



**Filed Via Email**

Attn: Hector Gonzalez, RMP Lead  
Carlsbad Field Office  
Bureau of Land Management  
620 E. Greene St.  
Carlsbad, NM 88220

**Re: Comments on the U.S. Bureau of Land Management's Draft Resource Management Plan/Environmental Impact Statement for the Carlsbad Field Office**

November 5, 2018

Mr. Gonzalez:

It is with respect and regards that the **Independent Petroleum Association of New Mexico (IPANM)** submits the following comments to the U.S. Department of the Interior, Bureau of Land Management (BLM) on the August 3, 2018 *Notice of Availability of the Draft Resource Management Plan/Environmental Impact Statement (RMP/EIS)* for the public lands managed by the BLM Carlsbad Field Office (CFO). BLM's notice was published in the Federal Register, and these comments, on behalf of our 350-member trade association, are submitted in entirety within the required 90-day comment period.

**OVERVIEW OF OIL & GAS IN NEW MEXICO**

The Permian Basin in New Mexico is the premier onshore oil & gas resource in the United States. The rich, multi-layered oil and gas deposits found in New Mexico are a national resource representing natural resources that must be responsibly protected to allow for efficient and maximized development. In short, the Permian Basin in New Mexico embodies oil independence for the United States for decades to come.

Oil production in New Mexico is now ahead of Alaska, Oklahoma and California. New Mexico is the third largest oil producer in the United States, behind Texas and North Dakota. New Mexico's significant oil production increase has also led to its highest rig count in the history of the state, currently above 100. Since a low of 13 rigs in 2016, New Mexico has added back a larger percentage of rigs than any other state. Operators are choosing to drill in the Delaware Basin of New Mexico because the technological advances in horizontal drilling are producing some of the best wells in the country. These advances, coupled with mild winters, produce lower operational costs than other parts of the country.

Oil and gas development in New Mexico accounts for over 100,000 jobs and provided the state with \$1.7 billion in state tax revenue in 2017 alone. In fact, one-third of the New Mexico state



budget revenue comes from the oil and gas industry. Earlier this fall, a record-breaking CFO BLM lease sale reached bonuses of nearly \$1 billion. Forty-eight percent (48%) of those bonuses, nearly \$500 million, will come back to New Mexico to further benefit all walks of life in the state. Early estimates released from the New Mexico Legislative Finance Committee indicate the state will have an approximate \$1.4 billion surplus in 2018 (though estimates have been as high as [\\$2 billion](#)) due to oil production increases. Likewise, natural gas production has increased in the Permian Basin of New Mexico. The latest estimates indicate gas production in the Permian is now greater than that of New Mexico's San Juan Basin.

While New Mexico continues to make strides in diversifying the state economy, the fact of the matter is that oil and gas production is the backbone and lifeline of the state. A final adopted BLM Carlsbad Resource Management Plan (RMP) must offer oil and gas producers certainty. A final BLM Carlsbad RMP must allow oil and gas producers a pathway without significant, ambiguous restrictions, especially given the overwhelming work the industry is already doing to minimize environmental impacts and finance conservation efforts. Furthermore, a balanced approach to resource management must not result in costly operational upgrades that offer little to no environmental benefit to the resource area.

The high costs of any operational upgrades due to new federal regulatory changes disproportionately impacts smaller, independent producers. Coupled with the checkerboard nature of land ownership and the larger spacing units required for unconventional shale development, independent producers face unique challenges in New Mexico, especially with the evolution of unitization. However, independent producers continue to be a vital source of oil and gas production to both New Mexico and the United States. Independent producers develop 90 percent of the wells in the United States, producing 54 percent of the nation's oil. Though independent producers vary in size, the average independent producer employs 12 people. In New Mexico, there are approximately 300 to 400 independent producers currently active in the state, with hundreds more of additional entities who have smaller percentage interests in wells. Due to the recent oil boom, a majority of those producers now have interests in the New Mexico side of the Permian Basin.

