

Working to Protect Native Species and Their Habitats

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October 20, 2007

Dear Environmental Quality Council Members,

The following are the comments of Biodiversity Conservation Alliance on the proposed rulemaking to establish a Very Rare or Uncommon designation for Adobe Town. We intend to supplement these comments with oral testimony at the forthcoming hearings. Specifically, we would like to directly address questions from EQC members regarding the proposed designation, discuss oil and gas issues, which we did not cover in detail in the petition because Very Rare or Uncommon designation in its current form does not affect oil and gas development, and provide some additional materials relevant to the Very Rare or Uncommon designation that have become available more recently.

It is important to note that according to Chapter VII § 2 of its implementing regulations, the Wyoming Environmental Quality Act “provides that the Council shall designate those areas of the state that are very rare or uncommon and have particular historical, archaeological, wildlife, surface geological, botanical or scenic value.” Not “may designate” or “is granted the authority to designate,” but “shall designate,” indicating that the legal standard is a nondiscretionary obligation if the area can be shown to be very rare or uncommon and possess the particular attributes that are outlined in Chapter VII. Because the entire area meets the designation criteria and is also demonstrably Very Rare or Uncommon, the entire proposed area should be designated by the Environmental Quality Council.

Protecting this Adobe Town proposed area is a simple matter of balance. Over half of the Red Desert has already been committed to industrial uses including surface mining, and even more is poised for conversion to industrial use today. There have to be some areas that are left alone so that wildlife will have a place to survive and thrive and people have a place to go to enjoy a natural setting. It is incumbent on our leaders to identify and protect some landscapes to serve as reservoirs for wildlife and refuges for public recreation and enjoyment as the relentless juggernaut of industrial activity overruns the remaining lands. Adobe Town is unique and spectacular in that it represents the last chance to protect an entire landscape intact, as far as the eye can see. We owe it to the people of Wyoming and to all the generations to come to protect this wild and magnificent remnant of the primeval Red Desert so that the experience of meeting the red desert on its own terms will not be lost for good.

How Very Rare or Uncommon Designation fits into Adobe Town Protection Efforts

The conservation community is working to protect all of Adobe Town, both the Wilderness Study Area as well as surrounding lands which were determined to possess wilderness qualities by Biodiversity Conservation Alliance’s 2002 comprehensive field inventory titled *A Citizens’ Wilderness Inventory of Adobe Town*. While industrial interests would like to portray this Petition as some sort of sneaky conspiracy, the conservation community has been loudly and

publicly proclaiming the need to protect Adobe Town and the other last best remnants of wildlife habitats and spectacular landscapes for many years. It's no secret. Through long-term land-use plan alternatives like *The Western Heritage Alternative*, BCA and other groups are hoping to exempt the area from future oil and gas leasing, mineral location, and the siting of other industrial facilities. There is no effort to eliminate, curtail, or reduce commercial livestock grazing in the Adobe Town area; livestock grazing levels are fairly minimal and there is no perceived environmental issue or problem with current grazing practices in the Adobe Town area. BCA and other conservation groups are pursuing Very Rare or Uncommon Designation as part of an overall campaign to protect the fragile, spectacular, and diverse lands of Adobe Town from industrial incursions that would destroy or degrade wilderness qualities, scenic values, wildlife habitats, and the setting of historical and cultural sites in the area. We hope that the State of Wyoming, through the Environmental Quality Council, will do its part to protect Adobe Town and show the kind of leadership in protecting this outstanding and remarkable landscape that has yet to be shown by federal agencies.

Effect of the Very Rare or Uncommon Designation (and what it doesn't do)

The Very Rare or Uncommon designation, as current regulations provide, protects that area from non-coal surface mining only. Most pertinently to Adobe Town, the designation would prevent surface mining for oil shale and uranium, as well as gravel pit mining. Currently, the regulations for Very Rare or Uncommon designation do not limit oil and gas leasing, exploration, drilling, or production or related construction or access in any way. It might be a good idea for EQC to amend its regulations for designation for Very Rare or Uncommon designation to include prohibitions on oil and gas activities, as these activities very certainly destroy or degrade the attributes and features that make an area Very Rare or Uncommon, but we have not studied the legal fine points of such a move and therefore this petition seeks to trigger Very Rare or Uncommon protections as they are currently written, prohibiting non-coal surface mining. Likewise, the Very Rare or Uncommon designation does not limit or curtail any type of access to private inholdings or for purposes other than non-coal surface mining on public lands (e.g., access for purposes related to livestock grazing, etc. would not be affected in any way by Very Rare or Uncommon designation, nor would we ask for them to be so limited or curtailed).

