

November 4, 2020

Steve Lubinski, Lead Contact  
Bureau of Land Management  
Billings Field Office  
5001 Southgate Blvd.  
Billings, Montana 59101

Please accept the following comments from the Pryors Coalition, Sierra Club and WildEarth Guardians on the GCC-McKamy Gypsum Exploration Draft Environmental Assessment, and preliminary FONSI. The Pryors Coalition is a collaboration among a number of organizations and many concerned individuals who may or may not be associated with those organizations. The defining characteristic of Pryors Coalition and partners (organizations and individuals) is a strong desire to preserve this very special and vulnerable landscape for the future.

Frankly the proposed project is very disturbing to us. In 2015 BLM wisely set aside a small 2,606 acre Pryor Foothills ACEC/RNA.<sup>1</sup> Contemplate the common meaning of the words: ***Area of Critical Environmental Concern; Research Natural Area***. These words indicate the highest level of protected status BLM can assign. The mere thought of a gypsum strip mine in such a sacred area is a gut-punch.

We request that the FONSI be withdrawn and the proposed gypsum exploration project not be approved, or that a full NEPA analysis for an Environmental Impact Statement (EIS) be undertaken in the event that the proposal is not withdrawn outright..

**A. BLM did not provide appropriate opportunity for public comment.**

According to the draft EA (page 21): *“BLM solicited comments on the plan of operations, posting the PoO on BLMs ePlanning website from March 13, 2020 through May 15, 2020.”*

Very few people regularly, or ever, peruse BLM’s ePlanning site to see whether they can find some unknown and unexpected project, somewhere unanticipated, that they might be interested in. It is an inexcusable failure of BLM not to notify the public of an opportunity to comment on a possible new gypsum mine in the treasured Pryor Mountain landscape.<sup>2</sup> If people somehow hear that there is an item of interest on the ePlanning website, most find the website difficult or impossible to navigate.

BLM reports (DEA, page 21) that only one letter commenting on the project was received.<sup>3</sup> Rather than drawing the obvious conclusion that they had failed to meaningfully notify the public of the opportunity to comment, BLM apparently concluded, incredibly and without justification, that: *“The proposed action is not highly controversial.”* (FONSI, page 2)

This proposal in an RNA/ACEC in the foothills of the Pryors is highly controversial. The growing number of people who treasure the Pryors, the scientists who study the area’s rare plant species and communities, and the lay public who are fascinated by the unique ecological features of the Pryors do not want a gypsum mine in a RNA.

Now, only because a concerned individual discovered the planned gypsum project and spread the word, we have an opportunity to analyze the project and express our concerns. But we have only 30 days to do so. If the BLM had made a meaningful attempt to notify the public about the project in March, we would have commented then and had an additional 6 months to study and analyze the project.

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<sup>1</sup> The Pryor Foothills ACEC/RNA was proposed by BLM six years earlier in 2009 (2015 Approved RMP, page T-34: ACEC Nomination Evaluation by Nora Taylor, Carolyn Sherve-Bybee, and Jay Parks, and approved by Craig R. Drake and James M. Sparks, Billings Area Field Manager).

<sup>2</sup> Although BLM may face challenges regarding how to notify the public, it seems that notifying the Montana Native Plant Society and the Pryors Coalition would be an obvious first step. Others who regularly comment on BLM projects in the Pryors could be next.

<sup>3</sup> This might mean only one comment letter that BLM considered substantive. But that doesn’t change the interpretation that the interested public was not notified.

B. The proposed gypsum exploration project must not be approved on the basis of this EA.

BLM's own analysis for the 2015 RMP concluded that the Pryor Foothills ACEC/RNA should be withdrawn from mineral entry. This alone is sufficient reason not to approve the project.

BLM asserts that undue degradation can be avoided in the exploration project; that limited degradation can be mitigated by proposed reclamation; and that permitting the exploration does not set precedent for future approval of a mine. We do not agree.

But even if that were true, the results of the exploration may effectively obligate BLM to approve future mining. There is no point in the exploration unless the intent is to prove the existence of marketable gypsum and open a mine to exploit it.<sup>4</sup> The kinds of mitigation and reclamation proposed would be meaningless for the foreseeable future strip mine. No conceivable reclamation could restore the rare plant species and communities which the RNA/ACEC was designated to protect.

