage the remaining eleven LWC units, totaling 72,543 acres, to protect wilderness characteristics, as proposed in Alternative A.¹⁰¹ Additionally, as discussed above, BLM should update its inventory in a supplemental EIS, and include additional citizen-inventoried LWCs within the range of alternatives.

Requested Remedy: Adopt Alternative A as it pertains to LWCs. Manage all eleven units set forth in Table S.1, totaling 72,543 acres, to protect wilderness characteristics. Update the BLM's inventory of LWCs in a supplemental EIS. Incorporate descriptions of the LWC units into the

⁹⁹ App. F, Exh. 2, maps of impacts to citizen inventoried LWCs prepared by New Mexico Wild in September 2026 as a demonstrative exhibit to this protest.

¹⁰⁰ This table does not include Guadalupe 5, which BLM has identified as LWCs. The data in this table were accessed in September 2026. The data for new oil and gas wells were accessed from the New Mexico Energy, Minerals and Natural Resources Department, Oil Conservation Division Geospatial Hub, *available at* <https://ocd-hub-nm-emnrd.hub.arcgis.com/>. The data for new oil and gas leases were accessed from the U.S. Department of Interior, BLM Mineral & Lands Record System (MLRS), Oil and Gas Leases database, *available at* <https://gbp-blm-egis.hub.arcgis.com/>. The data for new rights-of-way were accessed from the U.S. Department of Interior, BLM Mineral & Lands Record System (MLRS), Rights-of-Way database, *available at* <https://gbp-blm-egis.hub.arcgis.com/>.

¹⁰¹ Proposed RMP/FEIS, Vol. I, at 2-18, Table 2.13-1.

Final RMP, based on what was included in the Draft RMP/DEIS, Appendix S, with additional updated inventory information.¹⁰²

G. Failure to Meaningfully Coordinate with National Park Service to Protect Nearby Parks.

The Carlsbad Field Office (CFO) planning area includes the entirety of Carlsbad Caverns National Park (CAVE) and borders Guadalupe Mountains National Park (GUMO) in Texas. Despite jurisdictional boundaries, the parks are very much connected as part of the same geography and ecosystem. These two parks are integral to the planning area landscape, and BLM has failed in this Proposed RMP/FEIS to comprehensively and accurately identify and analyze the impacts of the alternatives in the RMP on the parks. As noted in our 2018 Draft RMP comments, we recognize that oil and gas activities in the Permian Basin are here to stay for the foreseeable future, but they can coexist with protected places such as national parks when the federal government works closely with communities and other stakeholders in thoughtful planning for development to assess and avoid conflicts.

The National Park Service (NPS) and leadership at both parks are identified as cooperators in the final RMP.¹⁰³ The Proposed RMP/FEIS does not specify what it means to be a cooperating agency so it is unclear how much consultation was done between the agencies. The Proposed RMP/FEIS identifies responses to the NPS's 2018 comment letter in Appendix U but NPS's full letter is not included in the final RMP documents. We incorporate the NPS's 2018 comments into this document by reference to ensure the concerns from NPS are fully included for public review.¹⁰⁴

1. Failure to Coordinate with National Park Service on the Carlsbad Field Office Photochemical Air Quality Modeling Report (AQMR).

The BLM and Ramboll, their contractor for the AQMR, did not sufficiently coordinate with NPS on the development of the report that BLM relies upon for anticipating impacts to Air Quality Related Values (AQRVs). The AQMR states it will be used to “inform BLM decisions that may impact key features related to air resources in the BLM CFO and areas that have special air quality protections under federal law. These include national parks and wilderness areas designated as the mandatory federal Class I areas under the federal Clean Air Act (CAA).”¹⁰⁵ As land manager of two mandatory federal Class I areas, one of which is within the planning area and the other of which is immediately adjacent, it is critical that NPS be fully included in the development of a report that will inform management decisions that could affect air quality in Class I areas.

¹⁰² Draft RMP/DEIS, Vol. II, Appendix S, at S-11 to S-17.

¹⁰³ Proposed RMP/FEIS, Vol. 1, Section 1.5.2.1.

¹⁰⁴ National Park Service. (November 5, 2018) *Memorandum, National Park Service Comments on the Draft Resource Management Plan and Environmental Impact Statement BLM/NM/PL-15-01-1610*. Attached as App. A, Exh. 9.

¹⁰⁵ Ramboll. (February 2025). *BLM Carlsbad Field Office Photochemical Air Quality Modeling Report*. Section 1 [hereinafter AQMR].

The AQMR only notes consultation with NPS, which has staff with unique expertise on air quality issues affecting parks, on two topics: NPS provided nitrogen deposition critical load information (page 35) and NPS provided W126 threshold information (page 37). It appears, from the lack of documentation in the docket, that NPS was not given the opportunity to fully analyze the data, support additional research questions or provide feedback on the results of the AQMR to ensure accuracy. Given the extensive expertise of NPS staff on air resources, and the on-the-ground expertise of CAVE staff, input from the agency at multiple levels should have been conducted and well documented in the development of the AQMR.

