

Appendix I

Supplemental Draft EIS Public Comments and Responses

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Commenter	Commenter ID No.	Comment No.	Comment	Response
Western Watersheds Project (WWP)	N30S	1a	<p>The Casper RMP's Land Use Plan Decision No. 4047 currently protects raptors by seasonally prohibiting surface disturbance or occupancy within ½ mile of raptor nests, with a ¼ mile buffer for red-tailed hawk, Swainson's hawk, American kestrel, osprey, great horned owl, long-eared owl, northern saw-whet owl, common barn owl, and western screech owl. This stipulation applies from February 1 to July 31, or until young birds have fledged, and the authorized officer may grant case-by-case exceptions. Record of Decision and Approved Casper Resource Management Plan (Casper ROD and RMP) at 2-26.¹ It applies throughout the Casper RMP area.</p> <p>The Converse County Oil and Gas Project Operator Group (OG) has asked BLM to remove this seasonal protection and allow year-round development. DEIS at 1-2. The April 2019 Converse County Oil and Gas Project Supplemental DEIS (SDEIS) describes the proposed amendment as follows: In response to comments on the Draft EIS for the Converse County Oil and Gas Project, the BLM developed this SDEIS to address comments specific to a Land Use Plan (LUP) amendment for the Casper Resource Management Plan (RMP) regarding timing limitation stipulations (TLS) for all non-eagle raptor species. The stipulations are described in Decision No. 4047 in the Casper RMP, which require surface disturbance buffer distances and timing restrictions for all raptor species. Nine raptors species are identified in Decision No. 4047 with a buffer requirement of 0.25-mile. Four LUP amendment options to the existing non-eagle raptor TLS (two proposed by the OG, one proposed by the BLM, and one proposed by the U.S. Fish and Wildlife Service) are analyzed in this SDEIS along with the existing non-eagle raptor stipulations.</p> <p><small>1 The Casper ROD and RMP, as well as its EIS and Appendices, are available at https://eplanning.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=dispatchToPatternPage&currentPageId=88608.</small></p>	See response in next row (this comment wraps between two rows).
WWP	N30S	1b	<p><i>[Continued]</i> Option 1, the No Action Option, in this SDEIS consists of the existing management action for Decision No. 4047. The four additional options regarding possible amendments to the existing non-eagle raptor stipulations are summarized below.</p> <p>Option 2 (Proposed by the OG) – Under this option the TLS would not apply to non-eagle raptor nests within the CCPA [Converse County Project Area].</p> <p>Option 3 (Proposed by the OG) – Under this option the TLS would not apply to non-eagle raptor nests within the CCPA [Converse County Project Area], if the applicant applies conservation measures set forth in Appendix S1.</p> <p>Option 4 (Proposed by the BLM) – Under this option the TLS restrictions would be relieved within the CCPA [Converse County Project Area] if other management practices or plans agreed upon by the applicant/operator and the BLM alleviate impacts to non-eagle raptors within the buffer distances defined within the existing Decision No. 4047. An example of an outline for a plan is provided in Appendix S2.</p> <p>Option 5 (Proposed by the [U.S. Fish and Wildlife Service] USFWS) – The TLS may be relieved within the CCPA [Converse County Project Area] if the applicant works with the BLM and USFWS to alleviate impacts to non-eagle raptors within buffers by developing a Migratory Bird Conservation Plan (MBCP). A proposed outline for the MBCP is provided in Appendix S3.</p> <p>SDEIS at 1-2 to 1-3, emphasis removed.</p> <p>None of these four options for removing or modifying the raptor timing stipulation in the Casper RMP would restrict the amendment to only development identified as being part of the Converse County Oil and Gas Project. Instead, the amended or eliminated raptor timing stipulation would apply to the Converse County Project Area, which the SDEIS says is the same as was described in the DEIS. SDEIS at 1-1. According to the DEIS, the Converse County Project Area comprises approximately 1.5 million acres in Converse County, Wyoming, of which approximately 88,466 acres (six percent) are public land surfaces administered by BLM and approximately 964,566 acres (64 percent) are fluid mineral estate administered by BLM. DEIS at 1-2. Because the amount of overlap between BLM-administered surface acres and BLM-administered fluid mineral acres is not stated in the DEIS or the SDEIS, it is impossible for the public to determine the actual number of acres to which the proposed RMP amendment would apply.</p>	As explained in Section 2.1 and Table 2.1-1 of the Draft EIS, the Federal surface estate (BLM and USFS land) fully overlaps with the Federal mineral estate. The authorities and application of those authorities are explained in more detail in new Section 1.4.3 which discusses the extent of BLM authority within the CCPA. The BLM's RMP amendment as described in the decision tables in Table 2.4-1 applies to all Federal surface and mineral estate within the CCPA (about 60 percent of the CCPA).

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WWP	N30S	2	<p>BLM-administered surface acreage and fluid mineral acreage inside the Converse County Oil and Gas Project Area (Project Area) is not and would not be used exclusively by the Converse County Oil and Gas Project. For example, in January 2019, BLM’s Casper Field Office approved the 51,163 acre, 156-well Sand Creek Project, whose EA said it was within the boundaries of the Converse County Oil and Gas Project, but that it was not part of the Converse County Oil and Gas Project. Sand Creek EA at 39.²</p> <p>² “Furthermore, additional oil and gas development includes the development proposed under the pending 2018 Draft Converse County Oil and Gas Project (Draft Converse County EIS; BLM 2018), which encompasses the project area and is comprised of up to 5,000 oil and gas wells on 1,500 wells pads in northern Converse County.” Sand Creek EA at 39. BLM. January 2019. EOG’s Sand Creek EA (DOI-BLM-WY-P060-2018-0193-EA). Please note, the Sand Creek Finding of No Significant Impact, Decision Record and EA are combined in a single .pdf file, with the EA last. Available at https://eplanning.blm.gov/epl-front-office/eplanning/projectSummary.do?methodName=renderDefaultProjectSummary&projectId=107909.</p>	<p>The Sand Creek project is not part of the proposed development analyzed in the Converse County EIS. However, once the Converse County ROD has been signed, all future development within the CCPA will need to follow the mitigations and commitments in the Converse County ROD or complete a new NEPA analysis of the development proposal.</p>
WWP	N30S	3	<p>The five companies [Anadarko Petroleum Company, Chesapeake Energy Corporation, Devon Energy, EOG Resources, Inc., and Northwoods Energy] identified in the SDEIS³ as the Project’s Operator Group are not the only companies that hold federal leases inside the Converse County Oil and Gas Project Area.⁴ Thus, future oil and gas leasing and development inside the Project Area would be governed by the proposed Casper RMP amendment even if they are not part of the Converse County Oil and Gas Project. This means that BLM has hidden a proposed RMP amendment that would affect all oil and gas leasing and development throughout a more than one million-acre geographic area inside the EIS for a single oil and gas project. For example, the Federal Register’s Notice of Availability stated that the proposed RMP amendment would apply to the Converse County Oil and Gas Project Area without clarification that the Project Area would not be used exclusively by the Converse County Oil and Gas Project. SDEIS NOA at 17884.⁵ The proposed Casper RMP amendment is not included in the Purpose and Need statement in the Project DEIS, and the Project SDEIS does not amend that Purpose and Need. See DEIS at 1-2 and SDEIS at 1-1.</p> <p>³ The five companies are Anadarko Petroleum Company, Chesapeake Energy Corporation, Devon Energy, EOG Resources, Inc., and Northwoods Energy. SDEIS at ES-1.</p> <p>⁴ See email communications between Western Watersheds Project and BLM. Attachment A. See also Attachment B for a list of the top 20 oil and gas producing operators in Converse County, Wyoming, based on March 2019 production. Generated on July 21, 2019 from data at www.drillingedge.com. The five Converse County Oil and Gas Project Applicants are on the list, plus 15 additional companies.</p> <p>⁵ “In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), the Bureau of Land Management (BLM) has prepared a Supplement to the Draft Environmental Impact Statement (Draft EIS) released January 26, 2018 that evaluates, analyzes, and discloses to the public direct, indirect, and cumulative environmental impacts of the proposal to amend the Casper Resource Management Plan (Casper RMP) to allow for timing stipulation relief for non-eagle raptors only within the Converse County Oil and Gas Project area in Converse County, Wyoming.” Bureau of Land Management. Notice of Availability of a Supplement to the Draft Environmental Impact Statement for the Converse County Oil and Gas Project, Converse County, Wyoming. Federal Register. April 26, 2019. Vol. 84, No. 81, pp. 17884-17885. Attachment C.</p>	<p>The CCEIS analysis and the Converse County ROD will apply to any O&G operator in the CCPA, not just the OG members. If an operator were to choose not to follow the Converse County EIS mitigations and commitments, then the new proposal could be governed under the Casper RMP but would need a new NEPA analysis. That new NEPA analysis would need to mitigate for the new project through analysis and disclosure of impacts (direct, indirect and cumulative) to the same resources that were addressed in the Converse County EIS.</p>
WWP	N30S	4	<p>The proposed Casper RMP amendment is not included in the Purpose and Need statement in the Project DEIS, and the Project SDEIS does not amend that Purpose and Need. See DEIS at 1-2 and SDEIS at 1-1.</p>	<p>There is no specific policy or guidance to include a land use plan amendment in a programmatic project EIS.</p>
WWP	N30S	5	<p>Amending the Casper RMP through the Converse County Oil and Gas Project EIS in itself violates federal law. BLM must develop stand-alone NEPA documentation for the RMP amendment and provide new public notice and comment opportunity.</p>	<p>There is no specific policy or guidance to develop a stand-alone land use plan amendment for a programmatic project EIS.</p>

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WWP	N30S	6	<p>The proposed Casper RMP amendment would govern far more than the oil and gas leasing and development proposed by the Converse County Oil and Gas Operator Group. Despite this, the SDEIS and DEIS do not analyze the direct, indirect, and cumulative impacts applying the proposed Casper RMP amendment to all BLM-administered oil and gas leasing and development in the Project Area. Instead, the SDEIS's action alternative options reference 5,000 wells, which is the maximum size of the Converse County Oil and Gas Project.⁶ Logic dictates that the required NEPA analysis for applying the proposed Casper RMP amendment to all BLM-administered oil and gas leasing and development in the Converse County Project Area would involve more than 5,000 wells. Therefore, BLM has not analyzed the environmental impacts of applying the proposed RMP amendment to all BLM-administered oil and gas leasing development in the Project Area.</p> <p>⁶ See April 2019 SDEIS at ES-3.</p>	<p>The BLM is not amending the land use plan in regards to leasing of fluid minerals. This project is a programmatic analysis of the development proposal with an amendment to a single decision to allow for relief of timing limitations.</p>
WWP	N30S	7	<p>Removing or modifying seasonal timing limitations related to non-eagle raptors will also affect other birds protected by the Migratory Bird Treaty Act that have nests within the buffer areas and are negatively affected by disturbance near their nests. The SDEIS does not analyze the impacts of the various new options in Alternative B on these other birds. The absence of that analysis is highly troubling because as we discussed in our comments on the DEIS, the Project Area is incredibly rich in migratory bird species and the Project Area contains an Audubon Important Bird Area and an American Bird Conservancy Globally Important Bird Area.</p>	<p>Impacts to migratory birds from Alternative B are discussed in the Draft EIS as stated in Section 4.18.2.2. The SDEIS is only analyzing those resources that would be impacted with the change in the RMP; the analysis in Alternative B is unchanged for all other resources.</p>
WWP	N30S	8	<p>The SDEIS does not analyze the impact of the various new options in Alternative B on bald or golden eagles.⁷</p> <p>⁷ See the SDEIS's sections on impacts to migratory birds and impacts to special-status wildlife species.</p>	<p>Impacts to golden eagles from Alternative B are discussed in the Draft EIS as stated in Section 4.18.2.2 and Table 4.18-14. The SDEIS is only analyzing those resources that would be impacted with the change in the RMP; the analysis in Alternative B is unchanged for all other resources.</p>
WWP	N30S	9	<p>The SDEIS does not analyze the effects of the various new options in Alternative B on greater sage grouse. See SDEIS at 4-12.</p>	<p>Impacts to greater sage grouse from Alternative B are discussed in the Draft EIS as stated in Section 4.18.2.2, Table 4.18-15, Section 4.18.3.2, Table 4.18-27, and Table 4.18-31. The SDEIS is only analyzing those resources that would be impacted with the change in the RMP; the analysis in Alternative B is unchanged for all other resources.</p>
WWP	N30S	10	<p>It [the SDEIS] also does not remedy the analysis deficiencies that we identified in our comments on the DEIS.</p>	<p>Please refer to the BLM's responses to your comments on the Draft EIS presented in Appendix H of the Final EIS. The SDEIS is only analyzing those resources that would be impacted with the change in the RMP; the analysis in Alternative B is unchanged for all other resources.</p>
WWP	N30S	11	<p>BLM's analysis of impacts to greater sage-grouse needs to be updated to reflect current grouse lek data and trends. The DEIS states, "Considering the slight downward trend in male attendance at leks in the CCPA along with the level of 13 existing disturbance, Alternative B would result in a substantial increase in risk to sage-grouse." DEIS at 4.18-88. That risk may have increased since the time the DEIS was prepared. The Wyoming Game and Fish Department's former sage-grouse program coordinator recently expressed concern in the press that the 2019 lek counts may be historically low.¹⁰ New published research surveying sage-grouse population trends in Wyoming identifies a large annual decline of 4.5% per year from 1998-2015 for the "Northeast" working group area that includes Converse County.¹¹ Moreover, as the authors note, this decline is not uniform across the area, but strongly correlated with oil and gas development: "gas and oil development has caused lek abandonment and declines in breeding populations (Green et al. 2017), particularly in western and northeast Wyoming (Holloran 2005, Walker et al. 2007)."¹²</p> <p>¹⁰ See Thuermer, Angus M., Jr. May 15, 2019. "Sage grouse expert: 'Dark cloud' looms over population." Wyofile. Available at https://www.wyofile.com/sage-grouse-expert-dark-cloud-looms-over-population/. Attachment F.</p> <p>¹¹ See Edmunds, David R. et al., Greater Sage-Grouse Population Trends Across Wyoming, 82(2) Journal of Wildlife Management 397, 408 (2018), DOI: 10.1002/jwmg.21386. Attachment P.</p> <p>¹² Id. at 398.</p>	<p>Impacts to greater sage grouse from Alternative B are discussed in the Draft EIS as stated in Section 4.18.2.2, Table 4.18-15, Section 4.18.3.2, Table 4.18-27, and Table 4.18-31. The SDEIS is only analyzing those resources that would be impacted with the change in the RMP; the analysis in Alternative B is unchanged for all other resources. The 2019 Wyoming Sage-Grouse ARMPA is currently in litigation and a court order injunction issued. The 2015 Wyoming Sage-Grouse ARMPA data was utilized in Final EIS analysis.</p>

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WWP	N30S	12	<p>The SDEIS does not analyze the effects of the various new options for Alternative B on special-status species such as mountain plover and swift fox. See SDEIS at 4-12 (“This section is included in the Draft EIS and is not being amended in this supplement.”). This is of concern because the special-status wildlife species impacts analysis for Alternative B in the DEIS was not conducted for all of the various new Alternative B options. Instead, the DEIS assumed that “Under Alternative B, exceptions to BLM timing limit stipulations would be requested in the vicinity of raptor nests and greater sage-grouse leks outside of PHMA. However, such exceptions generally would be granted on a case-by-case basis.” DEIS at 4.18-60. This assumption would not apply to all of the new Alternative B options, and for those options, the impacts to special-status wildlife species will thus be greater than in the DEIS.</p>	<p>Impacts to special status species are covered in the Draft EIS as stated in Section 4.18.3.2 and Table 4.18-31. The SDEIS is only analyzing those resources that would be impacted with the change in the RMP; the analysis in Alternative B is unchanged for all other resources.</p>
WWP	N30S	13	<p>The SDEIS does not analyze the effects of the various new options in Alternative B on ungulate species.¹³</p> <p><small>13 See SDEIS at 4-2 (Impacts to Terrestrial Wildlife: “This section is included in the Draft EIS and is not being amended in this supplement.”)</small></p>	<p>Impacts to ungulate species are covered in the Draft EIS as stated in Section 4.18.1.2, Table 4.18-5, Table 4.18-6 and Section 4.18.1.4. The SDEIS is only analyzing those resources that would be impacted with the change in the RMP; the analysis in Alternative B is unchanged for all other resources.</p>
WWP	N30S	14	<p>It [the SDEIS] also fails to correct the NEPA deficiencies regarding ungulate species that we identified in our DEIS comments. This is important because the DEIS states the Project Area contains habitat for pronghorn antelope (1,073,959 acres yearlong; 407,574 acres winter/yearlong; 6,504 acres severe winter relief), mule deer (1,122,614 acres yearlong; 1,122,614 acres winter/yearlong), white-tailed deer (51,297 acres yearlong; 1,922 acres winter/yearlong), and elk (39,360 acres yearlong). DEIS at 3.18-9 to 3.18.10. These wildlife species thus can be expected to use Project Area habitat during the February 1 through July 31 period of the current non-eagle raptor timing stipulations. Areas where these stipulations are in place function as temporary refuges from the negative impact of oil and gas development that we detailed in our comments on the Project’s DEIS. BLM proposes to remove those temporary refuges but has not adequately analyzed the impacts under NEPA.</p>	<p>Impacts to ungulate species are covered in the Draft EIS as stated in Section 4.18.1.2, Table 4.18-5, Table 4.18-6 and Section 4.18.1.4. The SDEIS is only analyzing those resources that would be impacted with the change in the RMP; the analysis in Alternative B is unchanged for all other resources.</p>
WWP	N30S	15	<p>BLM’s NEPA analysis in the Project DEIS is based on the assumption that the management measures in the 2015 Wyoming Sage-Grouse ARMPA will continue to apply. But in March 2019, BLM issued the 2019 Wyoming Sage-Grouse ARMPA. The differences between the Wyoming 2015 and 2019 Sage-Grouse ARMPAs weaken protections for greater sage-grouse. The SDEIS does not acknowledge, much less analyze, applicable changes in sage-grouse habitat management between the 2015 and 2019 ARMPAs, even though the SDEIS was released more than 30 days following the issuance of the Record of Decision for the 2019 Wyoming Sage-Grouse ARMPA.¹⁴</p> <p><small>14 The Record of Decision for the Wyoming 2019 Sage-Grouse ARMPAs was issued on March 15, 2019. The Supplemental DEIS for the Converse County Oil and Gas Project was released on April 26, 2019.</small></p>	<p>The 2019 Wyoming Sage-Grouse ARMPA is currently in litigation and a court order injunction issued. The 2015 Wyoming Sage-Grouse ARMPA data was utilized in Final EIS analysis.</p>

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WWP	N30S	16	<p>The 2019 Wyoming ARMPA Record of Decision eliminates entirely a significant mitigation measure identified in the original Converse County DEIS – the BLM’s authority to require mandatory compensatory mitigation for impacts for which on-site mitigation is “inadequate or impossible.” The 2019 ARMPA provides that “The plans clarify that the BLM will consider compensatory mitigation only as a component of compliance with a state mitigation plan, program, or authority; other federal law; or when offered voluntarily by a project proponent.”¹⁵</p> <p>The loss of BLM’s ability to require compensatory mitigation in the 2019 Sage-Grouse ARMPA is of special concern because the Converse County Oil and Gas Project DEIS states: Compensatory mitigation would be warranted for greater sage-grouse because avoidance and minimization of residual impacts to the species and its habitat may be inadequate or impossible based on the amount of existing disturbance within PHMA. This concept of utilizing compensatory mitigation is based on EO 2015-4 and the BLM and USFS complementary strategy for which, subject to valid existing rights and consistent with applicable law, land management agencies require mitigation that provides a no net loss or a net conservation gain to the species, including accounting for any uncertainty associated with the effectiveness of such mitigation. DEIS at 4.18-72. In addition, the 2019 Wyoming Sage-Grouse ARMPA removed Required Design Features from General Habitat Management Areas (GHMA) and made them discretionary within PHMA,¹⁶ and removed a noise limitation that applied outside of PHMA.¹⁷</p> <p><small>15 Bureau of Land Management, Wyoming Greater Sage-Grouse Approved Resource Management Plan Amendment and Record of Decision 6 (2019). 16 2019 Wyoming ARMPA at 12. 17 2019 Wyoming ARMPA at 16.</small></p>	<p>The 2019 Wyoming Sage-Grouse ARMPA is currently in litigation and a court order injunction issued. The 2015 Wyoming Sage-Grouse ARMPA data was utilized in Final EIS analysis.</p>
WWP	N30S	17	<p>The environmental analysis in the Project DEIS is based on assumptions related to the 2015 Wyoming Sage-Grouse ARMPA, not the 2019 Wyoming Sage-Grouse ARMPA. Therefore, BLM cannot simply apply the 2019 Wyoming Sage-Grouse ARMPA without re-analyzing the Project’s impacts to greater sage-grouse and giving the public the opportunity to review and comment on that re-analysis. This has not occurred in the SDEIS.¹⁸</p> <p><small>18 See SDEIS at 2-8, 4-12 (“This section is included in the Draft EIS and is not being amended in this supplement.”)</small></p>	<p>The 2019 Wyoming Sage-Grouse ARMPA is currently in litigation and a court order injunction issued. The 2015 Wyoming Sage-Grouse ARMPA data was utilized in Final EIS analysis.</p>
WWP	N30S	18	<p>The 2019 Wyoming Sage-Grouse ARMPA is unlawful, and BLM must apply the 2015 Wyoming Sage-Grouse ARMPA to the Converse County Oil and Gas Project. The 2019 Sage-Grouse Plans are being challenged in court;¹⁹ currently the judge is considering a motion for preliminary injunction that would prohibit BLM from implementing the 2019 Sage-Grouse Plans. We incorporate by reference that litigation’s complaint and motion for preliminary injunction. Attachments G and H.</p> <p><small>19 Western Watersheds Project v. David Bernhardt. D. Idaho. Case No. 1:16-cv-00083-BLW. The Center for Biological Diversity is also a plaintiff in this litigation.</small></p>	<p>The 2019 Wyoming Sage-Grouse ARMPA is currently in litigation and a court order injunction issued. The 2015 Wyoming Sage-Grouse ARMPA data was utilized in Final EIS analysis.</p>
WWP	N30S	19	<p>We are concerned that selection of BLM’s preferred alternative, Alternative B, is premised on a large increase in BLM approvals of Operator requests for exception to seasonal timing limitations that protect leks in non-core areas. Under both the 2015 and 2019 Wyoming Sage-Grouse ARMPAs, exceptions to those limitations are to be granted solely on a case-by-case basis. But if they become routine, the effectiveness of the seasonal timing limitation measure will be greatly diminished, thus essentially removing a grouse protection measure from a large portion of the area governed by the Casper Sage-Grouse ARMPA without a standalone RMP public notice and comment opportunity. We note that the SDEIS contains a proposed framework for the process of BLM approving case-by-case exceptions to seasonal timing limitations that protect non-eagle raptors (Appendix S2), but no proposed framework for the process of approving case-by-case exceptions to seasonal timing limitations that protect sage-grouse. To the extent that the proposed action amounts to a decision that year-round operation will be the rule, not an isolated exception, the proposed action represents a new approach that has never been analyzed in the 2015 or 2019 ARMPA EISs nor the original Converse County Oil and Gas Project DEIS. Moreover, case-by-case approval of exceptions to seasonal timing limitations, particularly without robust public involvement and full NEPA analysis, will inevitably fail to address the cumulative impacts of a field-wide</p>	<p>The proposed land use plan amendment options do not apply to greater sage grouse and therefore impacts to this species are not addressed in the SDEIS. The 2019 Wyoming Sage-Grouse ARMPA is currently in litigation and a court order injunction issued. The 2015 Wyoming Sage-Grouse ARMPA data was utilized in Final EIS analysis.</p>

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			<p>policy of promoting year-round operation. Neither the DEIS nor the SDEIS adequately disclose or analyze how this significant impact on over 300,000 acres of sage-grouse habitat may affect either local breeding populations or the northeast Wyoming metapopulation of sage-grouse as a whole.</p>	
WWP	N30S	20	<p>In its June 30, 2014 scoping comments, USFWS informed BLM that it did not support the Project's request to lift seasonal timing restrictions so the Project could operate year round because it could lead to violations of the Migratory Bird Treaty Act (MBTA) and/or the Bald and Golden Eagle Protection Act (BGEPA).²⁰ USFWS's scoping comments further stated, "Under the MBTA, the Eagle Act, and Executive Order 13186 (66 FR 3853; January 17, 2001), Federal agencies have an obligation to protect all species of migratory birds, including eagles and other raptors, which may occur on lands under their jurisdiction." USFWS Scoping Comments at 2. USFWS explained that "Removal or destruction of such [migratory bird or eagle] nests, or causing abandonment of a nest could constitute violation of one or both of the above statutes [MBTA and BGEPA]. . . . [I]f nesting migratory birds are present on or near the project area, timing is a significant consideration and needs to be addressed in project planning" USFWS Scoping Comments at 3. In addition, "For optimal conservation benefit, we recommend that no temporary or permanent surface occupancy occur within species-specific spatial buffer zones." USFWS Scoping Comments at 3.</p> <p><small>20 "The Converse County Oil and Gas Plan of Development (Project) includes a request to waive discretionary timing limitations to conduct year-round drilling. We do not support requests to waive all discretionary timing limitations for projects such as this, since there would be risk of violating the MBTA and/or the Eagle Act." See page 2 of U.S. Fish and Wildlife Service's Scoping Comments on the Converse County Oil and Gas Project. June 30, 2014. Attachment I.</small></p>	<p>Scoping comments are summarized in the Draft EIS in Section 1.6 and have been considered in preparing the EIS.</p>
WWP	N30S	21	<p>In its March 12, 2018 comments on the Converse County Oil and Gas Project's DEIS, USFWS noted, "The [DEIS's proposed] buffer for golden eagles is ineffective in protecting nesting golden eagles from human disturbance, which could lead to take during the nesting season and violations of the Bald and Golden Eagle Protection Act." USFWS recommended changes to the EIS's eagle nest buffers and noted that activities or infrastructure within 0.5 miles of an eagle nest may require an eagle take permit for disturbance. USFWS DEIS Comments at 4.²³</p> <p><small>23 USFWS Converse County Oil and Gas Project DEIS Comments. March 12, 2018. Attachment K.</small></p>	<p>Scoping comments related to the Draft EIS were considered and incorporated in the Final EIS.</p>
WWP	N30S	22	<p>In the time since USFWS sent the above sets of comments to BLM, the MBTA and BGEPA statutes have not changed. What has changed is the Department of the Interior's (DOI's) interpretation of the MBTA in regard to incidental take of MBTA-protected birds, as we noted in our DEIS comments. DOI's current interpretation of MBTA incidental take is unlawful and is currently being litigated by American Bird Conservancy, Center for Biological Diversity, and others.²⁴ To meet its obligations to protect birds protected by BGEPA and MBTA, BLM must either select the DEIS's No Action alternative or require substantial redesign of the Project such that it will not potentially violate BGEPA or MBTA.</p> <p><small>24 National Audubon Society v. Department of the Interior. S.D. N. Y. Case 1:18-cv-04601.</small></p>	<p>The BLM, with its multiple use mandate as well as the Casper RMP, is tasked with habitat and population protections in allowing for other uses. The BLM follows the MBTA and BGEPA. Incidental take determinations is a specific function of the USFWS.</p>
WWP	N30S	23	<p>In our comments on the DEIS, we raised concerns about the Project's potential to extirpate threatened Preble's meadow jumping mouse in the Project Area. Since then, Western Watersheds Project has received documents that show that because of the Project's potential to cause adverse impacts to Preble's meadow jumping mouse and to threatened Ute ladies'-tresses orchid, USFWS requested text changes in the Preliminary DEIS. USFWS asked that the DEIS better show the potential for adverse effects to these two ESA-listed species and asked BLM to make the DEIS consistent with the Casper RMP's Biological Assessment in regard to Preble's meadow jumping mouse. But in its response to USFWS's comments, BLM stated that it would not change the text.²⁵ The concerns that USFWS raised regarding effects analysis of Preble's meadow jumping mouse and Ute ladies'-tresses orchid appear to constitute substantive, unresolved disagreement between the two agencies. The Memorandum of Understanding between BLM and USFWS as cooperating agencies for the Project states, "Where the BLM and one or more Cooperators disagree on substantive elements of the EIS (such as designation of the alternatives to be analyzed or analysis of effects), and these disagreements cannot be resolved, the BLM will include a summary of the Cooperator's views in the Draft</p>	<p>Please refer to the BLM's responses to your comments on the Draft EIS presented in Appendix H of the Final EIS.</p>