In the following paragraphs we identify some of the inadequacies of the EA, Plan of Operation (PoO) and Conditions of Approval (CoA). These deficiencies show that a full Environmental Impact Statement (EIS) is warranted for this proposed project.

C. The FONSI should be withdrawn. An EIS is warranted. An EA is not sufficient for this proposed project.

It seems extremely unlikely that a mining project within an area designated as an ACEC and RNA to protect rare plant species and communities would have No Significant Impact on the ecosystems.

Contrary to the BLM's conclusion, this project is highly controversial with the public. BLM states (FONSI page 2):

*"the proposed action is similar to many other projects and actions that occur on public lands across the Western United States."*

And:

*"The project is not unique or unusual, and the BLM has experience implementing similar actions in similar areas."*

But the Pryor Foothills ACEC/RNA is not just another piece of BLM land. It has the highest possible designations for protection of natural, ecological, cultural, and historic values, and a recommended withdrawal from mineral entry. The threatened gypsum strip mine is the most devastating possible "multiple-use" that could happen to the area.

BLM states (FONSI page 3),

*"No precedent is being set with this type of project."*

This Exploration sets a precedent for approval of the future mine. A Gypsum mine is a "reasonably foreseeable future action." The exploration may make it impossible to reject a mine due to the 1872 Mining Law, and BLM/DOI's failure to implement the 2015 RMP recommendation for withdrawal from mineral entry.

Criteria #3 in the FONSI (page 2) concerns, "*Unique characteristics of the geographic area such as proximity to historic or cultural resources, ... or ecologically critical areas.*" (underline emphasis added.) BLM responds to this by discussing such unique characteristics only "*in the project area*"- once with the disconcerting disclaimer "*as currently defined.*" Is BLM implying an expected expansion of the project area? What about unique characteristics in "*proximity to*" the project area?

D. BLM failed to implement its Resource Management Plan in a timely manner:

After more than two years of extensive NEPA work by BLM Billings Field Office staff and the interested public, the approved final Resource Management Plan (RMP) was released in September 2015. The RMP designated the Pryor Foothills RNA/ACEC and "*recommended withdrawal from mineral entry.*" The current problem has been caused

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<sup>4</sup> "The exploration of gypsum being analyzed leads to a foreseeable action of gypsum mining if the exploration finds marketable gypsum." EA page 20.

by BLM/DOI's failure, for five years, to implement their own recommended withdrawal from mineral entry.<sup>5</sup> This was a failure to respect the work done by Billings BLM staff and the public on the 2015 RMP. If this had been done in a timely manner, people committed to preserving the Pryors landscape would not now have to act once again to protect this unique botanical treasure of the south Pryor foothills.

#### E. The EA, PoO, and CoA do not adequately address impacts to the RNA/ACEC.

We do not propose that it would be possible to correct the following deficiencies (and others) and thus make the EA and the gypsum exploration project acceptable. However, we provide the comments below as additional rationale for our opposition to the project and to demonstrate the need for further analysis. An EA is inadequate, and the foreseeable mining is completely incompatible with the purposes of the ACEC/RNA. There is no point in the exploration if no mine will be permitted.

##### 1. What is the project area?

The project boundary shown on figure 6 (page 17) is very different from the boundary shown on Figure 2 (page 2). The Figure 6 project area (approximately 850 acres) is more than four times the Figure 2 project area (approximately 200 acres).<sup>6</sup>

All the test drilling is within the Figure 2 project boundary. What are the Figure 6 boundaries? Are these the boundaries of an already planned 1 ½ square mile future Gypsum mine? This uncertainty is of great concern.

The EA greatly understates, “*the proposed action is partially within the Pryor Foothills Area of Critical Environmental Concern*” (page 2). Essentially *all* the Figure 2 project area is within the ACEC/RNA. Approximately 80% of the Figure 6 project area is within the ACEC/RNA – and is approximately one-quarter of the ACEC/RNA.

##### 2. Land Use Plan Conformance

Section 1.4 Land Use Plan Conformance (EA page 3) claims the proposed action conforms with direction in a variety of sections of the ARMP. But these directions are minimum requirements for the Pryor Mountain planning area. It is not noted, for example, that MD Loc. Min-7 (ARMP page 3-50) recommends exclusion of the RNA/ACEC from MD Loc. Min-1 & 2.