The AQMR underpins many of the management decisions in the final RMP and some of the conclusions made in the report are inaccurate (see *infra* section H.1.) and in direct conflict with the NPS study “*Summertime Ozone Production at Carlsbad Caverns National Park, New Mexico: Influence of Oil and Natural Gas Development*” published in 2024.¹⁰⁶

H. Failure to Adopt Air Quality Protections or Mitigation Measures and Failure to Evaluate Visual Resource and Visibility Impacts to National Park Landscapes.

We are extremely concerned about the lack of air quality protections or required pollution mitigation measures identified in this Proposed RMP/FEIS. BLM fails to include any significant Air Resources Stipulations to protect Air Resources in the planning area. BLM fails to respond to our and NPS’s requests to include in the this Proposed RMP/FEIS the Air Resources Management Actions listed in Table 2-9 of the draft RMP for Alternatives A and B and the Management Action Common to All Alternatives no. 2.¹⁰⁷ Additionally, our 2018 Draft RMP comments and the NPS comments requested that the entirety of Table 2-9 of the draft RMP be incorporated into Appendix C – Fluid Minerals Lease Stipulations. Additionally, despite our requests to the contrary, the entirety of Table 2-9 was removed and now does not appear in the Proposed RMP/FEIS. The analysis in this Table 2-9 included specific air pollution mitigation measures such as emissions limits and air pollution controls that would be required for the oil and gas development occurring in the planning area for each Alternative. To protect AQRVs at CAVE and GUMO, mitigation measures must be assured throughout the life of the RMP to better protect these Class I area resources from ozone pollution, ecosystem harms and visibility impairment.

1. BLM Erroneously Claims Ozone Pollution increases will not harm air quality in Carlsbad Caverns National Park and other Class I areas.

In the Proposed RMP/FEIS, BLM fails to connect the logical dots that significant increases of pollution associated with new oil and gas operations in the planning area will problematically drive an increase in ozone levels. Even though CAVE is not currently designated as nonattainment for ozone NAAQS (National Ambient Air Quality Standards), there are numerous

¹⁰⁶ Andrey Marsavin, Da Pan, Ilana B. Pollack, Yong Zhou, Amy P. Sullivan, Lillian E. Naimie, Katherine B. Benedict, Julieta F. Juncosa Calahoranno, Emily V. Fischer, Anthony J. Prenni, Bret A. Schichtel, Barkley C. Sive, Jeffrey L. Collett, *Summertime Ozone Production at Carlsbad Caverns National Park, New Mexico: Influence of Oil and Natural Gas Development*. Journal of Geophysical Research: Atmospheres, 2024; 129 (14) DOI: 10.1029/2024JD040877. Attached as App. G, Exh. 1.

¹⁰⁷ NPS Comment Letter on Draft RMP/EIS at 6 & 9. Attached as App. A, Exh. 9.

studies indicating ozone exceedances are already routinely occurring in this region and that oil and gas drilling operations are to blame. And as noted in our supplemental letter, the Center for Biological Diversity et al. recently filed a petition to designate the Carlsbad planning area as in nonattainment under the Clean Air Act in light of increasing and sustained violations of ozone NAAQS.¹⁰⁸

As noted in our supplemental letter,¹⁰⁹ Marsavin et al. finds that eight-hour ozone (O₃) concentrations frequently exceed the EPA health standard of 70 parts per billion (ppb) during summer months at the park. The study finds this increase in O₃ coincides with a steep increase in oil and gas production in the nearby Permian Basin, with production increasing by a factor of 5 between 2012 and 2022.¹¹⁰ The AQMR also demonstrates that CAVE is currently exceeding the O₃ standard at 71 ppb.¹¹¹ Marvasvin et. al. also finds that on days where the 1-hr O₃ exceeds 70ppbv in the park, the “air masses impacting CAVE were transported from upwind O&G production regions (Anadaro, Barnett, and Eagle Ford) in addition to the Permian basin. . . . This confirms that a large portion of the O₃ on these days was not formed locally but instead during transport to CAVE.”¹¹² Moreover, the NPS comments on the Draft RMP concluded that oil and gas emissions from the surrounding Permian Basin are responsible for a portion of the atmospheric reactions that drive regional ozone formation at CAVE. NPS further found that volatile organic compounds (VOCs) associated with oil and gas development were critical for ozone-forming reactions in the region and repeatedly concluded that nitrogen oxides (NOx) and VOC emission reductions were necessary to protect air quality at CAVE.¹¹³ These conclusions are also consistent with the findings of the Marsavin et. at., which found that ozone production at CAVE exhibits both VOC-sensitive and NOx-sensitive behavior. Specifically, the study found that NOx concentrations were high enough to impose VOC-sensitive ozone production during morning hours, while photochemical consumption of NOx later in the day resulted in NOx-sensitive conditions during the afternoon. The study further concluded that maximum daily ozone concentrations responded to reductions in both NOx and oil-and-gas-related VOC emissions, with NOx reductions proving the most effective. These findings clearly demonstrate that the substantial projected increases in both NOx and VOC emissions from regional oil and gas development are highly likely to exacerbate ozone formation and therefore will most likely contribute to continued and increased O₃ exceedances at CAVE.