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## OVERVIEW OF CARLSBAD BLM AREA

Federal lands in the New Mexico portion of the Permian Basin are entirely under the jurisdiction of the BLM Carlsbad Field Office (CFO). The mineral development and lease management of the BLM CFO impacts local, state local, federal and global economies. Consider the following:

- This area, managed by the Carlsbad, New Mexico office, has been a historic and prolific oil and gas producing basin for nearly 100 years.
- The CFO planning area contains the multiple shale-layered Permian Basin, which is the most prolific onshore play in the nation, which makes it the main contributor to U.S. energy dominance in conformance with Secretarial Order No. 3354.



- The Carlsbad RMP/EIS impacts the development plans for 2.1 million surface acres and 2.7 million mineral estate acres, a total of 43% of the CFO planning area.

## OVERVIEW OF IPANM RECOMMENDATIONS

Based on the analysis of the entire *Draft Resource Management Plan/Environmental Impact Statement (RMP/EIS)* for the public lands managed by the BLM Carlsbad Field Office (CFO) conducted by IPANM members, we must conclude that Alternatives A & B are neither acceptable or legal. Both alternatives fail to uphold the BLM's mandate for "multiple use" land management. The acreage available to oil and gas development in these alternatives is both disproportionately and extensively restricted, with approximately a half-million acres identified for Areas of Critical Environmental Concern (ACEC). Furthermore, the process set up under the National Environment Policy Act (NEPA) is in direct conflict with the approach taken in these two alternatives. A more detailed discussion of both Alternative A and Alternative B can be found under the section entitled **BREAKDOWN OF ALTERNATIVES**.

Alternative C, the BLM's identified "preferred" alternative, presents some aspects of a more reasonable approach to management, however, it contains specific provisions that would have a direct, negative impact on independent producers in the CFO Area. IPANM supports certain elements presented in Alternative C, but also outright rejects other sections. IPANM will highlight the necessary and reasonable aspects of the plan, while pointing out the problematic elements that should be either changed or deleted, under the section entitled **BREAKDOWN OF ALTERNATIVES**.

IPANM can neither fully endorse nor completely reject Alternative D. Alternative D does ensure some reasonable and adequate resource protections while allowing more federal land for multi-use, including oil and gas development. But, like Alternative C, there are problematic elements that should be either changed or deleted from the final draft. A more detailed discussion of Alternative D can be found under the section entitled **BREAKDOWN OF ALTERNATIVES**.

## BREAKDOWN OF ALTERNATIVES

### Alternative A

Alternative A represents an overly aggressive attempt to redefine lands under a declaration of "no net loss of natural resources." Alternative A cannot be adopted for a number of important reasons.

Foremost, this alternative sets out a stipulation that previous surface disturbances be restored before any new disturbance be approved. IPANM strongly believes that previous reclamation, conservation and restoration requirements have been on record under multiple jurisdictions for all lands (federal, state, private, etc.) for decades. This includes, but is not limited to,



rehabilitation of surface areas on or near pipeline right-of-ways (ROWS), vehicular ROWs, and well pads. Restoration techniques have evolved and have already become regulatory requirements. The net result has been an increase in conservation and rehabilitation efforts as production has increased. Industry already has, and continues to restore disturbance areas to standards that have been in place, modified, and enforced for years.

Candidate Conservation Agreements (CCAs) that protect species of concern, including the Lesser Prairie Chicken, the Desert Sage Lizard and the Texas Hornshell Mussel, are not acknowledged nor given appropriate credit for its success. For example, the U.S. Fish and Wildlife Service and the Western Association of Fish and Wildlife Agencies (WAFWA) signed the range-wide Oil and Gas Industry Candidate Conservation Agreement with Assurances for the Lesser Prairie-Chicken (LEPC CCAA) in 2014, which directs funds from the oil and gas industry into conservation. Overall, CCAs and CCAs with Assurances (CCAAs) present a cooperative incentive to both oil and gas producers and ranchers. To have more stringent stipulations than are found in the existing CCA/CCAAs does not encourage participation in a program that has proven and measured success in the protection of the species of concern. Therefore, stipulations within the draft Carlsbad RMP should be in alignment with the language of the existing CCA/CCAAs. It should also be noted that the BLM is a participating party in these agreements.