Commenter	Commenter ID No.	Comment No.	Comment	Response
			<p>EIS and the Final EIS." BLM-USFWS MOU at 5.²⁶ However, BLM did not summarize the substantive, unresolved disagreement about Ute ladies'-tresses orchid and Preble's meadow jumping mouse in the DEIS or SDEIS. BLM should summarize these disagreements in the FEIS as well any other substantive, unresolved disagreements between BLM and any of its cooperating agencies regarding this Project.</p> <p>25 See BLM Responses to USFWS Comments on PDEIS at 9/12 and 10/12. September 2017. (Because the printed page numbers in the document are not unique to each page, the page numbers here refer to the position of each page in the document's .pdf file.) Attachment L.</p> <p>26 See item V.E. on page 5 of Memorandum of Understanding Between the United States Department of the Interior Bureau of Land Management by and Through the Wyoming BLM Casper Field Office Field Manager and the United States Department of the Interior US Fish and Wildlife Service Wyoming Ecological Services Field Office as a Cooperating Agency Regarding the Converse County Oil and Gas Development Project Environmental Impact Statement. March 14, 2016. Attachment M.</p>	
WWP	N30S	24	<p>In our DEIS comments, we noted our concern that BLM plans to defer site-specific NEPA analysis to the Project development stage. According to the Western Energy Alliance's comments on the Project DEIS, more than half of the Project's proposed well pads are within nest buffers. WEA DEIS comments at 2.²⁷ This means that at the time BLM offered the DEIS and SDEIS for public comment, the locations where the Project's well pads would be built were already known. Since the well pad locations are already known, BLM should include site-specific analysis of at least the well pads in the Project EIS.</p> <p>27 Western Energy Alliance. March 9, 2018. Comments on the Converse County Oil and Gas Project DEIS. Attachment N.</p>	Well pad locations are not known, and site-specific analysis is not included in the Final EIS; please refer to the BLM's responses to your comments on the Draft EIS presented in Appendix H of the Final EIS.
City of Douglas	L20S	1	<p>From the beginning the cooperators have pushed for a year-round development concept. Subsequent measures were developed to limit the impact to raptors, minimize disturbance, expedite reclamation, and reduce nearby community socio-economic impacts. Our experience is that seasonal restrictions have a significant adverse environmental impact, concentrating development during six short months, thus increasing the intensity of the impacts. The SDEIS does not analyze the benefits of uninterrupted development, including reduced truck traffic, dust, economic swings and more timely initiation of reclamation.</p>	BLM has taken your concerns into consideration in revising text in the Final EIS. Section 4.18.1.2 of the Final EIS addresses these types of impacts for Alternative B and Section 4.18.1.3 discusses mitigation and mitigation effectiveness.
City of Douglas	L20S	2	<p>Cooperators have also pushed for the implementation of a socio/economic monitoring program that would better help address those impacts to local governments. This would better inform local governments in the development of these resources. We urge the BLM to adopt this as a requirement in the Record of Decision.</p>	BLM has taken your concerns into consideration in revising text in the Final EIS. Section 6.3.16 of the Final EIS, which includes socioeconomic mitigation, has been updated to incorporate input from the OG and Converse County. In particular Goal SR 3 has been developed to address socioeconomic issues such as housing, employment, population, and fiscal impacts.
WY Office of the Governor	S10S	1	<p>Balancing economic opportunity for Converse County with viable management strategies to minimize the project's potential impacts to raptor species is essential. Based on my review, Options 2 through 5 would allow for seasonal restrictions to be waived based on different requirements placed on operators. However, portions of each respective Option are unclear and future decision-makers may have different interpretations of portions of each Option. The BLM must clearly articulate expectations and identify avenues that allow for actual relief from TLS while balancing species conservation. This should include a framework for rigorous monitoring, data collection, reporting, and adaptive management. It appears Option 3 may provide an opportunity to balance potentially competing interests in the project area through the development of an appendix; however, this is only true if the WGFD, US Fish and Wildlife Service, and the OG are involved with the development of additional plan components, such as conservation measures.</p>	BLM has taken your concerns into consideration in revising text in the Final EIS. Section 4.18.1.2, Section 4.18.1.3, Section 4.18.14 and Section 4.18.2 of the Final EIS have been updated to incorporate additional conservation measures to include TLS discussions provided by the Governor's Office and OG into Option 3 as well as the addition development of Option 6.
WY Office of the Governor	S10S	2	<p>There is considerable disagreement concerning nest site selection and the definition of "active," "inactive," "occupied," or "unoccupied" nests. In the absence of sufficient consensus regarding these issues, I support the formation of a technical team to address these and other uncertainties identified by the OG and WGFD. BLM should define a process for identifying research needs and data gaps to further our understanding of interactions between non-eagle raptors, TLS, and development.</p>	The BLM has updated the text to include more literature references with definitions of nest activity. Based on this and the decisions in the BLM's RMP to protect wildlife habitat, the EIS applies the WGFD definition of Occupied Territory or Site and the Carlisle et al. (2018) definition of annual nest use rate to re-examine the baseline data. In addition, the agency preferred land use plan amendment option (new Option 6) includes requirements for monitoring and adaptive management.

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Western Energy Alliance (WEA)	N29S	1	The preferred option relies on definitions of “active” and “inactive” nests that are different than FWS’s definitions, unnecessarily protecting nests without nesting birds with minimal ecological benefit. These definitions are far broader than those outlined in an FWS memo from June 2018, and the mismatch in definitions will continue to create confusion going forward. For consistency’s sake, BLM should instead defer to the FWS definition in the final EIS.	The BLM has updated the text to include more literature references with definitions of nest activity to support application of the WGFD definition of Occupied Territory or Site in the impact analysis. This broader definition is consistent with the BLM’s RMP and the agency’s mandate under FLPMA to protect wildlife habitat under its management.
WEA	N29S	2	Option 4 overestimates the impacts to raptors based on assumptions regarding the percentage of nests that are occupied that dramatically overstate the reality on the ground. Active nest percentages are much lower than the 50% figure identified in the SDEIS, which is an overly conservative estimate that goes far beyond the average activity identified in the BLM’s data referenced in the SDEIS as well as data submitted by the OG. As a result, the projected impact to raptors is overstated. BLM should reconsider this analysis by relying on the available statistical data in the final EIS.	The BLM has updated the nest analysis to use the average nest use rate developed from a re-analysis of existing nest data including that provided by the Operator Group.
National Parks Conservation Association (NPCA)	N25S	1	BLM’s SDEIS fails to meet the requirements of NEPA and must be improved. The SDEIS must be revised to evaluate the air pollution impacts of the non-eagle raptor amendment options.	Impacts related to air quality from Alternative B are discussed in the Draft EIS as stated in Section 4.1.3. The SDEIS only analyzed those resources that would be impacted with the change in the RMP; the analysis in Alternative B is still the same for all other resources.
NPCA	N25S	2	BLM has failed to rigorously assess and objectively evaluate the air quality impacts of the proposed non-eagle raptor amendment options in the SDEIS. An analysis of reasonable development scenarios under the SDEIS is critical to understanding air quality impacts. The absence of a quantitative impact analysis deprives reviewers / stakeholders from evaluating the merits of one option compared to the merits of another. Specifically, BLM must consider whether emissions associated with potentially more concentrated and continuous development (e.g., more concentrated drilling and associated well pad production emissions sources occurring in locations and during time periods designated to protect non-eagle raptor nesting) would increase.	Impacts related to air quality from Alternative B are discussed in the Draft EIS as stated in Section 4.1. The SDEIS only analyzed those resources that would be impacted with the change in the RMP; the analysis in Alternative B is still the same for all other resources.
NPCA	N25S	3	A quantitative assessment of the air quality impacts based on modeling of the emissions associated with a representative density, location, and timing that reflects the accommodations for non-eagle raptors presented in the SDEIS, would be required in order to understand whether or not air quality impacts would be greater for some pollutants, in some locations. Depending on where development occurs and the density of development, it’s possible that greater impacts to human health and air quality related values will result. It would be important for BLM to evaluate and disclose the potential for greater air quality impacts in the SDEIS.	Impacts related to air quality from Alternative B are discussed in the Draft EIS as stated in Section 4.1, including a rigorous quantitative modeling exercise. The SDEIS is only analyzing those resources that would be impacted with the change in the RMP; the analysis in Alternative B is unchanged for all other resources.
NPCA	N25S	4	Absent a quantitative air impact assessment, BLM has not demonstrated and cannot demonstrate that its SDEIS analysis ensures no significant air quality impacts and full compliance with the Clean Air Act (CAA). This includes fully considering whether there will be unacceptable health risks associated with criteria and hazardous air pollutant impacts, significant cumulative visibility impacts, or significant deterioration of air quality. BLM must use modeling to determine whether / what specific mitigation measures and pace, location, and intensity of development will be needed to ensure BLM’s actions will not cause or contribute to violations of the National Ambient Air Quality Standards or adverse impacts to air quality related values.	Impacts related to air quality from Alternative B are discussed in the Draft EIS as stated in Section 4.1. The SDEIS is only looking at those resources that would be impacted with the change in the RMP, the analysis in Alternative B is still the same for all other resources.
NPCA	N25S	5	BLM must revise its SDEIS to evaluate all reasonable impacts to air quality that could result from the proposed changes to timing limitation stipulations and associated conservation measures to address non-eagle raptor nesting.	Impacts related to air quality from Alternative B are discussed in the Draft EIS as stated in Section 4.1. The SDEIS is only looking at those resources that would be impacted with the change in the RMP, the analysis in Alternative B is still the same for all other resources.
U.S. Environmental Protection Agency (USEPA)	F05S	1	The ‘operator group committed measures’ listed under Option 3 all appear to be existing requirements or commitments that would apply with, or without, this amendment. We recommend the EIS clarify whether there are any amendment-specific operator commitments designed to address or prevent impacts to non-eagle raptors.	The design features proposed by the OG for Option 3 are not existing commitments. Since the SDEIS was released for comment, the OG has proposed additional measures that have been incorporated into Option 3 and that the BLM has added a new Option 6.
USEPA	F05S	2	We recommend defining the term “alleviate” as used in the description of LUP option 4 and 5 in the Executive Summary and Chapter 1. This term appears to be important to understanding what actions and outcomes could be expected under these options.	Thank you for your comment. The term ‘alleviate’ is used per the standard definition of “make less severe” and is consistently used between the various land use plan Options.

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USEPA	F05S	3	The concerns identified in our March 12, 2018, Draft EIS letter remain. In that letter we noted that both Alternative B and C allow the same number of oil and gas wells over the same period and both meet the project need. Compared to Alternative C, Alternative B increases surface disturbance by 15,400 acres including 720 more well pads and 708 more miles of roads. Alternative B also adds over 900 million gallons per year of fresh water use, requires up to 50 additional groundwater supply wells, doubles the amount of wastewater disposal volume and proposes 30 more wastewater disposal wells to cover some, but not all, of the potential disposal needs. These factors increase the potential for impacts to surface water, groundwater resources and stress on other natural resources. If the amount of fresh water consumed and wastewater generated were to increase, the potential impacts identified in our Draft EIS-specific comments would also be greater (March 2018 letter enclosed). We continue to recommend that BLM consider these concerns and make any necessary refinements based on new information when developing the Final EIS.	Please refer to the BLM's responses to your comments on the Draft EIS presented in Appendix H of the Final EIS.
Campbell County	L18S	1	In addition to supporting Option 4, BLM has now included Appendix S2 in the SDEIS (Converse County Oil and Gas Environmental Impact Statement Raptor Timing Stipulation Relief Process Framework (previously Appendix G)), which outlines a very confusing, redundant process for obtaining raptor stipulation exceptions. It increases costs and delays for operators and does not achieve its purpose of streamlining the raptor exception process and providing certainty for operators and counties.	Thank you for your comment. Please see the BLM's responses to your 4-point discussion in the detailed comment responses below.
Campbell County	L18S	2	Specific concerns with BLMs Land Use Plan Amendment Option 4 includes: 1) It leaves in-tact Timing Limitations Stipulations (TLS) and are applied to both active and inactive nests.	BLM has taken your concerns into consideration in revising the text in the Final EIS. In addition, the text has been updated to clarify the terminology used to describe nest activity.
Campbell County	L18S	3	Specific concerns with BLMs Land Use Plan Amendment Option 4 includes: 2) It continues to grant exceptions on a case-by-case basis with a much more cumbersome process than currently exists under the Resource Management Plan (RMP). This does not promote certainty for the operator and therefore impacts year-round development decisions which in turn affects county services.	BLM has taken your concerns into consideration in revising text in the Final EIS. Note that the BLM has created a new option, Option 6.
Campbell County	L18S	4	Specific concerns with BLMs Land Use Plan Amendment Option 4 includes: 3) It requires the United States Fish and Wildlife Service (FWS) consultation for individual requests, which is not required under the current RMP.	BLM has taken your concerns into consideration in revising text in the Final EIS. The BLM does routinely coordinate with the USFWS and has already worked with operators in implementing year-round development in the Buffalo and Casper Field Offices under the current Resource Management Plan.
Campbell County	L18S	5	Specific concerns with BLMs Land Use Plan Amendment Option 4 includes: 4) It is unclear which definition of active versus inactive nests BLM is using as it seems to be inconsistent with FWS. It is imperative that the BLM definitions be consistent with FWS or the project will become paralyzed by inconsistency and delays will be sure to occur.	The BLM has updated the text to clarify definitions of nest activity, including additional literature references, to support application of the WGFD definition of Occupied Territory or Site in the impact analysis. This broader definition is consistent with the BLM's RMP and the agency's mandate under FLPMA to protect wildlife habitat under its management.
Campbell County	L18S	6	BLM must ensure that if tribal consultation does not occur within a reasonable timeframe, that they have the ability to move forward with NEPA and the decision-making process to allow development to occur.	The BLM has conducted tribal consultation activities for the Converse County EIS since the beginning of the project and does not anticipate that tribal consultation will impede completion of the NEPA process. BLM will follow the guidance in IM 2018-014 with regards to tribal consultation.
Campbell County	L18S	7	BLM is silent regarding the impacts of tribal consultation and Section 106 consultation on private surface and the BLM must follow its own internal guidance (Instruction Memorandum 2018-014).	Please see the responses to your comments on the Draft EIS presented in Appendix H of the Final EIS. The SDEIS is only analyzing those resources that would be impacted with the change in the RMP; the analysis in Alternative B is unchanged for all other resources. BLM will follow the guidance in IM 2018-014 with regards to tribal consultation.
Campbell County	L18S	8	Denial of access to private surface should not be a reason for BLM to delay or deny the federal undertaking, it being understood that any known or unknown cultural resources are the property of the private surface owner and not subject to oversight by BLM or the tribes. This information needs to be included in the Final EIS and Record of Decision.	Please see the responses to your comments on the Draft EIS presented in Appendix H of the Final EIS. The SDEIS is only analyzing those resources that would be impacted with the change in the RMP.
Campbell County	L18S	9	Page ES-4. Affected Environment. Lines 9-18 - "... Therefore, it is reasonable to assume that 50 percent of the non-eagle raptor nests identified in the CCPA would be considered active on an annual basis." This assumption overestimates active nests at 50% and therefore skews the analysis in the rest of the document. Based on information provided by the operator group, over the past thirteen years, surveys have been conducted in or around portions of the project area and an average of 22% of the nests were active with a median of 16%. Recent survey data submitted to BLM showed that annual nest activity was approximately 15% in 2016, 18% in 2017 and 9% in 2018. BLM's assumption should be reanalyzed and a more realistic average should be utilized using the most recent raptor monitoring data available including that submitted by the Operator Group.	The BLM has updated the text to revise the estimate of nest activity in the CCPA and to clarify the rationale for the activity percentage used in the impact analysis. Based on the variability and unknowns in the available data, the BLM adopted a use-rate calculation that incorporates methods that Carlisle et al. (2018) developed for a longitudinal study of nesting raptors in the Powder River Basin. The updated dataset resulted in a higher estimate of average annual use rate which is used in the updated impact analysis. The higher nesting rate provides an allowance for species that are likely under-represented in typical nest surveys. The observations in both the BLM and OG datasets favor large hawks (Buteo species) and most likely under-represent smaller species or species that are harder to observe such as kestrels and various species of owl due to their smaller size or more secretive nesting locations.

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Campbell County	L18S	10	The most recent data provided shows an average of 22% of the nests to be active with a median of 16%. That 50% assumption of active nests is then used to determine that Option 2 and 3 result in moderate to major impacts while Option 4 and 5 have negligible to minor impacts based on mitigation and process implementation under each respective option. This analysis is flawed and BLM should reanalyze this section using the most recent raptor monitoring data available including that submitted by the Operator Group.	The BLM has updated the text to revise the estimate of nest activity in the CCPA and to clarify the rationale for the activity percentage used in the impact analysis. Based on the variability and unknowns in the available data, the BLM adopted a use-rate calculation that incorporates methods that Carlisle et al. (2018) developed for a longitudinal study of nesting raptors in the Powder River Basin. The updated dataset resulted in a higher estimate of average annual use rate which is used in the updated impact analysis. The higher nesting rate provides an allowance for species that are likely under-represented in typical nest surveys. The observations in both the BLM and OG datasets favor large hawks (Buteo species) and most likely under-represent smaller species or species that are harder to observe such as kestrels and various species of owl due to their smaller size or more secretive nesting locations.
Campbell County	L18S	11	In Table ES-2 (Impact Comparison for Non-eagle Raptors by Alternative), BLM states that the "Number of Active Nests Potentially Affected during Project Development" under Option 4 and 5 are "O." Even if exceptions are granted and mitigation measures are to occur, there will still be nests impacted by year-round development. Having "O" impacts is unrealistic, this analysis is overstated and additional information needs to be provided to justify this claim.	BLM has taken your concerns into consideration in revising the text in the Final EIS. Table ES-2 has been updated to include revised impact summaries for the land use plan options.
Campbell County	L18S	12	As written, Campbell County cannot support Option 4 and BLM should allow for an opportunity to meet with the counties and Governor's Policy Office to discuss another option not presented in this document.	BLM has scheduled meetings with all cooperators, including counties, to discuss the Preliminary Final EIS for cooperator review, which provided opportunity to discuss the BLM's revisions to the land use plan amendment options.
Campbell County	L18S	13	Page 4-6. 4-7. Options 1. 2. and 3. Lines 31-49. 1-39 - "... Neither feature within Option 3 would ensure that there would be no disturbance to the nest ... In summary, impacts to nesting non-eagle raptors under Option 3 would be characterized as moderate to major. ... " We have repeated several times that the assumptions used in this document are overstated, which in turn effects the impact analysis and BLM needs to utilize the most accurate and up to date information available.	The BLM has updated the text to revise the estimate of nest activity in the CCPA and to clarify the rationale for the activity percentage used in the analysis. Because of the variability and unknowns in the available data, the BLM adopted a use-rate calculation that incorporates methods that Carlisle et al. (2018) developed for a longitudinal study of nesting raptors in the Powder River Basin. The updated dataset, which includes the data provided by the Operator Group, resulted in a higher estimate of average annual use rate which is used in the updated impact analysis. The observations in both the BLM and OG datasets favor large hawks (Buteo species) and most likely under-represent smaller species or species that are harder to observe such as kestrels and various species of owl due to their smaller size or more secretive nesting locations.
Campbell County	L18S	14	Page 4-11, Residual Impacts. Lines 20-23 - "Non-eagle raptor amendment Options 4 and 5 would result in no residual impacts to raptor nests as a result of the protection conditions associated with the granting of relief from TLS." Even if exceptions are granted and mitigation measures are to occur, there will still be nests impacted by year-round development. Having "O" impacts is unrealistic and additional information needs to be provided to justify this claim. NEPA only mandates that impacts be disclosed and considered in the analysis - impacts can occur. We are not required to demonstrate how we get to "O" impacts to choose an alternative.	BLM has taken your concerns into consideration in revising the text in the Final EIS. The Residual Impacts (Section 4.18.2.4) discussion has been updated to include revised conclusions regarding residual impacts to nesting non-eagle raptors.
Campbell County	L18S	15	While BLM did allow opportunities for cooperating agencies to meet and provide input on the document, there were instances that made it very difficult to meaningfully engage in the process in a timely manner. During the DEIS process, BLM relied on a Migratory Bird Conservation Plan that was not included for review at the time, which was the backbone of the analysis. Its absence in being made available for review made it virtually impossible to provide meaningful input.	Development of a Migratory Bird Conservation Plan has been placed on hold by the Operator Group. Therefore, the BLM does not anticipate completion of the plan and will not be providing it for review.
Campbell County	L18S	16	We would recommend a meeting between Converse and Campbell Counties along with the Governor's Policy Office to work through this issue and negotiate a LUPA option that works for all parties prior to the FEIS being released as this project has already been delayed beyond its original timeline.	BLM has scheduled meetings with all cooperators, including counties, to discuss the Preliminary Final EIS for cooperator review, which provided opportunity to discuss the BLM's revisions to the land use plan amendment options.
Converse County	L19S	1	We also believe that the impacts of Option 4 have been understated in both the wildlife and social economic impacts. Just the additional rig moves necessary to comply with Option 4 and the workforce migration with on/ off activity add significant negative impacts.	BLM has taken your concerns into consideration in revising text in the Final EIS. Option 4 does not involve changes in rig move assumptions. Rig move assumptions and impact analyses are addressed under Alternative C and have been revised for the Final EIS.
Converse County	L19S	2	Under any of the options presented, Converse County needs to be in position to be an informed and productive partner in the development of our Counties resources. This can best be accomplished by implementing the CCSEMP and we again urge the BLM to adopt it as a requirement in the ROD.	The SDEIS is only analyzing those resources that would be impacted with the change in the RMP. The county's suggested mitigation has been added to the Final EIS.
Eileen Hennessy (Public)	P40S	1	Due to the current ePlanning "Outage", BLM should extend its deadline for "inconvenienced" members of the public prevented from actually reading the Project information and documents online and submitting comments.	Thank you for your comment; the BLM will consider this statement in the development of the Final EIS as well as the Record of Decision.
Operator Group	B17S	1	In the FEIS, BLM must add language clarifying that, under Option 3, BLM will modify existing leases in the Project area that contain raptor TLS to specify that the TLS will not apply to non-eagle raptors if the	This statement was written as proposed by the Operator Group and further changes for clarification would need to be weighed against public disclosure of this change. Furthermore, modification of leases is a

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			applicant applies the conservation measures specified in Option 3. This is an administrative clarification to Option 3 because Option 2 already includes and analyzes the potential impacts of the proposal to modify existing leases within the Project area to remove non-eagle TLS. See SDEIS at 2-7, lines 9–12, S2-1, lines 11–14. As drafted, Option 3 does not propose to modify existing leases, and the Operator Group believes this omission was an oversight in drafting.	function under the O&G regulations that have a very stringent process with strict criteria for modification of leases. NEPA cannot be used to shortcut that process as NEPA is for disclosure of impacts.
Operator Group	B17S	2	BLM should also clarify that public comment on this amendment to the Casper RMP satisfies any obligation to offer the lease modification for public review. BLM’s regulation governing modifications and waivers of oil and gas lease terms directs that, “[i]f subsequent to lease issuance the authorized officer determines that a modification or waiver of a lease term or stipulation is substantial, the modification or waiver shall be subject to public review for at least a 30-day period.” 43 C.F.R. § 3101.1-4. To the extent BLM determines the lease modification is “substantial,” BLM’s Federal Register notice and 90-day comment period on the proposed amendment to the Casper RMP amply satisfy the obligation to subject the modification for public review. Thus, BLM should confirm in the FEIS that no additional public review is necessary to modify leases with raptor TLS in the Project area.	The modification of leases is a function under the O&G regulations of 43 CFR 3101 as cited in this comment that have a very stringent process with strict criteria for modification of leases. NEPA cannot be used to shortcut that process as NEPA is for disclosure of impacts.
Operator Group	B17S	3	USFWS has established the appropriate definition of an “active” nest, and BLM must revise the SDEIS to utilize it. In national guidance, USFWS has defined an active nest as “one that contains viable eggs and/or chicks.” Memorandum to Regional Directors from Assistant Director, Migratory Birds at 1 n.2 (June 14, 2018). USFWS considers nests to be inactive when they “are empty, contain nonviable eggs, or are being built but do not yet have an egg in them.” Id. USFWS has explained that “[a] nest becomes active when the first egg is laid and remains active until fledged young are no longer dependent on the nest.” Id.	Thank you for your comment. The text has been updated to clarify the definitions of nest activity used in the presentation of baseline data and impact analysis.
Operator Group	B17S	4	BLM inappropriately relies on its own definition of active nests, which is significantly broader than USFWS’s definition of active nests by including “occupied” nests. USFWS, and not BLM, is charged with administering the Migratory Bird Treaty Act (MBTA), 16 U.S.C. §§ 703–712; 50 C.F.R. pt. 21 (migratory bird permits). The fact that two agencies, both within the Department of the Interior, are using starkly different definitions for the same term will result in confusion for regulated entities that may be subject to BLM restrictions for species protected under the MBTA on federal lands and are mindful of USFWS authority to administer this act. Given the substance of this particular issue, and that NEPA documents are developed in consultation with other federal agencies, BLM must adopt and apply USFWS’s definition.	The BLM has updated the text to clarify definitions of nest activity, including additional literature references, to support application of the WGFD definition of Occupied Territory or Site in the impact analysis. This broader definition is consistent with the BLM’s RMP and the agency’s mandate under FLPMA to protect wildlife habitat under its management.
Operator Group	B17S	5	BLM’s proposed protection of both active and occupied nests would unnecessarily restrict activities within non-eagle raptor buffers. Option 4 inappropriately limits activities around both active and occupied nests.	Option 4 sets guidelines to be followed to allow year-round development to occur. If an operator cannot commit to such guidelines, then the Casper RMP decision would continue to apply. Note that BLM has included a new option (Option 6) in the Final EIS. This option is now included in the agency’s preferred alternative.
Operator Group	B17S	6	In the SDEIS, BLM has not demonstrated any conservation benefits to support the proposed restrictions on development activities near occupied but inactive non-eagle raptor nests that will undoubtedly occur relying on the definitions in the SDEIS. BLM offers no explanation, rationale, or justification for limiting activities around occupied but inactive nests. BLM’s unwarranted protection of occupied nests will limit more development activities while providing little if any conservation benefit.	By protecting occupied nests that may not be active, the BLM is extending protection to a broader range of nesting activities and habitat than would be accomplished based on protection of active nests only. This approach is consistent with and supported by the goals and objectives of the Casper RMP. As referenced in the Draft EIS, Section 6.3.1.2, the Casper RMP set goals and objectives for wildlife which include managing all activities to sustain wildlife populations and habitats. This includes maintaining or improving seasonal habitats, minimizing adverse impacts and mitigating unavoidable impacts.
Operator Group	B17S	7	To align with the Proposed Action, the Operator Group requests that BLM revise its definition of “active” nests to adhere to USFWS’s definition of “active” nests as “one that contains viable eggs and/or chicks.” Further, BLM should revise statements throughout the DEIS to remove all references to “occupied” nests so that these statements only refer to “active” nests. Finally, because “tended” nests are a subset of occupied nests, BLM should also remove all references to “tended” nests.	As noted in previous comment responses, the BLM has updated the text to clarify the definitions used to describe nest use within the CCPA. The updated text supports the BLM’s application of the WGFD definition of Occupied Territory or Site in the impact analysis. This broader definition is consistent with the BLM’s RMP and the agency’s mandate under FLPMA to protect wildlife habitat under its management.