In Alternative C in the Proposed RMP/FEIS, the BLM estimates a yearly increase in emissions of the two primary ozone precursors: nearly 70,000 tons of NOx and over 144,000 tons of VOCs

¹⁰⁸ *Permian Basin of Southeast New Mexico a Nonattainment Area Due to Ongoing Violations of Ozone Health Standards; Petition to Find New Mexico's State Implementation Plan is Failing to Attain and Maintain Ambient Air Quality Standards*, Center for Biological Diversity, Oilfield Witness, Citizens Caring for the Future, New Mexico Interfaith Power and Light, New Mexico Voices for Children, Youth United for Climate Crisis Action, and WildEarth Guardians (April 29, 2026), https://biologicaldiversity.org/programs/climate_law_institute/pdfs/26-04-29_Permian-Nonattainment-Petition-Final.pdf. Attached as App. G, Exh. 2.

¹⁰⁹ App. A, Exh. 8.

¹¹⁰ Marsavin et al., Page 2.

¹¹¹ AQMR, Table 5.1-3.

¹¹² Marsavin et al., Page 15.

¹¹³ NPS Comment Letter on Draft RMP/EIS, Attachment 1 at 12. Attached as App. A, Exh. 9.

would be emitted by new federal oil and gas development in the planning area.¹¹⁴ These new pollution amounts would be a 360% increase in NO_x and a 333% increase in VOC emissions up from current operations in the planning area.

Given the noted increase in ozone precursor emissions, it is completely illogical that the AQMR estimates the future design value for O₃ at CAVE to decrease to 69.9 ppb – conveniently just under the NAAQS standard¹¹⁵ and that BLM concludes that yearly O₃ in the entire planning area will decrease to 65.6 ppb under the preferred alternative.¹¹⁶ It is implausible that in an area already regularly exceeding the O₃ standard, new oil and gas development will result in *decreases* to the amount of hazardous ozone in the air even as emissions of air pollutants that form ozone *increase* significantly.

In addition to the noted increases in NO_x and VOCs above, BLM also estimates an increase of over 68,000 tons of SO_x per year. The emissions of NO_x and SO_x alone are comparable to the NO_x and SO₂ emissions of all fifteen of the coal-fired power plants in coal-heavy West Virginia and North Dakota combined.¹¹⁷ It is astonishing that BLM does not conclude that these projected increases in air pollution will be a concern for the area and does not require mitigation measures or lease stipulations to mitigate the significant increases in ozone precursors.

Finally, Section 3.2.11.1.2 of the Proposed RMP/FEIS shares NPS data that ground-level ozone concentrations are already considered poor at both CAVE and GUMO before any additional new federal oil and gas development. The final RMP itself describes how ozone harms “ecosystems by affecting sensitive vegetation growth.”¹¹⁸ And the National Parks Conservation Association’s analysis of NPS data for sulfur and nitrogen deposition in soil and water, and data on ozone effects on plants and trees, shows that both CAVE and GUMO have significant levels of concern for air pollution impacts to nature.¹¹⁹ We are deeply concerned that, because BLM does not require any mitigation measures for air pollution emissions, the ground-level ozone and sulfur and nitrogen deposition concentrations at both parks will worsen, causing harm to the natural ecosystems of the area.

2. Failure to Analyze Visual Resource Impacts from Oil and Gas Drilling Operations.

BLM has failed to assess and coordinate with the NPS concerning viewshed impacts from significant increases in oil and gas drilling operations around national park landscapes in the region. When visitors are inside a national park enjoying views of the landscapes, they are seeing beyond the boundaries of the national park itself. The visual implications of a significant

¹¹⁴ Proposed RMP/FEIS, Vol. 1, Table 3.2.11-1.

¹¹⁵ AQMR, Table 5.1-3.

¹¹⁶ Proposed RMP/FEIS, Vol. 2, Table E-13.

¹¹⁷ U.S. EPA Clean Air Markets Program Data (CAMPD), Custom Data Download, 2025 annual emissions data, <https://campd.epa.gov/data/custom-data-download>.

¹¹⁸ Proposed RMP/FEIS, Vol. 2, Section 3.2.11.1.2.