Numerous new definitions for rehabilitation standards, defined in Alternative A, are arbitrary, capricious, and otherwise not in accordance with law. For example, this alternative requires protection of “high quality habitat areas” and creates “priority restoration areas.” IPANM can find no acceptable or valid criteria for the definition of what designates these areas and/or proposed boundaries. Likewise, Alternative A includes instances of undefined or vague land classification. For example, Alternative A calls for prescriptions to protect “steep slopes” without clearly defining this technical land feature. Similarly, there is a call for protection of “sensitive soil” without clarification of what constitutes sensitivity levels. Adoption of such ambiguous standards and terms throughout Alternative A will lead to litigation, which represents new, burdensome costs on independent producers.

A deeper examination of Alternative A gets into specific aspects of ranching and grazing, as well as other mineral extraction industries such as potash. The language in Alternative A sets up the strong, and likely, potential for confrontation between industries. If adopted, the oil and gas industry would be essentially pitted against ranchers, or recreationalists. Potential land use conflicts between oil and gas against potash over the use of federal lands would inevitably lead to legal conflicts. In any of these potential cases, a BLM plan that intended to manage resources would become legally unmanageable.

Alternative A (along with additional sections in the draft Carlsbad RMP) also attempts to regulate air, with specific calls for monitoring or prescribing reduction of Greenhouse Gases (GHG), Volatile organic compounds (VOCs) and fugitive dust. Under the Clean Air Act, the BLM does not have the authority to regulate air quality or emissions. The authority to regulate air emissions lies under the clear purview of the EPA and the New Mexico Environment Department’s (NMED) Air



Quality Bureau. Likewise, the BLM does not, and should not, have discretion to require a Vapor Recovery Unit on Batteries. Assuming this specific authority, and others like it, represents federal overreach. In short, BLM does not, as a matter of clear and unequivocal Federal law, have the authority to impose air emissions standards or propose wide restrictions on activities that impact air quality within the planning area (42 USC 7401-7671 & 40 CFR 81.1).

From a larger perspective, IPANM protests the numerous overriding aspects of Alternative A that call for increasing regulatory, restoration or conservation efforts because these drafted changes run contrary to the *December 2017 Secretarial Order 3360*. IPANM also respectfully directs the authors of Alternative A to review the specifics of the new orders in *Departmental Manual Part 523, Chapter 1: Climate Change Policy*; *Departmental Manual Part 600, Chapter 6: Landscape-Scale Mitigation Policy*; *Bureau of Land Management, Manual Section 1794 – Mitigation*; and, *Bureau of Land Management, Mitigation Handbook H-1794-1*. It would appear that certain aspects of Alternative A were likely drafted in the early years of the Carlsbad RMP process, and were not updated or aligned to these most recent federal directives.

Next, Alternative A proposes to substantially expand the acreage classified as a Class I and II Visual Resource Management (VRM) Area in the RMP. These resource areas already have extensive oil and gas development, and represent great potential for future development. Thus, IPANM insists that with this, or any of the alternatives, Class I and II VRM areas should be limited to the smallest areal extent possible.

Finally, and most importantly, IPANM strongly protests the sheer volume size and percentage increase of land that would either undergo a status change, become closed or protected, thereby restricting significant future development under Alternative A. Consider the significant chunks of developable surface area and leasable minerals that would be closed under Alternative A:

- ACEC areas would increase from 13,435 acres to 495,042 acres, with a proposed total of 9 different ACECs.
- Wilderness Areas would increase from 0 acres to 66,666 acres.
- Open leasable minerals, currently at 1,598,870 acres would decrease to 1,142,802 acres.
- Closed leasable minerals would increase from 228,993 acres to 841,798 acres.

These sizeable proposed increases in acreage restrictions are not based on any reasonable standard. Likewise, the loss of oil and gas production represents a devastating future revenue loss for the state of New Mexico, impacting the local and state economy and the quality of life for all state residents. For more detailed concerns related to ACECs and Special Designation Areas, please see IPANM's specific comments under **ACECs and SPECIAL DESIGNATIONS** (Page 11).

