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WHAT ARE SUBSTANTIVE COMMENTS?

Substantive comments are those that suggest the analysis is flawed in a specific way. Generally they challenge the accuracy of information presented, challenge the adequacy, methodology or assumptions of the environmental or social analysis (with supporting rationale), present new information relevant to the analysis, or present reasonable alternatives (including mitigation) other than those presented in the document. Such substantive comments may lead to changes or revisions in the analysis or in one or more of the alternatives. There may be many or no substantive comments in a letter.

There is often confusion on just what is a "substantive" comment. These criteria were used for a high-interest plan to determine whether a comment was substantive or not. If a comment is substantive, you must respond to it in the Final EIS. Some substantive comments may not result in a change to the text of the plan/EIS, but still should be addressed in an appendix.

1. Issues requiring clarification or modification of an alternative.

2. Issues requiring development of an alternative that was not previously given serious consideration.

3. Issues requiring improvement or modification of the analysis.

4. Issues that are out of scope of the planning area and/or the plan.

- Although these may not necessarily be "substantive" comments, depending on their nature, they could be included in the comments that have a response in the plan. For example: **Response:** This comment pertains to management activities that will be analyzed on a site-specific basis after this RMP has been approved.

5. Issues that can be resolved through clarification of intent in a section of the final EIS.

6. "Super-substantive" issues that would lead to a revised or supplemental draft EIS.

- Includes major data gaps, or other relevant and important things that are missing and have never been exposed to the comment process.

7. Procedural issues that were not captured in 1-6, above (CEQ calls these "methodology").

- These should be easy to spot. They do not relate directly to scope (actions, alternatives, and impacts). For example "I need more time to comment. You took too much time to... . Your method for determining consistency, compatibility, conformity, compliance, etc is good/bad."

Comments that are not substantive don't require a response in the EIS: Although it isn't required, you can provide an explanation in the EIS why these types of comments did not get individualized treatment or response in the EIS. Examples include:

- Value-type comments that don't include justification or facts to back up the statement. (e.g.: "save the forest/ecosystem/whales/ salmon/ loggers" "The Federal Government is illegitimate")
- Comments that don't pertain to the project or plan (e.g.: "The BLM is trying to reintroduce wolves and I don't want them in my community/county" "The government should eliminate all dams").
- Other comments may require action/response, but not a response in the EIS (e.g.: "Change my address", "Send me a copy of the xxx document", "Extend the comment period")

TYPES OF SUBSTANTIVE COMMENTS:

QUESTION, WITH REASONABLE BASIS, THE ACCURACY OF INFORMATION IN THE NEPA DOCUMENT:

"Page 4-86, Effects to Leasable Minerals for Alternative A: The premise in the concluding sentence that if no oil and gas exploration and/or development occurs, the resources are unavailable to future generations seems illogical. The resources would in fact remain in the ground, unused, and be available for future development and use. However, they would not be available for consumption in the interim."

Bay RMP, 2008

"The Draft EIS inadequately presents what is known about greater sage-grouse in the area covered by the RMP. The number of active sage-grouse leks is likely under represented, and few data are presented on brood and winter use areas. The best science available is not used as the BLM continues to use a 0.25-mile buffer for No Surface Occupancy (NSO) for areas around active sage-grouse leks."

Rawlins Proposed RMP/Final EIS, 200

QUESTION, WITH REASONABLE BASIS, THE ADEQUACY OF, METHODOLOGY FOR, OR ASSUMPTIONS USED FOR THE ENVIRONMENTAL ANALYSIS:

"Where natural resource data and information are available for the planning area, such as for the two USGS streamflow gaging stations mentioned in the paragraph, it would benefit the public if the document included a summary of the available data or references/Internet links accessing for the information."

Bay RMP, 2008

"The socioeconomic analysis does not adequately describe the positive impacts on marginal gas prices. During the life of the Plan, additions to the natural gas supply will be the only alternative to progressively higher natural gas prices. Gas produced by a single Mesaverde well would save consumers more than \$20 million in gas prices."

Roan Plateau Proposed RMP Amendment/Final EIS, 2006

"The document doesn't describe the groundwater resources in the planning area (Section 4, Water Resources) and assess the potential effects of the proposed alternative on these resources (Chapter IV beginning on page 4-18)."

Bay RMP, 2008

"The EIS does not consider impacts to wilderness values documented in WSA proposals submitted to BLM. The impacts of any

proposed action on these documented values must be evaluated."
North Steens Ecosystem Restoration Project, 2007

"The BLM blames past grazing practices as one factor contributing to the current situation. What evidence supports the claim current grazing practices are different from past ones?"
North Steens Ecosystem Restoration Project, 2007

"The BLM was asked to discuss direct, indirect, and cumulative effects of the proposal on sage-grouse. The BLM failed to do this adequately and did not provide the requested maps."
North Steens Ecosystem Restoration Project, 2007

"In the Draft EIS, BLM estimates that only 20 percent of the water discharged from [Coal-bed natural gas] production will be put to a beneficial use. Where did this number come from?" Montana State-wide Oil and Gas SEIS, 2008

"The impact analysis overestimates negative impacts. For example, the impacts on mule deer use a 3.5 multiplier, which is not applicable to the planning area's habitats. Also, increasing the multiplier to 5.7 and 8.0 based on shortened or no winter range TL is not explained. No calculations are provided to justify the 33% and 50% reductions in deer under Alternatives IV and V. Also, the analysis fails to consider habituation -- especially relevant because most of the roads used for oil and gas development already exist and receive vehicular traffic. Therefore, the mule deer analysis is deeply flawed and must be completely revised."
Roan Plateau Proposed RMP Amendment/Final EIS, 2006