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Operator Group	B17S	8	BLM must eliminate Option 4 from further consideration because it does not respond to the Operator Group's Proposed Action. In its NEPA documents, BLM must analyze reasonable alternatives, which are those that respond to the purpose and need the agency articulated in an EIS. See 40 C.F.R. § 1502.13. When articulating its purpose and need and defining alternatives, BLM must give "substantial weight" to the goals and objectives of project proponents, such as the Operator Group, as well as the public interest. Citizens' Comm. to Save Our Canyons v. U.S. Forest Serv., 297 F.3d 1012, 1030 (10th Cir. 2002); see 43 C.F.R. § 46.420(a)(2). "Where the action subject to NEPA review is triggered by a proposal or application from a private party, it is appropriate for the agency to give substantial weight to the goals and objectives of that private actor." Citizens' Comm. to Save Our Canyons, 297 F.3d at 1030. BLM need not consider alternatives that do not correspond to the applicant's purpose and need. See Biodiversity Conservation All. v. Bureau of Land Mgmt., 608 F.3d 709, 715 (10th Cir. 2010) (holding BLM properly rejected a phased development alternative because it would not accomplish the project's goals); Colo. Env'tl. Coal. v. Dombeck, 185 F.3d 1162, 1176 (10th Cir. 1999) (similar). Because Option 4 does not respond to, and is inconsistent with, the Proposed Action, BLM should eliminate Option 4 from further consideration.	Option 4 is an umbrella condition in which the BLM would be able to approve all other plans or mitigations to allow for timing stipulations relief such as the site specifics of Option 3, or the more overarching reach of Option 5. Any operator could approach the BLM with any number of plans or ideas that could then be used to allow for relief, not one size fits all. Also, the BLM has already worked with two operators (both of whom are members of the OG) in implementing year-round development in both the Buffalo and Casper Field Offices. These two operators submitted plans or mitigations that the BLM analyzed at the site-specific level and, in one case work with the USFWS, to allow these operators to continue drilling in both raptor and greater sage grouse buffers through the timing limitations. Both of these projects were accomplished under the current land use plan using the present exception criteria.
Operator Group	B17S	9	Option 4 does not respond to the Operator Group's proposed action, which is the DEIS's preferred alternative, because it does not provide a clear pathway to TLS relief and does not allow for year-round development.	Option 4 is an umbrella condition in which the BLM would be able to approve all other plans or mitigations to allow for timing stipulations relief such as the site specifics of Option 3, or the more overarching reach of Option 5. Any operator could approach the BLM with any number of plans or ideas that could then be used to allow for relief, not one size fits all. For example, Option 3 only applies to "lands where the BLM has surface management authority" which could be constrained by BLM surface only, BLM minerals only or any other interpretation. Also, the BLM has already worked with two operators (both of whom are members of the OG) in implementing year-round development in both the Buffalo and Casper Field Offices. Those operators submitted plans or mitigations that the BLM then was able to analyze at the site-specific level and, in one case, work with the USFWS to allow those companies to continue drilling in both raptor and greater sage grouse buffers through the timing limitations. Both of these projects were done without having done a land use plan amendment and using the present exception criteria.
Operator Group	B17S	10	Option 4 does not provide operators certainty for year-round development—a critical component of the Proposed Action. Option 4 creates unnecessary review by BLM on a case-by-case basis in contradiction to the Proposed Action.	The BLM requested the OG to clarify multiple times what the term 'year-round basis' entailed. No clarifications were received. Also, the BLM has already worked with two operators (both of whom are members of the OG) in implementing year-round development in both the Buffalo and Casper Field Offices. Those operators submitted plans or mitigations that the BLM then was able to analyze at the site-specific level and, in one case, work with the USFWS to allow those companies to continue drilling in both raptor and greater sage grouse buffers through the timing limitations. Both of these projects were done without having done a land use plan amendment and using the present exception criteria. The commenter's state that Option 4 does not provide certainty is blatantly wrong in lieu of these two projects.
Operator Group	B17S	11	The proposed language for Option 4 states that BLM "may grant exceptions to seasonal stipulations" and that TLS "may be relieved" within the Project area. See SDEIS 2-4, Table 2.4-1 (emphasis added). This case-by-case review does not provide operators certainty that BLM will grant exception requests and may lead to delays and inconsistent application of TLS relief.	Note that the BLM has approved plans with two operators (both of whom are members of the Operator Group) to implement year-round development in both the Buffalo and Casper Field Offices. These two operators submitted plans or mitigations that the BLM analyzed at the site-specific level and, in one case work with the USFWS, to allow these operators to continue drilling in both raptor and greater sage grouse buffers through the timing limitations. Both of these projects were approved under the current land use plan decision using the present exception criteria. That said, the BLM has developed a new option (Option 6) that incorporates elements of other options and is now part of the BLM's preferred alternative.
Operator Group	B17S	12	Option 4 not only contemplates case-by-case reviews of requests for non-eagle TLS relief, it outlines vague and subjective criteria to determine when BLM may grant such relief—creating the risk of inconsistent interpretation and disagreement as to when TLS relief is appropriate. Appendix S2 accompanying Option 4 requires several highly subjective determinations from BLM in order to grant TLS relief, including: - A requirement that an operator develop "adequate" operator-committed measures with BLM. See SDEIS at S2-1, lines 11–14, S2-4, lines 17–23; - A requirement that an operator demonstrate that it has "avoided the TLS buffer to the degree possible" and/or set forth "sufficient information" to display there was a "legitimate attempt" to avoid the potentially impacted TLS buffer. SDEIS at S2-2, line 14, S2-3, lines 44–46; and - An ability to develop a site-specific raptor protection plan (RPP) in consultation with USFWS that "displays the necessary components of this relief" from TLS. See SDEIS at S2-1, lines 40–41. The SDEIS does not provide information or guidance as to how BLM should make these subjective determinations. Thus, implementation of Option 4 will lead to delays as BLM grapples with these	Appendix S2 (now Appendix G2) is not part of the land use plan amendment; as stated in the SDEIS (page 2-2, line 42) it is an example of something that could be proposed. Since this EIS is programmatic, Option 4 was written to be a decision in the RMP to apply programmatically to any development with the CCEIS boundary and would allow for changing conditions for wildlife as well as industry practices to further an adaptive management strategy for site-specific implementation of timing relief. As such, Option 4 sets the desired condition that the BLM and proponent would work towards that is in line with the goals and objectives of the Casper RMP. As referenced in the Draft EIS, Section 6.3.1.2, the Casper RMP set goals and objectives for wildlife which include managing all activities to sustain wildlife populations and habitats. This includes maintaining or improving seasonal habitats, minimizing adverse impacts and mitigating unavoidable impacts. With implementation of the requirements in this option, the BLM's approach was to implement those goals and objectives. Based on comments on the SDEIS, the BLM developed Option 6 which is now part of the agency preferred alternative.

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			subjective determinations and inconsistent decision-making between individual requests for TLS relief. These uncertainties are inconsistent with the programmatic year-round development contemplated by the Proposed Action, which requires an objective, consistent, and streamlined regulatory framework for TLS relief.	
Operator Group	B17S	13	Option 4 does not allow operators to engage in year-round development activities. It only allows development activities that commence before February 15 to continue—and only if a nest does not become active during that period. See SDEIS at S2-2, lines 12–13, 20–21, and at S2-4, lines 38–42. These restrictions unreasonably limit an operator’s ability to adjust its drilling schedule due to unforeseen circumstances, such as issues with surface access, drilling results, regulatory factors, infrastructure considerations, crew and capital availability, unpredictable takeaway capacity, and weather delays. Further, if a nest becomes active, an operator may be allowed to complete its current phase of activities but cannot continue development through the TLS season. See SDEIS at S2-3, lines 17–30. These restrictions do not allow operators to reliably engage in year-round development and therefore do not promote certainty as to when operations can occur.	Since this EIS is programmatic, Option 4 was written as a decision in the RMP to apply programmatic to any development with the CCEIS boundary and would allow for changing conditions for wildlife as well as industry practice to further an adaptive management strategy for site-specific implementation of timing relief. As such, Option 4 sets the desired condition that the BLM and proponent would work towards that is in line with the goals and objectives of the Casper RMP. As referenced in the Draft EIS, Section 6.3.1.2, the Casper RMP set goals and objectives for wildlife which include managing all activities to sustain wildlife populations and habitats. This includes maintaining or improving seasonal habitats, minimizing adverse impacts and mitigating unavoidable impacts. With implementation of the requirements in this option, the BLM’s approach was to implement those goals and objectives.
Operator Group	B17S	14	The prohibition on TLS relief for any nest that eagles have once used is arbitrary and inflexible and yields little conservation benefit. See SDEIS at 2-8, lines 5–7 (“If a nest has ever been occupied by eagles, it will be considered an eagle nest regardless of being inactive, used by other species, or if eagle occupancy occurred greater than two years ago.”). This prohibition essentially treats such nests as active for use by eagles. BLM, however, does not provide any scientific support for this prohibition. See generally SDEIS. Thus, this prohibition limits TLS relief for no apparent conservation benefit. BLM must eliminate the prohibition on TLS relief for all nests that eagles have ever used and instead recognize that, after a period of nonuse by eagles, nests become inactive.	Eagle nests are not part of the proposed action component of year-round development. Bald eagles have the highest overall average of nest use at 63%. Thus, if they have used it, it is more than likely that an eagle will return to that nest. Therefore, the BLM as supported by the Casper RMP must ensure that if a nest could be used by an eagle, that it will not be prevented from further selection due to development within the applied buffer.
Operator Group	B17S	15	The requirement that development activities begin before February 15 is unnecessarily inflexible. See SDEIS at S2-3, lines 10–12. Given that nearly 80 percent of non-eagle raptor nests in the Project area are likely to be inactive, see SDEIS at 3-6, tbl. 3-18-5X, BLM should provide a process to commence oil and gas activities later in the TLS season near inactive nests. Such flexibility is essential to the ability to conduct year-round development activities. An operator may need to commence development activities later in the TLS season to accommodate a fluctuating drilling schedule or another operational delay, such as the rig or other equipment not being ready or available. Indeed, because the February 15 start date occurs during the winter, weather or related conditions could delay operations during any stage in the process. Although Option 4 may allow operators to continue activities into the TLS season that started beforehand, those activities will ultimately conclude in a matter of weeks and the operator will have no additional ability for TLS relief to later drill or complete additional wells, leaving potentially several months of the TLS window free from development. Because nearly 80 percent of the nests in the Project area are likely to be inactive in a given year, BLM’s requirement that activities commence before February 15 will result in many inactive nests unnecessarily receiving TLS protection. BLM should eliminate the requirement in Option 4 that development activities begin before February 15.	Since this EIS is programmatic, Option 4 was written to apply programmatic to any development with the CCEIS boundary and would accommodate changing conditions for wildlife as well as industry practices to further an adaptive management strategy for site-specific implementation of timing relief. As such, Option 4 would set the desired condition that the BLM and proponent would work towards that is in line with the goals and objectives of the Casper RMP. As referenced in the Draft EIS, Section 6.3.1.2, the Casper RMP set goals and objectives for wildlife which include managing all activities to sustain wildlife populations and habitats. This includes maintaining or improving seasonal habitats, minimizing adverse impacts and mitigating unavoidable impacts. With implementation of Option 4, the BLM’s intent was to implement those goals and objectives. Note that BLM has included a new option (Option 6) in the Final EIS that incorporates elements of other options. This new option is now part of the agency’s preferred alternative.
Operator Group	B17S	16	The requirement that operators identify the pads for which they seek TLS relief at an annual meeting is unnecessarily rigid. SDEIS at S2-1, lines 23–26. Although an operator may be able to identify some pads for which it will seek TLS relief, the operator may select different pads for TLS relief during the time between the annual meeting and initiation of the TLS season. BLM must afford operators flexibility to identify pads for which they may seek TLS relief after the annual meeting occurs and after the TLS season begins.	Thank you for your comment; the BLM considered this comment in the development of the Final EIS as well as the Record of Decision. Note that the BLM has included a new option (Option 6) in the Final ES which is now part of the agency’s preferred alternative. This new option includes a requirement for operators to attend an annual meeting to discuss possible activities within non-eagle raptor nest buffers (see Appendix G4).
Operator Group	B17S	17	The provision that failure to attend the annual meeting results in forfeiture of the ability to drill year-round is unreasonable. SDEIS at S2-1, lines 27–29. If an operator cannot attend an annual meeting due to unforeseen circumstances, the operator should be afforded another opportunity to discuss exceptions.	Please see the response to your previous comment.

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Operator Group	B17S	18	BLM must hold individual meetings with operators to protect confidential information regarding drilling programs, rather than a single meeting with multiple operators. Due to the sensitivity of the information discussed, this meeting should not be open to the public; meeting participants should be limited to BLM and an operator's employees and contractors to protect confidential commercial and financial information and information related to oil and gas wells. See 5 U.S.C. § 552(b)(4) and (9).	Please see the response to Comment B17S-16.
Operator Group	B17S	19	The requirement that operators provide BLM with two years of monitoring data with a request for TLS relief yields little meaningful information to BLM because prior years of monitoring data do not predict future nest activity. SDEIS at S2-2, lines 1–2. The assumption that two years of monitoring data will predict whether a nest will be active in the future rests upon the incorrect premise that non-eagle raptors in the Project exhibit high nest fidelity. In fact, ferruginous hawks, which are the most common raptor in the Project area, will tend several nests before choosing one to nest. “Some raptor species, such as golden eagles and ferruginous hawks, maintain several potential nest sites within their territory among which they can rotate in different years.” Carlisle et al., 2018. Other raptor species exhibit similar behavior. “Inspection of 21 territories monitored for 26-38 yr. without interruption suggested [golden] eagles use individual nests an average of every 3.3 years, laid nests in any nest within territories an average of every 1.8 yr. and switched nests between 43.3% of consecutive nesting attempts (i.e., egg-laying in discrete breeding season).” Slater et al., 2017. “The average proportion of nests in use varied across species, as did the magnitude of changes in use from year to year . . . Bald eagles had the highest overall average use (63.6%), whereas ferruginous hawks had the lowest (8.2%). All other species averages ranged from 19.5-42.6% . . .” Carlisle et al., 2018. Further, “nest success or failure in one year did not influence whether a pair switched nests in the following year.” Slater et al., 2017. Indeed, BLM itself recognizes that “[t]he number of nests is not an indicator of raptor abundance.” DEIS at 3-5 n.1.	As noted in a previous response, Appendix S2 (now Appendix G2) is not part of the land use plan amendment; as stated in the SDEIS (page 2-2, line 42) it is an example of something that could be proposed. Note that BLM has added a new option, Option 6, that incorporates monitoring requirements as part of an adaptive management plan. Option 6 is part of the BLM's preferred alternative.
Operator Group	B17S	20	Because non-eagle raptors in the Project area will not necessarily return to a given nest in successive years, BLM's requirement that operators provide two years of monitoring data is unnecessary and will not predict whether a nest is likely to become active. The requirement that operators provide two years of monitoring data also may create uncertainty in BLM's process for TLS relief. Appendix S2 does not address whether BLM may grant TLS relief if monitoring data shows previous non-eagle raptor activity in a nest. This omission will likely lead to confusion if monitoring data reveals prior activity at a nest because previous nest activity does not dictate future activity.	Your comment is noted. Appendix S2 (now Appendix G2) is not part of the land use plan amendment; as stated in the SDEIS (page 2-2, line 42) it is an example of something that could be proposed. Monitoring requirements are included in the BLM's preferred alternative which now includes new Option 6.
Operator Group	B17S	21	BLM must provide flexibility on the requirement that operators provide two years of monitoring data. Two years of monitoring data will provide less timely and less relevant data than a requirement to employ a biological monitor before and during activity in a TLS. Biological monitors can assess the actual, on-the-ground operational impacts, if any, on non-eagle raptors. This concrete data allows BLM to make more informed decisions regarding impacts of oil and gas operations, if any, on non-eagle raptors.	BLM has taken your concerns into consideration in revising the text in the Final EIS. Also, please see the responses to your two previous comments.
Operator Group	B17S	22	The suggestion that operators consult with USFWS to develop an RPP for each request for TLS relief is confusing and onerous. Appendix S2 of the SDEIS states that a site-specific RPP “could” be developed “in consultation with the USFWS.” SDEIS at S2-1, lines 40–42. This provision does not clearly indicate whether BLM would require an operator to develop an RPP with USFWS or whether an operator has discretion to consult with USFWS. This provision must be removed. Any requirement that operators consult with USFWS to develop an RPP under Option 4 essentially conflates Option 4 with Option 5, which proposes to allow TLS relief if an operator works with BLM and USFWS to develop a Migratory Bird Conservation Plan (MBCP). See SDEIS at 1-3, lines 1–4. Further, if BLM intends to require USFWS consultation, this requirement provides USFWS with a potential veto power over TLS relief.	Your comment is noted. Appendix S2 (now Appendix G2) is not part of the land use plan amendment; as stated in the SDEIS (page 2-2, line 42) it is an example of something that could be proposed. Furthermore, the appendix is not specific on whether a RPP is required for each exception or whether a plan could apply to multiple exceptions. Also, please see the response to Comment B17S-15.
Operator Group	B17S	23	The requirement that operators would cease activity following completion of a development stage if a nest becomes active will lead to unnecessary delay. See SDEIS at S2-3, lines 17–24, S2-4, lines 42–43. If a bird begins nesting during operations, BLM may reasonably assume the bird is tolerant of that activity level and allow activities to continue, uninterrupted. Long-term monitoring of nesting raptors suggests that they can become tolerate of activities associated with industrial uses. See Antelope Coal LLC, 2017 Annual Wildlife Monitoring Report VIII B-28 (2017) (“Long-term data demonstrate that many raptors nesting in the Antelope Mine raptor monitoring area have developed a high tolerance to mine-related disturbances. Several raptor pairs from at least four different species have illustrated this acceptance by repeatedly nesting in the permit area despite ongoing and/or encroaching mine operations.”).	Appendix S2 (now Appendix G2) is not part of the land use plan amendment; as stated in the SDEIS (page 2-2, line 42) it is an example of something that could be proposed. The BLM evaluated the cited reference regarding raptors at the nearby Antelope Coal Mine for inclusion in the Final EIS.

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Operator Group	B17S	24	Option 4 provides that if a nest becomes active while development activities are occurring between February 15 and June 15, BLM may allow an operator to continue to the next development stage upon a determination by BLM and USFWS that the activity “is not causing impacts that would lead to diminished nest success” or is “not likely to cause a reduction in TLS success.” See SDEIS at S2-3, lines 20–21, S2-4, lines 42–43. The SDEIS, however, does not define or explain when an activity “is not causing impacts that would lead to diminished nest success” or is “not likely to cause a reduction in TLS success.” See id. This subjective standard does not give operators any certainty as to when they can expect to continue operations through the TLS season.	Since this EIS is programmatic, Option 4 was written to apply programmatically to any development with the CCEIS boundary and would allow for changing conditions for wildlife as well as industry practice to further an adaptive management strategy for site-specific implementation of timing relief. As such, Option 4 would set the desired condition that the BLM and proponent would work towards that is in line with the goals and objectives of the Casper RMP (to sustain wildlife populations and habitats). The BLM believes that Option 4 could provide certainty to operators as demonstrated by the plans BLM has approved for two operators (both of whom are members of the Operator Group) to implement year-round development in both the Buffalo and Casper Field Offices
Operator Group	B17S	25	The requirement in Option 4 to monitor for two consecutive years “to ensure that the conservation measures are effective” is unnecessary and burdensome. See SDEIS at 4-8, lines 11–12. First, BLM offers no scientific justification for this requirement. See id. This requirement assumes that monitoring after TLS relief will reveal potential long-term impacts—but this assumption rests on the incorrect premise that non-eagle raptors in the Project area exhibit high levels of nest fidelity. In fact, ferruginous hawks, which are the most common raptor in the Project area, will tend several nests before choosing one to nest. “Some raptor species, such as golden eagles and ferruginous hawks, maintain several potential nest sites within their territory among which they can rotate in different years.” Carlisle et al., 2018. Other raptor species exhibit similar behavior. “Inspection of 21 territories monitored for 26-38 yr. without interruption suggested [golden] eagles use individual nests an average of every 3.3 years, laid nests in any nest within territories an average of every 1.8 yr. and switched nests between 43.3% of consecutive nesting attempts (i.e., egg-laying in discrete breeding season).” Slater et al., 2017. “The average proportion of nests in use varied across species, as did the magnitude of changes in use from year to year . . . Bald eagles had the highest overall average use (63.6%), whereas ferruginous hawks had the lowest (8.2%). All other species averages ranged from 19.5-42.6% . . .” Carlisle et al., 2018. Further, “nest success or failure in one year did not influence whether a pair switched nests in the following year.” Slater et al., 2017. Indeed, BLM itself recognizes that “[t]he number of nests is not an indicator of raptor abundance.” DEIS at 3-5 n.1.	Your comment is noted. The BLM believes that monitoring is necessary to confirm whether conservation measures adopted under Option 4 are mitigating the impacts to non-eagle raptors associated with granting of relief from timing stipulations. Please refer to the monitoring and adaptive management requirements included in new Option 6 which is part of the BLM's preferred alternative.
Operator Group	B17S	26	Option 4 does not provide BLM with any mechanism to adjust management to respond to monitoring data. Because this monitoring data requirement will not yield information that BLM can utilize, BLM must remove this requirement from Option 4. At a minimum, BLM must offer scientific justification for this requirement.	Site-specific plans would be the mechanisms to adjust management decisions in response to monitoring data.
Operator Group	B17S	27	Option 4 requires that operators provide information to BLM with no obligation on BLM as to how quickly it must review and turnaround feedback to operators. For example, where BLM requires operators to verify inactivity of a nest, the process does not ensure that, between the time of verification submission to BLM's response, the nest does not then become active. See SDEIS at S2-2, lines 23–26. Likewise, Option 4 does not impose timeframes as to how quickly BLM must grant TLS relief. See generally SDEIS app. S2. Further, if a nest becomes active and BLM must determine whether to allow an operator to continue to the next development stage, Option 4 does not require BLM to make this determination within a specific timeframe. See SDEIS at S2-3, lines 20–21, S2-4, lines 42–43. The lack of timetables contributes to operator uncertainties and may cause delays in necessary BLM decisions.	Your comment is noted. Appendix S2 (now Appendix G2) is not part of the land use plan amendment; as stated in the SDEIS (page 2-2, line 42) it is an example of something that could be proposed. Also, please refer to the response to Comment B17S-24.
Operator Group	B17S	28	Appendix S2 states, “Once activities have commenced in any of the development phases (construction, drilling, completion, production, maintenance, and reclamation) there must be no break in activity of more than 72 hours from March 1 to June 15.” SDEIS at S2-2, lines 39–41. Currently, operators may maintain and produce well sites without verifying that an area lacks active non-eagle raptor nests; they may also initiate reclamation activities in the TLS season. See Casper RMP at 2-63. Limiting an operator’s ability to perform routine maintenance during the TLS season would present safety concerns. BLM must eliminate the reference to maintenance and reclamation activities from Appendix S2. Furthermore, for clarity, the phrase on page S2-2, rows 39–41, should be revised to replace “and” with “and/or.”	Your comment is noted. Appendix S2 (now Appendix G2) is not part of the land use plan amendment; as stated in the SDEIS (page 2-2, line 42) it is an example of something that could be proposed.
Operator Group	B17S	29	Option 5 does not contain enough detail to be meaningfully analyzed as an alternative to the Proposed Action. Option 5 merely observes that an operator can develop an MBCP with USFWS and outlines the elements of an MBCP.	Your comment is noted. Option 5 was added at the request of the USFWS (a cooperator) and will be retained in the Final EIS.