The VRU Petition Would Have No Effect on Private Property Rights or Access Thereto

There has been an argument that has been voiced in the past that somehow protection of public lands infringes on the private property rights of adjoining landholders. Private landowners hold no private property rights on public lands. Furthermore, it is difficult to imagine how public lands management could possibly affect the reasonable access to private property that inheres to all private property, which appears to be inviolable under the law. More relevantly to the case of Very Rare or Uncommon designation, there is nothing in the Very Rare or Uncommon regulations that reduces or abridges in any way the rights to access of adjacent landowners for lands not covered by the designation.

Status of Oil and Gas Wells in the Adobe Town Very Rare or Uncommon Area

As of November 2006, the following was the status of all oil and gas wells in the Adobe Town Very Rare or uncommon unit, based on data from the Wyoming Oil and Gas Conservation Commission.

Well Name	Drilled (Spud Date)	Status	Production to Date (BCF)	Relative Location
Yates Adobe Reservoir#1	1996	abandoned	none-dry hole	within south unit
Questar Pectin Creek Unit #2	2000	abandoned	none-dry hole	within S unit
Oxy USA Govt #1	1945	abandoned	no record	within S unit
CIG 4-6-13-96	1980	abandoned	no record	within SE unit
Husky Federal 1-17	1975	abandoned	none - dry hole	within WSA
Sun Oil Jenkins Govt B-1	1967	abandoned	none - dry hole	within WSA
Husky Federal 1-17	1975	abandoned	none-dry hole	within WSA
Conwest Twin Forks 1	1979	abandoned	0.135081 (6,879 BO)	inside SW unit
Swepi Unit 1	1952	abandoned	none - dry hole	inside WSA
Samson Barricade 44-1	2006	active?	none reported	inside eastern unit
Lyc0 Desert Rose 1	1996	abandoned	0.068004	inside SE unit
Stone Energy Polar Bar 1	1992	abandoned	0.142624	inside SE unit
Swepi Shell Creek 42-28	1953	abandoned	none reported	inside SE unit
CIG Haystack Unit 1-28	1977	abandoned	0.115136	inside SE unit
Encana West Slope 41-05	2005	abandoned	none-dry hole	inside E unit
Samson Cepo Federal 23-7	2005	active	0.291905	inside E unit
Samson Cepo Federal 20-17	2005	unknown	none reported	inside E unit
Conwest Adobe Town 1	1978	abandoned	0.041492	inside WSA
Koch Adobe Town 1-30	1980	abandoned	none-dry hole	inside WSA
Gulf Trappers Trail 1	1972	abandoned	none - dry hole	inside WSA
Husky Federal 4-35	1976	abandoned	none - dry hole	inside WSA

Husky State 4-36	1975	abandoned	none - dry hole	inside WSA
Interline AUSA Century 1-2	1981	abandoned	none - dry hole	inside WSA
Questar Mulligan Draw 19	1992	abandoned	0.090080 (27 BO)	inside E unit
Encana West Slope Unit 33-32	2003	active	0.021865 (282 BO)	inside E unit
Encana Desolation Flats 33-33	2000	abandoned	none - dry hole	inside E unit
Gary Samuel Mulligan Draw 1`	1987	abandoned	0.000689	inside E unit
Sands-American Federal 1-14	1973	abandoned	none - dry hole	inside N unit
Questar Spike 1	2005	active	0.005556 (126 BO)	inside N unit
Interline Emigrant Trail 3	1981	abandoned	0.000500	inside N unit
Ladd & Lukowicz Federal 1-10-6	1975	abandoned	none - dry hole	inside N unit
BP Willow Reservoir 5	1992	abandoned	0.001270	inside N unit
Celsius Jeep Trail 3	1993	abandoned	none - dry hole	inside N unit
Anadarko Willow Reservoir 12	1992	abandoned	0.000448	inside N unit
Anadarko Willow Reservoir 11	1992	abandoned	none - dry hole	inside N unit
BP Emigrant Trail Unit 2	1980	abandoned	0.017259 (292 BO)	inside N unit
Phillips Nix 1-36	1981	abandoned	none reported	inside N unit
BP Champlin 230				
Amoco A 1	1976	abandoned	none - dry hole	inside N unit

Currently, a well drilled in the Adobe Town area would need to produce 2 billion cubic feet (BCF) of natural gas to pay for the drilling and completion costs; wells drilled in 1980 would have to produce 1 BCF to cover their costs due to less expensive fracking and completion methods in use at that time (Dr. Ron Surdam, Director, Wyoming State Geological Survey, personal communication, September 2006). Not one of the wells drilled in the Adobe Town Very Rare or Uncommon proposed area has ever even come close to producing enough gas to pay for itself.

