



May 2, 2007

CBNG Draft SEIS Comments
Bureau of Land Management
P.O. Box 219
Miles City, Montana 59301

Re: Draft Supplement to the Montana Statewide Oil and Gas Environmental Impact Statement and Amendment of the Powder River and Billings Resource Management Plans

By E-mail and Fax

Dear Ms. Brooks, Ms. Hanley, and Mr. Terland:

I.) General Comments:

Trout Unlimited appreciates the opportunity to comment on the Draft Supplement to the Montana Statewide Oil and Gas Environmental Impact Statement and Amendment of the Powder River and Billings Resource Management Plans (Draft SEIS). Trout Unlimited is America's leading trout and salmon conservation organization with over 152,000 members nationwide, including Montana Trout Unlimited which represents the 3,200 members and 13 chapters of TU in Montana.

Trout Unlimited's mission is to conserve, protect and restore the nation's coldwater fisheries and their watersheds. We are increasingly concerned that threats posed by conventional oil and gas development, coupled with the impacts of coal bed natural gas (CBNG) development (particularly given the vast amounts of ground water that is needed to be pumped out aquifers using current CBNG extraction techniques), will unduly harm water quality, watersheds and coldwater fisheries, including native fish populations meriting restoration in habitats where they have been significantly reduced or extirpated.

Trout Unlimited is not against oil and gas leasing on public lands. Instead, we advocate for development that does not make oil and gas the dominant land use while setting aside special areas and ensuring lease stipulations environmental mitigation, and enforcement are effective to guarantee protection of fish and wildlife and their habitats. Given the pace and scope of harmful oil and gas development we have witnessed in Wyoming, we are concerned similar impacts could occur to Montana's world renowned coldwater fisheries. Oil and gas development in Montana should occur only if it protects existing uses of our

public lands and does not harm fish, wildlife and the quality of life Montanans associate with healthy public lands

II.) SEIS Comments:

TU is particularly concerned about the health of coldwater fisheries in the planning area and the lack of information that the SEIS provides regarding:

- 1.) The current distribution of native salmonids and recreational coldwater fisheries;
- 2.) the potential impacts – resulting from surface disturbances, groundwater withdrawals and well discharges – to these fisheries from conventional and CBNG development ;
- 3.) how the BLM will mitigate these impacts or eliminate threats by precluding development in sensitive watersheds; and
- 4.) how the BLM will coordinate efforts with Montana Fish, Wildlife and Parks to ensure development plans protect coldwater fisheries before development occurs, and how and whether the federal agency will gather baseline information, monitor effects, mitigate impacts, and enforce regulations to ensure that CBNG development does not impair fisheries.

In Chapter 3 of the SEIS *Affected Environment* coldwater fisheries are noted only in general terms, largely omitting concern for conservation of many species, especially Yellowstone cutthroat trout (YCT). Though BLM recognizes YCT as a “sensitive species,” and though the agency is a signatory to the *Cooperative Conservation Agreement for Yellowstone Cutthroat Trout within Montana* (Sept. 2000), Chapter 3 only mentions YCT as being present in the Clarks Fork, Boulder, and Stillwater Rivers. However, small, isolated and at-risk populations of YCT are scattered across the planning area in headwater streams. These populations are, for the most part, genetically pure and represent the easternmost occurrence of the subspecies within its historical range. Fishery professionals, including those inside BLM, acknowledge that conservation of these remnant populations are crucial for ensuring long-term persistence of the subspecies. Unfortunately, the isolation and small size of these populations make them extremely susceptible to habitat degradation from management activities, including oil and gas development. Variables introduced by CBNG development such as sedimentation, road crossings, aquifer draw down, diminished water quality, or altered stream flows can contribute to extirpation of these valuable populations.

The populations of YCT that need to be identified in the Chapter 3, *Affected Environment*, of the SEIS so that the impacts of CBNG development can be evaluated and protective and mitigation measure identified include, but are not limited to those in the following sub-watersheds:

- Crooked Creek; genetic integrity - 100% pure
- Dry Head Creek; genetic integrity -100% pure
- Pryor Creek; genetic integrity – unknown
- Piney Creek; genetic integrity - 100% pure
- Rotten Grass Creek; genetic integrity – 98% pure

- Black Canyon Creek; genetic integrity – unknown
- Hay Creek; genetic integrity – 100%
- Upper Deer Creek; genetic integrity – 100%
- Lower Deer Creek; genetic integrity – 100%
- East Boulder River; genetic integrity – 100%
- Bridger Creek; genetic integrity - unknown
- West Fork Stillwater; genetic integrity – unknown
- Rock Creek; genetic integrity – unknown

(Data from Montana Fisheries Information System, accessed 4-25-2007)

This is not be a complete list of individual populations of YCT in the SEIS planning area, but it is essential BLM include a complete inventory of these populations, using the best available information after consulting with its own biologists as well as USFS and FWP fishery professionals, so that potential impacts to these imperiled and irreplaceable fisheries – as well as effective mitigation measures – are identified and in place before CBNG development is authorized. This is essential for protecting these populations. Further, it is consistent with the *Cooperative Conservation Agreement for Yellowstone Cutthroat Trout within Montana* (Sept. 2000), which states that securing and enhancing “**all known conservation populations**” is Objective 1 of its “Conservation Goals and Objectives.” Waiting until the APD stage for surveys to decide that CBNG is not appropriate, or that significant changes to a surface use plan of operations are warranted, is too late and it’s inconsistent with commitments the BLM has made as a party to the statewide conservation agreement for Yellowstone cutthroat trout.