¹¹⁹ D. Orozco, U. Reeves, N. Levine. 2024. *Polluted Parks: How Air Pollution and Climate Change Continue to Harm America’s National Parks*. National Parks Conservation Association (NPCA). Washington, DC. <https://www.npca.org/reports/air-climate-report>. Attached as App. G, Exh. 3.

increase in oil and gas operations on adjacent lands to our national parks must be considered before BLM allows for an onslaught of new drilling operations. From Carlsbad Caverns, given the proximity of BLM land, many oil and gas drilling parcels will presumably be quite visible from the national park viewpoints. BLM should have collaborated with and used the National Park Service Visual Impact Assessment Methodology and Guidelines to specifically identify and seek remedy for sites where landscape views and key viewpoint will become impaired and marred with oil and gas drilling rigs and other associated operations.¹²⁰ These changes to the visual landscape could significantly affect the visitor experience to Carlsbad Caverns National Park.

3. Lack of Proper Analysis for Impacts to Visibility at Class I Areas.

BLM has failed to provide information sufficient to accurately assess impacts to visibility from the preferred alternative in the Proposed RMP/FEIS. The Clean Air Act (CAA) affords CAVE and GUMO special air quality protection. There are additional Class I areas just outside of the planning area with the same special air quality protections – Salt Creek Wilderness Area, White Mountain Wilderness Area and Bosque del Apache Wilderness Area. The BLM incorrectly identifies in the Proposed RMP/FEIS that the “The Clean Air Act visibility goal requires visibility improvement on the 20% haziest days, with no degradation on the 20% clearest days.”¹²¹ Rather, the goal Congress set forth in the Act’s visibility provisions is to achieve natural visibility conditions by eliminating all manmade visibility pollution in Class I areas across the country.¹²² It is critical that BLM adequately analyzes the impacts of projected emissions of visibility-impairing pollutants from future predicted oil and gas development on all regional Class I areas and that it works to ensure that it does not undermine the Act’s natural visibility goal in any Class I area.

Table 3.2.11-5 of Proposed RMP/FEIS models the AQRVs within nearby Class I areas under the preferred alternative. The modeling clearly shows that new federal oil and gas development will contribute to increased visibility impairment at all five Class I areas on the 20% most impaired days and the 20% clearest days. As a result, the Proposed RMP/FEIS and the future predicted oil and gas development permitted under that plan will problematically contribute to further visibility impairment at Class I areas across the region. BLM must ensure that the RMP aligns with the Clean Air Act’s statutorily mandated goals of preventing future impairment and eliminating all manmade visibility impairment in these protected landscapes.¹²³

Additionally, the Proposed RMP/FEIS clearly states that visibility conditions in the nearby national parks is already compromised, “[i]n Carlsbad Caverns National Park, the average haze index is 7.4 dv above the estimated natural condition of 3.1 dv, while in Guadalupe Mountains

¹²⁰ Meyer, M. E., Taylor, K. A., and Palmer, J. F. 2024. *Visual Impact Assessment Methodology and Guidelines*. National Park Service, Lakewood, Colorado. Attached as App. G, Exh. 4. https://www.researchgate.net/publication/380743157_Visual_Impact_Assessment_Methodology_and_Guidelines

¹²¹ Proposed RMP/FEIS, Vol. 2, App. E, Page E-7.

¹²² 42 U.S.C. § 7491(a)(1).

¹²³ *Id.*

National Park the average haze index is 6.3 dv above the estimated natural condition.”¹²⁴ Thus, the RMP confirms that neither park has achieved natural visibility conditions to date. And while the Proposed RMP/FEIS states the overall visibility trend for CAVE and GUMO is unchanged from 2013 to 2022, that doesn’t mean it has been getting any better and both areas are still a long way from achieving the CAA goal of natural visibility. By allowing significant amounts of additional haze-causing pollution through this final RMP, BLM is creating the situation for the haze index to rise problematically even further away from natural conditions.

Finally, the analysis in the final RMP limits the visibility analysis to the 20% most impaired days and the 20% clearest days and fails to capture all the possible visibility impairment from point or area sources; the analysis should be reviewing data from all days. The limited analysis doesn’t adequately capture temporal trends. Gathering data and looking at an average over all days would more accurately show haze and visibility impacts resulting from more pollution from oil and gas area sources. The Federal Land Managers’ Air Quality Related Values Work Group (FLAG) indicates that adverse impact determinations should consider factors such as the magnitude, frequency, duration, timing, geographic extent, and cumulative nature of impacts. By focusing only on the 20% most impaired and 20% clearest days, the Final RMP does not adequately characterize visibility conditions across the full range of all modeled days and likely underrepresents recurring visibility impacts associated with ongoing oil and gas operations contributing to area source emissions.¹²⁵

4. Specific Visibility Impairment Concerns at Salt Creek Wilderness Area.

We have specific concerns about visibility impairment at Salt Creek Wilderness Area. Table 3.2.11-5 notes that the modeling predicts that new federal oil and gas development under the RMP will contribute to an increase in light extinction at Salt Creek on the 20% most impaired days of 3.82 inverse megameters. This finding is extremely problematic because relative to the modeled 2028 visibility condition of 14.6 dv¹²⁶), this increased contribution represents nearly 9% of the total visibility impairment expected at the Class I area. Given that Salt Creek is already projected to be above the regional haze metric of “uniform rate of progress” or “URP”¹²⁷ an

¹²⁴ Proposed RMP/FEIS, Vol 2, App. E, Pages E-8 & E-9.