According to the U.S. Geological Survey, all lands within the proposed Very Rare or Uncommon unit have been classified as low to moderate potential for oil and gas production.

Areas A, B, C, D, E, and F

It is important to note that the map provided by BLM during the tour showed only areas BLM acknowledges wilderness qualities that are within the Rawlins Field Office; Area A, also deemed to be of wilderness quality but within the Rock Springs Field Office (and therefore not a part of

the Great Divide RMP revision process) was not marked on this map. In addition, checkerboard portions of Area A (The Haystacks) and Area B (The Willow Creek Rim and Badlands) were deemed to possess wilderness qualities by BCA but BLM disagreed due to checkerboard land ownership (The Haystacks) and oil and gas development on adjacent lands (Willow Creek Rim and Badlands).

Each Area has very little oil and gas activity

The Wyoming Oil and Gas Conservation Commission (WOGCC) map server has not been working as reliably of late as it once did. The following well appears to be active according to current WOGCC records:

EnCana West Slope 33-32, 0.000023965 BCF produced to date, T15 R95 Sec. 32

This well falls within BLM Area B on the agency's response to the intensive wilderness inventory. Other wells known to have been drilled in this area (e.g., Samson Barricade 44-1) could not be found on the map server. Some of the data from these wells is presented in the table above.

Within Area A, Questar had drilled the Spike #1 well in February 2005, but this well has been plugged and abandoned as uneconomic. There are currently no producing wells in this area, despite the fact that this entire area from the WSA boundary north was subjected to intensive seismic exploration for oil and gas under the Veritas Haystacks Seismic Project in 2001. The lack of drilling activity through a period of record natural gas prices in an area intensively explored and mapped for subsurface fluid minerals bears mute testimony to the absence of commercially relevant oil and gas resources found here.

There are no known producing or shut-in wells in Areas C, D, or F on the BLM map. Area E has one well (Yates South Bluewater Unit #1) located astride the south boundary route (now partially upgraded to an improved gravel spur road to service the well; this well has had marginal production (0.000227657 BCF) since it was drilled in 2004.

Very Rare or Uncommon Attributes of Each Area

Each of the Areas in Adobe Town possesses one or more attributes that rise to the level of Very Rare or Uncommon pursuant to Chapter VII. Because the Council has expressed some interest in a breakdown of the unit's Very Rare or Uncommon qualities area by area, this is provided here.

The Haystacks (Including BLM Area A with recognized wilderness qualities)

This area is dominated by a long, sharp ridge that is dissected into pillars, pinnacles, and badlands currently known as The Haystacks (formerly Haystack Mountain), which curve southwest to become the Adobe Town Rim and embrace an open basin known as The Horseshoe. Manuel Gap and the overlook visited by the EQC tour are two common focus areas of public recreation.

Historical/Prehistorical/Archaeological Values

This area doubtless has many archaeological and historical sites, including (according to local tradition) the place where Butch Cassidy and his gang hid fresh horses during the Tipton train robbery and also moonshine stills dating back to the Prohibition era, our documentation will concentrate on historical journals and fossil resources, which rank The Haystacks as one of the most important deposits of Eocene mammal fossils in the world.

-Mentioned Prominently in Historic Journals: The Haystacks were mentioned prominently (as “Mammoth Buttes”) in the reports of Edward D. Cope, one of America’s foremost paleontologists of the 1800s who collected in the area and famous for his “bone wars” with his rival scientist, Othniel C. Marsh (Cope 1884). In addition, the Haystacks figured prominently in the Geological Exploration of the 40th Parallel, which remarked upon the singular beauty of this feature:

“To the south of the stage-road, west of Barrel Springs, is a narrow, east and west ridge, whose irregular, serrated outline forms a striking contrast to the usual level summit line of the bluff ridges of this region....This ridge rises toward the east, having its culminating point in Haystack Mountain, which has an elevation of about 900 or 1,000 feet above the surrounding plains.”

-Cultural and Religious Practices: On one visit to the top of The Haystacks several years ago with a newspaper reporter, Erik Molvar of BCA found that the Naropa Institute, a Buddhist institution, was undertaking some sort of vision quest ceremony at the same spot that was visited by the EQC tour. A large tent was set up and a substantial gathering of people was present. We were asked by Naropa staff not to enter the area to avoid disturbing the ceremonies, and so we turned right to visit a more westerly overlook, away from the religious practices.