The EA does not indicate whether and how specific goals for the Pryor Foothills ACEC/RNA are complied with e.g.:

**Goal PF/ACEC 2:** The objectives of the BLM RNA program are: 1) to preserve examples of all significant natural ecosystems for comparison with those influenced by man; 2) to provide educational and research areas for ecological and environmental studies; and 3) to preserve gene pools of typical and endangered plants and animals. Research natural areas (RNA) are intended to represent the full array of North American ecosystems with their biological communities, habitats, natural phenomena, and geological and hydrological formations.

##### 3. The Proposed Reclamation is Inadequate.

The EA states (page 17, emphasis added here and below), “*The project area will be fully reclaimed immediately after exploration activities have ended.*” But the focus seems to be on cosmetic reclamation of the visual appearance of the land.

“*[T]he entire project area would be reclaimed to approximately the same contour that existed prior to mining.*” (FONSI page 1)

“*Temporary roads and drill pads would cause a temporary impairment to the visual landscape, but would be reclaimed after exploration is complete, bringing the landscape back to its original form, line, and texture.*” (EA page 7)

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<sup>5</sup> In our June 6, 2013 comment letter on the draft RMP we wrote: “The Pryors Coalition is pleased to see many areas (ACECs, WSAs, and LWCs) recommended for withdrawal from mineral entry. We hope this withdrawal can be completed ASAP to protect the unique resources in these areas. This action will protect most of East Pryor Mountain and much of the arid lands to the south.”

<sup>6</sup> Both were estimated using the Figure 6 map and its scale. The Figure 2 area can't be estimated using the Figure 2 map because the scale on that map is erroneous. The length indicated as 0.4 mile is closer to 0.4 kilometer.

*“Disturbed areas will be seeded and harrowed with the appropriate seed mixtures to effectively blend the disturbed areas into the surrounding landscape.”* (EA page 12)

This cosmetic reclamation is inadequate to fulfill the purpose of this ACEC/RNA, *“to protect unique vegetation (a large concentration of Bureau special status plant species and rare plant communities.)”* To be *“fully reclaimed,”* habitat needed for plant species of concern and rare plant communities must be restored. This issue demonstrates the need for considerable analysis and discussion in an EIS. The repeated mention, six times in the EA, to using *“appropriate”* or *“approved seed mix,”* is not sufficient. What seed mix is appropriate?

The EA states:

*“P. pachyphylla is more easily identified and keyed mid-late summer when the plant is actively fruiting. Project work will only occur during this timeframe limiting impacts to individual plants.”* (EA page 14)

*“Under the proposed action impacts to BLM sensitive plants will be mitigated by locating and avoiding populations and individuals by flagging or other visual methods.”* (EA page 20)

This is not sufficient. Plant species of concern including *P. pachyphylla* may grow in different places in different years. Avoiding their locations during the exploration project does not assure that project activity and *“reclamation”* will not destroy habitat where the sensitive plants might otherwise have grown in future years.

#### 4. “Existing” and “temporary” access routes.

The project plans to use an *“existing access route from the north, and a temporary access route on the southern end of the project area”* (EA page 1). The *“existing”* route is about 1 mile long. The *“temporary”* route is about ½ mile long. (These do not include an additional *“1,944 feet of new spur roads”* (EA page 10).

The plan for these two roads is: *“8,210 feet of Existing Roads to be Maintained – 2.26 acres”* (EA page 10).

*“Maintained”* is a euphemism for constructing new twelve-foot wide (EA page 11) roads along the two two-track routes that *“are almost ... reclaimed back to the original vegetative state”* (EA page 7).

BLM states that: *“Reclamation of the project area will take one week to complete. Road surfaces that had been altered or expanded will be returned to pre-exploration states”* (EA page 14, emphasis added).

It is not credible to claim to restore the *“almost... original vegetative state”* in one week. In this arid landscape that would take decades!

BLM also states: *“[T]he road is currently closed to the public and open for administrative access and will continue to have this designation after the project is complete”* (EA page 7).

Presumably this claim is about the *“existing access route from the north.”*<sup>7</sup> But BLM has not identified a need for this (and many other) administrative routes in the area. The fact that it is *“almost ... reclaimed back to the original vegetative state”* indicates that it is not being used and not needed for administrative use.

Significantly, BLM documents indicate that this *“existing”* route is not currently open for administrative access.<sup>8</sup>

#### 5. Soils

The EA is too quick to dismiss the issues of soil erosion, and the effect of soil disturbance on native vegetation. BLM’s reasons for eliminating these issues from analysis are contradicted by elsewhere in the EA.