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Operator Group	B17S	30	Option 5 lacks the specificity necessary to be a meaningful alternative. An EIS must “[d]evote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits.” 40 C.F.R. § 1502.14(b) (emphasis added). The discussion of alternatives must contain sufficient detail “to permit a reasoned choice of alternatives as far as environmental aspects are concerned.” All Indian Pueblo Council v. United States, 975 F.2d 1437, 1444 (10th Cir. 1992) (quoting Natural Resources Defense Council, Inc. v. Morton, 458 F.2d 827, 836 (D.C. Cir. 1972)). Courts have rejected EIS that simply list alternatives. See Env’tl. Def. Fund, Inc. v. Froehlke, 473 F.2d 346, 350 (8th Cir. 1972). Because Option 5 of the SDEIS lacks any substantive measures to conserve or protect non-eagle raptors in the Project area, see SDEIS at 2-8, lines 8–20, it lacks the specificity to be a meaningful alternative.	Option 5 was added at the request of the USFWS (a cooperator) and will be retained in the Final EIS.
Operator Group	B17S	31	Adopting Option 5 is entirely possible without amending the Casper RMP—the sole reason for this SDEIS—because Option 5 is only an undetailed derivative of Option 1. The ability to negotiate an MBCP with USFWS does not require an RMP amendment. Indeed, in the DEIS, BLM observed that the Operator Group had been working with USFWS to explore a possible Umbrella MBCP to serve as a programmatic guide for the development of site-specific migratory bird conservation plans within the planning area. See Converse County DEIS at 4.18-30.	Option 5 was added at the request of the USFWS (a cooperator) and will be retained in the Final EIS.
Operator Group	B17S	32	Option 5 does not give operators certainty as to whether and when development during the TLS season will be allowed. The discussion of Option 5 in the DEIS provides no information, let alone a hint, of the circumstances in which BLM will grant TLS relief and under what terms. See SDEIS at 2-8, lines 8–20, 4-8, lines 23–35. For these reasons, BLM should remove Option 5 from consideration in the FEIS.	Option 5 was added at the request of the USFWS (a cooperator) and will be retained in the Final EIS.
Operator Group	B17S	33	BLM’s analysis of the potential impacts of Options 1 through 5 in the SDEIS includes virtually no citations to scientific literature. NEPA requires agencies to take a “hard look at the environmental consequences of proposed actions utilizing public comment and the best available scientific information” Custer Cty. Action Ass’n v. Garvey, 256 F.3d 1024, 1034 (10th Cir. 2001) (quoting Colo. Env’tl. Coal. v. Dombeck, 185 F.3d 1162, 1171–72 (10th Cir. 1999)). NEPA analysis must utilize “high quality” information. 40 U.S.C. § 1500.1(b). “Accurate scientific information . . . [is] essential to implementing NEPA.” Id. BLM’s assessment of potential impacts from Options 1 through 5 contains no references to scientific literature in support of its conclusions. See SDEIS at 4-7 – 4-8.	BLM has taken your concerns into consideration in revising the text in the Final EIS. In addition, the text has been updated to clarify the terminology used to describe nest activity and added appropriate references for literature cited.
Operator Group	B17S	34	BLM’s assessment of cumulative impacts to migratory birds under all alternatives contains no references to scientific literature. See SDEIS at 5-2 – 5-3, § 5.3.18.2. Rather, in Chapter 4, BLM references scientific literature only in support of the following statement: “[A]lterations in feather properties [from decreased thermoregulatory and buoyancy properties of feathers that become covered in salt crystals or surfactants] could lead to hypothermia or drowning of affected individuals (Ramirez 2009).” SDEIS at 4-3, lines 28–31. Further, Section 8.0 of the SDEIS (References) only references one unpublished study: “Ecosystem Research Group, Editors. 2015. Raptor Symposium. 2015 Campbell County, Wyoming Raptor Symposium Proceedings. Gillette, Wyoming. March 11th and 12th, 2015.” See SDEIS at 8-1. The remaining references in Section 8.0 relate to compiled data and communications between BLM, USFWS, and Wyoming Game and Fish Department regarding the Project. See id.	BLM has taken your concerns into consideration in revising the text in the Final EIS. In addition, the text has been updated to clarify the terminology used to describe nest activity and added appropriate references for literature cited.
Operator Group	B17S	35	BLM must revise its discussion of impacts from Options 1 through 5 in Chapter 4 to incorporate the findings of the following studies, which are attached and reflect the highest quality scientific information regarding raptors. Additionally, BLM must include these studies in Chapter 8.0, References: Human-Made Structures, Vegetation, and Weather Influence Ferruginous Hawk Breeding Performance,” Zachary P. Wallace, Patricia L. Kennedy, John R. Squires, Lucretia E. Olson, and Robert J Oakleaf, The Journal of Wildlife Management 80(1): 78-90; 2016. - “Interannual Golden eagle (Aquila Chrysaetos) Nest-use Patterns in Central Utah: Implications for Long-term Nest Protection,” Steven J. Slater, Kent R. Keller, Robert N. Knight, Journal Raptor Research 51(2): 129-135, 2017. - “Raptor nest-site use in relation to the proximity of coalbed-methane development,” J.D. Carlisle, L.E. Sanders, A.D. Chalfoun, K.G. Gerow, 2018, Animal Biodiversity and Conservation 41.2: 227-243. - BLM Technical Note 433, J.P. Smith et al., “An Assessment of the Effects of Oil and Gas Field Activities on Nesting Raptors in the Rawlins, Wyoming and Price, Utah Field Offices of the Bureau of Land Management.” - BLM Technical Note 434, Mike C. Neal et al., “Artificial Nest Structures as Mitigation for Natural-Gas Development Impacts to Ferruginous Hawks (Buteo regalis) in South-Central Wyoming.”	BLM has taken your concerns into consideration in revising the text in the Final EIS. In addition, the text has been updated to clarify the terminology used to describe nest activity and added appropriate references for literature cited.

Commenter	Commenter ID No.	Comment No.	Comment	Response
Operator Group	B17S	36	BLM unreasonably and incorrectly assumes that 50 percent of non-eagle raptor nests will be active annually by cherry-picking data more than 12 years old that is well above average activity levels and is contradicted by recent data. See SDEIS at 3-7, lines 12–13. BLM represents that monitoring data from six years over a 13-year period reflect that between five and 50 percent of nests in the Project area and its vicinity were active. See SDEIS at 3-6, tbl. 3.18-5X. BLM also references a report of a 2015 symposium finding that between 12 and 51 percent of nests in Campbell County were active. SDEIS at 3-7, lines 4–13. Based on this information, BLM “conservatively” assumes that 50 percent of nests in the Converse County Project area will be active in a given year. SDEIS at 3-7, lines 12–13.	Thank you for your comment. Based on the variability and unknowns in the available date, the BLM adopted a use-rate calculation that incorporates methods that Carlisle et al. (2018) developed for a longitudinal study of nesting raptors in the Powder River Basin. The updated dataset resulted in a higher estimate of average annual use rate which is used in the revised impact analysis. The updated use rate provides an allowance for species that are likely under-represented in typical nest surveys. The observations in both the BLM and OG datasets favor large hawks (Buteo species) and most likely under-represent smaller species or species that are harder to observe such as kestrels and various species of owl due to their smaller size or more secretive nesting locations.
Operator Group	B17S	37	BLM’s assumption that 50 percent of nests will be active annually relies on data more than 12 years old that are inconsistent with average activity levels and recent monitoring data. Fifty percent of nests were observed as active in 2006—more than 12 years ago. Yet as BLM admits in the SDEIS, the average percentage of active nests is 22 percent, see SDEIS at 3-6, lines 14–15, and the median percentage of active nests is between 16 and 22 percent. Similarly, the study “Effects of CBM Development on Raptor Nest Site Occupancy in the Powder River Basin” (Carlisle et al.) referenced in the SDEIS found that an average of approximately 30 percent of nests in a study area within the Powder River Basin were active over an eight-year period. See Campbell County, Wyoming Raptor Symposium Proceedings 10 (2015). Further, the activity levels of 50 percent were recorded in 2006 but monitoring data from the last several years consistently recorded much lower activity levels; in 2018, less than 10 percent of nests in some areas were recorded as active. See SDEIS at 3-6, tbl. 3.18-5X. BLM cannot discount recent monitoring data in favor of data more than 10 years old without explanation.	The BLM has updated the text to revise the estimate of nest activity in the CCPA and to clarify the rationale for the activity percentage used in the impact analysis. Based on the variability and unknowns in the available date, the BLM adopted a use-rate calculation that incorporates methods that Carlisle et al. (2018) developed for a longitudinal study of nesting raptors in the Powder River Basin. The updated dataset resulted in a higher estimate of average annual use rate which is used in the updated impact analysis. The higher use rate provides an allowance for species that are likely under-represented in typical nest surveys. The observations in both the BLM and OG datasets favor large hawks (Buteo species) and most likely under-represent smaller species or species that are harder to observe such as kestrels and various species of owl due to their smaller size or more secretive nesting locations.
Operator Group	B17S	38	The differences in assumptions are significant. Using the assumption that 50 percent of the 1,283 nests in the Project area will be active, BLM concludes that 642 nests have the potential to be active. See SDEIS at 4-5, lines 6–9. Yet, using the lowest levels of recorded activity (five or six percent), only between 64 and 77 of nests would be active in a given year—a ten-fold difference. The lowest levels of recorded activity are more indicative of non-eagle raptor use in the Project area because they were observed in 2018, rather than in 2006 when the highest levels of recorded activity were observed. See DEIS at 3-6, tbl. 3.18-5X. Even using the average level of recorded activity (22 percent) would yield approximately 282 potentially active nests in the Project area—less than half of BLM’s assumption. BLM must account for the significant differences in activity levels.	Please see the response to Comment B17S-37.
Operator Group	B17S	39	BLM’s assumption that 50 percent of nests will be active in a given year is unsupported and does not align with recent data submitted by the Operator Group. BLM’s decision to rely on the highest level of recorded activity discards consistently recorded lower levels of activity. BLM would more reasonably rely on the average percentage of active nests (between 22 and 30 percent) and simply observe that the percentage of active nests can be as low as five percent or as high as 50 percent.	Please see the response to Comment B17S-37.
Operator Group	B17S	40	BLM’s discussion of raptor monitoring data inappropriately compares active and occupied nest data without distinction. As a result, BLM may interpret survey data from 2006 as reflecting that 50 percent of nests were active when in fact this data may reflect that 50 percent of nests were occupied. “Active” and “occupied” nests are distinct. Active nests “contain[] viable eggs and/or chicks.” Memorandum to Regional Directors from Assistant Director, Migratory Birds at 1 n.2 (June 14, 2018). By contrast, an “occupied” nest is “one that is repaired or tended in the current year by a pair of raptors.” SDEIS at 3-2, lines 24–25. A nest can be occupied without ever becoming active. Statements in the SDEIS suggest that raptor nest surveys referenced in Table 3.18-5X recorded both occupied and active nests, but BLM does not distinguish between these data sets. For example, Table 3.18-5X on page 3-6 refers to “active” nests, but Figure 3.18-10X on page 3-7 references “occupied” nests. Moreover, BLM’s own definition of “active” nests in the SDEIS, which includes occupied nests, see SDEIS at 3-2, line 24, conflates the distinction between these types of nest uses and suggests that the analysis in Chapter 3 may compare monitoring data identifying active and occupied nests without distinction.	The BLM has updated the text to include more literature references with definitions of nest activity. Based on this and the decisions in the BLM’s RMP to protect wildlife habitat, the EIS applies the WGFD definition of Occupied Territory or Site and the Carlisle et al. (2018) definition of annual nest use rate to re-examine the baseline data. In addition, the agency preferred land use plan amendment option (new Option 6) includes requirements for monitoring and adaptive management.

Commenter	Commenter ID No.	Comment No.	Comment	Response
Operator Group	B17S	41	<p>Inconsistencies in data sets may also cause BLM to compare active with occupied nests. Because the SDEIS references monitoring data from multiple different surveys, some surveys may have monitored and observed nest occupancy while others may have monitored and observed nest activity. Importantly, surveys between 2016 and 2018 provided by the Operator Group, the results of which are reflected in Table 3.18-5X, observed “active” nests consistent with USFWS’s definition.</p> <p>BLM itself has observed that nest monitoring data from the mid-2000s in Wyoming conflate these two distinct categories of use. Specifically, BLM has observed: We found great inconsistencies in the terminology used over the years to code nesting events in the Rawlins dataset, in particular, and more generally found that, based on notes recorded in the available databases, that various nest-status designations were not always consistently applied due to variations in field personnel and attendant differences in interpretation or levels of rigor in applying those designations. For example, in the Rawlins dataset, it became clear that designations of “used” and “active” were often used inter-changeably without clarity as to whether or not egg-laying was actually confirmed (accurate definition of “active,” indicating an actual breeding attempt), such that it was frequently impossible to differentiate between occupied but inactive nests/ territories and those in which a breeding attempt actually occurred.</p> <p>BLM Technical Note 436, Recommendations for Improved Raptor Nest Monitoring in Association with Oil and Gas Development Activities, at 3 (emphasis added). Likewise, the study “Effects of CBM Development on Raptor Nest Site Occupancy in the Powder River Basin” upon which BLM relied examined “use” of nests by raptors, but the study did not specify whether it observed nest use generally or use of nests for active nesting behavior. See SDEIS at 3-7, lines 4–13.</p> <p>BLM cannot compare narrower data reflecting nest activity with broader data reflecting nest occupancy. BLM must revise the discussion in Chapter 3 regarding nest activity and occupancy to disclose these differences. Further, BLM must confirm that the 2006 data it interprets as reflecting 50 percent active nests in fact capture active rather than occupied nests.</p>	<p>The BLM agrees that there are inconsistencies in the data sets used in the analysis. Therefore, the BLM has updated the analysis to incorporate the data provided by the OG, and the text has been revised to include an updated estimate of nest activity in the CCPA and to clarify the rationale for the activity percentage used in the impact analysis. Based on the variability and unknowns in the available date, the BLM adopted a use-rate calculation that incorporates methods that Carlisle et al. (2018) developed for a longitudinal study of nesting raptors in the Powder River Basin. The updated dataset resulted in a higher estimate of average annual use rate which is used in the updated impact analysis. The higher use rate provides an allowance for species that are likely under-represented in typical nest surveys. The observations in both the BLM and OG datasets favor large hawks (Buteo species) and most likely under-represent smaller species or species that are harder to observe such as kestrels and various species of owl due to their smaller size or more secretive nesting locations.</p>
Operator Group	B17S	42	<p>Because of the risk that BLM inappropriately compares data regarding nest activity with data regarding nest occupancy, BLM should provide the data underlying the survey results described in Table 3.18-5X for examination by the Operator Group and the public. At a minimum, BLM must revise or clarify its data regarding non-eagle raptor nest use and activity levels. First, Table 3.18-5X includes Hayden-Wing Associates data from 2016 and 2018 but not 2017. See SDEIS at 3-6, tbl. 3.18-5X. BLM should revise Table 3.18-5X to include Hayden-Wing Associates data from 2017.</p>	<p>Data in the referenced table and nest use analysis have been updated in Final EIS.</p>
Operator Group	B17S	43	<p>BLM should clarify whether Table 3.18-5X includes all data provided by Devon Energy or just data from 2018. See SDEIS at 3-6, tbl. 3.18-5X.</p>	<p>Data and analysis in the referenced table have been updated.</p>
Operator Group	B17S	44	<p>Although BLM references the study “Effects of CBM Development on Raptor Nest Site Occupancy in the Powder River Basin,” see SDEIS at 3-7, lines 4–13, BLM does not incorporate the findings of this study into Table 3.18-5X. BLM must explain why it chose to reference but not incorporate the data from this study into Table 3.18-5X.</p>	<p>Data and analysis in the referenced table have been updated.</p>
Operator Group	B17S	45	<p>BLM lacks any rationale or supportable basis to characterize the impacts from Options 2 and 3 as moderate to major. See DEIS at ES-5, lines 34–36, 4-6, lines 26–30, 4-7, lines 28–33.</p> <p>1. BLM’s Conclusion that 45 to 141 Nests Could be Impacted by Options 2 and 3 is not Based on Sound Scientific Data.</p> <p>BLM has no basis to conclude that 45 to 141 nests could be impacted under Option 2. See SDEIS at 4-6, lines 20–21. BLM reaches this conclusion by relying on several flawed and scientifically unsupportable assumptions. Notably, BLM does not specify whether 45 to 141 nests could be impacted annually or over the lifetime of the project. See id. (“approximately 45 to 141 nests could be impacted during project development” (emphasis added)). Based on BLM’s calculation, it appears that these figures reflect total impacts to nests over the life of the Project and therefore that between 4.5 and 14.1 nests could be impacted annually; however, BLM must clarify this point in the FEIS.</p>	<p>The BLM has updated the impact analysis for all options in the Final EIS.</p>

Commenter	Commenter ID No.	Comment No.	Comment	Response
Operator Group	B17S	46	<p>BLM's conclusion that 45 to 141 nests could be impacted under Option 2 is predicated on BLM's determination that 642 nests will be active in the Project area. BLM determines that 642 nests will be active by incorrectly assuming that 50 percent of non-eagle raptor nests in the Project area will be active annually; 642 is approximately half of the 1,283 non-eagle raptor nests in the Project area. SDEIS at 3-7, lines 12–13, 4-5, lines 7–10. For the reasons detailed in section VI.B.1, above, monitoring data do not support the assumption that 50 percent of non-eagle raptor nests in the Project area will be active annually. Rather, applying the average monitored activity level of 22 percent active nests, only 282 nests will be active annually in the Project area.</p>	<p>The BLM has updated the impact analysis for all options in the Final EIS.</p>
Operator Group	B17S	47	<p>The Operator Group estimates that TLS relief under Options 2 and 3 have the potential to site development within TLS buffers around only six active non-eagle raptor nests annually—or between two and three percent of all nesting pairs annually. The Operator Group concludes that Options 2 and 3 have the potential to site development within TLS buffers around only six pairs of nesting non-eagle raptors annually via the following analysis:</p> <ul style="list-style-type: none"> - Under the Proposed Action, 150 well pads would be construed annually. See SDEIS at ES-3, lines 9–10. - Based on a conceptual example of well pad placement in the Project area that the Operator Group previously provided to BLM, the Operator Group estimates that 28 percent of these 150 well pads—42 well pads—may be sited within non-eagle raptor nest buffers throughout the Project area. See Comments of Anadarko Petroleum Corporation on Converse County Oil & Gas Project DEIS at 3–4 (Mar. 9, 2018). - Not all of these 42 well pads will impact active nests. Monitoring data reflects that an average of 22 percent of non-eagle raptor nests are active annually in the Project area. See SDEIS at 3-6, tbl. 3.18-5X. Based on this average monitored activity level, BLM can conclude that, annually, well pads may be sited within non-eagle raptor nests buffers surrounding approximately nine nests (22 percent of 42). - Not all of these nine nests, however, will be subject to a BLM TLS. BLM can only prescribe surface management measures on approximately 60 percent federal oil and gas development within the Project area because it owns 64 percent of the minerals, and less than 10 percent of the surface, in the Project area. See DEIS at 2-1, lines 42–43; BLM Instruction Memorandum No. 2018-014 (June 12, 2018) (“RMPs do not govern the use of non-Federal lands. Management actions in an RMP meant for the protection of Federal surface resources should not be applied to a Fee/Fee/Fed APD unless, and only to the extent that, activities authorized under the APD will impact Federal lands.”). Because BLM can prescribe surface management measures on approximately 60 percent federal oil and gas development within the Project area, the Operator Group estimates that approximately six of the nine active nests are subject to BLM TLS annually. <p>Therefore, BLM's decision to authorize year-round development within the Project area only has the potential to site development within TLS buffers around six active non-eagle raptor nests annually. These six nests are less than three percent of the 282 active nests within the Project (assuming 22 percent of nests in the Project area are active). This analysis demonstrates a risk to few active non-eagle raptor nests from BLM approval of year-round development. Furthermore, although BLM's decision to authorize year-round development in these TLS buffers has the potential impact six active non-eagle raptor nests, Option 3 would protect these active nests. See Section II.A, above. Therefore, BLM lacks a basis to conclude that impacts from Option 3 would be moderate to major.</p>	<p>Thank you for your comment. The BLM acknowledges receipt of a document from the Operator Group called “Effects of Timing Stipulations on the Ability to Develop the Converse County Project Area.” In reviewing the document, the BLM found that it was developed conceptually using only well pads and did not consider other facilities included in the Proposed Action (e.g., production pads, water supply pads, access and trunk roads, pipelines, powerlines, compressor stations, etc.). The BLM also notes that the conceptual layout resulted in only 1,176 pads in the CCPA, which is considerably less than the number of pads (1,500) proposed by the OG.</p> <p>Therefore, the BLM concluded that the numbers presented by the OG would not provide a defensible basis for estimating the number of well pads that could be located within a non-eagle raptor nest timing stipulation buffer. The BLM does agree with the overall approach to estimating the number of pads that could be located within a non-eagle raptor buffer presented in this comment. The updated text in the “Raptor” subsection of Section 4.18.2.2 is based on an evenly spaced grid of the 1,500 well pads spread out across the CCPA. Using this approach, the BLM estimates that 98 well pads could be located within the timing stipulation buffer of an occupied nest.</p>

Commenter	Commenter ID No.	Comment No.	Comment	Response
Operator Group	B17S	48	<p>BLM characterizes the impacts of Option 3 as “moderate to major” but does not justify this characterization. BLM describes “moderate to major” impacts as “meaning effects would be either sufficient to cause a change in the population or subpopulation (e.g., abundance, distribution, quantity, or viability), however, the effects would be local; or substantial and could be permanent in their effect on population or subpopulation survival.” SDEIS at 30–33. BLM, however, does not provide any analysis or explanation of why impacts to between 45 and 141 nests over the lifetime of the Project would be moderate to major.</p> <p>Although the Operator Group disagrees with BLM’s determination of the number of impacted nests, BLM’s calculations purport that less than three percent of nests would be impacted in a given year (4.5 and 14.1 compared to 642) for the 10-year development phase of the Project. BLM offers no explanation or scientific rationale as to why such a low number of purportedly impacted nests would cause permanent changes in populations. Furthermore, BLM does not compare the total number of nests it believes will be impacted over the lifetime of the Project to the non-eagle raptor population over the lifetime of the Project. BLM simply offers no assessment of these figures or justification as to why it determine these impacts are moderate to major.</p>	The BLM has updated the impact analysis for all options in the Final EIS.
Operator Group	B17S	49	<p>BLM incorrectly discounts the conservation benefits of Option 3 by assuming that Feature 1 will not apply mitigation to active nests. See SDEIS at 4-7, lines 3–4 (“Similar to Option 2, Feature 1 could impact a similar number of nests each year and over the life of the project by not applying any mitigation to active nests within the [Converse County Project area].”). Contrary to BLM’s statement, Feature 1 does apply mitigation measures; it requires that operators either begin development activities before the start of the TLS season or verify that a nest is inactive before beginning development activities during the TLS season. See SDEIS at S1-1, lines 26–34. BLM must revise the statement on page 4-7 and, further, revise its analysis of the impacts of Option 3 to account for the conservation measures it would require.</p>	The BLM has updated the impact analysis for all options in the Final EIS.
Operator Group	B17S	50	<p>BLM overstates impacts from Option 3 resulting from loss of potential nesting locations by assuming that non-eagle raptors exhibit strong nest fidelity. BLM incorrectly reasons that Option 3 does “not prevent the loss of a nesting location and possibly a nesting territory, if operations are too close to the nest, and secure nesting substrate in the territory is limited.” SDEIS at 4-7, lines 16–18. Further, BLM incorrectly reasons that “[u]nder Option 3, disturbance to raptor nest sites could occur for multiple years compounding the lack of nest productivity over generations and possibly resulting in eventual loss of nesting territories.” SDEIS at 4-7, lines 22–24.</p> <p>BLM has no basis or information to assume that the temporary loss of potential nesting locations will impact individual non-eagle raptors or overall non-eagle raptor populations. Rather, BLM’s assessment of impacts assumes that non-eagle raptors exhibit nest fidelity and thus equates the loss of a nest location with the loss of a successful nest. In fact, recent scientific studies support the conclusion that non-eagle raptors will find an alternative nest when a nest is lost.</p> <p>Ferruginous hawks, which are the most common raptor in the Project area, will tend several nests before choosing one to nest. “Some raptor species, such as golden eagles and ferruginous hawks, maintain several potential nest sites within their territory among which they can rotate in different years.” Carlisle et al., 2018. Other raptor species exhibit similar behavior. “Inspection of 21 territories monitored for 26-38 yr. without interruption suggested [golden] eagles use individual nests an average of every 3.3 years, laid nests in any nest within territories an average of every 1.8 yr. and switched nests between 43.3% of consecutive nesting attempts (i.e., egg-laying in discrete breeding season).” Slater et al., 2017. “The average proportion of nests in use varied across species, as did the magnitude of changes in use from year to year . . . Bald eagles had the highest overall average use (63.6%), whereas ferruginous hawks had the lowest (8.2%). All other species averages ranged from 19.5-42.6% . . .” Carlisle et al., 2018. Further, “nest success or failure in one year did not influence whether a pair switched nests in the following year.” Slater et al., 2017. Indeed, BLM itself recognizes that “[t]he number of nests is not an indicator of raptor abundance.” DEIS at 3-5 n.1.</p> <p>BLM must revise its discussion of impacts from Option 3 to incorporate the findings of these scientific studies and, specifically, to eliminate the assumption that the loss of one nesting location will necessarily prevent a successful nest. Without this assumption, BLM cannot conclude that impacts from Option 3 will be “moderate to major.”</p>	The BLM has updated the impact analysis for all options in the Final EIS.

Commenter	Commenter ID No.	Comment No.	Comment	Response
Operator Group	B17S	51	BLM's conclusion that Option 3 will adversely impact non-eagle raptor nests and, in turn, non-eagle raptor populations is unsupported and based on faulty assumptions. In addition to the assumption that non-eagle raptors exhibit high nest fidelity, described in section VI.C.5 above, BLM's analysis makes numerous incorrect assumptions. First, BLM incorrectly states that, "[u]nder Options 2 and 3, year-round development, if allowed, would adversely impact non-eagle raptor species by causing nest abandonment, reduced reproductive success, and displacements of individuals from nesting territories." SDEIS at 5-3, lines 17–20. BLM, however, has no basis to assume that Option 3 will result in nest abandonment. In fact, elsewhere in the SDEIS, BLM recognizes that design features prevent a nest from becoming active. See DEIS at 4-7, lines 15–16 ("The design features under Option 3 could prevent a nest from becoming active and thus prevent it from being abandoned."). BLM must revise the discussion in Chapter 4 to recognize that the design features in Option 3 presents a low likelihood of nest abandonment.	The BLM has updated the impact analysis for all options in the Final EIS.
Operator Group	B17S	52	BLM erroneously concludes that under Option 3, disturbance to non-eagle raptor nest sites could occur for multiple years, thereby compounding the lack of nest productivity over generations and possibly resulting in eventual loss of nesting territories. See SDEIS at 4-7, lines 22–24 and 35–39. BLM offers no support for this assertion. Furthermore, this statement ignores scientific findings that the density of oil and gas infrastructure, including roads and well pads, did not influence the breeding performance of raptors. "Our results provided no evidence that breeding performance was influenced by density of roads and oil and gas well pads, or distance to well pads. . . . Average density of active oil and gas well pads in occupied territories with >1 pad considered in this study was considerable lower (1.34 well pads/km2) than some current and proposed developments in Wyoming . . ." (Wallace et al. 2016) Notably, the density of well pads considered in the Wallace et al. study (1.34 well pads/km2) is considerably higher than the density of well pads proposed by the Project, which is expected to be 0.83 well pads per square mile. DEIS at 4.18-11, lines 26–29. BLM must revise its assessment of the impacts to non-eagle raptor sites over multiple years.	The BLM has updated the impact analysis for all options in the Final EIS.
Operator Group	B17S	53	BLM suggests that the current non-eagle raptor TLS under the Casper RMP (Option 1) risks the same impacts as under Option 3. The Casper RMP limits surface disturbing activities or occupancy (drilling and completions) during certain times of the year within defined proximities of non-eagle raptor nests, but it does not prohibit all activities around non-eagle raptor nests. See Casper RMP at 2-26. Therefore, activity will occur during the nesting period for many years after the well is drilled. Applying the logic of BLM's analysis of Option 3, Option 1 (adherence to the Casper RMP) will also result in impacts to non-eagle raptor nest productivity over multiple years.	The BLM has updated the impact analysis for all options in the Final EIS.
Operator Group	B17S	54	BLM explains that Feature 2 of Option 3 assumes that, because the nest is inactive at the time of the survey, it would not become active during anytime within the nesting period of that year. DEIS at 4-6, lines 47–49. Feature 2 of Option 3 is not based on this assumption. Rather, Feature 2 of Option 3 assumes that if a nest is inactive at the time of survey, non-eagle raptors that begin nesting after activities commence are not disturbed or disrupted by the activities.	Your comment is noted. Since the SDEIS was released for comment, the OG has proposed additional measures that have been incorporated into Option 3 and the BLM has added a new Option 6. The BLM has updated the impact analysis for all options in the Final EIS.
Operator Group	B17S	55	BLM overstates effects of Option 3 by asserting that it does not ensure that nests would not be disturbed. At SDEIS at 4-7, line 14, BLM states, "Neither feature within Option 3 would ensure that there would be no disturbance to the nest." This statement should be revised to reference only "active" nests.	Your comment is noted. Since the SDEIS was released for comment, the OG has proposed additional measures that have been incorporated into Option 3 and that the BLM has added a new Option 6. In addition, the BLM has updated the impact analysis for all options in the Final EIS.
Operator Group	B17S	56	BLM ignores the environmental benefits of year-round development under Options 2 and 3. These benefits include less truck traffic, less dust, less overall disruption year over year, timely reclamation, and other benefits, as detailed in the Operator Group's comments on the DEIS. See Operator Group Comments on Converse County Oil & Gas Project DEIS at 8–13 (Mar. 12, 2018). BLM's analysis of impacts of Options 1 – 5 must account for the benefits of year-round development and how these reduced impacts benefit raptor populations.	This comment is pertinent to the Draft EIS rather than the SDEIS and has been addressed in the Final EIS. Comparison of impacts with and without year-round drilling is addressed through analysis of Alternative B versus Alternative C.
Operator Group	B17S	57	BLM uses different terms to assess effects from Option 3 and from Options 4 and 5. BLM states that Option 3 would not prevent "disturbance" of nests. See SDEIS at 4-7, line 14. By contrast, BLM concludes that "no active nests would be impacted," rather than disturbed, under Option 4. See SDEIS at 4-8, line 15. Because BLM evaluated the possibility of "disturbance" of nests under Option 3, BLM must also evaluate the possibility that Options 4 and 5 would result in disturbance of nests.	The BLM has updated the impact analysis for all options in the Final EIS.

