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Governor Matt Mead
2323 Carey Ave.
Cheyenne, WY 82002

Dear Governor Mead,

On behalf of the Wyoming Outdoor Council and our members, I wish to thank you for your commitment to protect the Red Desert to Hoback mule deer migration corridor. Your May 30, 2018 letter to Secretary Zinke asking the BLM to defer offering the one parcel for oil and gas lease sale in this corridor (and other parcels in important habitats in the Greater Little Mountain region) in its fourth quarter December 2018 lease sale is greatly appreciated.

I write to ask for your continued leadership to ensure that 35 additional parcels located within the corridor and now included in the BLM's third quarter September 2018 oil and gas lease sale are also deferred.

The value of this corridor—to the Sublette mule deer herd itself, to hunters, to wildlife watchers and researchers, and to all people who love the open space and wildlife habitat Wyoming offers—is incalculable. That the longest mule deer migration corridor in the world has persisted in Wyoming for millennia without recognition until just a few years ago is a point of pride for our state. And not only that, our actions to date illustrate that migration corridors (and this corridor in particular) are treasures Wyoming is committed to protecting. Consider the following examples of state, federal and public support for the corridor.

The Wyoming Department of Transportation, using federal funds and working with stakeholders and partners, determined proper placement of two overpasses to ensure the continued migration of this herd and other ungulates in Sublette County. In 2012, the public spent \$8.75 million to buy out and permanently retire oil and gas leases in the Upper Hoback—in the northern portion of this very corridor. Conservation easements in Sublette County were then purchased (also with private money) to prevent development in a key bottleneck near Fremont Lake. Last session's migration corridor license plate bill—conceived to help fund construction of future wildlife overpasses and underpasses—passed with tremendous public and legislator support. The BLM should recognize how its

proposed oil and gas leasing in the southern portion of the corridor threatens to undermine these efforts and risks the significant financial investments already made in the northern portion.

The Wyoming Game and Fish Department's June 5, 2018 comments to the BLM regarding these proposed lease parcels were a step in the right direction in communicating the serious threat oil and gas leasing poses to this iconic and internationally recognized corridor.¹ To date, the Red Desert to Hoback is the only corridor in the state that the Wyoming Game and Fish Department has designated. This means that, like other "vital" wildlife habitats in Wyoming, the Wyoming Game and Fish Commission has directed the WGFD "to recommend no significant declines in species distribution or abundance or loss of habitat function" when proposals threaten such habitat.

The WGFD's February 4, 2016 Ungulate Migration Corridor Strategy acknowledges that the science around migration is still developing and many questions remain unanswered.² For this reason we urge you and the WGFD to ask the BLM to use the precautionary principle. In other words, the BLM shouldn't make irreversible decisions—like issuing oil and gas leases—without solid science to first inform and mitigate those decisions. As the Strategy makes clear, the consequences of not using caution can be dire: "[M]igratory behavior can be lost and loss of the ability to migrate has led to sudden and dramatic declines in animal populations. Migration is a learned behavior that may be difficult to reestablish once lost or diminished."³

In its comment letter, the WGFD expressed a desire to meet with the BLM in the coming weeks to "strategize additional options on avoiding and minimizing impacts to the corridor." We applaud the WGFD for its initiative, and hope that in the course of the discussion with the BLM, its recommendations are stronger and that the BLM defers these 35 parcels entirely.

One example where the WGFD could take a stronger stance is in its recommendations for deferral. Of the 35 parcels the BLM is proposing to lease within the corridor, the WGFD recommended deferral of only three, and suggested an improved Special Lease Notice for

¹The BLM correctly solicited comments on the environmental assessment it prepared for the initial parcel offerings for the September lease sale in February. Late last month, however, it decided to add 286,647 acres (including these 35 parcels in the corridor)—referred to as "Part 2"—to the September sale. It was an eleventh-hour notice with a truncated comment period of only 14 days. See BLM's press release of May 24, 2018 that states, "Today kicks off a two-week comment period for these parcels, which will close June 7." https://eplanning.blm.gov/epl-front-office/projects/nepa/85072/145794/179498/Press_Release.20180524.pdf. The BLM's offering of parcels designated as being among the highest quality big game habitat in the state with hardly any notice or opportunity to comment provides another reason Wyoming should request deferral.

² Wyoming Game and Fish Department, February 4, 2016 Ungulate Migration Corridor Strategy at https://wgfd.wyo.gov/WGFD/media/content/PDF/Habitat/Habitat%20Information/Ungulate-Migration-Corridor-Strategy_Final_020416.pdf

³ *Id.* at 4 (citations omitted).

31 parcels.⁴ We ask you and the WGFD to request that the BLM defer all 35 parcels. By referencing WGFD's own mitigation hierarchy⁵—where avoidance of adverse impacts to wildlife is recommended—all parcels that fall either partially or wholly within the Red Desert to Hoback mule deer migration corridor should be deferred from oil and gas leasing.