-Special Designations – The Haystacks, The Horseshoe, and the entire northern portion of the Adobe Town Very Rare or Uncommon unit are classified by BLM as the Monument Valley Management Area, a land area which the BLM has committed to further consideration as an Area of Critical Environmental Concern.

Wildlife Values

The Haystacks includes a number of important wildlife values, the unique combination of important sensitive wildlife values render it Very Rare or Uncommon.

-WGFD vital habitats – The Haystacks itself is virtually entirely made up of crucial winter range for mule deer, as designated by WGFD. Crucial winter ranges are defined by WGFD as those that are required for the survival of the herd, and without which the herd will decline. Farther south, the eastern portion of The Horseshoe is crucial winter range for pronghorn. The Very Rare or Uncommon value of this resource is illustrated by a public comment letter from a Warren Anderson on the Veritas Haystacks Geophysical Project in 2001:

“Drew an Area 57 antelope license. Area 57 has historically been the hardest to draw and the best trophy area for antelope hunters in Wyoming. There are only 75 licenses in this vast area. This is one of the best wilderness hunting opportunities in America.”

BLM 2001: Appendix B-4.

-Active Golden Eagle Nests – According to BLM data, there are active golden eagle nests documented in the Very Rare or Uncommon unit in The Haystacks at T16N R97W Sec. 10, T16N R97N Sec. 15, and T16N R96W Sec. 30.

-Active Prairie Falcon Nests – Two active prairie falcon nests have been documented by BLM near Mael Gap in the Very Rare or Uncommon area, at T16N R97W Sec. 27 and T16N R97W Sec. 28.

-Fragile Lands – The Haystacks area, like the rest of the Very Rare or Uncommon unit, is typified by steep, highly erodible soils with fragile desert vegetation receiving an average 5 inches of annual rainfall. This is clearly some of the most fragile land in Wyoming. Very Rare or Uncommon scientific values include a portion of the Bitter Creek watershed and other important ephemeral drainage systems of scientific interest as well as world-class Eocene fossil resources.

-High Priority Migratory Bird Habitat – a substantial swath of The Horseshoe has been identified by BLM as mountain plover nesting habitat, with a number of confirmed sightings in this area. The mountain plover was until very recently a candidate for Threatened status under the Endangered Species Act, and remains a BLM and State of Wyoming Sensitive Species. The current worldwide population of mountain plover is currently estimated at only 12,000 individuals.

Surface Geological Values

-significant paleontological resources: The Haystacks were the primary site of the work of renowned paleontologist William Turnbull, who excavated actively in this area for

over 5 decades, ultimately becoming Curator Emeritus for the prestigious Chicago Field Museum of Natural History. A description of Turnbull's diggings sums up the area as follows:

“Haystack Mountain. Many of the classic Uintan age collections from the Washakie Formation were made from Haystack Mountain (Mammoth Buttes of Cope). Cope (1884) distinguished Haystack Mountain as the eastern tip of the Mammoth Buttes; subsequent usage refers to the entire linear feature (see Fig. 2) as Haystack Mountain (Turnbull, 1978, p. 581). In addition to these three major efforts, Turnbull has collected throughout the basin and from the entire stratigraphic section.”

McCarroll et al. 1995 (p. 4). In addition, the Geological Exploration of the 40th Parallel also noted important petrified wood resources, features that are very rare in Wyoming on this scale:

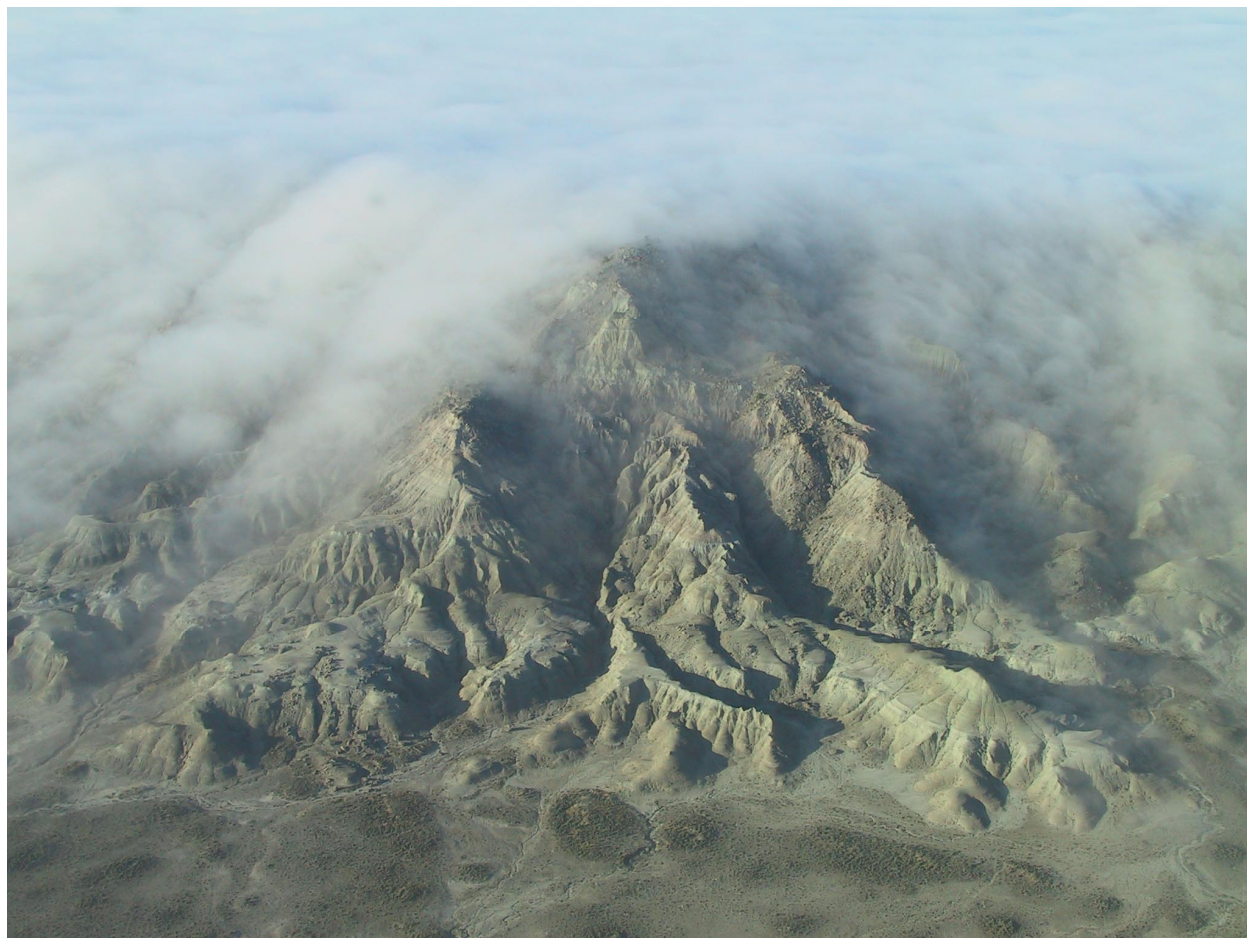
“On the northern face of Haystack Mountain was found the petrified trunk of a large coniferous tree, lying across one of the narrow ravines, a length of about 15 feet being thus exposed, either end being still imbedded in the sandstone. The woody appearance is very well preserved, the exterior being whitened, so that the resemblance to the weathered trunk of a dead tree is almost perfect; portions of the bark are covered with yellow spots, apparently of exuding gum, retaining their original coloring. The interior is a black, compact siliceous material, and, where the heart of the tree has decayed out, is loosely filled by crystalline quartz, still preserving some of the general fibre of decayed wood.”

Clarence King, Geological Exploration of the 40th Parallel, 1869.

Geological features – The Haystacks is itself a striking and beautiful geological feature, unusual in its contrast to the surrounding country, as noted in the *Geological Exploration of the 40th Parallel*. The primary ridge is broken up into a maze of ridgelets and canyons, with a multitude of pinnacles, overhangs, mushroom rocks, and other erosional features that are Very Rare or Uncommon on a statewide scale. Essentially, as an eastward extension of the Adobe Town Rim, all of the geological features that make the Adobe Town Rim famous are also present in The Haystacks, but in The Haystacks the scale of vertical grandeur is on a scale of a thousand feet rather than several hundred. These features make this area a prime destination for aesthetic and recreational pursuits.

Scenic Value – The Scenic grandeur of The Haystacks is self-evident, not only due to the rugged and spectacular topography of The Haystacks itself but also due to the spectacular sweep of virgin country stretching southward, yielding awe-inspiring views of the Red Desert in its primal and pristine original condition. Particularly at sunrise and sunset, this area is truly spectacular. The photo that follows was taken on the aerial overflight of Adobe Town with EQC, showcasing

the spectacular scenic grandeur of The Haystacks. Please see also BCA's PowerPoint for more Haystacks scenic photographs.