Commenter	Commenter ID No.	Comment No.	Comment	Response
Operator Group	B17S	58	BLM concludes that year-round development under Options 2 and 3 “would adversely impact non-eagle raptor species by causing nest abandonment, reduced reproductive success, and displacements of individuals from nesting territories.” SDEIS at 5-3, lines 18–20. Options 2 through 5 result in different impacts related to reduced productivity and displacement when development is allowed within non-eagle raptor buffers. Option 3 limits impacts to productivity by prohibiting development activities from beginning in TLS buffers around active nests. See DEIS at 2-7, lines 25–40. The SDEIS lacks any discussion of how Options 4 and 5 will alleviate reduced reproductive success and displacement. SDEIS at 5-3, lines 18–20. BLM must evaluate the impacts of each option on reduced reproductivity and displacement.	The BLM has updated the cumulative impact analysis for all options in the Final EIS.
Operator Group	B17S	59	BLM’s incorrect characterizations of the impacts of Option 2 and 3 as “moderate to major,” and the impacts of Options 4 and 5 as “negligible to minor,” distort BLM’s analysis of the options and ultimately its decision to select Option 4 as its preferred option in the SDEIS. See SDEIS at ES-5, lines 34–36. BLM concludes that the “net result of Options 4 and 5 would be that relief from TLS would be allowed by implementing a non-eagle raptor management plan that would avoid or reduce impacts.” SDEIS at ES-5, lines 36–38. However, BLM’s basis for the comparing the options is incorrect. Impacts from Options 2 and 3 are dramatically less than BLM forecasted, while Options 4 and 5 are more impactful than BLM assessed. Therefore, BLM’s comparative basis for selecting Option 4 is erroneous. BLM must reevaluate its preferred option after it reassesses the impacts of Options 2 through 5.	The BLM has updated the impact analysis for all options in the Final EIS and has identified new Option 6 as part of the agency’s preferred alternative.
Operator Group	B17S	60	BLM’s analysis of the impacts of Options 1 through 4 must distinguish between impacts to nests within BLM jurisdiction and those outside BLM jurisdiction (i.e., fee/fee/fed scenarios). Throughout the SDEIS, BLM discusses impacts to non-eagle raptor nests throughout the Project area and does not distinguish that it lacks jurisdiction over some of these actions. Specifically, BLM lacks authority to impose non-eagle raptor TLS on APDs for federal wells drilled from off-lease, non-federal surface locations overlying private minerals (“fee/fee/fed” scenarios) where the federal oil and gas lease lacks a non-eagle raptor TLS. See BLM Instruction Memorandum No. 2018-014 (June 12, 2018). BLM has recognized that in fee/fee/fed scenarios, “RMPs do not govern the use of non-Federal lands.” Although BLM may not impose the non-eagle raptor TLS in fee/fee/fed scenarios, BLM’s NEPA analysis assumes that all non-eagle raptor nests within a TLS buffer may be impacted by its decision to adopt Options 1, 2, 3, or 4. BLM’s analysis does not differentiate between those impacts that would occur regardless of which option BLM adopts (i.e., impacts from fee/fee/fed development) and those impacts that would occur (or not occur) depending on the option BLM selects. See, e.g., SDEIS at 1-1, lines 18–19 (“The BLM and USFS decisions would apply only to federal surface and mineral estate; however, the analysis in this EIS considers the impacts for all proposed activities regardless of surface or mineral ownership.”); see also SDEIS at 4-5, lines 2–15, 4-6, lines 19–21. This distinction is significant because approximately 90 percent of the surface and 36 percent of the mineral interest in the Project area are not federally owned. See SDEIS at ES-1, lines 16–17. Thus, the analysis in the SDEIS must assume that some proportion of wells will be drilled in fee/fee/fed scenarios and that BLM could not apply the TLS in this scenario. In the FEIS, BLM must describe the limits of its management authority in fee/fee/fed scenarios and revise the analysis of impacts to non-eagle raptors to recognize that BLM does not have management authority over all nests.	NEPA requires analysis and disclosure of impacts from the project irrespective of landownership or the extent of BLM’s authority to impose non-eagle raptor TLS. The BLM has updated the impact analysis for all options in the Final EIS including clarification of the extent of BLM’s authority.
Operator Group	B17S	61	Appendix S2 identifies prerequisite conditions to obtain TLS relief. One condition is that “[c]onditions must exist for a TLS condition of approval (COA) to be applied to the application of permit to drill (APD).” SDEIS at S2-1, lines 5–7. BLM should include a statement in Appendix S2 clarifying that a COA will not be applied in fee/fee/fed scenarios where the underlying oil and gas lease also lacks a TLS. Notably, BLM states, “Of the 45 to 141 nests within the [Converse County Project area], 3 to 9 could be impacted by project development on the BLM lands that make up 6 percent of the [Converse County Project area].” SDEIS at 4-7, lines 9–11. This statement is confusing and unnecessary; it is unclear why BLM limited its analysis to federal surface when BLM also exercises management authority on split-estate lands with federally owned minerals. BLM must revise this analysis to recognize the extent of its management authority.	Appendix S2 (now Appendix G2) is not part of the land use plan amendment; as stated in the SDEIS (page 2-2, line 42) it is an example of something that could be proposed. The BLM has updated the impact analysis in the Final EIS to recognize the extent of the agency’s authority within the CCPA.

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Operator Group	B17S	62	BLM inappropriately uses the terms “active,” “occupied,” and “utilized” interchangeably to describe nest use when the terms have distinct meanings. For example, BLM states that “[i]n order for development activities to be considered further, the information gathered from the prior two years must display that no eagle has utilized the nest. If a nest has ever been occupied by eagles, it will be considered an eagle nest regardless of being inactive, used by other species, or if eagle occupancy occurred greater than two years ago.” SDEIS at S2-2, lines 4–9. The terms “active” and “occupied” have distinct meanings, as discussed in section III above. BLM must revise this discussion to use consistent terminology.	The BLM has updated the text to clarify nest terminology and to include more literature references with definitions of nest activity. Based on this and the BLM’s RMP decisions calling for the protection of wildlife habitat, the EIS applies the WGFD definition of Occupied Territory or Site and the Carlisle et al. (2018) definition of annual nest use rate in the EIS analysis. The BLM does not consider the USFWS definition of “active nest” to be sufficiently broad to capture the range of reproductive efforts and behaviors that warrant protection under the RMP decisions to protect wildlife habitat.
Operator Group	B17S	63	Appendix S2 uses inconsistent terms to describe operators’ conduct that must occur prior to the start of the TLS season and the conduct that may occur during the TLS season. Appendix S2 refers to “activity[ies],” SDEIS at S2-1, line 33, S2-2, line 39, S2-3, line 20, S2-4, line 44; “operation[s],” SDEIS, at S2-1, line 37, S2-3, line 28, S2-4, line 20; “oil and gas related development,” SDEIS at S2-1, lines 1–2; “development activities,” SDEIS at S2-2, line 4, S2-4, lines 2, 11 and 29; “well location activities,” SDEIS at S2-2, lines 12–13 and 20; “drilling,” S2-1, lines 30–33; and “construction,” SDEIS at S2-2, line 24. BLM must clarify what conduct may occur before and during the TLS season. In particular, the references to “well location activities” and “construction” appear to refer to different activities than “drilling.” BLM must revise this discussion to clarify what activities may occur when in relation to the TLS season.	Appendix S2 (now Appendix G2) is an example of a process that could be proposed as noted in the SDEIS on page 2-2, line 42. Also note that the BLM has added a new option (Option 6) which is now part of the BLM’s preferred alternative.
Operator Group	B17S	64	Appendix S2 uses terms that are not defined in the document. Page S2-2, row 15, references the “Location Adjustment Strategy,” which is not defined in the document. Likewise, page S2-2, row 28, references the “Rigorous Monitoring Strategy,” which is also not defined. BLM must eliminate these undefined references from Appendix S2.	Please refer to the response to Comment B17S-63.
Operator Group	B17S	65	Appendix S2 sets forth ambiguous standards by which operators must demonstrate they attempted to avoid TLS buffers. Appendix S2 requires that a request for TLS relief include “sufficient information” that there was a “legitimate attempt” to avoid the TLS buffer. SDEIS at S2-3, lines 44–48. Elsewhere, Appendix S2 requires that the operator must “display” that they have avoided the TLS buffer “to the degree possible.” SDEIS at S2-2, line 14. First, these standards conflict. Second, Appendix S2 does not define any of these terms, leaving significant discretion with BLM in reviewing and determining whether to approve a request for TLS relief. This discretion risks inconsistent, if not arbitrary, decision-making within BLM. Finally, these ambiguous terms give operators no guidance as to what information they must provide, or demonstration they must make, to BLM.	Please refer to the response to Comment B17S-63.
Operator Group	B17S	66	The SDEIS states that “[o]perators who request relief from [TLS] upon submission of an APD would receive a modification of the lease” SDEIS at S2-1, lines 11–13. BLM’s regulation at 43 C.F.R. § 3101.1-4 requires a 30-day public review period for issues of “major concern” to the public. The SDEIS does not explain whether a 30-day public review period would be required prior to modification of leases or whether, if a public review period is required, BLM’s 90-day public comment period on the draft RMP satisfies this requirement. BLM’s regulation governing modifications and waivers of oil and gas lease terms directs that, “[i]f subsequent to lease issuance the authorized officer determines that a modification or waiver of a lease term or stipulation is substantial, the modification or waiver shall be subject to public review for at least a 30-day period.” 43 C.F.R. § 3101.1-4. If BLM determines this modification is “substantial,” BLM’s Federal Register notice and 90-day comment period on the RMP amendment amply satisfy the obligation to subject the modification for public review. Thus, in the FEIS, BLM should confirm that no additional public review is necessary to modify leases with raptor TLS in the Project area.	Please refer to the response to Comment B17S-63. Determination of the need for and length of public review of a lease modification would be conducted after completion of this EIS following the BLM rules and regulations specific to oil and gas lease modification. The NEPA process does not eliminate the requirement to follow these rules and regulations regarding lease modification.
Operator Group	B17S	67	BLM Must Explain the Process for Verifying Nest Inactivity. Appendix S2 requires that “to proceed from one drilling phase to another, where an increase in potential impact is realized, there must also be verification of inactivity.” SDEIS at S2-3, lines 6–8. This requirement appears to be inconsistent with the requirement that activities not break for more than 72 hours. See SDEIS at S2-2, lines 39–44. At a minimum, this requirement appears to put continuous operations at risk because, if a bird moves to a nest location within a TLS buffer while development activities are occurring, an operator must obtain a determination by BLM and USFWS that the activity is not likely to impact the success of the nest. SDEIS at S2-3, lines 6–8.	Please refer to the response to Comment B17S-63.
Operator Group	B17S	68	Appendix S2 contains confusing language about when activities subject to TLS relief must commence. Appendix S2 directs that, when an operator requests TLS relief concurrently with submission of an APD,	Please refer to the response to Comment B17S-63.

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			the operator represent at the annual meeting that it intends to initiate “drilling” prior to February 1. SDEIS at S2-1, lines 30–33. Elsewhere in Appendix S2, “well location activities” must begin before February 15. See SDEIS at S2-2, lines 20–21. BLM must explain both the relationship between the February 1 and February 15 start dates and why drilling activities must begin earlier than well location activities.	
Operator Group	B17S	69	BLM must clarify the statement in Appendix S2 that “BLM would then ensure conditions have not changed since the approval of the APD.” See SDEIS at S2-1, lines 20–21. First, this statement should be revised to state that “The operator would then ensure” rather than BLM. Second, BLM should define “conditions” because this term is unclear and may lead to inconsistent application.	Please refer to the response to Comment B17S-63.
Operator Group	B17S	70	The direction in Appendix S2 that BLM examine whether a TLS condition of approval is attached to an APD is confusing. See SDEIS at S2-1, lines 5–10, S2-3, lines 39–43. Because an operator is unlikely to submit a sundry for an APD that does not require TLS relief, this direction is unnecessary.	Please refer to the response to Comment B17S-63.
Operator Group	B17S	71	On page 2-7, lines 9–14, the SDEIS states: Option 2 consists of an amendment to the Casper RMP that would modify all existing leases and development within the Converse County Oil and Gas Project area, removing all non-eagle raptor nest timing limitations in lease stipulations, conditions of approval, mitigations or other stipulations through the operation of the pertinent resource’s laws, rules, and regulations. Future leases or development within the CCPA area would not include the non-eagle raptor nest timing limitations. Although the SDEIS references the “pertinent resource’s laws, rules, and regulations,” the SDEIS does not clarify how changes in law, and changed interpretations of law, could affect Option 2, if adopted. Most notably, the SDEIS does not discuss the relationship between Option 2 and Solicitor Opinion No. M-37050 (Dec. 22, 2017), “The Migratory Bird Treaty Act Does Not Prohibit Incidental Take.” The SDEIS should clarify the effect, if any, of changed interpretations of the MBTA and any associated regulations that may be promulgated on Option 2.	Speculation on the effect of future changes in law, or changes in interpretation of the law, on Option 2 are beyond the scope of this document. The text in Option 2 that refers to the “pertinent laws, rules and regulations” is in regard to the BLM State Office requirements for lease modification which must be followed subsequent to completion of the NEPA process if Option 2 is selected. Also, please refer to the response to Comment B17S-66.
Operator Group	B17S	72	The Operator Group encourages BLM to reference the Cedar Springs Wind Project in its analysis of cumulative impacts to non-eagle raptors. The Cedar Springs Wind Project has been proposed to be located in Converse County approximately 10 miles north of Douglas, Wyoming. The permit application filed with the Wyoming Industrial Siting Commission contains a discussion of potential impacts to raptors. See Wyo. Industrial Development Information and Siting Act Section 109 Permit Application at 198 – 203 (2019). ¹ Additionally, BLM should include any other wind projects that BLM determines to be reasonably foreseeable and that may contribute to cumulative impacts to populations of non-eagle raptors.	Thank you for your comment. The BLM established cutoff dates for inclusion of information in the cumulative impact analysis. The information in this comment was submitted after that date and will not be included in the analysis to avoid continuous updating of the document.
Operator Group	B17S	73	The Executive Summary notes that the Operator Group proposed Option 2 but does not note that the Operator Group also proposed Option 3. See SDEIS at ES-1, line 38 (“Option 2 (Proposed by the OG)”). As a result, the Executive Summary incorrectly implies that the Operator Group prefers Option 2 over Option 3. To avoid confusion by the public, the Executive Summary should expressly recognize that the Operator Group supports Option 3.	The ES states that the Operator Group proposed Option 3 on page ES-2, Line 1. No change to text necessary.
Operator Group	B17S	74	In the description of the proposed RMP amendments, BLM should clarify that the proposal under Option 3 to allow oil and gas development within the spatial nest buffer of a non-eagle raptor nest would not allow destruction of the actual nest, notwithstanding the 2018 USFWS guidance regarding the destruction or removal of nests. See SDEIS at 2-7, lines 25–32; Memorandum from Asst. Dir., Migratory Birds to Reg’l Dirs. Re: Destruction and Relocation of Migratory Bird Nest Contents (June 14, 2018). Although the Operator Group understands this limitation, the general public may not.	Thank you for your comment. The BLM acknowledges that oil and gas development within a non-eagle raptor nest buffer does not involve the intent to destroy the nest. However, the text describing Option 3 is included in the EIS as presented to the BLM by the OG and does not explicitly exclude destruction of the nest.
Operator Group	B17S	75	On page 2-8, rows 15–16, the DEIS states that “Key elements of the MBCP would include regulatory background and required bird permits” (emphasis added). This statement incorrectly implies that operators require a USFWS permit to operate within TLS buffers. BLM should revise this statement to eliminate the reference to bird permits.	The referenced text is a summary of information required for inclusion in a MBCP as presented in Appendix S3 (now Appendix G3 of the Final EIS) which shows a proposed outline of a MBCP. The outline references bird permits in Section XIII. No text change necessary.
Operator Group	B17S	76	The SDEIS does not disclose the source of data for Figure 3.18-9 on page 3-3; it identifies the source as “AECOM 2015” but this source is not listed in Section 8.0, References. BLM should disclose the source of this data and, further, should only use data that is five years old or newer.	The Reference (AECOM 2015) associated with Figure 3.18.9 has been added to Section 8.0, References.
Operator Group	B17S	77	The sources of data displayed in Table 3.18-1 on page 3-5 are varied and dated. BLM should only utilize nest data that is five years old or newer.	Thank you for your comment. The BLM utilized available data that supported a defensible characterization of baseline nest numbers regardless of the age of the data.

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Operator Group	B17S	78	The SDEIS contains several references to Table 3.18-4, historic non-eagle raptor nests in the Converse County Project area, but the actual table does not appear to be included in the document. BLM must include this table in the FEIS.	The cited table was incorrectly presented with modifications in the SDEIS as Table 3.18-1. The table is presented in the Final EIS with further modifications in response to comments on the SDEIS.
Operator Group	B17S	79	The statement on page 4-8, lines 9–11, “Based on planning and coordination between the applicant and the BLM and USFWS, conservation measures would be described in a raptor protection plan and followed to protect nesting raptors” (emphasis added) should be revised to reference “non-eagle raptors.”	The referenced text has been removed and replaced with new text in the Final EIS.
Operator Group	B17S	80	BLM should add language specifying that USFWS generated Table S1-1 on page S1-2 because the SDEIS does not identify the source of this information.	The table title has been updated to include “US Fish and Wildlife Service.”
Operator Group	B17S	81	Page S2-4, row 38, contains the statement, “If the TLS becomes active at any point from February 1 to June 15 . . . ” (emphasis added). The reference to “TLS” should be changed to “nest.”	Please refer to the response to Comment B17S-63.
Petroleum Association of Wyoming (PAW)	N26S	1	BLM has not provided a rational argument in the SDEIS that demonstrates that raptor populations will decline in the Converse County Project Area (CCPA) or that indirect take would occur under Option 3. In fact, BLM’s Proposed Option is flawed in that it is inconsistent with requirements under the MBTA, FLPMA and the MOU.	Your comment is noted.
PAW	N26S	2	The USFWS defines active and inactive nests as: “An active nest is one that contains viable eggs and/or chicks. A nest becomes active when the first egg is laid and remains active until fledged young are no longer dependent on the nest. Nests that are empty, contain nonviable eggs, or are being built but do not yet have an egg in them are considered inactive.” (USFWS Memorandum, June 14, 2018). The agency has further determined that, “[T]he MBTA does not prohibit the destruction of an inactive migratory bird nest, provided that no possession occurs during the destruction and no permit or other regulatory authorization is required...” Id. Under all options, BLM has chosen to disregard the USFWS definitions of active and inactive nests and uses an alternative definition that relies upon an indefensible analysis of existing data and an unpublished study.	The BLM has updated the text to clarify nest terminology and to include more literature references with definitions of nest activity. Based on this and the BLM’s RMP decisions calling for the protection of wildlife habitat, the EIS applies the WGFD definition of Occupied Territory or Site and the Carlisle et al. (2018) definition of annual nest use rate in the EIS analysis. The BLM does not consider the USFWS definition of “active nest” to be sufficiently broad to capture the range of reproductive efforts and behaviors that warrant protection under the RMP decisions to protect wildlife habitat.
PAW	N26S	3	It appears to PAW that in the SDEIS the BLM may be impermissibly relying upon a withdrawn Solicitor’s Opinion outlining the management of migratory birds. It is critical to note that this opinion was withdrawn and cannot be utilized by any Department of the Interior (DOI) agencies.	The BLM is aware of the recent withdrawal of a Solicitor’s Opinion regarding migratory birds. This opinion or any other solicitor opinion is not relied on for the development of the impact analysis in the SDEIS.
PAW	N26S	4	Based on the analysis and process designed under Option 4, BLM appears to presume that year-round drilling (the stated goal of the DEIS) is incompatible with healthy non-eagle raptor populations in the area. Such a conclusion is contrary to data submitted by members of the OG and BLM’s own data.	Your comment is noted. The SDEIS does not conclude that year-round drilling is incompatible with healthy non-eagle populations. Also note that the BLM has added a new option (Option 6) to the Final EIS which is included in the agency’s preferred alternative.
PAW	N26S	5	Through review of the elements contained in Option 4 of the SDEIS, it appears BLM has concluded development constitutes unnecessary and undue degradation based on the view that any degradation, (no matter how small or speculative), is automatically unnecessary and undue.	Your comment is noted. The text in the SDEIS does not include the terms “unnecessary” or “undue” degradation. Also note that the BLM has added a new option (Option 6) to the Final EIS which is included in the agency’s preferred alternative.
PAW	N26S	6	BLM is not required to prevent all potentially negative impacts of an action, especially when the Proposed Action actually reduces impacts in so many other ways.	Your comment is noted.
PAW	N26S	7	Selection of BLM’s Option 4 defeats year-round development, which is among the stated goals of the Preferred Alternative in the DEIS. While BLM personnel have indicated in various meetings and conversations that the conditions are required as a function of existing RMPs, these statements simply disregard the language of the DEIS and the SDEIS indicating BLM’s intent to amend the RMPs applicable to the Project.	Your comment is noted. Also note that the BLM has added a new option (Option 6) to the Final EIS which is included in the agency’s preferred alternative.
PRBRC	N27S	1	BLM’s SDEIS does not contain any scientific study or justification to demonstrate the effectiveness of its proposal to modify the lease stipulations. See SDEIS at 8-1 (listing the references for the Supplement to the Draft EIS). BLM’s proposal is essentially a dangerous scientific experiment – one that is likely to fail. BLM does not have the science necessary to support its proposed rollback of the lease stipulations. Without the scientific justification to do something different, BLM must retain the current stipulations. Otherwise, BLM’s decision will be scientifically indefensible.	Thank you for your comment. The BLM has updated the text in the Final EIS based on comments on the SDEIS to include additional scientific references.
PRBRC	N27S	2	BLM must select Option 1 – continued application of the lease stipulations – to comply with its substantive legal requirements under the Federal Land Management Policy Act (FLPMA) and the Migratory Bird Treaty Act. Somewhat remarkably, BLM does not include an analysis of these laws and why its proposal meets the legal requirements. Instead, BLM defers back to previous analysis in the Draft EIS for the project. SDEIS	The SDEIS only changed those sections of the EIS and analyzed those resources that would be impacted with the change in the RMP; the analysis already presented in the Draft EIS for Alternative B is unchanged for all other resources.