### Alternative B

Alternative B is an unacceptable draft plan that favors recreation, wildlife, and cave protection to the detriment of mineral development. There is no attempt to even consider mixed land use



options to allow for multiple beneficial uses. Such an approach is extreme and short-sighted, and will have devastating consequences on multiple industries, including oil and gas, potash and agriculture. IPANM believes the standards contained in Alternative B to be arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law.

The premise of prioritizing certain areas by geographically separating conflicting uses (i.e. extractive activities vs. restoration efforts) is a clear violation of the mandate of the Federal Land Policy and Management Act (FLPMA), specifically as prescribed in Section 102 of FLPMA, 43 USC 1702; and 43 USC 1701(a)(7)-(8). Likewise, under Alternative B, “no surface disturbance” areas are proposed. Such designations run contrary to existing federal law in the FLPMA, the 2005 Energy Policy Act, and several recent Secretarial Orders issued by President Donald J. Trump.

In addition, the premise of “serious” user conflicts can be called into question, as there has been substantial efforts coordinated between industries and existing conservation groups that have established workable resolutions. The heavy-handed approach of the federal government to throw out existing agreements will create the very conflicts that Alternative B purports to fix.

Alternative B also includes numerous cases of vague and undefined terminology. The term of “resource focus areas” fails to define any specific criteria. Criteria, instead, is assumed by using descriptive language which creates potential boundary areas that are open to different interpretation. Other phrases include “undeveloped key or unique areas or habitats.” A vague description such as this opens the door to future legal conflicts that will inevitably leave certain developable areas in limbo. A similar, undefined term is “gypsum soils.” While gypsum is a known mineral, there is no criteria for what constitutes the classification of “gypsum soil,” thereby making any designation arbitrary. The same argument also applies to karst formations, where the classification of “cave formations” is vague and open to subjective interpretation.

Alternative B also fails to acknowledge recent programs that protect species of concern, including the Lesser Prairie Chicken, the Desert Sage Lizard and the Texas Hornshell Mussel. Alternative B does not consider, or mention, the successes of these programs. For example, the U.S. Fish and Wildlife Service and the Western Association of Fish and Wildlife Agencies (WAFWA) signed the range-wide Oil and Gas Industry Candidate Conservation Agreement with Assurances for the Lesser Prairie-Chicken (LEPC CCAA) in 2014, which directs funds from the oil and gas industry into conservation. This program has been successful in restoring areas and fostering species’ recovery and protection.

Finally, and most importantly, IPANM strongly protests the sheer volume size and percentage increase of land that would either undergo a status change, become closed, or protected, thereby restricting significant future development. Consider the significant chunks of developable surface area and leasable minerals that would be closed under Alternative B:

- ACEC areas would increase from 13,435 acres to 561,433 acres, with a proposed total of 15 ACECs.





- Wilderness Areas would increase from 0 acres to 47,611 acres.
- Open leasable minerals, currently at 1,598,870 acres would decrease to 1,089,481 acres.
- Closed leasable minerals would increase from 228,993 acres to 1,244,985 acres.

These sizeable proposed increases in acreage restrictions are not based on any reasonable standard. Alternative B proposes the creation of 15 ACECs, which would essentially shutdown a half-million acres from development. The huge loss of developable acreage represents a major loss of future state and local revenue. The federal regulatory overreach would devastate local city economies and decrease the quality of life for local residents. For more detailed concerns related to ACECs and Special Designation Areas, please see IPANM's specific comments under **ACECs and SPECIAL DESIGNATIONS** (Page 11).

### Alternative C

Alternative C is identified as the BLM's "preferred alternative". According to the BLM, Alternative C "best meets the purpose and the need of the draft RMP" and takes a "balanced" approach in preserving natural resources while supporting the various extractive industries, ranching and agriculture.

IPANM supports certain parameters of this draft due to the allowance of "competing uses" to occur in the same area, which allows for oil and gas production. While IPANM believes the overall allowances have multiple benefits for competing interests, the limitations and stipulations favor environmental protection. Acreage areas are protected out of "want" instead of "need". The unnecessary acreage losses defy principles of oil conservation and constitute resource waste.