BLM acknowledges that *“Most of the project area falls within the ‘severe’ rating,”* and therefore *“erosion is very likely”* (EA page 6). This concern is then dismissed with the misleading claim that, *“Existing roads are being utilized to the extent possible”* The two access roads are described in the EA as *“tracks,”* not *“roads,”* and *“almost ... reclaimed back to the original vegetative state”* (EA page 7). These *“tracks”* are to become a mile and a half of

<sup>7</sup> The claim is certainly incorrect for the *“temporary access route on the southern end of the project area”* which does not appear on any BLM map in any version of the RMP or Travel Plan.

<sup>8</sup> See the No Action Alternative A in Table 1(a) on page O-9 of the 2013 draft RMP, Table O-4 on page O-14 of the June 2015 proposed final RMP, and map 143 *“Pryor Mountain Travel Management Area Alternative A.”* These documents indicate the road is *“closed”* as explicitly distinguished from *“administrative.”* The September 2015 approved final RMP deleted Appendix O: Travel Management from the proposed final RMP leaving the No Action alternative in effect. The 2019 Draft Travel Management Plan has not been finalized.

twelve-foot wide roads suitable for “a rotary sonic drill rig, semi-truck, to haul the drill and water ... telehandler (support vehicle), pickup trucks and trailers, and a mini-excavator” (EA page 10).

BLM acknowledges that “The area rated from “moderately suited” to “poorly suited” for successful reclamation of vegetation based on the USDA Web Soil Survey National Cooperative Soil Survey. Since restoration of habitat for rare plants may be particularly challenging, sufficient reclamation may not be possible in this ACEC/RNA.

BLM dismisses concern about “poorly suited” soils by repeating the misleading claim of “utilizing existing roads to the extent possible” and a claim that “total new disturbance would be 1.2 acres”<sup>9</sup> (EA page 6). This claim is contradicted by BLM’s table of Project Disturbance (Figure 3, EA, page 11). The word “new” is disingenuous. Constructing 1.5 miles of 12 foot wide access roads would be new disturbance.

#### 6. Noxious and Invasive Plants:

We appreciate that the EA addresses the concern of introduction of noxious and invasive plants into the ACEC/RNA.

*“GCC should monitor and treat noxious weeds with BLM approved herbicide for 3 years after the project is completed.”* (EA page 14) [The words “and invasive” should be added to this statement.]

*“the area is monitored and patrolled annually by the [Carbon County] weed district”* (EA page 13)

We have three suggestions for needed improvement of these plans

- a. Given the botanical importance of the area, three years of monitoring and treating noxious and invasive weeds may not be sufficient.
- b. Monitoring and treating noxious and invasive weeds will be especially challenging in an area with several species of concern. A qualified botanist should be involved to clearly identify and distinguish uncommon species of concern and weeds.
- c. It is too much to expect the Carbon County weed district to provide significant help for monitoring and treating weeds in the project area. They already have a huge job to do. Probably a time or two a year they drive slowly past on Gyp Springs Road treating weeds visible from the road. Given the huge area of the county, and number of roads they are responsible for, they can’t be expected to spend the necessary time to go off the Gyp Springs Road into the project area. Their task usually is to *control* weeds. The goal in the RNA should be to *eliminate* any weeds introduced by the exploration project. Furthermore weed district personal should not be expected to recognize the several species of concern that are to be protected.

#### F. Montana Native Plant Society Comments:

The Pryors Coalition has great respect for the expertise and goals of the Montana Native Plant Society. We strongly endorse the MNPS’s October 19, 2020 comments on the EA and FONSI (attached below).

Thank you for considering our deep concerns for the integrity of the Pryor Foothills ACEC/RNA and the surrounding landscape.

Dick Walton  
The Pryors Coalition  
Billings Montana  
[info@PryorMountains.org](mailto:info@PryorMountains.org)

Bonnie Rice, Senior Campaign Representative  
Greater Yellowstone/Northern Rockies Regions  
Sierra Club  
P.O. Box 1290  
Bozeman MT 59771

Adam Rissien  
ReWilding Advocate  
WildEarth Guardians  
PO Box 7516  
Missoula, MT 59807  
[arissien@wildearthguardians.org](mailto:arissien@wildearthguardians.org)

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<sup>9</sup> The EA repeats this same misrepresentation of the Project Disturbance area two more times on pages 17 and 18.