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			at 1-3 (discussing “Legal and Policy Considerations”). If BLM wishes to proceed with its rollback plan, it must at a minimum address these legal requirements head on and affirmatively disclose how the agency plans to meet its multiple use and sustained yield obligations under FLPMA and all requirements of the Migratory Bird Treaty Act.	
PRBRC	N27S	3	As we stated in our comments on the DEIS for the Converse County project, a resource management plan (RMP) amendment is needed if BLM intends to waive or modify the lease stipulations that currently apply in the planning area. BLM’s proposed Option #4 creates exceptions to the lease stipulations “on a case-by-case basis” based on “management practices or plans agreed upon by the applicant/operator and BLM.” In order to waive or modify the lease stipulations applied under the RMP, an RMP amendment is required. By talking about the “land use plan” without officially proposing a RMP amendment, the agency is not adhering to the proper legal process under either NEPA or FLPMA. If BLM intends to proceed with its proposal, it should re-notice it with a call for comments not only on the SDEIS but also on a proposed amendment to the Casper Field Office RMP.	Thank you for your comment. The BLM included the potential for amendment of the RMP in the Notice of Intent to Prepare an EIS (NOI) for this project that was issued on 5/16/2014 in the Federal Register.
PRBRC	N27S	4	The Oglala Sioux Tribe has raised serious concerns to BLM about the agency’s failure to conduct legally required Tribal Consultation for the Converse County Oil and Gas Project.2 Instead of remedying these flaws, BLM continues to ignore its obligations. The SDEIS at 7-2 states that the Tribal Consultation “section is included in the Draft EIS and is not being amended in this supplement.” Why is there not a supplement related to Tribal Consultation for this proposal? Has BLM remedied the legal flaws related to Tribal Consultation for the underlying EIS? Our landowner members in the Powder River Basin respect the Tribal Consultation process and ask BLM to honor its legally required commitments.	BLM has followed the guidance in IM 2018-014 with regards to tribal consultation.
PRBRC	N27S	5	BLM’s cumulative impacts analysis in the SDEIS is focused solely on raptors. See SDEIS at 5-1 to 5-3. BLM fails to disclose any cumulative benefits associated with the existing stipulations (Option 1) or any cumulative impacts associated with the waiver or modification of the existing stipulations (Options 2-5). It is well-documented that timing stipulations create benefits for other wildlife and habitat that live in the area surrounding a nest. Timing stipulations also create quality of life benefits for split estate landowners who get a break from drilling activity during the stipulation periods which also often coincides with lambing or calving. Additionally, timing stipulations provide air quality and other associated benefits (see separate comments from National Parks Conservation Association, et al.). BLM must revise its SDEIS to disclose any cumulative benefits or impacts of the various options under consideration.	The SDEIS presents cumulative impacts to migratory birds in Section 5.3.18.2 which has been updated in the Final EIS. The SDEIS only changed those sections of the EIS and analyzed those resources that would be impacted with the change in the RMP; the analysis for Alternative B for all other resources presented in the Draft EIS is unchanged.
PRBRC	N27S	6	BLM’s description of Options 3-5 is fraught with ambiguity and vagueness, which unfortunately will lead to management problems and ineffectiveness in application and enforcement of the proposed alternatives to the timing stipulations. There is a striking lack of detail with any of the options, including especially BLM’s proposed Option 4 (SDEIS Appendix S2). For instance, BLM makes a passing reference to a “Rigorous Monitoring Strategy” but does not define what such a strategy is and does not provide any justification for why it is effective. We are very concerned that the monitoring program proposed – which is an after-the-fact adaptive management monitoring system – will not effectively protect nests that can be occupied. Even more problematic is BLM’s consideration of “a different method of monitoring and adjustment” without any description of what that method may be or what set of standards apply to it.	The description of Option 3 is presented in the form in which it was submitted to the BLM by the Operator Group. The descriptions of Option 4 and Option 5 were intentionally written to provide the flexibility to accommodate changing wildlife conditions as well as changes in industry practice. Also, please note that Appendix S2 (now Appendix G2) is an example of a process that could be proposed but would not be a part of the land use plan amendment, if selected. As written, Option 4 would establish the desired condition that the BLM and proponent would work towards consistent with the goals and objectives of the Casper RMP. Note that the BLM has added a new option (Option 6) to the Final EIS which is now part of the agency’s preferred alternative. Also note that Option 6 contains additional detail on required monitoring.
PRBRC	N27S	7	BLM talks about “two consecutive years of monitoring data” prior to a request, but then limits that to “eagles.” There is no further description of what baseline monitoring data is required for non-eagle raptors. Please disclose what baseline monitoring is required for non-eagle raptors.	Please see the description of new Option 6 and Appendix G4 for additional detail on required monitoring for non-eagle raptors.
PRBRC	N27S	8	A two year period may not be effective as nests that have been inactive for several years could be used again since some raptors often alternate between several nests, especially if activity or development is preventing the occupying of nests in other areas. And some raptors build a new nest each year. A waiver of the timing stipulation will not protect the habitat that could be used to build that new nest or allow re-occupying a previously unoccupied nest.	Please see the response to your previous comment (Comment N27S-7).
PRBRC	N27S	9	The options are also problematic because they avoid public comment and review, including consultation or review by surface owners or wildlife agencies. Any request for modification or waiver from the timing stipulation should occur at least 30 days before the start of the timing period to allow for notification to surface owners, availability for public review and comment, and FWS/WGFD consultation.	Any modification or waiver of lease stipulations, such as a timing limit stipulation, must go through an approval process that is a State Office function of the BLM’s oil and gas program in addition to the on-going NEPA Planning process.

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PRBRC	N27S	10	Option 4 also needs much more detail and guidance on when/how/why BLM would reject an application to waive the timing stipulations. The "Authorized Office Decision Matrix" is completely lacking in detail and standards. The proposal must be revised to ensure adequate discretion on the part of the BLM staff to reject any application to waive the timing stipulations.	Please see the response to Comment N27S-6.
Wyoming Outdoor Council (WOC) & National Audubon Society	N31S	1	The BLM's decision to allow operators relief from TLS is arbitrary and capricious, and is not based on the best available science. The BLM's decision to allow conditional relief from TLS is arbitrary and capricious. BLM and FWS evaluated risks to raptors in the 2007 Casper RMP FEIS and, based on the science available at that time, determined that TLS were necessary; the TLS were not weakened through subsequent amendments and maintenance actions. See FEIS for the Casper FO (2007) and the Casper Final Biological Assessment (BA) (2007). Since then, significant new data has emerged on the importance of adequate regulatory mechanisms to conserve migratory bird species. See, e.g., Amano, Tatsuya et. al, "Successful conservation of global waterbird populations depends on effective governance," Nature vol. 553, 199–202 (Jan. 11, 2018) [hereinafter "Amano"] (attached as Exhibit 1). ¹ These data reinforce the need for strong protections amid widespread and severe global declines in biodiversity. Yet in this SDEIS, the BLM weakens protections for migratory birds by allowing operators relief from the very stipulations they previously determined were necessary and is completing this SDEIS to complete the necessary RMP amendments. However, BLM has still failed to justify selecting an alternative that would remove these stipulations and the ensuing harm to birds, or to provide a detailed plan that could be relied upon to address potential harm. As a result, BLM's decision to allow relief from TLS is arbitrary and capricious.	Your comment is noted. The BLM also notes that the cited reference (Amano et al. 2018) states that waterbird communities increased in North America where governance is more effective.
WOC	N31S	2	While BLM has evaluated the benefits of year-round drilling for the Operator Group and for certain other types of impacts ⁴ , the agency has not sufficiently addressed the impacts to raptors. Removing TLS contradicts accepted science and is not justified anywhere in BLM's analysis.	Your comment is noted. The BLM has updated the impact analysis of the land use plan options in the Final EIS and added an additional option (Option 6) which is now part of the agency's preferred alternative.
WOC	N31S	3	BLM has not addressed how proposed Option 4 would sufficiently protect raptors. In fact, while purporting to set out criteria for limiting when TLS could be waived, Option 4 still includes an option for the BLM to approve waivers that do not meet its criteria, which states: If, at any point a situation associated with the relief from timing limitation stipulations request process arises that is not captured by this decision matrix, then the operator, BLM, and USFWS will coordinate and proceed accordingly. SDEIS at S2-5.	Option 4 was intentionally written to provide the flexibility to accommodate changing wildlife conditions as well as changes in industry practice. Also, please note that Appendix S2 (now Appendix G2) is an example of a process that could be proposed but would not be a part of the land use plan amendment, if selected. As written, Option 4 would establish the desired condition that the BLM and proponent would work towards consistent with the goals and objectives of the Casper RMP. Note that the BLM has updated the impact analysis and added a new option (Option 6) to the Final EIS which is now part of the agency's preferred alternative.
WOC	N31S	4	The BLM has not evaluated a reasonable range of alternatives in this SDEIS. While the Decision Matrix in BLM's preferred option establishes parameters to guide TLS relief, and Option 5 considers an MBCP established in consultation with FWS, BLM should have considered an option that incorporates both a Decision Matrix to guide BLM's Authorized Officer in decisionmaking and an MBCP written in consultation with FWS, the agency with superior expertise on migratory bird conservation. Ideally WGFD, Wyoming's state wildlife agency, would have the opportunity to review and provide input on an MBCP.	The BLM considered both a Decision Matrix and a MBCP in the range of options analyzed in the SDEIS. Note that an additional option (Option 6) has been added to the Final EIS based on public comment on the SDEIS. This additional option would include other entities (which could include USFWS and/or WGFD) in the development of an adaptive management plan to evaluate impacts to non-eagle raptors (see Appendix G4 of the Final EIS).
WOC	N31S	5	It is unclear why BLM neglected to implement a proactive, strategic framework like the MBCP, and instead decided to rely on a less thorough, less collaborative approach. We understand that an MBCP was nearly complete at the time of the SDEIS' release, the product of two years of research, but that BLM chose not to include a draft of the MBCP.	The MBCP was not included as part of the EIS because the Operator Group withdrew the document from further consideration by USFWS. Note that the MBCP was being prepared by the Operator Group and USFWS without BLM input. The MBCP is a USFWS specific document that the BLM can have input on, but it is between the USFWS and the proponent.
WOC	N31S	6	The BLM does well to include a Framework and Decision Matrix for relief from stipulations in Option 4, but these are insufficient without an MBCP. For instance, under the Framework a site specific Raptor Protection Plan (RPP) "would suffice as an adequate set of operator committed conservation measures for raptors," but is not required. SDEIS at S2-1. A site specific RPP "could be" developed in consultation with FWS to meet the requirements for TLS relief, but again is not required. A "Rigorous Monitoring Strategy would be an appropriate process for ensuring species conservation," but that strategy is not required, nor defined, and "an operator may choose to display a different method of monitoring and adjustment." Id.	Please see the response to Comment N31S-4.
WOC	N31S	7	NEPA requires that BLM discuss mitigation measures in an EIS. 40 C.F.R. §§ 1502.14, 1502.16. In general, in order to show that mitigation, such as those in Options 4 and 5, will reduce environmental impacts, BLM must discuss the mitigation measures "in sufficient detail to ensure that environmental consequences have been fairly evaluated." <i>Communities, Inc. v. Busey</i> , 956 F.2d 619, 626 (6th Cir. 1992). Simply identifying mitigation measures, without analyzing the effectiveness of the measures, violates NEPA. Agencies must "analyze the mitigation measures in detail [and] explain how effective the	Under Option 4 and Option 5 the proponent will be required to provide mitigations in a site-specific plan that will enable the BLM to determine that impacts to non-eagle raptors would be adequately minimized. It is a common practice to move site-specific decisions down to the project implementation level to better respond to potential impacts identified at the site-specific level.

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			measures would be . . . A mere listing of mitigation measures is insufficient to qualify as the reasoned discussion required by NEPA.” Nw. Indian Cemetery Protective Ass’n v. Peterson, 764 F.2d 581, 588 (9th Cir. 1985), rev’d on other grounds, 485 U.S. 439 (1988). In the SDEIS, BLM has not presented meaningful analysis of Option 5 and this also compromises the evaluation of Option 5 as an alternative in its current form, and has also prevented an evaluation of an alternative that would have combined the mitigation measures in Options 4 and 5.	
WOC	N31S	8	Opinion M-37050 permanently withdrew and replaced M-37041 in December of 2017, revising Interior’s interpretation of the MBTA to determine the law does not prohibit incidental take. This reinterpretation, which is currently being challenged in court, purportedly stripped FWS of its authority to regulate incidental take of migratory birds5, so that the agency can now only recommend avoidance, minimization, and mitigation measures to reduce the adverse impacts of incidental take. An MBCP is the appropriate tool to make those recommendations in the absence of regulatory authority.	The BLM, with its multiple use mandate as well as the Casper RMP, is tasked with habitat and population protections in allowing for other uses. The BLM follows the MBTA and BGEPA. Incidental take determinations is a specific function of the USFWS. Also see the response to Comment N31S-4.
Thunder Basin Grasslands Prairie Ecosystem Association (TBGPEA)	N28S	1	The Association has been working with agricultural producers and energy representatives for the past decade focusing on developing sustainable development and conservation strategies that also allow for agricultural and energy production. We continue to be concerned about the level of projected industrial development and resulting loss of habitat necessary for both ag production and wildlife.	Thank you for your comment. Protection of wildlife habitat is part of the BLM’s multiple use mandate and is a stated part of the goals and objectives of the Casper RMP.
TBGPEA	N28S	2	Undisturbed sage/grassland habitat is extremely limited in northeast Wyoming as the area transitions into the grasslands of the Great Plains. While we recognize that some potential habitat disturbance might be avoided by removing the timing limitation stipulations (i.e., from multiple rig moves, etc.), we are concerned about the potential negative impact to non-eagle raptors - some of which are included on the State of Wyoming’s Species of Greatest Conservation Concern and within our Conservation Strategy.	As referenced in the Draft EIS, Section 6.3.1.2, the Casper RMP set goals and objectives for wildlife which include managing all activities to sustain wildlife populations and habitats. This includes maintaining or improving seasonal habitats, minimizing adverse impacts and mitigating unavoidable impacts. With implementation of the requirements detailed in the SDEIS in place, the BLM’s intent is to implement those goals and objectives. The Final EIS discusses migratory birds including those that are State listed.
Wyoming Game and Fish Department (WGFD)	S09S	1	Option 4 includes several components to help ensure the proposed/granted exceptions minimize impacts to non-eagle raptors. The BLM suggests the development of 1) a Raptor Protection Plan, 2) a Location Adjustment Strategy, and 3) a Rigorous Monitoring Strategy. While we support these concepts, the wording in the Raptor Timing Stipulation Relief Process Framework (Appendix S2) suggests these plans/strategies may be optional. The Department recommends these plans/strategies are requirements associated with obtaining a timing limitation stipulation (TLS) exception and further that the BLM develops criteria for what must at a minimum be included in these plans/strategies. The conservation measures/design features proposed by the OG in Option 3 could be incorporated. If an operator chooses to pursue an alternative type of plan or strategy, its contents should first be approved by the appropriate management agency.	The BLM appreciates your support of the Option 4 components. Please note that Appendix S2 will not become part of the land use plan if this option is selected for amending the plan. Instead it is an example of a process that could be developed and then followed to implement this option. Also please note that Options 3 and Option 5 could be proposed and approved under the more general Option 4 umbrella since both of those are more site-specific. Option 4 was drafted by the BLM to reflect the programmatic nature of proposed development within the CCPA and to provide flexibility to accommodate changing wildlife conditions and/or industry practices to further mitigate the impact of drilling activities within TLS buffers. Therefore, Option 4 establishes the desired condition (i.e., “alleviate impacts”) to achieve the goals and objectives of the Casper RMP which include managing all activities to sustain wildlife populations and habitats. Also note that the BLM has added an additional option (Option 6) to the Final EIS which is now part of the agency’s preferred alternative.
WGFD	S09S	2	As previously suggested, including cooperating agency stakeholders in this process would make Option 4 more inclusive of agencies and entities with an interest in raptor conservation and management. We reiterate our previous recommendation that this option should include the establishment of a “Technical Team” to assist in the annual evaluation of exception/modification requests, review site-specific conservation plans, and develop criteria for the Rigorous Monitoring Strategy. Decision-making authority for the approval or denial of requests would remain with the BLM. However, cooperating agency participation, including but not limited to the Department and the Service, would aid the BLM in conducting the site specific review.	Thank you for your comment. The BLM agrees that approval authority for granting of TLS exceptions would reside with the BLM and has written the descriptions for Option 4, Option 5, and new Option 6 to provide the flexibility to accommodate input from other entities such as the USFWS and WGFD.
WGFD	S09S	3	The SDEIS does not analyze how many exception/modification requests would be made by the OG (or other operators in the Converse County Project Area (CCPA)) on an annual basis or over the life of the project.	Impact discussion within Section 4.18.2.2 of the Final EIS have been updated to include an estimate of the number of exceptions that may be requested during the proposed project. Due to the programmatic nature of this EIS, the actual location of well pads is not available; therefore, the quantitative estimate was calculated based on a conceptual layout of 1,500 well pads systematically spread throughout the CCPA.
WGFD	S09S	4	It is not clear that this option [Option 4] would be applied to OG development activities on non-BLM surface, which accounts for the majority of surface in the CCPA.	Section 1.4.3 of the EIS details the BLM’s authority within the CCPA. Option 4 would only apply if a federal nexus existed which would be the approval of a well on BLM surface or split estate (non-federal surface/federal minerals). Option 4 would not be applied under fee/fee fed situations.
WGFD	S09S	5	There is a lack of scientific information that helps resource managers understand if and how specific mitigation measures will offset the impacts of drilling within seasonal and spatial nest buffers.	Thank you for your comment. The text has been updated to include additional references to peer-reviewed scientific papers to support the impact analysis and development of mitigation measures.

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WGFD	S09S	6	The SDEIS analysis for Option 4 concludes there will be no impacts to active/occupied nests, yet it is evident that exceptions may be granted. In the absence of data to aid managers in understanding the efficacy of the application of specific conservation measures for raptor nests, and without knowing how many exceptions will be granted or whether the analysis accounts for all surface ownerships, we feel it is difficult to substantiate the conclusion that this option would result in "minor" or "negligible" impacts. Given the uncertainty surrounding the effectiveness of the proposed avoidance and minimization tools, namely Raptor Protection Plans, the Department recommends consideration for developing an adaptive management component for the framework in order to address situations where there is indication that an adverse impact is occurring, either at the site-specific level or the project area level. Again, the formation of a Technical Team could aid with this component. Additionally, the Department supports the development of research to address this uncertainty, in cooperation with partners and the OG.	The BLM has already worked with two operators (both of whom are members of the OG) in implementing year-round development in both the Buffalo and Casper Field Offices. These operators submitted plans or mitigations that the BLM then analyzed at the site-specific level and, in one case, work with the USFWS to allow continued drilling in both raptor and greater sage grouse buffers through the timing limitations. Both of these projects were completed without requiring a land use plan amendment and using the present exception criteria.
WGFD	S09S	7	Page 2-7, Line 44 - We recommend explicitly defining "other agencies", and at a minimum including the Department and the Service.	BLM will invite any agency that it is felt needs to be involved in such discussions at that time. Commitments to add specific agencies at this time are beyond the scope of this document. No Change to document.
WGFD	S09S	8	Page 4-8, Line 11-12 - It is unclear whether the two consecutive years of monitoring are to occur pre-, during, or post-development. Language in Appendix S2 indicates this monitoring is required prior to a TLS exception being granted and is primarily meant to confirm the nest in question is not used by eagles and is not currently active/occupied. Thus, it is unclear how this monitoring will "ensure that the conservation measures are effective."	Thank you for your comment. Please note that Appendix S2 would not be part of the land use plan amendment; it is an example of a process that could be developed and followed under this option.
WGFD	S09S	9	We encourage the BLM to review the process for coordination with the Department on lease modification as outlined in Appendix 5g of our MOU. The option being proposed by the BLM in this SDEIS represents a significant policy shift related to non-eagle raptors, and the Department requests to be involved with the review of annual exception/modification requests made by the OG in the CCPA.	Thank you for your comment.
Anadarko Petroleum Corporation	B16S	1	For year-round development to be achievable, the process itself must also be clear and consistent and provide operators a streamlined, less cumbersome and uncertain exception and waiver approval process than that proposed in the SDEIS selected Option 4. A mechanism that is certain and inclusive of clear criteria by which operators can achieve TLS exceptions/waivers will benefit the Bureau of Land Management ("BLM"), the public and operators while also limiting overall environmental and wildlife impacts associated with the project.	Thank you for your comment. Please note that Option 4 was drafted by the BLM to reflect the programmatic nature of proposed development within the CCPA and to provide flexibility to accommodate changing wildlife conditions and/or industry practices to further mitigate the impact of drilling activities within TLS buffers. Therefore, Option 4 establishes the desired condition (i.e., "alleviate impacts") to achieve the goals and objectives of the Casper RMP which include managing all activities to sustain wildlife populations and habitats. Also note that the BLM has added an additional option (Option 6) to the Final EIS which is now part of the agency's preferred alternative. Also note that the BLM has already worked with two operators (both of whom are members of the OG) in implementing year-round development in both the Buffalo and Casper Field Offices. Those operators submitted plans or mitigations that the BLM then was able to analyze at the site-specific level and, in one case, work with the USFWS to allow those companies to continue drilling in both raptor and greater sage grouse buffers through the timing limitations. Both of these projects were done without having done a land use plan amendment and using the present exception criteria.
Anadarko Petroleum Corporation	B16S	2	Although conscious of the available information, the BLM did not disclose such information regarding avian presence and nesting habits within the Project area.	The BLM has updated the baseline raptor discussion in the wildlife section to include additional data and analysis.
Anadarko Petroleum Corporation	B16S	3	Comment 1 - Definition of "Active Nest": A critical component of the Proposed Action is permitting certain oil and gas development activities during traditional timing limitation periods in non sage-grouse core area, non-eagle raptor nest buffer areas. In establishing the scope of such activities, the definition of "active nest" is extremely important. Anadarko recommends the definition of "active nest" be consistent with its widely understood meaning as set forth by the United State Fish and Wildlife Service ("USFWS") as opposed to an ambiguous and newly defined term found only in this SDEIS. (SDEIS, p. 3-2, line 24). Currently the SDEIS's definition of an <i>Active Nest</i> includes the phrase "or is otherwise occupied" creating unnecessary ambiguity and broadening the meaning of active nest beyond what the USFWS deems an active nest. Compare to the USFWS's definition of an active nest as "one that contains viable eggs and/or chicks." Memorandum to Regional Directors from Assistant Director, Migratory Birds at 1 n.2 (June 14, 2018). The USFWS considers nests to be inactive when they "are empty, contain nonviable eggs, or are being built	The BLM has updated the text to include more literature references with definitions of nest activity to support application of the WGFD definition of Occupied Territory or Site in the impact analysis. This broader definition is consistent with the BLM's RMP and the agency's mandate under FLPMA to protect wildlife habitat under its management.

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			<p>but do not yet have an egg in them.” Id. The USFWS has explained that “[a] nest becomes active when the first egg is laid and remains active until fledged young are no longer dependent on the nest.” Id. Deviating from the USFWS established definition has no basis in fact or law. Recommended Action: BLM should seek to avoid creating unnecessary ambiguity, increased conflict and uncertainty as to the TLS. The FEIS should use the USFWS definition of an “active nest” throughout the FEIS and analyze impacts in a clear and consistent manner using the USFWS definition for an active nest.</p>	
Anadarko Petroleum Corporation	B16S	4	<p>Comment 2 - Analysis of Raptor Nest Activity: The SDEIS’s analysis of raptor nest activity should include data from 2016-2018. Independent third-party biologists, using protocols agreed to by BLM, collected and provided data sets for raptor nest activity spanning the last three years (2016-2018). The SDEIS significantly overstates the level of anticipated active raptor nests by using data sets from 2005, 2006, and 2007-data which are over 10 years old. (SDEIS, pgs 3-6- 3-7.) Equally troubling, the BLM fails to explain why it relied upon this set of data when more recent data is available. BLM should not utilize data that it almost a decade old for its impact analyses and should utilize the more recent data in the Final EIS. Recommended Action: Ensure the SDEIS analysis of raptor nest activity includes the best available information, that in this case includes the 2016-2018 data, and that the decision among options reflects consideration of this data.</p>	<p>The BLM has updated the text to include more recent raptor data sets that had been provided by the Operator Group. Based on this the BLM revised the estimate of nest activity in the CCPA and clarified the rationale for the activity percentage used in the impact analysis of all the options.</p>
Anadarko Petroleum Corporation	B16S	5	<p>Comment 3 - Use of Data In Analysis: The SDEIS uses raptor nest activity data in a manner that significantly overestimates the annual nest activity in the Project Area over the life of the project. In doing so avian impacts are significantly overstated in Options 2 and 3. A range of raptor nest activity data sets are included in Figure 3.18-10X (SDEIS p.3-7). The range of raptor nest activity from these data sets is 5% to 50% with a BLM calculated average of 22%. Rather than use average annual nest activity or the range of annual nest activity levels in estimating impacts (see attached), BLM assumes the highest single year of nest activity and applies that to every year for 10 years of oil and gas development. The SDEIS then states “Therefore, the BLM conservatively assumes that 50 percent of the rapt or nests identified in the CCPA (Figure 3.18-9) would be found to be active on an annual basis” (SDEIS p. 3-7). <i>[See comment letter for table included with comment]</i> BLM made an improper assumption that 50% of the nest will be occupied when data shows a much lower occupation level representing a “worst-case” scenario. There is new data, and a larger data set that is worthy of consideration in the current review. The BLM’s analysis is inconsistent with the requirements of the National Environmental Policy Act of 1969 (“NEPA”). NEPA requires, not worst-case analysis but rather the consideration of reasonably foreseeable impacts. <i>Robertson v. Methow Valley Citizens Council</i>, 490 U.S. 332, 354 (1989) (noting that the CEQ replaced the requirement to analyze “worst-case” analysis with a requirement to analyze reasonably foreseeable impacts); 40 C.F.R. § 1502.22. Recommended Action: The FEIS should use average nest activity values when evaluating average impacts over a 10-yr project life, not data from a single year. While a maximum value could potentially indicate the maximum impact that might occur at some frequency over the course of the project, it should not be used to suggest potential, very conservative, annual or cumulative impacts. If maximum values are used to evaluate a potential impact then minimum and average values should be used, as well, to provide an appropriate range of impacts.</p>	<p>The BLM has updated the text to revise the estimate of nest activity in the CCPA and to clarify the rationale for the activity percentage used in the impact analysis. Based on the variability and unknowns in the available data, the BLM adopted a use-rate calculation that incorporates methods that Carlisle et al. (2018) developed for a longitudinal study of nesting raptors in the Powder River Basin. The updated dataset resulted in a higher estimate of average annual use rate which is used in the updated impact analysis. The observations in both the BLM and OG datasets favor large hawks (Buteo species) and most likely under-represent smaller species or species that are harder to observe such as kestrels and various species of owl due to their smaller size or more secretive nesting locations.</p>
Anadarko Petroleum Corporation	B16S	6a	<p>Comment 4 - Transparency of Information Supporting the Project’s Objective for Year-round Drilling: The SDEIS, is designed to inform the public and reflect the BLM’s analysis of the Project and proposed activity and action. Critically, however, the SDEIS does not properly account for the number of pads and raptor nest buffers that overlap or intersect and thereby minimize the true need for year-round drilling. The SDEIS must include analysis and discussion of realistic analysis provided by the OG group of a field wide-development plan overlaying well pads and nest buffers to project potential impacts. (“Example Development Plan”). See also attached Effects of Timing Stipulations and maps. This example is included in the administrative record and was crafted using known information such as current raptor and sage-grouse nesting buffers for the Proposed Project Area. As indicated in Figure 1, at least 1,283 nest buffers exist in the Proposed Project Area (SDEIS. P. 3-5). These nest buffers include both active and inactive nests. Nest buffers can have radii from a quarter mile to two-miles, encompassing from 0.2 to 12.5 square miles. One half mile buffers, common to many raptors, encompass about 0.8 square miles, or</p>	<p>Thank you for your comment. The BLM acknowledges receipt of a document from the Operator Group called “Effects of Timing Stipulations on the Ability to Develop the Converse County Project Area.” In reviewing the document, the BLM found that it was developed conceptually using only well pads and did not consider other facilities included in the Proposed Action (e.g., production pads, water supply pads, access and trunk roads, pipelines, powerlines, compressor stations, etc.). The BLM also notes that the conceptual layout resulted in only 1,176 pads in the CCPA, which is considerably less than the number of pads (1,500) proposed by the OG. Therefore, the BLM concluded that the numbers presented by the OG would not provide a defensible basis for estimating the number of well pads that could be located within a non-eagle raptor nest timing stipulation buffer. The BLM does agree with the overall approach to estimating the number of pads that could be located within a non-eagle raptor buffer presented in this comment. The updated text in the</p>