¹²⁵ U.S. Forest Service, National Park Service, and U.S. Fish and Wildlife Service. 2010. *Federal land managers’ air quality related values work group (FLAG): phase I report—revised* (2010). Natural Resource Report NPS/ NRPC/NRR—2010/232. National Park Service, Denver, Colorado. Attached as App. G, Exh. 5. <https://irma.nps.gov/DataStore/DownloadFile/689792>.

¹²⁶ W. Reg’l Air P’ship, Adjustment Options for End of URP Glidepath (last visited Oct. 9, 2026), <https://views.cira.colostate.edu/tssv2/Express/ModelingTools.aspx> (under the go to “Adjustment Options for End of URP Glidepath” under the section titled “Visibility Progress and Projections,” select “WRAP Class I Area – Salt Creek Wildlife Refuge Wilderness (NM) from the dropdown menu, and click “Submit” to create chart). Attached as App. G, Exh. 6.

¹²⁷ EPA, Technical Support Document for EPA’s Updated 2028 Regional Haze Modeling (Sept. 2019), [updated_2028_regional_haze_modeling-tsd-2019_0.pdf](#), Table 5-2 showing that EPA projected the 2028 reasonable progress goal for Salt Creek would be 14.49 dv, which is above the agency’s projected 2028 unadjusted URP (12.12 dv), above the agency’s 2028 default adjusted URP for international emissions only (13.80 dv), and its 2028 maximum adjusted URP for both international emissions and prescribed fire (13.98 dv); Western Regional Air Partnership (WRAP), Modeled Data Analysis (last visited October 1, 2026), [TSS Modeled Data Analysis - Express Tools](#), Attached as App. G, Exh. 7.

increase of this 3.82 Mm-1 is, thus, significant and would further degrade visibility conditions at Salt Creek, which is already failing to achieve the CAA visibility goals. In consequence, BLM's advancement of this Proposed RMP/FEIS will serve only to further significantly deteriorate visibility conditions at this already highly impaired Class I area.

Requested Remedy: Given the failure in this Proposed RMP/FEIS to stipulate any mitigation measures for the measurable increases in air pollution from the potential massive oil and gas development in this region, BLM is setting the area up for significant deterioration of air quality that will harm specific protected Class I areas. To remedy this problem, BLM must first fully and accurately assess the impacts of increased pollution on ozone levels and visibility impairment. Subsequently, BLM must address the protections required for all regional Class 1 airsheds including Carlsbad Caverns and Guadalupe Mountains National Parks, White Mountain, Bosque del Apache, and Salt Creek Wilderness Areas. The RMP must complete a thorough analysis of ozone and visibility impacts, as discussed in detail above, and establish adequate stipulation requirements through effective and enforceable emissions mitigation from oil and gas development in order to fulfill its obligations under NEPA and ensure compliance with the visibility requirements of the Clean Air Act, including the protection of air quality and AQRVs at the five regional Class I areas. Lastly, BLM must thoroughly analyze how increased oil and gas development will impact visual resources in national parks, in coordination with NPS.

I. Failure to Protect Cave and Karst Resources.

The Draft RMP has acknowledged the proximity and connections between caves beneath BLM administered lands and CAVE (Draft RMP, p. 3-11.) Further, both the Draft RMP and the Proposed RMP outline the catastrophic risk that oil and gas development in cave and karst resource areas poses to CAVE's cavern system. This risk is not limited to the flora, fauna, and creation and evolution of cave features for which the park was designated and then recognized as a UNESCO World Heritage Site, but also extends to the groundwater resources that provide critical drinking water to major communities and springs that support rivers and important riparian habitats (Final RMP, Pg. 3-30). Given the sensitivity and complexity of cave systems, some of the potential impacts would be irreversible, permanently diminishing a world-renowned park experience and possibly eradicating unique, cave-adapted species.

In addition, emerging research has documented the risk of injecting "produced" water from oil and gas development and seismic activity. A Stanford University study released in April 2018 documents seismic threats in the Permian Basin resulting from injection wells.¹²⁸ In addition, a February 2018 Durham University Study noted that, "The risk of human-made earthquakes due to fracking is greatly reduced if high-pressure fluid injection used to crack underground rocks is 895m away from faults in the Earth's crust."¹²⁹ For reference, 895m is roughly 300ft. The

¹²⁸Seismic Stress Map Profiles Induced Seismic Risk, <https://news.stanford.edu/stories/2018/02/seismic-stress-map-profiles-induced-earthquake-risk-west-texas-new-mexico>. Attached as App. G, Exh. 8.