Alternative C notes "potential threats" to environmentally sensitive areas that could be designated as Controlled Surface Use (CSU) or No Surface Occupancy (NSO) areas. Before undertaking a deeper discussion on CSU and NSO designations, IPANM points out that Alternative C (as well as the entire Carlsbad RMP) does not fairly credit the recent technological advances of the oil and gas industry that have reduced the surface area footprint and the number of well pads due to horizontal drilling. Likewise, more oil & gas producers are developing multiple wells on a single well pad. IPANM finds fault in the fact that these considerations are omitted from any discussion regarding the evaluation of CSU or NSO land designations.

The concept of CSU and NSO raises questions of authority and how management restrictions will be determined for various interests and uses. IPANM believes, in principle, that there is some merit for a standard that allows the extractive industry to work congruently with other industries and interests. However, the number of leasable minerals that would fall under CSU is 786,381 acres under Alternative C, and the practice of land use based on timing limitations would adversely affect multiple industries. Likewise, designating 160,000 acres to NSO represents overreach by the federal government. While the BLM's intention is to establish multiple use land, it has essentially given the federal government new regulatory powers with CSU and NSO designations. IPANM believes such authority is arbitrary in scope, and capricious to the whims of



whatever administration is in power. For these reasons alone, IPANM sees a major lack of consistency and regulatory certainty in the decades ahead. Furthermore, the theme of overreach by the federal government in land management threatens to disrupt the workable solutions already established between industries, such as Oil & Gas and the Potash industry, or Oil & Gas and the ranching industry.

Building on IPANM's expressed concern of arbitrary land management, the lack of clearly-defined implementation process for the administration of CSU and NSO areas is problematic. IPANM has concerns that conflict areas that fall under CSU or NSO would require a time consuming and costly arbitration with federal bureaucracy. Given the existing staffing shortages at CFO, and the significant backlog just to acquire a simple drilling permit, CSU and NSO land administration would take years to resolve. This kind of inefficiency would be particularly devastating to smaller, independent producers who face solvency issues while acreage remains in limbo.

If the BLM were given the authority to declare acreage as NSO, this delegation of should be strictly limited. IPANM insists that on lands where already significant existing development exists, BLM must first consider relying on reasonable mitigation by the leaseholder compared to declaring NSO acreage. Likewise, BLM must ensure that there is sufficient protection of current lease right and not impose restriction on existing leases that would prevent an operator from the successful development of their leases.

Right of Way (ROW) exclusion or avoidance areas will affect 750,000 acres in Alternative C. ROW exclusion and avoidance areas would indirectly impact as many as 2,000 wells in the next two decades. While the land may be available for leasing, if operators are not allowed reasonable ROW, the minerals are effectively closed. Additionally, without reasonable ROW, the BLM will be encouraging greater use of truck traffic. Approving ROW allows operators to move products and co-produced liquids to a centralized location safely without increasing the number of trucks on the roads.

Overall, IPANM believes Alternative C is more reasonable than Alternatives A & B. Under direct comparison, there is less acreage closed to leasable mineral development under Alternative C. However, the overall open leasable mineral acreage is still significantly reduced by 250,000 acres compared to what is open today. Consider the developable surface area and leasable minerals changes under Alternative C:

- ACEC areas would increase from 13,435 acres to 98,562 acres, with a proposed total of 8 ACECs.
- Wilderness Study Areas would increase from 0 acres to 30,951 acres.
- Open leasable minerals would move to 1,750,774 acres.
- Closed leasable minerals would increase from 228,993 acres to 246,903 acres.

Alternative C also specifies expansive ACECs and Wilderness Study Areas. Wilderness Study Areas dictate no surface disturbance and no leasing in these areas. IPANM strongly believes that



different industries, not just oil and gas, should be allowed access to these areas for mineral development with accompanying mitigation. For more detailed concerns related to ACECs and Special Designation Areas, please see IPANM's specific comments under **ACECs and SPECIAL DESIGNATIONS** (Page 11).