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			<p>about one square mile of land for each nest buffer. <i>[See comment letter for Figure 1 included with comment]</i> To demonstrate the number of well pads potentially located within these nesting buffers across the Proposed Project Area, the OG applied the <i>Example Development Plan</i> of one pad per two sections (i.e., one pad per each 1280-acre drilling and spacing unit) to the overall Proposed Project Area. Figure 2 (T38N R75W) represents this <i>Example Development Plan</i> for a single township. The well pads are shown to scale as 12 acres in size, consistent with the estimated initial disturbance for well pad construction within the Proposed Action. In this township, four well pads (green) are not within nest buffers, while five well pads (yellow) would slightly overlap nest buffers but would likely be relocated to avoid the nest buffer. Nine well pads (9 of 16 or 56 percent and shown as red) could not be moved outside of the nest buffer in a manner that would still allow recovery of the mineral resource and would therefore be provided TLS relief as envisioned by the Proposed Action. In addition, even when operators can re-locate well pads to avoid nest buffers, proposed roads and associated infrastructure may still intersect nest buffers. <i>[See comment letter for Figure 2 included with comment]</i></p>	<p>“Raptor” subsection of Section 4.18.2.2 is based on an evenly spaced grid of the 1,500 well pads spread out across the CCPA. Using this approach, the BLM estimates that 98 well pads could be located within the timing stipulation buffer of an occupied nest.</p>
Anadarko Petroleum Corporation	B16S	6b	<p><i>[Comment 4 continued]</i> This <i>Example Development Plan</i> illustrates that road and well pad planning efforts to completely avoid development activity in nest buffers within the Project Area is impossible. Within the Township in Figure 2, 56 percent of the overall area is covered with nest buffers, a condition not unusual for the Project Area. In fact, the results of this <i>Example Development Plan</i> applied to the entire project area (see map book from December 2015) suggests about 45 percent of all well pads in the Project Area will likely fall within nest buffers. Importantly, this plan does not fully account for the other constraints on well pad and road locations such as avoidance of other important resources such as wetlands or cultural artifacts; topographic constraints such as steep slopes; or private property-owner preferences-all of which make avoiding nest buffers in the Project Area even more difficult. This <i>Example Development Plan</i> indicates as many as 28 percent of all Proposed Action well pads within the Project Area would be within nest buffers for which operators are seeking potential TLS relief to conduct year-round development. In other words, these pads are either within non-core sage grouse leks (TLS relief managed per the Sage state-wide Executive Order, 2015) or non-eagle, raptor nest buffers in which operators are seeking TLS relief as described in Option 3 (SDEIS p. 2-7). This is significantly different than what the SDEIS currently suggests of 7 to 22 percent of well pads would fall within non-eagle raptor nest buffers. (SDEIS p. 4-5). To estimate the number of nest buffers impacted on an annual basis by Option 3, combine a) the results of the <i>Example Development Plan</i> explained above with b) the rate of development as described in the Proposed Action (DEIS, 2018). For example: 1. 150 pads constructed/year x 28% within nest buffers with proposed year-round development = 42 pads/year - 42 pads/year in nest buffers 2. 42 pads/yr. in nest buffers x 22% active nests on average/year (SDEIS p. 3-5). = - <i>Nine active nests/yr. on average potentially impacted across the Project Area</i> Hence, on an annual basis, about nine active nests (or more accurately described as nesting opportunities) in the project area might be impacted under Options 2 in the SDEIS with year-round development.</p>	<p>Please see the response to Comment B16S-6a.</p>
Anadarko Petroleum Corporation	B16S	6c	<p>Recommend Actions from Comment 4: a) Utilize the <i>Example Development Plan</i> as a tool in assessing how many nest buffers might be impacted in a given year if operators were to implement the Proposed Action in concert with Option 3 from the SDEIS. Utilize the above formula to estimate the number of nest buffers impacted annually. A quantitative estimate of average number of impacted active nests can be projected.</p>	<p>Please see the response to Comment B16S-6a.</p>
Anadarko Petroleum Corporation	B16S	6d	<p>Recommended Actions from Comment 4 (cont.): b) The SDEIS should also portray the information factually and in a context that does not create misperceptions. BLM should include an average number of active nests potentially impacted per year as indicated above in the FEIS.</p>	<p>Thank you for your comment; also, please see the response to Comment B16S-5.</p>
Anadarko Petroleum Corporation	B16S	6e	<p>Recommended Actions from Comment 4 (cont.): c) The FEIS should clarify throughout the document that no nests will be directly impacted or damaged under any considered Option for year-round development. This is an important clarification as the current</p>	<p>Thank you for your comment. The BLM acknowledges that oil and gas development within a non-eagle raptor nest buffer does not involve the intent to directly impact a nest. However, the text describing Option 3 is included in the EIS as presented to the BLM by the OG and does not explicitly exclude direct impact</p>

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			document may incorrectly lead a reader to believe that the physical nest itself is perhaps damaged or impacted.	of nests. In addition, the BLM is concerned that unintentional nest destruction could occur during construction activity (building the pad, roads, pipelines etc.).
Anadarko Petroleum Corporation	B01S	6f	Recommended Actions from Comment 4 (cont.): d) The document should state that "use of a nest" or "nesting opportunities" in a given nesting season is what is meant by the use of the term "nest impact."	Thank you for your comment; the BLM has updated the baseline data presentation and impact analysis associated with non-eagle raptors in the Final EIS.
Anadarko Petroleum Corporation	B16S	6g	Recommended Actions from Comment 4 (cont.): e) Utilizing the above formula, the estimate for the number of potential affected nesting opportunities is nine nesting opportunities annually or 90 nesting opportunities events over the 10-year life of the project. BLM should include in the FEIS that this amounts to less than three percent of the overall nesting opportunities in an average year in the project area. To avoid the perception of perpetuation of negative bias regarding the Proposed Action, the BLM should also state in the FEIS that this also means <i>97% of nesting opportunities in an average year are not impacted by Option 2.</i> ¹ <small>1 See SDEIS, p. 3-6, line 15. In an average year 22 percent of nests are active. If 1283 nesting sites are present in the Project Area and 22 percent are active on average, then 282 nests are active in an average year. If nine active nests are potentially impacted by year-round development, then 273 active nests would not be impacted in an average year. 273 actual active nests divided by 282 active nests on average equals 97 percent.</small>	Thank you for your comment. Also, please see the response to Comment B16S-6a.
Anadarko Petroleum Corporation	B16S	7a	Comment 5 -Nest Monitoring Data From the Prior Year Alone is Not an Absolute Indicator of the Next Year's Nest Activity: BLM implies with the statement, " <i>Monitoring would be required for two consecutive years after well development to ensure that the conservation measures were effective in protecting the non-eagle raptor nesting activity,</i> " that nest monitoring data is predictive of nest activity in future years. Option 4 is based on inaccurate analysis of nest survey data. BLM' s Option 4 is constructed on the premise that annual pre-construction nest surveys reliably predict which nests are going to be active in future years. The Anadarko 2016-2018 nest monitoring data, however, demonstrates that nest monitoring data is not necessarily predictive of following year activity. (Provided to BLM email submittal by the OG on October 26, 2018 to Mike Robinson/BLM Project Manager/Casper Field Office.). One result of this is that BLM's current process for granting exceptions and the process proposed as Option 4 is based on flawed usage of non-eagle raptor survey data. A summary of the 2016-2018 raptor nest surveys follows: In 2018, Anadarko's third-party contractors completed 3-years of raptor nest surveys inclusive of areas within the Converse County Project area. This annual monitoring found pre-construction nest surveys, even conducted annually, are not direct indicators of what will be current year nest activity, as demonstrated in the information described in detail below. Option 4 is formulated around survey data from two years of previous years nesting activity to establish TLS and TLS relief. Data submitted by other members of the OG also supports this trend and analysis. The Anadarko raptor nest monitoring area is located within the Converse County EIS area as indicated in Figure 3 by the area labeled as "Map Extent". [See comment letter for Figure 3 included with comment] Figure 4 presents the Anadarko nest monitoring area of 22,875 acres, with about 8,257 acres within ½ mile raptor nest buffers. Both eagle and non-eagle raptor nests exist in the Anadarko nest monitoring area. Thus, about 36% of the area is covered by raptor nest buffers. Very limited construction or drilling activity occurred in this area during the study period. Furthermore, Figure 4 indicates that the Anadarko nest monitoring is generally consistent in raptor nest density as the <i>Example Development Plan</i> described in Comment 4. [See comment letter for Figure 4 included with comment] Oil and gas development pads within the Anadarko nest monitoring area are depicted by red outlined boxes on Figure 5. Drilling pad placement often is dictated by several competing factors such as mineral ownership, geologic information and past drilling success, drilling and spacing units, transportation facilities and infrastructure, and on-the-ground features such as existing roads, topography, and landowner desires. By the time these variables are factored there is often limited flexibility on where pads can be placed. Pad/nest overlaps become unavoidable in Converse County given the density of raptor nest buffer as shown on Figure 5 by the boxes shown in solid red. [See comment letter for Figure 5 included with comment]	Thank you for your comment. The BLM has updated the text to include additional data and analysis and has added an additional option (Option 6) which is now part of the agency's preferred alternative. The BLM believes that monitoring is necessary to confirm whether conservation measures adopted under Option 4 (or any plan amendment option) are mitigating the impacts to non-eagle raptors associated with granting of relief from timing stipulations. Please refer to the monitoring and adaptive management requirements included in new Option 6.

Commenter	Commenter ID No.	Comment No.	Comment	Response
Anadarko Petroleum Corporation	B16S	7b	<p><i>[Comment 5 continued]</i> Nest activity data was collected in this area for three consecutive years and was formally submitted to BLM via email on October 26, 2018. Nests that were either active (as defined by the USFWS definition for “active” nest) or “occupied” (a category that suggests signs at the nest or in proximity to the nest suggesting the nest has been active in the past) are shown in x-hatch on Figure 6. The occupied category is subjective, but was included in this mapping exercise to align with BLM’s current, inappropriate definition of “active nest” utilized in the SDEIS. There are 30 total eagle and non-eagle raptor nests buffers that fall within or partially within the Anadarko raptor nest monitoring area. The results of three years of nest monitoring indicate 7 Eagle nests were Active (or <u>Occupied</u>) in any one year in the last three years (2016-2018) and 8 non-eagle raptor nests were Active (or <u>Occupied</u>) in any one year in the last three yeais. Conclusions from the monitoring are that <u>annual nest activity</u> (even when using the more subjective and broader definition of nest activity that includes “occupied nests”) is <u>significantly less</u> than the 50% active nest value used in the SDEIS impact analysis. The study demonstrates that TLS are often protecting unoccupied nests rather than actual nesting bird pairs incubating eggs or raising chicks. BLM has Anadarko’s nest monitoring data set and this information needs to be included in the analysis of the nest activity levels in the FEIS.</p> <p><i>[See comment letter for Figure 6 included with comment]</i></p> <p>Figure 7 indicates nest activity only in 2018 within the Anadarko Nest Monitoring area. Only one Eagle nest was Active (or <u>Occupied</u>) in 2018. This clearly indicates that Nest activity in 2016 and 2017 was not predictive of nest activity in 2018. If nests monitoring is not predictive of nest activity, then BLM’s Option 4 is fundamentally flawed. BLM Option 4 is predicated on the assumption that prior year monitoring will indicate which nests are going to be active in the current year and provide BLM actionable data on where to allow or disallow TLS relief. It is just one of the many flaws associated with Option 4.</p> <p><i>[See comment letter for Figure 7 included with comment]</i></p> <p>Recommended Action: BLM created Option 4 on the premise that annual pre-construction nest surveys reliably predict which nests are going to be active in future years. The above information, summarized from the Anadarko 2016-2018 nest monitoring data, demonstrates that nest monitoring data is not necessarily predictive of following year activity. Anadarko recommends that BLM clearly present in the SDEIS that it considered this information, and reconsider Option 4 as its preferred alternative and instead select Option 3.</p>	Please see the responses to Comment B16S-5 and Comment B16S-7a.
Anadarko Petroleum Corporation	B16S	8	<p>Comment 6 - Year-Round Drilling Has Beneficial Environmental Effects.</p> <p>The BLM failed to adequately disclose the beneficial impacts of year-round development. The Proposed Action includes a significant degree of horizontal development and other measures designed to minimize environmental impacts and these benefits are not fully disclosed in the EIS. The following benefits of year-round drilling were not discussed in either the DEIS or the SDEIS.</p> <ul style="list-style-type: none"> - Year-round drilling reduces overall surface disturbance (as much as 15% for a given drill pad) and reduces time from project initiation to interim reclamation; - Year-round drilling yields a more constant rig count, thereby providing for fewer swings in economic activity in surrounding communities over the course of a calendar year; - Year-round drilling results in fewer drilling rig moves, resulting is less vehicular traffic (i.e., potentially fewer accidents, leaks, and spills) and lower mobile air emissions (e.g., dust, VOCs, NOx). <p>Recommended Action: The environmental benefits and the reduced impacts from year-round drilling, should be clearly identified and disclosed to the public in the FEIS.</p>	As noted in BLM’s responses to comments on the Draft EIS, the impact analysis in the Final EIS has been updated to more clearly quantify the changes in rig moves and transportation activity between Alternative B (with year-round drilling) and Alternative C (with no year-round drilling). The SDEIS only analyzed those resources that would be impacted with the change in the RMP.
Anadarko Petroleum Corporation	B16S	9	<p>Comment 7 - Non-Federal Lands:</p> <p>The BLM fails to adequate describe the limitations on its authority over mineral development within the Project Area. As the BLM is aware, surface land and mineral ownership in the Project area is complex. BLM’s authority varies depending on the surface location of the well pad and how the well bore intercepts mineral ownership. The SDEIS does not provide a description of BLM’ s authority on different land ownership designations and account for these designations in the impact analyses of year-round development. The BLM only controls surface use requirements on land ownership designations known as Fed/Fed/Fed or split estate locations. In whole this accounts for about 60% of the project area. Remaining pad locations are either Fee/Fee/Fee or Fee/Fee/Fed locations with very limited BLM control on surface use. The recent Permanent Instruction Memorandum No. 2018-014 dated June 12, 2018 accurately outlines BLM’s authority on these types of oil and gas pad locations. Of importance to the SDEIS is that BLM cannot impose raptor TLS on either Fee/Fee/Fee or Fee/Fee/Fed pad locations.</p> <p>Recommended Action: The FEIS should clearly recognize the facts in terms of ownership in this Project</p>	As noted in responses to similar comments on the Draft EIS, the BLM has added a new section to the Final EIS (new Section 1.4.3) which describes the extent of BLM authority within the CCPA.

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			<p>area, and as a result the BLM's limitations of its authority. The BLM must incorporate the legal reasoning and recognize its limited authority as outlined in the Instruction Memorandum, in its Final EIS and Record of Decision for this Project.</p>	
<p>Anadarko Petroleum Corporation</p>	<p>B16S</p>	<p>10a</p>	<p>Comment 8 - Scientific Literature Supports Option 3: Anadarko highlights the below scientific literature and peer reviewed data that supports Option 3. This is particularly important given that for many of the conclusions BLM makes for Option 3, BLM does not provide scientific support. 40 C.F.R. § 1502.24 (requiring BLM to use professional and scientific integrity when analyzing potential impacts under NEPA). BLM has provided no literature citations for the many biological assertions it makes in the SDEIS such as those in the Option 3 impact analyses suggesting potentially significant harm to raptor populations from adoption of Option 3. Recommended Actions: BLM needs to review the following scientific literature and include key conclusions found in this literature in its disclosure to the public assertions regarding both raptor nesting behaviors, impacts from development in general, and impacts from possible implementation of Options 2 thru 5. Specific assertions by Anadarko in this comment letter supporting selection of Option 3 are supported by the bolded quotes from the scientific literature referenced below: 1. "Human-Made Structures, Vegetation, and Weather Influence Ferruginous Hawk Breeding Performance", Zachary P. Wallace, Patricia L. Kennedy, John R. Squires, Lucretia E. Olson, and Robert J Oakleaf, <i>The Journal of Wildlife Management</i> (80 (1): 78-90; 2016 -"Our results provided no evidence that breeding performance was influenced by density of roads and oil and gas well pads, or distance to well pads... Average density of active oil and gas well pads in occupied territories with > 1 pad considered in this study was considerable lower (1.34 well pads/km²) than some current and proposed developments in Wyoming ... " (Note: 1.34 pads/km² = 3.4 pads/mi² which is considerably higher pad density than that proposed by this project. Pad density in the Converse County project will be on the order of 1 to 2 pads per section on average where pad construction occurs and due to the increased drilling of two-mile laterals some sections will have no drill pad disturbance). -"Our results suggest artificial nest platforms are a primary factor influencing nest survival and productivity of ferruginous hawks in Wyoming. Artificial platforms and other anthropogenic structures (i.e., gas condensation tanks, abandoned windmill platforms, power poles) increased nest survival and productivity given the density of human disturbance in the project area. Anthropogenic nesting substrates appear not be to ecological traps and have potential use in mitigation ... " 2. "Interannual Golden /eagle (<i>Aquila Chrysaetos</i>) Nest-use Patterns in Central Utah: Implications for Long-term Nest Protection" Steven J. Slater, Kent R. Keller, Robert N. Knight, <i>Journal Raptor Research</i> 51(2): 129-135, 2017 -"Inspection of 21 territories monitored for 26-38 yr. without interruption suggested [golden] eagles use individual nests an average of every 3.3 years, laid nests in any nest within territories an average of every 1.8 yr. and switched nests between 43.3 % of consecutive nesting attempts (i.e., egg-laying in discrete breeding season)" -"no more than one nest was used in any year" -"eagles made nesting attempts during 50.2% of territory-survey years" -"nest success or failure in one year did not influence whether a pair switched nests in the following year"</p>	<p>The BLM has reviewed the references provided in the comment and included additional references, as appropriate, in the Final EIS.</p>

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Anadarko Petroleum Corporation	B16S	10b	<p>[Comment 8 continued] 3. "Raptor nest-site use in relation to the proximity of coalbed-methane development" J.D. Carlisle, L.E. Sanders, A.D. Chalfoun, K.G. Gerow, 2018, <i>Animal Biodiversity and Conservation</i> 41.2: 227-243</p> <ul style="list-style-type: none"> - "Because raptors tend to exhibit high fidelity to nesting area (Newton, 1979; Millsap et al., 2015) and often reuse the same nests, changes in nest-site use over time could signal the existence of one or both of the aforementioned effects [fitness and population viability] and warrant further examination." - "The four most prevalent species (red-tailed hawk, ferruginous hawk, golden eagle, and great horned owl) accounted for the vast majority (82.9%, n=2,548) of nests" - "The average proportion of nests in use varied across species, as did the magnitude of changes in use from year to year (fig.2). Bald eagles had the highest overall average use (63.6%), whereas ferruginous hawks had the lowest (8.2%). All other species averages ranged from 19.5-42.6% (table 2s)." - "Trends in nest use were similar between nests at undeveloped and developed sites for most species (fig. 3). Nests at undeveloped sites had higher use than nests at developed sites for red-tailed hawks (effect size= 5.1 %, P<0.01), burrowing owls (<i>Athene cunicularia</i>, 11.5%, P=0.02), and long-eared owls (<i>Asia otus</i>, 9.5%, P=0.02; fig 4)." - "Raptor occupancy, site fidelity, and population trends are known to be associated with local prey availability ... " - "Some raptor species, such as golden eagles and ferruginous hawks, maintain several potential nest sites within their territory among which they can rotate in different years (Kochert and Steenhof, 2002; Smith et al., 2010; Millsap et al., 2015)." - "Surveyors in our study monitored nest sites and not entire nesting territories, which means that our nest-use rates were likely consistently lower than actual territory-use rates for species with multiple nests per territory." 	Please see the response to Comment B16S-10a.
Anadarko Petroleum Corporation	B16S	11	<p>Comment 9-RMP Amendment. (SDEIS, p. ES-1 Es-2, and Table 2.4-1, p. 2-4-5): Options 4 and 5 are flawed as they do not include RMP amendments. The document notes in the first paragraph that the SDEIS focuses on "<u>non-eagle raptor amendment options</u>." (Underline added by BLM). Later in describing Options 4 and 5 it implies that no RMP amendment is needed for these options. Both Options 4 and 5 fail to provide regulatory certainty to operators that TLS will be relieved. In this sense, both options are ambiguous and fail to meet the "purpose and need" of the project. Both options say that timing limit stipulation may be relieved (emphasis added) and thereby are a) incomplete and b) confusing. "May" should be changed to "will" in both options if they are intended to align with the Preferred alternative in the DEIS. A SDEIS would not even have been needed to implement options 4 and 5 as they are merely a more complex means of administering the current, inadequate exception process. Recommended Action: BLM needs to modify Options 4 and 5 to note that the RMP will be amended to provide programmatic TLS relief if these options are included in the FEIS.</p>	The text has been updated in Section 1.4.2 to clarify that all options except Option 1 would involve amending the Casper RMP. Since this EIS is programmatic, Option 4 was written to be an RMP decision to apply programmatic to any development with the CCEIS boundary and would allow for changing conditions for wildlife as well as industry practices to further an adaptive management strategy for site-specific implementation of timing relief. As such, Option 4 would set the desired condition that the BLM and proponent would work towards consistent with the goals and objectives of the Casper RMP.
Anadarko Petroleum Corporation	B16S	12	<p>Comment 10 - (SDEIS, p. ES-2, lines 32-33): "... the BLM preferred option is Alternative B and LUP amendment Option 4, the Proposed Action Alternative". This statement is confusing on multiple fronts as: 1) Option 4 does not provide year-round development and 2) Option 4 does not include a LUP amendment. BLM should clarify these inconsistencies. Recommended Action: BLM needs to modify Option 4 to include an RMP amendment to provide programmatic TLS relief if this option is included in the FEIS.</p>	Please see the response to Comment B16S-11. Also note that the BLM has added a new option (Option 6) to the Final EIS which is now part of the BLM's preferred alternative.
Anadarko Petroleum Corporation	B16S	13	<p>Comment 11 - (SDEIS, p. ES-4, lines 17-18): "Therefore, it is reasonable to assume that 50 percent of the non-eagle raptor nests identified in the CCPA would be considered active on an <u>annual</u> basis." (Underline added). There is no technical or scientific justification for using the high end of a nest activity range as described in the preceding paragraph as the <u>annual</u> active nest level. This is highlighted in detail in Comment 3 above. Recommended Action: BLM needs to modify the language in this paragraph consistent with the recommended changes in Comment 3.</p>	Please see the response to Comment B16S-5.

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Anadarko Petroleum Corporation	B16S	14	<p>Comment 12 - Impact Representation. (SDEIS, Table ES-2): Table ES-2 misrepresents and inflates impacts. BLM mixes annual, average, and cumulative impacts throughout the SDEIS and summarizes this confusing narrative in table ES-2. Average nest activity is 22% according to BLM. In this table it presents number of active nests impacted during Project <u>Development</u> (underline added)- suggesting a cumulative impact. This table should note the number of nests impacts annually and put these impact numbers into the context of how many nests are within the area overall and the percent of nests potentially impacted in a given year. See Comment 4 that more accurately estimates about nine active nests per year could potentially be impacted by the project and that this represents less than 3% of the overall active nests in an average year (eight nine actives nest impacted/286 active nests in an average year). BLM provides absolutely no analysis or literature references supporting its erroneous conclusions that this level of impact is "moderate to major" as indicated in Table ES-2. Nor does the SDEIS document define terms like "negligible," "minor," "moderate," or "major" impacts in any fashion. Recommended Action: BLM needs to correct and replace Table ES-2 and define impacts terms used throughout the document.</p>	<p>Table ES-2 has been updated to reflect the updated analysis conclusions in the document.</p>
Anadarko Petroleum Corporation	B16S	15	<p>Comment 13 - (SDEIS, p. 3-2, line 24): BLM should use an active nest definition in this document that is consistent with the USFWS Memorandum dated 06/14/2018 titled <i>Destruction and Relocation of Migratory Bird Nest Contents</i>. That memorandum notes that "The MBTA does not prohibit the destruction of an inactive migratory bird nest, provided that no possession occurs during the destruction ... " and further defines "An active nest is one that contains viable eggs and/or chicks." BLM should delete the "or is considered occupied" in the SDEIS definition of active nest. Furthermore, it is not clear that the data sets used in the SDEIS and percentages of "active" nests presented were aligned with the broader definition that includes occupied nests. If data was aligned with the broader definition, then active nest levels would actually be lower than those presented in the SDEIS. Recommended Action: BLM should use the active nest definition used by the USFWS and furthe1more the presentation of "active nest" data should be aligned with the proper active nest definition.</p>	<p>The BLM has updated the text to clarify nest terminology and to include more literature references with definitions of nest activity. Based on this and the BLM's RMP decisions calling for the protection of wildlife habitat, the EIS applies the WGFD definition of Occupied Territory or Site and the Carlisle et al. (2018) definition of annual nest use rate in the EIS analysis. The BLM does not consider the USFWS definition of "active nest" to be sufficiently broad to capture the range of reproductive efforts and behaviors that warrant protection under the RMP decisions to protect wildlife habitat.</p>
Anadarko Petroleum Corporation	B16S	16	<p>Comment 14 - Clarification of Table 3.1801. (SDEIS, Figure 3.18-9, Table 3.1801): It is not clear what data sets were used to create Figure 3 .18-9. Is this BLM data from 2005-2007 as presented in Table 3.18-1? The Figure 3.18-9 source is noted as AECOM 2015. Recommended Action: BLM needs to indicate the data used to develop figures and tables and more recent data sets provided by the OG should be shown on an additional map in the FEIS.</p>	<p>Source information has been updated for SDEIS Figure 3.18-9, Table 3.18-5.</p>
Anadarko Petroleum Corporation	B16S	17	<p>Comment 15 - The SDEIS's Conclusion of High Nest Fidelity is Unsupported. (SDEIS, p. 3-2, lines 33-34): "Raptors typically produce one clutch per year and many exhibit high nest fidelity." The high variability of nest activity from year to year observed in each of the nest monitoring data sets suggests nest fidelity and or nest success are highly variable and complex biological functions. Research suggests a much more complex biological environment that should be presented in the FEIS. See <i>Interannual Golden /eagle (Aquila Chrysaetos) Nest-use Patterns in Central Utah: Implications for Long-term Nest Protection</i> Steven J. Slater, Kent R. Keller, Robert N. Knight, 2017, Journal Raptor Research 51(2): 129-135. As an example, for Golden Eagles: 1. "Inspection of 21 territories monitored for 26-3 8 yr. without interruption suggested [golden] eagles use individual nests an average of every 3 .3 years, laid nests in any nest within territories an average of every 1.8. yr. and switched nests between 43.3% of consecutive nesting attempts (i.e., egg-laying in discrete breeding season)" 2. "no more than one nest was used in any year" 3. "eagles made nesting attempts during 50.2% of territory-survey years" 4. "nest success or failure in one year did not influence whether a pair switched nests in the following year" This eagle study supports Anadarko's assertion (See Comment 5 and supported by our 3-years of data) that nest success in a given year is not predictive of a nest being active the next year. This study is another source of empirical evidence that appears to align with the annual nest activity levels seen on average in the Converse County project area. Raptor reproductive biology is much more complex than simply saying "raptors display nest fidelity." They may return to a nest in future years, but the fidelity is not as strong or predictable as is seen, for example, with sage grouse leks where birds necessarily return consistently year after year. Other bird species are also known to build multiple nests but only use one in a given year. For example, Ferruginous Hawks build multiple nests and Table 3 .18-1 indicates that 414 of</p>	<p>The BLM has updated the text in the Final EIS to include more literature references with definitions of nest activity as well as the data provided by the OG. The BLM then applied the Carlisle et al. (2018) definition of annual nest use rate to re-examine the baseline data. This supported updating of the impact analysis in the Final EIS for all options and the inclusion of a new option (Option 6) as part of the agency's preferred alternative.</p>