"What is the basis for the statement: "In general, suitable long-term sage-grouse habitat must contain a minimum of 1000 contiguous acres of sagebrush and (be) located within a minimum of 400 meters from visible conifers?"
Montana State-wide Oil and Gas SEIS, 2008

"The DEIS acknowledges that OHV use is increasing in the BLM's Pecos District, but has failed to adequately disclose the impacts of this land use on special status species."
Carlsbad/Roswell (NM) Special Status Species RMP Amendment and FEIS, 2008

"Baseline data on sage grouse and sharp-tailed grouse is also absent from the Rawlins RMP DEIS. While the Affected Environment section provides a list of upland bird species, and a very gross description of their geographic ranges within the RMPPA, there is no data provided as an index of population size and trend for these two BLM Sensitive Species. The Wyoming Game and Fish Department has been keeping records of sage grouse and sharp-tailed grouse activity at lek sites, which are used traditionally from year to year. ... The number of leks within the RMPPA, as well as an accounting of trend of active versus inactive and historical leks, is needed to determine whether sage grouse and sharp-tailed grouse populations are increasing, decreasing, or remaining stable under existing management and current levels of development. These data, though available and a necessary prerequisite to an informed analysis of impacts and choice among alternatives, are woefully absent from the Rawlins RMP DEIS."
Rawlins RMP, 2008

"Based upon current science regarding fragmentation of big game habitats, we believe BLM should adopt density standards for development in all crucial ranges and migration routes. This information is necessary in order to make an informed decision about the true impact of additional oil and gas development and/or other roads and rights-of-way on big game populations within the Resource Area."
Rawlins RMP, 2008

PRESENT NEW INFORMATION RELEVANT TO THE ANALYSIS:

"Studies have shown that the impacts of gas fields at the production stage are virtually as great as the impacts of drilling and construction (see Powell 2003, Sawyer et al. 2005, and Holloran 2005), and that development of the intensity envisioned for the Atlantic Rim project will essentially render developed areas void of sensitive wildlife for the duration of production related activities."
Atlantic Rim FEIS, 2006

"The Draft EIS does not incorporate information from the Executive Summary of the Economic Review of the Travel Industry in Montana, 2006 Biennial Edition or the Montana Tourism and Recreation Strategy Plan 2003-2007."
Montana State-wide Oil and Gas SEIS, 2008

"The Draft EIS does not include the sage-grouse data that were collected for Fidelity Exploration and Production Company, Montana 2002-2003 Drilling Area, Baseline Wildlife Inventory or for the Fidelity Exploration and Production Company, Proposed Coal Creek [Plan of Development], Big Horn County, Baseline Wildlife Inventory."
Montana State-wide Oil and Gas SEIS, 2008

PRESENT REASONABLE ALTERNATIVES OTHER THAN THOSE ANALYZED IN THE NEPA DOCUMENT:

"The 12-15% cover should be attained in treated sagebrush before additional treatments occur in the same treatment unit."
North Steens Ecosystem Restoration Project EIS, 2007

"Alternative B prescribes no new well pads within 200 meters of [sand dune] dune areas. This prescription is too restrictive. Data collected by Sias and Snell (1996) supports that impact to sand dune lizards are greatly reduced when new oil/gas well pads are placed at least 100 meters away from occupiers dune complexes while allowing oil and gas development to occur. The additional 100 meter protection area is excessive."
New Mexico Special Status Species Amendment FEIS, 2008

"BLM should require that roads needed for energy exploration and development to be built only to a standard that results in fewest impacts on lesser prairie chicken habitat."
New Mexico Special Status Species Amendment FEIS, 2008

CAUSE CHANGES OR REVISIONS IN ONE OR MORE OF THE ALTERNATIVES:

"We also suggest amending Alternative A to address increases in Off-Highway Vehicle and the potential for gravel mining in active stream channels. By incorporating more rigorous [Required Operating Procedures] for the planning area under Alternative A, damage from possible gravel mining could be minimized, and limited restrictions on OHVs will prevent damage to important fish habitat."
Bay RMP, 2008

"Instead, the BLM should consider a true phased development alternative, in which all drilling and production activities are completed and fully restored to a natural state, prior to moving on to other parts of the project area. In addition, allowing a maximum of 1/4 of the project area to be under development at any one time would be a much more practical pace of development than beginning with almost half of the project at the beginning."
Atlantic Rim FEIS, 2006

Sources for Examples:

- Bay Resource Management Plan (AK), Proposed RMP/Final EIS, 2008
http://www.blm.gov/style/medialib/blm/ak/afo/bay_rmp_eis_final.Par.55547.File.dat/Appendix_I_Response%20to%20Comments.pdf
- Atlantic Rim Final EIS, 2006
http://www.blm.gov/style/medialib/blm/wy/information/NEPA/rfodocs/atlantic_rim/feis/volume_5.Par.87840.File.dat/03_appo.pdf
- North Steens Ecosystem Restoration Project EIS, 2007
<http://www.blm.gov/or/districts/burns/plans/files/North%20Steens%20EIS.pdf>
- Final Supplement to the Montana Statewide Oil and Gas Environmental Impact Statement and Proposed Amendment of the Powder River and Billings Resource Management Plans, Oct 2008
http://www.blm.gov/style/medialib/blm/mt/field_offices/miles_city/seis/fseis.Par.56624.File.dat/chap5.pdf
- Carlsbad/Roswell (NM) Special Status Species Resource Management Plan Amendment and Final EIS, 2008
http://www.blm.gov/nm/st/en/fo/Roswell_Field_Office/special_status_species.html

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