¹²⁹Human-made earthquake risk reduced if fracking is 895m from faults, Science Daily (Feb. 27, 2018). Attached as App. G, Exh. 9. Available at: <https://www.sciencedaily.com/releases/2018/02/180227233301.htm>.

findings of these studies highlight the need for BLM to conduct thorough analyses, in cooperation with NPS staff, to ensure that there is no risk of seismic activity that could irreversibly harm the caverns within and connected to the park or could be a significant public safety hazard for visitors to the caverns.

We sincerely appreciate the changes made across all action alternatives and the Proposed RMP to enhance prescriptions to facilitate early karst feature detection and the avoidance of karst resources (Final RMP, 3-31,32) since the Draft RMP, as well as designations of the Cave Resources ACEC. However, the acreage still open to mineral development in high and medium karst occurrence zones, the mitigation measures within that acreage, and the lack of formal consultation with Carlsbad Caverns National Park, as outlined in the Proposed RMP, continue to jeopardize CAVE and the health of its connected landscape. With the prioritization of oil and gas development nearly equivalent to the acting RMP and the largely unmapped subterranean landscape (Final RMP, 3-13, 3-43), the risk still largely outweighs any benefits offered by the suggested protections in the Proposed RMP.

A total of 102,411 acres across high and medium karst occurrence zones are closed or open with major constraints (NSO) to leasable minerals in the Proposed RMP (Final RMP, 3-37), a reduction of 1,385 acres from the preferred alternative in the Draft RMP. This total acreage accounts for just 6% of the planning area's landscape most vulnerable to surface and subsurface disturbance, given the high number of karst resources. The remaining acreage open to leasable mineral development would follow the prescriptions outlined in Chapter 2 of the Proposed RMP, and Appendices L, O, and T of the Final EIS.

The undersigned requested the development and enhancement of these stipulations during the Draft RMP public comment period¹³⁰, when a more protective RMP was deliberated (e.g., ACEC and LWCs were actively considered), prior to an additional 8 years of active and intensive mineral development in the planning area. While the new prescriptions will improve the detection and avoidance of cave and karst resources, avoidance is not always guaranteed (FEIS, L-4).

Finally, monitoring and administration as it relates to cave and karst resources would be highly dependent on available staff (Final RMP, 2-8), and recent agency staffing trends (as well as the high-volume of leasing in the planning area do not suggest adequate capacity for stipulations such as contracting for third-party clearances in high karst occurrence zones or field exams to determine unrecorded cave and karst resources (FEIS, L-4). As recommended by the undersigned in public comment, we again assert that cooperation with constituents to design and locate development to address risks should not be addressed at the project level but should be more structured and explicitly involve NPS staff at Carlsbad Caverns. Listed as a Cooperating Agency, NPS theoretically has the opportunity to provide input on the RMP over the lifetime of its

¹³⁰ See TWS, NM Wilderness Alliance, NPCA, Southwest Environmental Center comment letter (Nov. 5, 2018). Attached as App. A, Exh. 6.

development; however, in practice, NPS must have more intentional and formal involvement over the lifetime of the plan, rather than on an as-needed basis as determined by the BLM.

Requested Remedy: A shift to a more protective and restorative plan is necessary to greatly diminish the odds of a catastrophic impact to cave and karst resources. Along with the new stipulations for managing cave and karst resources introduced across all alternatives and the Proposed RMP, we recommend the adoption of Alternative B to maximize the acreage of high and medium karst occurrence zones closed or open with major constraints and the additional protection afforded in the Cave Resources ACEC. We recommend that BLM establish a cooperative group formed amongst operators and stakeholders with BLM and NPS that could share information and provide for more efficient and more effective consultation.

Master Development Plans (MDPs) are used to analyze and prescribe development for groups of wells and can be used to ensure development is conducted with careful consideration for specific resources. For better coordination with NPS, BLM should require preparation of MDPs for leases within five miles of the parks and/or within high cave and karst occurrence zones that could be connected to or impact park cave and karst systems and ensure that NPS is a cooperating agency for purposes of those MDPs.