Artistic Attention – The Haystacks is featured prominently in the September 2007 gallery show of Marty Stupich at the UW Art Museum. Throughout September, professional photographer Martin Stupich of Albuquerque, NM held a large exhibition of his work on the Red Desert at the University of Wyoming Art Museum in conjunction with the symposium, *The Red Desert: Among Dead Volcanoes and Living Dunes*. This show included a number of photographs of the Adobe Town Very Rare or Uncommon area, including the Adobe Town Rim and The Haystacks. These photos were taken as part of a collaborative book project with writer Annie Proulx, a book which will also cover the Adobe Town VRU area and should be out in bookstores in Spring 2008. Below are some of the works as hung in the show:



The photos above and below were taken in The Haystacks. The photograph below depicts the area visited by EQC in the Haystacks during the August 2007 field tour.



In October of 2007, BCA held its Fourth Annual Red Desert Photo Show. There were several entries depicting The Haystacks, including Joyce Powell's Haystacks #2 photo, the second-place winner in the Amateur Wildlife and Wildflowers category, and is shown at lower right in the image below:



In addition, award-winning professional photographer Joel Sartore, for years one of National Geographic's senior photographers, has at least two photographs set in The Haystacks offered for sale on his stock website. These photographs are appended to these comments as Attachments 1 and 2.

Thus, with its combination of Historical/Prehistorical/Cultural values, wildlife values, geological values, and scenic values, The Haystacks clearly qualifies as Very Rare and merits protection under the Environmental Quality Act.

The Skull Creek Rim

The Skull Creek Rim is a massive palisade of eroded ash deposits, striped in hues of pink, red, and purple to produce one of Wyoming's truly magnificent and awe-inspiring landscapes. The Skull Creek Rim itself is with the narrow southern extension of the Adobe Town Wilderness Study Area, and is presently protected from industrial uses. This impressive feature overlooks unprotected lands on the flats to the east as well as the Powder Rim to the south; each of these areas is an important part of the landscape seen by visitors to the Skull Creek Rim.

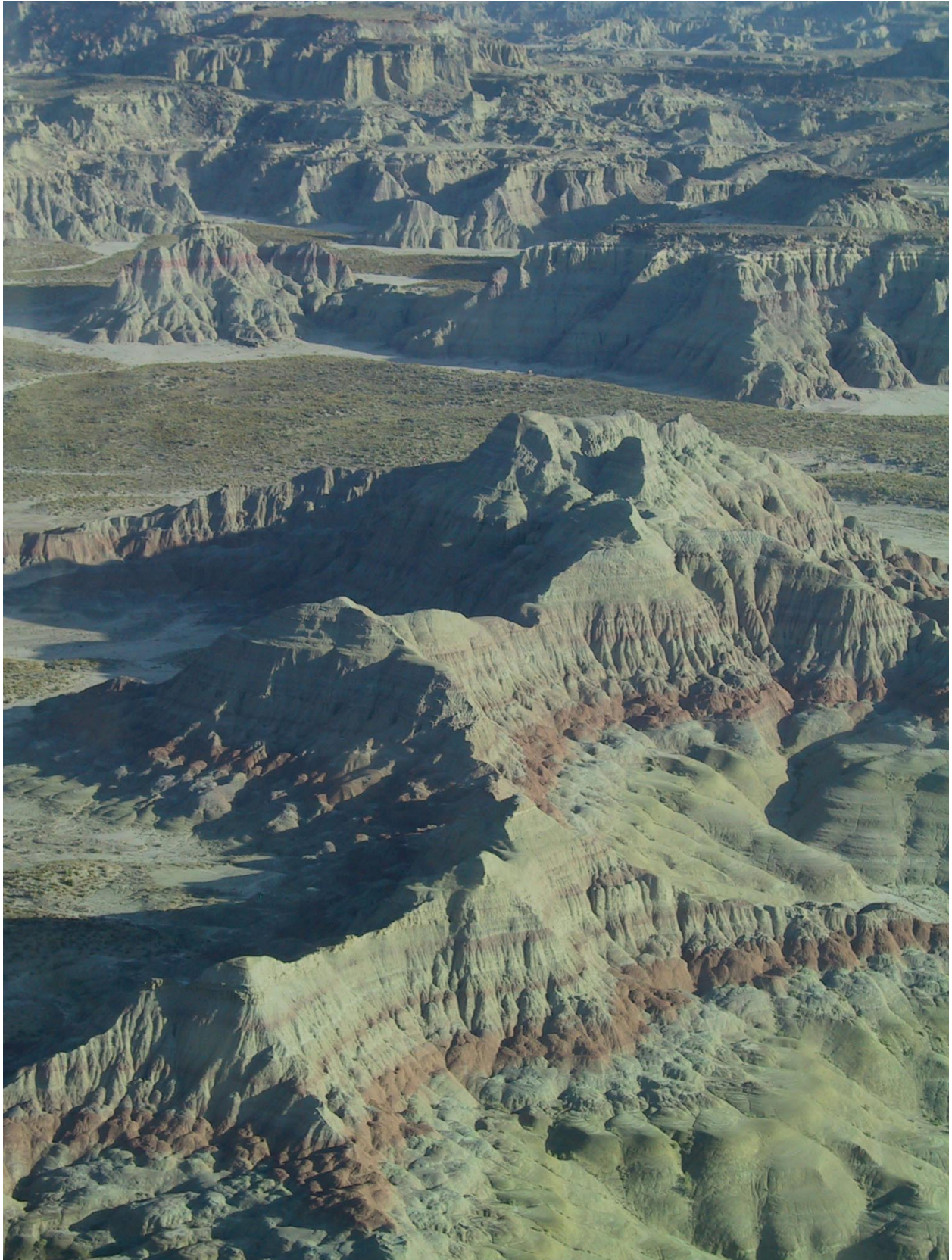
Historical/prehistorical/cultural values – The Wilderness Study Area has been estimated by BLM to possess 30 archaeological sites per square mile, a density which BLM has characterized as “unusually high” (BLM 1991). Expansion Era petroglyphs and rock cairns, or “monuments,” have been found along the rim.