Because the analysis in Chapter 3 *Affected Environment* is flawed, Chapter 4, *Environmental Consequences*, is likewise flawed and generalized, failing to provide the “hard look” NEPA requires, particularly for YCT. Moreover, under the lease stipulation table located in the Minerals Appendix (Min 5), there are no stipulations designed to protect conservation populations of Yellowstone cutthroat trout, even though genetically pure and slightly introgressed populations are present within the planning area. During this planning process the BLM should put in place protective stipulations that have been used elsewhere in the state of Montana by the BLM, such as an NSO within one half-mile of a stream containing genetically pure (99-100%) native trout. The Dillon field office currently uses this stipulation, with the support of Montana FWP. TU suggests this stipulation be incorporated into the Final SEIS and be expanded to include all conservation populations (90-100% genetically pure) of YCT. TU also strongly recommends groundwater withdrawals from aquifers hydrologically connected to streams containing conservation populations of YCT be prohibited. Moreover, we recommend discharges of produced water also not be approved in watersheds containing conservation populations.

Given that the Yellowstone cutthroat trout is a State and BLM Sensitive Species, the BLM is a partner in the *Cooperative Conservation Agreement for Yellowstone Cutthroat Trout within Montana* (Sept. 2000), and the core of the agreement is to protect populations of YCT with unaltered genotypes, the SEIS is woefully inadequate in addressing several critical elements:

- How the conservation agreement for YCT will guide development proposed in watersheds inhabited with conservation populations of YCT.
- It fails in Chapter 3 *Affected Environment* to identify the current distribution of all conservation populations of YCT in the planning area.
- It fails to identify the potential impacts oil and gas development will have on restoration efforts in watersheds with potential for the restoration of YCT.
- It does not disclose in Chapter 4 *Environmental Consequences*, the potential deleterious impacts from conventional and CBNG development to imperiled populations of YCT.
- It recommends inadequate stipulations for protecting remaining populations of native trout in the planning area.

With regard to recreational coldwater fisheries, Trout Unlimited is concerned that CBNG development will negatively affect important populations of wild brown, rainbow, and brook trout. The SEIS is wholly lacking in its analysis of oil and gas development in watersheds containing important – indeed nationally acclaimed – wild trout fisheries. Specific fisheries of concern in the planning area include those designated by Montana Fish Wildlife and Parks as Blue and Red Ribbon Fisheries. Among them are:

Bighorn River
 Rock Creek
 Rosebud Creek
 Stillwater River
 Yellowstone River
 Boulder River
 East Rosebud Creek
 West Rosebud Creek

Of these streams, Chapter 3 of the SEIS, *Affected Environment*, lists only the Boulder, Stillwater, and Yellowstone, and Bighorn Rivers, ignoring the value of smaller fisheries of significance to Montana’s anglers that have been recognized by Montana Fish Wildlife and Parks as having significant value. The BLM needs to fully disclose all of the coldwater fisheries that could be impacted by CBNG development, not just the larger rivers in the Planning Area. Also of concern are the popular reservoir fisheries in Tongue River Reservoir, Cooney Reservoir and Bighorn Lake.

Though the incomplete fishery inventory in the SEIS concerns Trout Unlimited, more troubling is the inadequate analysis in Chapter 4 of impacts to aquatic systems. On page 4-297, the SEIS states “*There is considerable uncertainty regarding the specific effects of CBNG development activities on aquatic resources because of limited data, unknown influences of other environmental factors (e.g., drought conditions and other land use activities), and the variability and uncertainty concerning baseline (predevelopment) conditions.*” Because an EIS is required to disclose for the public baseline conditions and potential impacts of a proposed action, the BLM is shirking its legal obligation to fully evaluate the potential harm oil and gas development could have on aquatic communities.

Lack of information is not an excuse for concluding impacts are acceptable, or for approving development that could be harmful.

BLM should provide in the SEIS a complete, professional and enumerated inventory of the aquatic communities that could be affected by development in the planning area. Then it should evaluate different and reasonably foreseeable levels of oil and gas development for its individual and cumulative impacts on aquatic communities, including native fish populations and recreationally important wild trout. Finally, it should identify lease stipulations and other mitigation measures that will avoid impacts, and explain how they will work.

Plenty of CBNG development is occurring throughout the West, thereby providing BLM plenty of opportunities to study how this development is affecting aquatic communities. Therefore, allowing “leap before looking” development is both unnecessary and unacceptable. BLM needs to revise its SEIS to incorporate more fishery data – and more is available – and it needs to provide a more rigorous evaluation of development impacts and potential stipulations and mitigation measures.

Thank you for the opportunity to comment on the Draft Supplement to the Montana Statewide Oil and Gas Environmental Impact Statement and Amendment of the Powder River and Billings Resource Management Plans.

Sincerely,

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