Additionally, in the upcoming Rock Springs RMP revision, we ask you and the WGFD to request that habitat within this designated corridor be unavailable for future oil and gas leasing and minerals mining. This would provide the highest and most appropriate level of protection within the RMP, and it would also provide certainty to the public that the corridor will persist today and generations from now.

Another, less protective option that you and the WGFD could recommend is that the BLM only allow parcels in vital habitat like the Red Desert to Hoback corridor to be leased with no surface occupancy (NSO) stipulations. Leaseholders could directionally drill into federal minerals from locations outside the corridor.

A third, but riskier option is to allow leasing in the corridor, but with an attached lease stipulation that would seek to ensure corridor functionality. It would state unequivocally that APDs may be denied if operations threaten to impede or impair the corridor. This new “migration corridor stipulation” would need to be crafted and an RMP amendment would likely be required to authorize it. An example of a Controlled Surface Use (CSU) Stipulation for Big Game Migration Corridors could read:

All or a portion of this parcel may be located in a big game migration corridor. Surface use and/or activities on the parcel may be denied or substantially delayed in order to protect migrating big game animals. Prior to surface disturbance within Wyoming Game and Fish Department (WGFD) identified big game migration corridors, a mitigation plan (Plan) must be submitted to the BLM by the applicant as a component of the Application for Permit to Drill (BLM Form 3160-3) or Sundry Notice (BLM Form 3160-5) – Surface Use Plan of Operations. The operator shall not initiate surface-disturbing activities unless the BLM Authorized Officer, in consultation with WGFD, has approved the Plan (with conditions, as appropriate). The Plan must demonstrate to the Authorized Officer's satisfaction that (1) the function and suitability of big game migration corridors will not be impaired; (2) as mapped by the Wyoming Game and Fish Department; (3) ensuring the function and suitability of big game migration corridors.

Even with a strong stipulation attached, the decision to lease within the corridor leaves a tremendous amount of uncertainty for the corridor's future. This scenario requires the public to trust that the BLM—an underfunded and understaffed agency now faced with

⁴ Along with the 34 parcels the WGFD identified that fall within the corridor, an additional parcel (#358) should also be deferred. In total, in the September sale, there are 35 implicated parcels.

⁵ Wyoming Game and Fish Commission, January 28, 2016 Mitigation Policy VII H:

[https://wgfd.wyo.gov/\(X\(1\)A\(cCbUax1ubwr4ugbM1pKDiqUKHI5MtZanVYj_L84pOVALr3ijqNtQR7cQ9-fhJy4hpgx4lW5j5OccbDoZqwkDHdizqpkosoB2nCXynHafLT_KO9FB74iWKZLJjnXS4mSindlibz2WMOXBYzLKqSUiiw2\)\)/WGFD/media/content/PDF/Habitat/Habitat%20Information/Wind%20Energy%20Development/WGFC-Mitigation.pdf](https://wgfd.wyo.gov/(X(1)A(cCbUax1ubwr4ugbM1pKDiqUKHI5MtZanVYj_L84pOVALr3ijqNtQR7cQ9-fhJy4hpgx4lW5j5OccbDoZqwkDHdizqpkosoB2nCXynHafLT_KO9FB74iWKZLJjnXS4mSindlibz2WMOXBYzLKqSUiiw2))/WGFD/media/content/PDF/Habitat/Habitat%20Information/Wind%20Energy%20Development/WGFC-Mitigation.pdf)

fulfilling an Executive Order that mandates “energy dominance” on our public lands—will actively enforce such a stipulation when presented with applications for permit to drill. We’ve had experiences that, unfortunately, cause us to doubt that stipulations will be upheld and waivers won’t be granted.

What is certain is this. The scenario the BLM has presented today—a simple Lease Notice that the WGFD has attempted to strengthen slightly—is wholly inadequate. This is because unlike a lease stipulation, a Lease Notice is not legally binding.⁶ We ask you and the WGFD when consulting with the BLM, to challenge the efficacy of any commitments set forth in a Lease Notice.

In closing, the importance of this migration corridor and the irreparable harm oil and gas development poses to it warrant deferral of all 35 proposed oil and gas lease parcels within the Red Desert to Hoback mule deer migration corridor in the BLM’s upcoming September lease sale, as well as deferral of the parcel you already identified in the December sale. There is no reason the BLM should rush a decision that could, without adequate public input, careful consultation with the WGFD, or the incorporation of specific and legally binding lease stipulations, irreparably sever the corridor.

It is with gratitude that I ask you and the WGFD to continue to stand up for the robust big game herds Wyoming is known for and the vital habitat they require for survival.

Sincerely,



Lisa D. McGee
Executive Director

CC: Scott Talbott, WGFD Director
Mary Jo Rugwell, WY BLM Director

⁶ See 43 CFR § 3101.1-3 (“An information notice has no legal consequences, except to give notice of existing requirements, and may be attached to a lease by the authorized officer at the time of lease issuance to convey certain operational, procedural or administrative requirements relative to lease management within the terms and conditions of the standard lease form. Information notices shall not be a basis for denial of lease operations.”)