Unless the less restrictive modifications are made to Alternative C, the overall loss of oil and gas production leads to future revenue loss for the state of New Mexico, the federal government, and independent producers.

#### Alternative D

IPANM conceptually supports Alternative D since it allows existing law and regulations to be used in the development and production of oil & gas. Alternative D addresses the importance of leasable mineral development and recreational uses, with some acknowledgement of the existing complexities of the multiple jurisdictions governing lands and mineral rights. But IPANM does not believe that Alternative D is perfect. Alternative D still leaves IPANM with concerns over bureaucratic inefficiencies and inconsistencies with its future implementation.

IPANM has concerns on prioritizing rights of way for development under Alternative D. This concern continues to stem from the time-consuming inefficiencies related to obtaining ROWs to access mineral leases and well pads. However, certain additional commercial uses, such as rights of way for wind and solar development and the ability for livestock grazing, while conceptually supported by IPANM, do raise questions of prioritization, arbitration, and criteria for evaluation.

Like Alternative C, the concept of CSU in Alternative D raises questions of authority and how management restrictions will be determined for various interests and uses. The lack of defined criteria for the administration of CSU remains problematic. While the BLM's intention is to establish multiple use land, it has essentially given the federal government new powers to regulate arbitrarily.

Finally, Alternative D proposes the least percentage increase of land that would either undergo a status change, become closed, or protected, compared to Alternatives A, B & C. However, Alternative D still restricts future oil and gas development by creating additional ACECs and designating Wilderness areas that have never existed in this area before. Consider the developable surface area and leasable minerals changes under Alternative D:

- ACEC areas would increase from 13,435 acres to 28,894 acres, with a proposed total of 5 ACECs.
- Wilderness Areas would increase from 0 acres to 65,446 acres.
- Open leasable minerals would move to 1,997,681 acres.
- Closed leasable minerals would be 154,829 acres.

These proposed acreage reductions are more tolerable than Alternatives A, B & C, but still represent concerns for the ability to extract developable minerals, especially under ACECs and Special Designations. For more detailed concerns specifically related to ACECs and Special Designation Areas, please see IPANM's comments under **ACECs and SPECIAL DESIGNATIONS** (Page 11).

## **NEPA**

Throughout the draft Carlsbad RMP, and in all proposed alternatives, the BLM creates areas of new, situational, and arbitrary authority to the CFO. In most cases, the new, assumed authority contradicts already established, updated and maintained federal process that have clear legal jurisdiction. IPANM reminds the BLM that any final Carlsbad RMP must comply with the National Environmental Policy Act's (NEPA) core procedural processes. Certain sections of the Carlsbad RMP, specifically Alternatives A & B, depart from NEPA and allow the BLM CFO to dictate substantive outcomes. It is IPANM's position that leaving local, substantive decision-making authority to the CFO is both unprecedented and illegal. By NEPA's established processes and timetables, stakeholder comments that are directly affected by a BLM decision under an RMP/EIS **must be significantly considered** for the BLM to follow a balanced multiple-use vision. Likewise, substantive outcomes must be based on peer-reviewed science in the environmental analysis to justify stipulations. In the CFO planning area, this process and input is required under the Federal Land Policy and Management Act (FLPMA). This facilitates the responsible development of New Mexico's resources while protecting, restoring and enhancing NM's environment.

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The NEPA process is the guideline of record on federal land. For independent producers, the practice of learning this established process represents a significant investment of time and resources. IPANM has concerns that changes presented in Alternatives A & B of the BLM draft did not fully prescribe to NEPA. In the shifting setting of the New Mexico Permian Basin, independent producers already face tough competition from with large, integrated operators who continue to increase their presence in New Mexico. Thus, regulatory uncertainty, in the midst of a dynamic drilling environment, disproportionately threatens the solvency of smaller, independent producers, who have less time and resources to appeal inconsistent decisions from the CFO. Overall, IPANM recommends the BLM recue the inefficiencies and create more consistency throughout its final draft with sufficient analysis as outlined under NEPA. This would benefit both operators and federal regulators.