This area is mentioned prominently in the annals of the Geological Exploration of the Fortieth Parallel, and several quotes of the superlatives from this historical record are reproduced in the Very Rare or Uncommon Petition.

Wildlife Values – There is a small colony of white-tailed prairie dogs near East Fork Point in this area. There are a number of known raptor nests including a prairie falcon nesting site active two of the past three years at the southern end of the Skull Creek Rim as well as two BLM-documented golden eagle nest sites farther south. Sage grouse are commonly seen atop the Skull Creek Rim, although leks have yet to be identified here.

Geological Features – The massive wall of the Skull Creek Rim, with its thousand-vertical-foot exposure of volcanic ash deposits, is the primary geological feature. Erosion has dissected it into myriad buttes, ridges, and fins. Natural arches and pinnacles are present, and solifluction caves (locally known as “mud caves”) also have been found here. This is a geological wonderland on par with our most impressive national parks.

Scenic Values – Breathtaking views can be had along any of the myriad overlooks situated atop the Skull Creek Rim. The multi-colored bands of the cliffs offer a pretty counterpoint to the gray and buff colors of the ash beds. Unique “hoodoos,” standing rocks, hat rocks, and mushrooms are on display throughout the area. Photographers have featured this area in books such as *Wild Wyoming* and *Wind River Wilderness*, and magazines ranging from *National Geographic* to *Wyoming Wildlife*. The photo below was taken during the EQC overflight of Adobe Town:



The spectacular scenic and geological values of the Skull Creek Rim are Very rare and justify its protection under the Environmental Quality Act.

The Base of the Skull Creek Rim (Areas C and D)

The vast majority of these lands were determined by BLM to possess wilderness qualities, but lie outside the protection of the Wilderness Study Area and are currently open to all types of industrial development.

Historical/Prehistorical/Cultural values – This part of the proposed Very Rare or Uncommon unit is covered with stabilized sand dune deposits that are of the highest importance for prehistoric archaeological finds, because the sand deposits preserve the chronological stratigraphy of the artifacts, allowing scientists to accurately date artifacts.

Scenic Values - The chief outstanding and Very Rare feature of this part of the landscape is that it is an integral part of the scenic grandeur experienced by viewers from the Skull Creek Rim. As such, it is virtually impossible to take a photograph from the Skull Creek Rim without capturing some of these pristine lands which lie outside the protection of the Adobe Town Wilderness Study Area. Any reasonable person visiting the Skull Creek Rim can appreciate the importance of protecting the scenic vistas that one enjoys from the overlooks from strip mining and other industrial intrusions. Indeed, the wilderness experience available atop the Skull Creek Rim (inside the WSA) is a wilderness experience today chiefly due to the happy circumstance that there has been a negligible amount of human disturbance on the unprotected lands at the foot of the rims.

Wildlife Values – BLM has documented an active golden eagle nest site atop an outcrop in Area D.