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			<p>1,283 nests in the project are Ferruginous Hawks. Recommended Action: Withdraw what appears to be erroneous analysis. BLM should clearly indicate that nest fidelity is not strong and include both quotations and citations noted above to inform the public of how raptors use nests. Use the citation+E201s above, including the Anadarko nest monitoring data to support a more accurate description of how nests are used by raptors in the Project Area. Note how different species have differing nests building habits as indicated in the literature and make reference to the data that BLM has regarding Ferruginous Hawks to indicate that the low levels of nest activity in the project area are consistent with species that build multiple nests but only use one nest per year.</p>	
Anadarko Petroleum Corporation	B16S	18	<p>Comment 16 - Unsupported Conclusion. (SDEIS, p. 3-2, lines 39-41): <i>"In areas where previous research or monitoring has been done there will likely be more raptor nests data than areas without such additional occurrence information."</i> Anadarko strongly agrees with this statement. It is why Anadarko believes the nest data they provided (2016-2018 data) should be shown on a map as it will likely demonstrate more nests in those areas where additional monitoring has been done since BLM's 2005-2007 data sets. Recommended Action: BLM needs to further expound upon this statement in the chapter 4 impact analysis. Importantly, it strongly suggests the overall number of raptor nests in the project areas is higher than what has been reported, reinforcing the rationale that the sheer magnitude of pad/nest interactions is what has motivated Anadarko as part of the OG to request non-eagle raptor TLS nest buffer relief as part of the Proposed Action. This statement supports the assertion as more raptor nest data is collected there is an increasing probability that a <i>smaller overall percentage</i> of active raptor nests will be impacted from implementation of year-round development as envisioned by the Proposed Action in combination with Option 3.</p>	<p>Figure 3.18-9 has been updated to include data provided by the Operator Group along with BLM's data. In addition, the impact analysis has been revised to reflect a re-evaluation of baseline data which applies an annual nest use rate of Carlisle et al. (2018). The BLM agrees with the comment text noting the likelihood that more nests occur in the CCPA than have been reported to date. This strongly suggests the need for rigorous monitoring and adaptive management as required under the new option (Option 6) included in the Final EIS as part of the agency's preferred alternative.</p>
Anadarko Petroleum Corporation	B01S	19	<p>Comment 17- Use of Term "Occupied" Nest (SDEIS, p. 3-7, Figure 3.18-10X): This figure appears to use the category of "occupied" nest for what had previously been reported as "active" nest. The FEIS should use the USFWS service definition for active nests and consistently apply the use of that definition in the reporting of data in maps, tables and figures in the FEIS. Recommended Action: BLM needs to use a definition for Active Nest that aligns with the USFWS definition and then ensure that data sets used in analyses or presented in tables or figures are consistent with the definition.</p>	<p>As noted in previous comment responses, the USFWS definition of "active nest" does not capture the full range of reproductive efforts and behaviors that warrant protection by the BLM. The definitions of occupied vs active showcase the differences in the BLM and the USFWS missions. BLM is tasked with habitat conservation while the USFWS is tasked with individual bird conservation. The BLM Casper RMP goals and objectives are to maintain or improve populations through restrictions on activities within habitats which the BLM accomplishes by the application of a more broad definition of nest use. As noted in updated text, the BLM applied the WGFD definition of Occupied Territory or Site and the Carlisle et al. (2018) definition of annual nest use rate to re-examine the baseline data and impact analysis in the SDEIS.</p>
Anadarko Petroleum Corporation	B16S	20	<p>Comment 18 - Clarify to the Reader That No Option Renders Direct Impacts to Nests (SDEIS, P. 4-2, Section 4.18.2.2): BLM does not clearly introduce and explain the nest impact analysis for the various options. Recommended Action: Anadarko recommends that the beginning of the impact analysis section be revised. BLM states that no nests will be directly impacted or damaged under any considered Option. The agency should also affirmatively explain that there are no direct or affirmative purposeful actions under the Proposed Action or any of the alternatives that would directly take or impact migratory birds, their eggs, or their nests. The lack of such a statement leaves the reader with the incorrect impression that the physical nest itself is perhaps damaged or impacted by year-round development. In the same section the BLM should also state that "the use of a nest or nesting opportunities in a given nesting season is what is meant using the term "nest impact"."</p>	<p>Please see the response to Comment B16S-6e.</p>
Anadarko Petroleum Corporation	B16S	21	<p>Comment 19 - (SDEIS, p. 4-5, lines 9-10): "The upper end of the range in the percent of active nests in studies and data referenced in Section 3.18.2.5 was used as a conservative approach in determining the number of active nests in the analysis area." Recommended Action: BLM cannot overestimate the potential impacts by suggesting it is using a "conservative" approach. BLM is required by NEPA to disclose reasonably foreseeable, not overly conservative impacts. The BLM's current analysis is legally flawed and this statement should be deleted or revised accordingly.</p>	<p>Please see the response to Comment B16S-5.</p>
Anadarko Petroleum Corporation	B16S	22	<p>Comment 20 (SDEIS, p. 4-5, Option 2): "Applying these spatial buffers to the 1,283 historic non-eagle nests would result in an overlap of approximately 7-22% (percent) of the CCPA, respectively." As noted in Comment 4, this analysis is an over-simplification and under estimation of the nest/pad interferences in the project area that are driving</p>	<p>Please see the response to Comment B16S-6a.</p>

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			<p>the need for year-round development. BLM's assumption that all nests in the project area might be within a ¼ mile buffers results in the lower range of seven percent overlap and is not accurate given the nest numbers and species-specific data set forth in Table 3.18-1. For example, forty-two percent of overall known nests (549 nests) are Ferruginous Hawks (414 nests) and Golden Eagles (135 nests), both of which have ½ mile buffers. The BLM's suggestion that only seven percent of the project area is covered by nest buffers is simply incorrect.</p> <p>Recommended Action: BLM needs to use the Example Development Plan provided by the OG to more accurately estimate the number of nest/pad interferences in the FEIS consistent with Comment 4. Such analysis is required for BLM to comply with its obligations under NEPA.</p>	
<p>Anadarko Petroleum Corporation</p>	<p>B16S</p>	<p>23</p>	<p>Comment 21 (SDEIS, p. 4-6, lines 21-23, Option 2 Impact Analysis): “These impacts likely would result in reduced nesting attempts and breeding success for multiple species, reduced recruitment, and incremental reductions in overall local population health and sustainability.” This statement is an over estimation of potential impacts to nesting raptors and reflects a negative bias against Option 3. For the NEPA analysis to be reliable for decision-making, the potential reduction in nesting opportunities needs to be explained in the SDEIS to reflect the overall implications of both the TLS and impacts of year-round drilling without the TLS.</p> <p>Recommended Action: BLM needs to note that in an average year strict adherence to TLS would protect only six nesting opportunities from potential disruption. (Note: three additional nesting opportunities would fall on lands not under BLM jurisdiction and therefore not be protected by the BLM TLS under any of the options analyzed.) Furthermore, BLM should note that these are nesting opportunities not active nests. Moreover, there is no basis for assuming a nesting pair would abandon nesting altogether and not attempt to nest elsewhere. BLM should discuss if not analyze the likelihood that given the number of available nests, the fact that nest substrate is widespread across the project area (as indicated by the number of inactive nests), and the fact that several species naturally choose annually between multiple nests locations, the BLM' s negative assumption is not supported by reasoned analysis or literature citation.</p>	<p>The BLM has updated the text in the Final EIS to include more literature references with definitions of nest activity as well as the data provided by the OG. The BLM then applied the Carlisle et al. (2018) definition of annual nest use rate to re-examine the baseline data. This supported updating of the impact analysis in the Final EIS for all options and the inclusion of a new option (Option 6) as part of the agency's preferred alternative.</p>
<p>Anadarko Petroleum Corporation</p>	<p>B16S</p>	<p>24</p>	<p>Comment 22 (SDEIS, p. 4-6, lines 24-30, Option 2 Impact Analysis): “Long-term changes, those that would extend until the return of pre-disturbed conditions, in migratory bird species occurrence and diversity could occur as a result of following raptor amendment Option 2, impacts to nesting non-eagle raptors would be considered major, meaning the effects would be substantial and could be permanent in their effect on population or subpopulation survival, as effects would occur during key time periods such as breeding and nesting.” (Bold added)</p> <p>This concluding impact statement is incorrect. Potential disruption of nine cumulative or six BLM managed nesting opportunities on average per year in an area of 1.5 million acres with nearly 1300 identified nests is not substantial. BLM provides no data, standard of measurement, definition of “major” impact or supporting research to suggest a minimal potential impact over such a large area is “substantial and could be permanent.” In fact, an unbiased analysis suggests Option 2 would have limited impacts on non-eagle raptor populations in the project area over the course of the project life.</p> <p>Recommended Action: Eliminate the sentence cited above and revise to reflect a more scientifically justifiable estimation of cumulative raptor impacts as described by Comment 21.</p>	<p>Please see the response to Comment B16S-23.</p>
<p>Anadarko Petroleum Corporation</p>	<p>B16S</p>	<p>25</p>	<p>Comment 23 (SDEIS, p. 4-6, Lines 32-35, Option 3 Impact Analysis): “These OG-committed design features would reduce potential impacts to migratory birds by avoiding contact with development facilities and following one of two design features after approval from BLM and the USFWS.” The second sentence is not clearly written.</p> <p>Recommended Action: The phrase “after approval from BLM and USFWS.” should be deleted. The OG has committed to these mitigation measures and they will be utilized regardless of BLM or USFWS approval.</p>	<p>The referenced phrase has been deleted from the revised impact analysis in the Final EIS.</p>

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Anadarko Petroleum Corporation	B16S	26	<p>Comment 24 (SDEIS, p. 4-6, Lines 40-44, Option 3 Impact Analysis): “Feature 1 assumes that a nesting raptor is tolerant of development activities, if nesting occurs after operations have commenced in the area. However, as stated by the WGF (2018), the concept of continuous operations described in these features is untested in terms of determining its impacts on non-eagle raptors when selecting a nesting site, or when a nest site has been selected within close proximity to ongoing operations ... “ Anadarko agrees it cannot be unequivocally determined if the six additional nesting opportunities that will be potentially impacted annually (see previous specific comment for the basis for the number six) by removal of the BLM TLS year round drilling will be enhanced by this proposed mitigation measure. It is important for the BLM to disclose to the public, however, that the operator-committed measures were recommended and developed after multiple discussions over the course of the last several years with USFWS regarding migratory bird protection measures. Recommended Action: The FEIS should note that the proposed mitigation measure concept originates from the USFWS 's recommendations on best practices to protect migratory birds. It is not unreasonable to assume that these 6 nesting pairs will either a) nest somewhere nearby or b) choose to nest with the ongoing activity present given the biological imperative to reproduce and the widespread nesting substrate available in the area. The Option 3 impact analysis is not given fair consideration and is presented without what appears to be an unfounded bias against it and Anadarko suggests the BLM revise this language and reflect correctly in the FEIS or have an independent biologist review the section for accuracy prior to finalizing the FEIS.</p>	<p>Thank you for your comment. The BLM has updated the impact analysis in the Final EIS for all options including the addition of a new option (Option 6) as part of the agency's preferred alternative.</p>
Anadarko Petroleum Corporation	B16S	27	<p>Comment 25 (SDEIS, p. 4-7, Lines 3-4, Option 3 Impact Analysis): “Similar to Option 2, Feature 1 could impact a similar number of nests each year and over the life of the project by not applying any mitigation to active nests within the CCPA.” First, this sentence is not clearly written, and Anadarko does not agree that Option 3, Feature 1 is equivalent to Option 2. In Option 2, O&G development opportunities could commence at any time in nest buffers independent of nest activity. Option 3 is designed to prevent indirect take by preventing the abandoning of an active nest due to new development activity in proximity to an already active nest. Recommended Action: This inaccurate sentence should be deleted.</p>	<p>Thank you for your comment. The BLM has updated the impact analysis in the Final EIS for all options including the addition of a new option (Option 6) as part of the agency's preferred alternative.</p>
Anadarko Petroleum Corporation	B16S	28	<p>Comment 26 (SDEIS, p. 4-7, Lines 4-9, Option 3 Impact Analysis): “Feature 2 would alleviate impacts to the number of active nests impacted slightly by initiating the disturbance prior to the nest becoming active or at the end of the nesting period with the assumption that the behaviors associated with nesting raptors are not as sensitive to the disturbance activities. Therefore, the number of nests impacted during the development portion of the Project under Option 3 could be less than 45 but up to 141 within the CCPA.” The first sentence is incorrect as this describes Feature 1 not Feature 2 in Appendix S1. BLM appears to be saying that the feature might be beneficial but is not possible to quantify. Recommended Action: BLM should note that it is not unreasonable that these affected nesting pairs will either a) nest somewhere nearby or b) choose to nest with the ongoing activity present given the biological imperative to reproduce and the wide-spread nesting substrate available in the area.</p>	<p>Thank you for your comment. The BLM has updated the impact analysis in the Final EIS for all options including the addition of a new option (Option 6) as part of the agency's preferred alternative.</p>
Anadarko Petroleum Corporation	B16S	29	<p>Comment 27 (SDEIS, p. 4-7, Lines 10-13, Option 3 Impact Analysis): <i>Of the 45 to 141 nests within the CCPA, 3 to 9 could be impacted by project development on BLM lands that make up 6 percent of the CCPA. Therefore, based on the conversation measures set forth in Appendix SJ, only 3 to 9 nests would receive the protections presented in Appendix S.</i> This sentence is entirely incorrect and misleading. BLM controls surface use activities on both federal surface and split estate wells. This is about 60% of the project area not 6%. Recommended Action: BLM needs to note that the mitigation measures described as Feature 1 or 2 would be applied at about 25 locations a year (See Comment 4 for detailed explanation-42 locations per year in buffers multiplied by the 60% of pads controlled by federal surface use requirements) where operators anticipate year-round development in nesting buffers. This equates to about 250 locations over the course of the project. BLM should also note that 78% (average annual percent of inactive nests assuming 22% of nests are active on an annual basis) of the time that operators deploy these mitigation features they will be protecting empty/inactive nests.</p>	<p>The BLM has updated the impact analysis in the Final EIS for all options including clarification of the number of nests within the CCPA that would fall under BLM's management authority. Also note that the BLM has added a new option (Option 6) which is now part of the agency's preferred alternative.</p>

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Anadarko Petroleum Corporation	B16S	30	<p>Comment 28 (SDEIS, p. 4-7, Lines 14-18, Option 3 Impact Analysis): “Neither feature within Option 3 would ensure that there would be no disturbance to the nest. The design features under Option 3 could prevent a nest from becoming active and thus prevent it from being abandoned (USFWS 2018). However, they do not prevent the loss of a nesting location and possibly a nesting territory, if operations are too close to the nest, and secure nesting substrate in the territory is limited.” This statement is one-sided and negatively biased. The suggested loss of a nesting location and nesting territory is speculative, is not supported by objective analysis, and its magnitude not placed into Project Area perspective. Recommended Action: The BLM should note that based on projected development rates outlined in the DEIS of 150 O&G drill pads per year, the existing TLS will a) enhance raptor nesting success at only 3% of the nests in the project area compared to what the OG is seeking with targeted (i.e., non-eagle TLS relief) year-round development. Furthermore, the existing TLS will likely increase other environmental and wildlife impacts (e.g., dust emissions, traffic, air emissions) associated with drilling rig remobilizations. Finally, nest substrate in the area would not appear to be limited given a) there are nearly 1,300 nests in the EIS area and b) the suggestion in the SDEIS that this estimate undercounts the actual number of nests in the project area (SDEIS, p. 3-2. lines 39-41).</p>	<p>Thank you for your comment. The BLM has updated the impact analysis in the Final EIS for all options including the addition of a new option (Option 6) as part of the agency's preferred alternative.</p>
Anadarko Petroleum Corporation	B16S	31	<p>Comment 29 (SDEIS, p. 4-7, Lines Option 3 Impact Analysis): “Under Option 3, disturbance to raptor nest sites could possibly resulting in eventual loss of nesting territories. The reduction in population recruitment and numbers and distribution of nesting territories could adversely affect the BLM's ability to achieve Biological Resources Goals: BR 1.15 - to maintain or improve seasonal habitats, and BR 2.1 - to minimize adverse impacts, as well as EO 13186 directing federal agencies to protect, restore, and conserve migratory birds, and their habitats. In summary, impacts to nesting non-eagle raptors under Option 3 would be characterized as moderate to major, meaning effects would be either sufficient to cause a change in the population or subpopulation (e.g., abundance, distribution, quantity, or viability), however, the effects would be local; or substantial and could be permanent in their effect on population or subpopulation survival. Effects would occur during key time periods such as breeding and nesting. The mitigation provided in the features under Option 3 contain a great amount of uncertainty regarding their effectiveness in reducing impacts to active nests. Under Option 3, disturbance to noneagle raptor nest sites could occur for multiple years compounding the lack of nest productivity over generations and possibly resulting in eventual loss of nesting territories. Further, the design features would not adequately protect migratory birds in the CCPA from year-round development within seasonal and spatial buffers (WGFD 2018).” (Bold added). The analyses of impacts suggested by the cited language, and particularly the words denoted in bold, suggest a negative bias and do a grave disservice to the NEPA process as they suggest a significant and irreversible impact to raptors in the project area - without adequate analysis or justification for such a conclusion. The BLM provides no analysis to suggest the potential to impact nine potential nesting raptor pairs per year with vast area with widespread nesting substrate available will have such a negative impact on raptor populations. The BLM simply fails to analyze the likely possibility the nesting pairs will simply select an alternative nest location. The BLM' s suggestion that there is a limited number of nesting locations is simply unsupported by the available data as submitted to the BLM. The BLM' s failure to do an unbiased analysis is not reasonably and could have significant and long-term impact on the financial health of the State of Wyoming. Recommended Action: BLM should delete language that is incorrect in this regard.</p>	<p>Thank you for your comment. The BLM has updated the impact analysis in the Final EIS for all options including the addition of a new option (Option 6) as part of the agency's preferred alternative.</p>
Anadarko Petroleum Corporation	B16S	32	<p>Comment 30 (SDEIS, p. 4-8, lines 6 - 22, Option 4 Impact Analysis): BLM presumes in Option 4 that nest monitoring data can be effectively used to manage to zero impacts while allowing year-round development. Anadarko believes these two statements are mutually exclusive. Anadarko proposes instead that limited impacts to raptor nesting activities can be achieved with a tailored and mitigated year-round development plan. BLM provides no evidence indicating year-round development can be accomplished with zero impacts to raptors under Option 4. In all practicality, the implementation of this option will not provide for or allow year-round development. Rather, the option presents something of a “trojan horse” option, in that it appears to offer one thing, but instead offers a false option and effectively a trap. As currently described, Anadarko fears the BLM will not grant TLS relief under Option 4 as it will suggest the option requires the agency to prove and ensure beyond any reasonable doubt that year-round development activities will not have negative impacts to raptors. Anadarko further posits that the BLM will suggest again and again that ambiguity exists in the monitoring data and will, therefore, never actually grant TLS exceptions. This circular reasoning effectively abrogates</p>	<p>Thank you for your comment. The BLM has updated the impact analysis in the Final EIS for all options including the addition of a new option (Option 6) as part of the agency's preferred alternative.</p>

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			<p>the purpose of the Proposed Action, which entails timing relief and operational certainty. Hence, Option 4 defeats the purpose of the Proposed Action and is inconsistent with the regulatory certainty the OG is seeking, and that which is advantageous to the BLM, the State, the public and the operators. Furthermore, the following statements in the Option 4 impact analysis are not supported:</p> <ul style="list-style-type: none"> - "Monitoring for two consecutive years would be required to ensure that the conservation measures are effective." - "As a result of following non-eagle raptor amendment 4, no active nests would be impacted." - "Effects would occur outside of critical periods such as breeding and nesting or they would be mitigated to minimal levels by the requirement process detailed above." <p>Recommended Action: BLM should eliminate Option 4 from further analysis in the FEIS in that it is not compatible with the Preferred Alternative indicated in the DEIS, which is the OG's Proposed Action for year-round development.</p>	
Anadarko Petroleum Corporation	B16S	33	<p>Comment 31 (SDEIS, p. 4-8, lines 23-35, Option 5 Impact Analysis): Option 5 is incomplete in both its description, process for implementation, and disclosure of impacts. Rather than offering a concrete alternative that could actually be implemented, the Option simply delays making a decision and effectively "kicks-the-can" down the road for possibly future implementation. The alternative is not really an "alternative" and does not meet the purpose and need of the Proposed Action because it provides no clarity or certainty for the OG and no meaningful content analysis for the public. Recommended Action: Option 5 should be eliminated from further consideration in the FEIS.</p>	<p>Thank you for your comment. The BLM included Option 5 in the SDEIS at the request of the USFWS, a cooperating agency for this EIS. Therefore, this option has been retained in the Final EIS.</p>
Anadarko Petroleum Corporation	B16S	34	<p>In order to complete an unbiased analysis of Option 3, it important the BLM focus on (1) the number of nest buffers in the project area- about 1,283 known; (2) Annual nest activity level - about 22%; (3) the number of O&G Pads constructed annually (about 150); The fact that after accounting for pad locations, buffer sizes, and eagle nests locations, only about 42 pads per year will fall into non-eagle raptor nest buffers; (4) Although there are 42 pads per year in a nest buffers, only 60% fall under BLM surface use authority; (5) OG is seeking programmatic relief from the TLS for 25 pads on average on an annual basis under Option 3; (6) Given the project has a 10-year duration, using average values is more supportable than the BLM's use of a single year maximum value for nest activity; (7) Disrupting the nesting of nine raptor pairs out of 282 active nests in an average year would not appear to be significant; (8) Overall, the BLM's analysis demonstrates that 97% of nesting pairs are not disrupted in an average year (273 active nests/282 active nests) so as a result the vast majority of nesting pairs would not be impacted by the Proposed Action; and (9) Given the many inactive nests and available substrate in the project area, it is reasonable to assume that the 3% of nesting pairs potentially dislocated will simply nest somewhere else within the area.</p>	<p>Thank you for your comment. The BLM has updated the impact analysis in the Final EIS for all options including the addition of a new option (Option 6) as part of the agency's preferred alternative.</p>
USFWS	F06S	1	<p>Executive Summary, page ES-5, line 36-38: Throughout the SDEIS, Option 4 relies on the development of a "raptor management plan" while the document for Option 5 is title a "Migratory Bird Conservation Plan". Here is the Executive Summary and in a few other locations, the SDEIS uses "raptor management plan" to describe both Option 4 and 5. Consider using "Migratory Bird Conservation Plan" throughout the SDEIS when describing Option 1</p>	<p>Text in the SDEIS has not been updated as requested. The BLM has retained the options as presented in the SDEIS with the exception of adding additional protection measures to Option 3 at the request of the Operator Group and adding a new Option 6.</p>
USFWS	F06S	2	<p>Chapter 1.4.2, page 1-2, line 29: The text instructs the read to see Appendix S2 for an example outline of a raptor protection plan (RPP). Appdneix S2 does not contain an outline. We recommend including a proposed outline of a RPP to help the reader better understand how an RPP protects and conserves raptors and reduces impacts from Project action in the planning area.</p>	<p>The text has been revised to indicate that an example of a Non-eagle Raptor Timing Stipulation Relief Process Framework is provided in Appendix S2 (now relabeled Appendix G2)</p>
USFWS	F06S	3	<p>Chapter 2.2.4.9, page 2-7, line 23-24: Option 3 was proposed by the Operator Group and includes design features that would require "approval from the BLM and the USFWS" (p. 2-7). We are concerned the "approval" of design features by the Service could be interpreted to be an agency decision, which may require additional procedural steps or could consitute an action that could be challenged. This may not have been the intent of the Operators Group's use of the word "approval". As the lead federal agency for the Project, BLM would have the authority to approve a deseign feature, while the Service could be available to advise BLM regarding the design feature. We are willing to explore alternative language with BLM to describe our involvement so that it is not necessary for us to "approve" the desing feature under Option 3.</p>	<p>The text of Option 3 has been presented in the SDEIS as it was provided by the Operator Group; therefore, the BLM cannot make the recommended wording change.</p>
USFWS	F06S	4	<p>Chapter 4, page 4-7 and 8, lines 49-51: We support your assessment that both Options 4 and 5 would provide for the conservation of migratory birds. Option 4 and 5 also could assist BLM in meeting the</p>	<p>Thank you for your comment; the BLM has updated the impact analysis to include an additional option (Option 6) which is now a part of the agency's preferred alternative.</p>

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			Resource Management Plan (RMP) Biological Resource Goals BR 1.15 (to maintain or improve seasonal habitats) and BR 2.1 (to minimize adverse impacts), as well as follow Executive Order (EO) 13186 and the subsequent MOU between BLM and the Service.	
USFWS	F06S	5	Chapter 4, page 4-6, lines 26-30: We support your assessment that Option 2 would have major negative impacts to local raptor populations. Implementation of Option 2 would result in reduced nesting attempts and breeding success for multiple species, reduced recruitment, and incremental reductions in overall local population health and sustainability. Long-term downward changes in migratory bird species occurrence and diversity would likely occur as a result of changes in habitat composition, quality, continuity, and breeding success, which may affect BLM's ability to achieve Biological Resource Goals BR 1.15 (to maintain or improve seasonal habitats) and BR 2.1 (to minimize adverse impacts), as well as the direction of EO 13186 for federal agencies to protect, restore, and conserve migratory birds and their habitats.	Thank you for your comment; the BLM has revised the impact analysis in the Final EIS to state that Option 2 has the most impact of any of the land use plan amendment options.
USFWS	F06S	6	Chapter 4, page 4-7, lines 14-39: We support your assessment that impacts from Option 3 on long-term conservation of raptor populations ranges from moderate to major. In addition, the reduction in population recruitment, numbers, and distribution of nesting territories described may affect BLM's ability to achieve Biological Resource Goals BR 1.15 (to maintain or improve seasonal habitats) and BR 2.1 (to minimize adverse impacts), as well as EO 13186 directing federal agencies to protect, restore, and conserve migratory birds, and their habitats.	Thank you for your comment; the BLM has updated the impact analysis in the Final EIS for all options.
USFWS	F06S	7	Appendix S-2: Throughout the Framework (the Raptor Timing Stipulations Relief Process) described under Option 4, the Service is identified multiple times as being involved with BLM and operators regarding implementation of the Framework. To assist the Service in understanding involvements in implementation of the Framework is needed. Thus, we request additional coordination between our agencies regarding the expectations and constraints for Service involvement. Clarifying language should be developed and described in the Final Supplemental Environmental Impact Statements	BLM held a meeting with cooperating agencies (which includes USFWS) on January 17, 2020 in Douglas, WY to present the BLM's preferred alternative to be included in the Final EIS and to address questions.