J. BLM Failed to Establish Adequate Methane Mitigation and Waste Prevention Measures.

In our 2018 methane-focused comments, we explained that the Mineral Leasing Act requires federal oil-and-gas lessees to take reasonable precautions to prevent waste and that FLPMA independently requires BLM to prevent unnecessary or undue degradation of public lands.¹³¹ We documented the scale of the problem: the agency has failed to meet those obligations demonstrated by data showing that between 2009-2015, 462 billion cubic feet of natural gas from federal leases was vented or flared, enough to serve 6.2 million households for one year.¹³² We therefore urged BLM to comprehensively address this issue in its final RMP by requiring waste minimization and methane reduction stipulations and conditions of approval in the RMP¹³³ such as:

- Prohibiting the venting of natural gas;
- Mandating operators meet monthly capture gas percentage targets as outlined in the 2016 final rule and establishing restrictions on flaring;
- Requiring operators to report volumes of gas vented, flared and leaked;
- Requiring the capture of emissions associated with well drilling, completion and testing operations;

¹³¹ TWS et al. (Methane Coalition) Comment Letter (Nov. 5, 2018). Attached as App. A, Exh. 7.

¹³² *Id.* at 1.

¹³³ *Id.* at 2.

- Establishing waste minimization requirements for pneumatic controllers and diaphragm pumps; and,
- Establishing a comprehensive LDAR inspection and reporting protocol for all well production facilities similar to that of the 2016 final rule.¹³⁴

The Proposed RMP/FEIS does not incorporate that comprehensive plan-level framework or enforceable plan-level protections.¹³⁵ Instead, it relies largely on general objectives, generally applicable state and federal requirements, and future implementation-level decisions. That leaves the RMP without meaningful requirements governing methane and waste controls.¹³⁶

BLM did not adequately consider phased leasing and development, which we raised in our 2018 letter, although there is precedent for doing so in other field offices.¹³⁷ In order to reduce emissions and protect vulnerable resource, our 2018 comments proposed phasing leasing or development so that wells would proceed only where adequate gas-gathering, capture, or beneficial-use infrastructure exists and in a manner that requires interim reclamation goals be met.¹³⁸ The FEIS does not meaningfully evaluate that approach as a methane-control alternative or explain why it was rejected.

The Proposed RMP/FEIS does not demonstrate compliance with BLM’s independent duties under the Mineral Leasing Act and FLPMA to prevent waste and unnecessary or undue degradation, particularly where the RMP will govern extensive development for decades and may constrain later mitigation. *See* 30 U.S.C. § 225 (requiring lessees to use “all reasonable precautions to prevent waste of oil or gas”); 43 U.S.C. § 1732(b) (requiring BLM to “take any action necessary to prevent unnecessary or undue degradation”); 43 C.F.R. § 1601.0-2 (RMPs “guide and control future management actions”); 30 U.S.C. § 226(a)(2)(A)(ii) (providing that a lease may not require stipulations or mitigation requirements not included in the approved RMP).

Requested Remedy: In a supplemental EIS and revised draft RMP, BLM must consider phased leasing and development, waste-minimization stipulations and conditions of approval, and other reasonable measures that would avoid authorizing production where foreseeable venting, flaring, or leakage cannot be adequately controlled. BLM must supplement the EIS and revise the RMP to evaluate current methane measurements, monitoring studies, technologies, regulations, development levels, and associated lost-gas, and must incorporate enforceable plan-level controls sufficient to minimize waste and methane pollution. *See Marsh v. Or. Nat. Res. Council*, 490 U.S. 360, 371–74 (1989); *Norton v. S. Utah Wilderness Alliance*, 542 U.S. 55, 72–73 (2004).

¹³⁴ *Id.* at 28.

¹³⁵ *See* Carlsbad Proposed RMP/FEIS, ch. 2; apps. L, U.

¹³⁶ *See generally* Proposed RMP/FEIS, Vol. I, ch. 2; Vol. II, app. C (fluid-mineral lease stipulations); app. O (conditions of approval and best management practices); app. U (responses to comments concerning methane emissions and natural-gas waste); *see also id.*, app. E at E-27 et seq. (relying on generally applicable federal and state regulatory requirements and Appendix O measures “as applicable”).

¹³⁷ TWS et al. (Methane Coalition) Comment Letter at 29 (Nov. 5, 2018). Attached as App. A, Exh. 7.

¹³⁸ *Id.*

IV. Conclusion and Requested Relief

We request that the BLM Director grant this protest; determine that the Proposed RMP/Final EIS does not adequately resolve the issues raised in the organizations' timely comments; direct the Carlsbad Field Office to prepare a supplemental EIS, update its inventories, RFD, production forecast, environmental baseline, and affected-resource analyses, and revise the Proposed RMP accordingly; require analysis of the Black River CEDP as a reasonable alternative; provide renewed public review and comment on the updated information, alternatives, analyses, and management decisions; designate and protect the four citizen-nominated ACECs and provide additional protective management for LWCs, nearby national parks, caves and karst resources, air quality, methane waste, climate resilience, recreation, and river values; and defer issuance of the Record of Decision until these deficiencies have been corrected.