## **ACECs and SPECIAL DESIGNATIONS**

IPANM supports efforts to promote the safe and environmentally responsible development of oil and natural gas resources within the state of New Mexico. However, we have concerns about inconsistent and duplicative environmental regulations, the creation of arbitrary ACECs and Special Designations, and the empowerment of BLM with new authorities that are not allowable under existing law that are presented in this draft RMP.

In Page 2-51, 2.27.1 of the Carlsbad RMP, the wording indicates that ACECs shall be created to “manage to protect *important* biologic, cultural, scenic resources.” However, the FLPMA specifies that ACECs serve the purpose “to protect and prevent *irreparable* damage to important historic, cultural, or scenic values.” IPANM does not consider the words *irreparable* and *important* to mean the same thing. *Irreparable* resources implies protection of areas that already have significant measure of disturbance or damage. *Important* resources intrinsically implies a subjective determination on the part of the BLM, or special interest groups, to advocate for ACEC protection based on a subjective “importance.”

For that reason, IPANM would like to specifically note **Table 1: Problematic ACECs and Special Designations identified by IPANM** with the listed Proposed ACECs or Special Designations within the Carlsbad RMP draft and draft alternatives. *(Note: These are selected examples only. Additional ACECs are also problematic under certain criteria, but are not necessarily identified here.)* The identified **Proposed ACEC/Special Designation** in Table 1 are problematic due to the **Problematic Condition(s)** identified in the corresponding column, as well as due to the subjective nature of being identified as holding “important” resources vs. “irreparable” resources.

**Table 1:**  
**Problematic ACECs and Special Designations identified by IPANM**

Proposed ACEC/Special Designation	Problematic Condition(s)
<b>Birds of Prey</b> Page 2-51: 2.27.4.1 & Page 2-57: 2.27.4.13.1-3	Does not meet FLPMA requirements; Proposed areas do not need surveys or avoidance
<b>Boot Hill District</b> Page 2-51: 2.27.4.2 & Page 2-58: 2.27.4.14.1-3	Excessive constraints on leases; No disturbance 300’ from boundary based on arbitrary criteria;
<b>Cave Resources</b> Pages 2-60 to 2-63: 2.27.4.16.1-3	“Cave Resources” and “Karst Landscape” are not defined; Concerns with arbitrary designation areas
<b>Blue Heron</b> (identified as Desert Heronries) Page 2-64 2.27.4.17.1-4	Blue Heron habitat does not meet federal criteria for nesting area located in “tall trees” identified in classified areas: “marshes, swamps, lake water or edges, coastal lagoons, ditches, shorelines, coastal waters, meadows.”; Noise restrictions of 49db and more than 10db above ambient noise level are arbitrary

<b>Gypsum Soils</b> Page 2-65: 2.27.4.18.1-3	Limited access to “hazardous geologic areas” and “gypsum soil” -- No criteria for what constitutes these terms, any designation would be considered arbitrary.
<b>Salt Playas</b> Page 2-52: 2.27.4.7 & Pages 2-68 & 2-69: 2.27.4.23.1-3	Conducting playa inventory to create a playa management plan based on arbitrary criteria
<b>Wild and Scenic Rivers</b> Pages 2-72 & 2-73: 2.29.1-3	Excessive and arbitrary designations, specifically for No Surface Occupancy (NSO) designations; Excessive NSO areas and major constraints unreasonable and unbalanced in identified areas, including Black River, Conoco Lake and Pecos River Corridor
<b>Wilderness Study Areas</b> Pages 2-74 to 2-78: 2.30 to 2.32 in entirety	Areas under consideration do not meet criteria under Wilderness Act of 1964 (16 U.S.C. §§1131-1136) and FLPMA 1976 (FLPMA; 43 U.S.C§ 1782)

Finally, for all of the ACECs, including, but not limited to, those identified in Table 1, IPANM has concerns over a general lack of scientific basis for the designations.

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Consider the following example. There is a lack of scientific criteria for increasing buffers and noise reduction techniques stipulated for certain areas. Scientific studies already demonstrate that the current buffers and sound restrictions on record are sufficient. There is no scientific evidence that justifies a need for increasing buffers or sound reduction levels.