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Attachments:

<u>Appendix</u>	<u>Exhibit No.</u>	<u>Title/Description</u>
A	1	New Mexico Wilderness Alliance, Comments on Public Workshops for Special Designations (February 8, 2012)
A	2	New Mexico Wilderness Alliance, Nominations for Areas of Critical Environmental Concern
A	3	New Mexico Wilderness Alliance, Inventory of Lands with Wilderness Characteristics (April 2, 2015)
A	4	Black River Comprehensive Energy Development Plan: A Citizens Proposed Alternative to the BLM Carlsbad Field Office (October 2018)
A	5	TWS, NM Wilderness Alliance, NPCA Comments on Carlsbad Draft RMP/EIS (October 12, 2018)
A	6	TWS, NM Wilderness Alliance, NPCA, Southwest Environmental Center Comments on the Carlsbad Draft RMP and EIS (November 5, 2018)
A	7	TWS et al. (Methane Coalition) Comments on the Carlsbad Draft RMP and EIS (November 5, 2018)
A	8	TWS et al., Supplemental Comments on the Revision of the Carlsbad RMP (June 8, 2026)
A	9	National Park Service Comments on the Draft Resource Management Plan and Environmental Impact Statement BLM/NM/PL-15-01-1610 (Nov. 5, 2018)
B	1	Table identifying issues raised by party
C	1	IPCC, AR6 Synthesis Report, Climate Change 2023
C	2	The Wilderness Society, Open For Drilling: The Outsized Influence of Oil & Gas on Public Lands (2025).
C	3	U.S. Gov't Accountability Off., GAO-22-103968, Oil and Gas Leasing: BLM Should Update its Guidance and Review its Fees (Nov. 2021)
D	1	Conservation Science Partners Final Report, A landscape-level assessment of the Area of Critical environmental Concern (ACEC) criteria in the proposed Birds of Prey ACEC (Jan. 20, 2017)
D	2	Conservation Science Partners Final Report, A landscape-level assessment of the Area of Critical environmental Concern (ACEC) criteria in the proposed Desert Rivers ACEC (Jan. 20, 2017)
E	1	N.M. Wilderness Alliance & TWS Comments on Hayhurst Master Development Plan (Sept. 14, 2016)

E	2	TWS et al. Comments on Draft EA for May 2023 Lease Sale (Feb. 6, 2023)
E	3	New Mexico Wild Comments on Draft EA for Q2, 2024 Lease Sale (Dec. 20, 2023)
E	4	New Mexico Wild Scoping Comments for Q3, 2025 Lease Sale (Nov. 5, 2024)
E	5	TWS et al. Scoping Comments on Q1, 2026 Lease Sale (June 11, 2025)
E	6	TWS et al. Comments on Draft EA for Q2, 2026 Lease Sale (Feb. 20, 2026)
F	1	Maps of impacts to nominated ACECs prepared by New Mexico Wild (September 2026)
F	2	Maps of impacts to LWCs prepared by New Mexico Wild (September 2026)
G	1	Andrey Marsavin, Da Pan, Ilana B. Pollack, Yong Zhou, Amy P. Sullivan, Lillian E. Naimie, Katherine B. Benedict, Julieta F. Juncosa Calahoranno, Emily V. Fischer, Anthony J. Prenni, Bret A. Schichtel, Barkley C. Sive, Jeffrey L. Collett, <i>Summertime Ozone Production at Carlsbad Caverns National Park, New Mexico: Influence of Oil and Natural Gas Development</i>
G	2	<i>Permian Basin of Southeast New Mexico a Nonattainment Area Due to Ongoing Violations of Ozone Health Standards; Petition to Find New Mexico's State Implementation Plan is Failing to Attain and Maintain Ambient Air Quality Standards</i> , Center for Biological Diversity, Oilfield Witness, Citizens Caring for the Future, New Mexico Interfaith Power and Light, New Mexico Voices for Children, Youth United for Climate Crisis Action, and WildEarth Guardians (April 29, 2026)
G	3	Polluted Parks: How Air Pollution and Climate Change Continue to Harm America's National Parks. National Parks Conservation Association
G	4	Meyer, M. E., Taylor, K. A., and Palmer, J. F. 2024. <i>Visual Impact Assessment Methodology and Guidelines</i> . National Park Service, Lakewood, Colorado
G	5	U.S. Forest Service, National Park Service, and U.S. Fish and Wildlife Service. 2010. <i>Federal land managers' air quality related values work group (FLAG): phase I report—revised</i> (2010). Natural Resource Report NPS/ NRPC/NRR—2010/232. National Park Service, Denver, Colorado
G	6	W. Reg'l Air P'ship, Adjustment Options for End of URP Glidepath (last visited Oct. 9, 2026)
G	7	Haze Metric Converter - screenshot
G	8	Seismic Stress Map Profiles Induced Seismic Risk West Texas New Mexico (Feb. 8, 2018)

G	9	Human-made earthquake risk reduced if fracking is 895m from faults, Science Daily (Feb. 27, 2018)