Furthermore, consider the following example. Certain ACECs present large mapping areas, especially for Birds of Prey, based on loosely drawn boundaries without referencing any supporting scientific studies for justification. The increased acreage for proposed Birds of Prey areas are arbitrarily selected, without any credible or scientific rational. IPANM stands strongly opposed to this and other nominated ACECs that present large swaths of acreage for protection without scientific justification. The proposed restricted areas will effectively block the development of important mineral resources.

## SUMMARY

### Review

The **Independent Petroleum Association of New Mexico (IPANM)** believes that the safe and environmentally responsible development of mineral resources will yield a direct benefit to New Mexico communities and the nation. An RMP that allows for multi-use is both appropriate and critical to meeting the goals of a balanced approach for protecting, restoring, and enhancing the CFO planning area.

Per IPANM's review, Alternatives A & B fail to uphold the BLM's mandate for multi-use land. IPANM supports certain parameters of Alternative C which allow for "competing uses" to occur in the same area. A successful, reasonable management of "competing uses" can allow for oil and gas production to occur in harmony with other industries and interests. However, IPANM does note significant problems with the designations of Controlled Surface Use (CSU) and No Surface Occupancy (NSO) areas. IPANM also conceptually supports Alternative D since it allows existing law and regulations to be used in the development and production of oil & gas. But, Alternative D still leaves IPANM with concerns over bureaucratic inefficiencies and inconsistencies with its future implementation. Finally, IPANM does not advocate for a No Action Alternative.

A final Carlsbad RMP must evolve to encourage oil and gas mineral development as part of BLM's multi-use policy. While IPANM believes in the concept of multi-use, a final RMP cannot depend on arbitrary decisions in the event of conflicts between interests. A final RMP must provide clear workable surface restrictions within the CFO planning area, so stakeholders at least have certainty with future BLM decisions.

### Threats

IPANM strongly believes two realities exist that present the most significant threats to limiting the development of mineral resources. The first threat is federal overreach when it comes to regulating federal lands. The second threat is special environmental interests pushing for unreasonable restrictions with little-to-no scientific justifications. Both of these threats are not aligned with the reality of the enormous safety and environmental measures either already in place, or that the oil and gas industry has developed, during the past decade. Closing or restricting large swaths of acreage would represent a waste of developable mineral resources, and would have a large negative economic impact to the local cities, counties, the State of New Mexico and the United States. For that reason, a final Carlsbad RMP must comply with both the existing FLPMA and 2005 Energy Policy Act to ensure lease stipulations are only as restrictive as necessary to protect the applicable resource(s).



### ACECs & Special Designations

IPANM supports efforts to promote the safe and environmentally responsible development of oil and natural gas resources within the state of New Mexico. However, we have concerns about inconsistent and duplicative environmental regulations, the creation of arbitrary ACECs and Special Designations, and the empowerment of BLM with new authorities that are not allowable under existing law that are presented in this draft RMP.

### Independent Producer Inclusion in Future Stakeholder Process

IPANM supports the overall RMP process, despite the many inconsistencies in the draft Carlsbad RMP, likely due to the multiple year development and writing of a plan under different federal administrations. IPANM would especially like to encourage the BLM to work with the appropriate stakeholders, specifically independent producers, who are often overlooked during stakeholder conversations. Likewise, BLM needs to include those who live and operate within the CFO planning area to further refine the details of the plan to ensure that final decisions provide support for the continued development of oil and gas minerals in a safe and environmentally responsible manner.

On behalf of the 350 members of IPANM who, foremost, represent independent oil and gas producers, as well as oilfield service companies, banking institutions, transportation services, legal firms and civil servants, we respectfully submit these comments and request equal representation in any further final draft discussions. We trust that you will give IPANM's comments serious consideration.

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Sincerely,

Jim Winchester



Jim Winchester  
Executive Director  
IPANM | Independent Petroleum Association of New Mexico  
505-933-2070  
[jimwinchester@ipanm.org](mailto:jimwinchester@ipanm.org)