Geological Values - The protection of this area from industrial intrusions of all kinds is also key to protecting and preserving the aesthetic and recreational experiences of the many visitors who visit to take in the spectacular geological features of the Skull Creek Rim. This rim rises 1,000 feet above the plains below, a spectacular and dramatic sight, and its superb aesthetic values are Very Rare indeed because they overlook not another industrial landscape but a spectacular sweep of open country that is unparalleled in the Red Desert.

In sum, the Very Rare features of the Skull Creek Rim cannot be preserved without also preserving the open country that lies at their feet. For this reason these lands must be an integral part of the Very Rare or Uncommon designation.

Adobe Town Rim, Monument Valley, and the Lower Rim to the East

The cliffs of this area have less vertical relief than the Skull Creek Rim, but are dissected into a more intricate maze of pinnacles, window rocks, and arches. Isolated pillars rise in solitary majesty far out from the rims, and then a second set of cliffs lead downward from a hanging basin. This area falls within the interim protection of the Adobe Town Wilderness Study Area.

Historical/prehistorical/cultural values - The Wilderness Study Area has been estimated by BLM to possess 30 archaeological sites per square mile, a density which BLM has characterized as “unusually high” (BLM 1991). This area is mentioned prominently in the annals of the Geological Exploration of the Fortieth Parallel, and several quotes of the superlatives from this historical record are reproduced in the Very Rare or Uncommon Petition.

Wildlife Values – A golden eagle nest has been documented on the lower rims at T15N R96W Sec. 18, and successful prairie falcon nest has been observed two of the last three years in the central Adobe Town Rim. Mountain plovers and Great Basin gopher snakes have also been documented in this area.

Geological Values – The myriad natural arches, walls of pinnacles, lone spires, and bizarre erosional landforms form a maze of geological wonders in this area. Fossil resources should also be abundant in this area.

Scenic Values – Although lacking the grand scale of the Skull Creek Rim, the erosional features in this areas are even more complex and intricate. This ranks with Bryce Canyon as having the most outstanding erosional pillars anywhere in the United States. Photographers have often featured this area in their work. This area was featured in the Marty Stupich gallery show at the UW Art Museum:



In addition, there were several photos of Adobe Town featured in BCA's Fourth Annual Red Desert photo show. The following upper photos are from the amateur division:



A photograph of Adobe Town by Scott Smith, from Salt Lake City, captured Second Place in the Professional Landscapes division and also won the People’s Choice Award, the most popular photograph in the show from any division. It is shown below:



This part of Adobe Town should be protected as Very rare or Uncommon primarily due to its geological and aesthetic values, and the recreational values that flow from these.

Between the Rims (Area F)

This narrow sliver of unprotected land lies between the Skull Creek and Adobe Town Rims.

Historical/Prehistorical/Cultural values – This area atop the rims is covered with stabilized sand dunes of the type that are most promising for archaeological exploration and are of the highest importance for prehistoric archaeological finds, because the sand deposits preserve the chronological stratigraphy of the artifacts, allowing scientists to accurately date artifacts. The ancient dam works visited by the EQC during the field tour is inside this unit, and Richard Baldes, an Eastern Shoshone, expounded on the religious importance of this site in particular in a Casper Star Op-Ed (Attachment 25 to Petition). The archaeological site density is likely identical (i.e., unusually high) to that of the WSA lands on either side.

This small area should be protected as Very Rare or Uncommon primarily due to its archaeological sites and their religious/cultural importance to Native Americans, and because its protection creates a less fragmented Very Rare or Uncommon area.

Powder Rim (Area E)

This unit has great importance for wildlife and also is an important part of the scenic vista enjoyed by visitors to the Skull Creek Rim. It is important to note that only the western end of the Powder Rim falls within the proposed Very Rare or Uncommon unit, although the entire Powder Rim has ample wildlife values to qualify for the designation.

Historical/Prehistorical/Cultural Values – A rock cabin located near Upper Powder Spring and within this unit is attributed to Butch Cassidy and his Powder Wash Gang (Ed Varley, pers. comm.). A large number of archaeological sites have been located in this general area, with many eligible for the National register of Historic Places, but it is not clear how many of these fall within the Very Rare or Uncommon proposed unit. BLM (2005:23).

Wildlife Values – The Powder Rim is rich in wildlife, with juniper woodlands that are home to many species of juniper obligate songbirds, migratory birds that are listed as State Sensitive by WGF. Much of this unit is crucial winter range for mule deer as designated by WGF, and the Petition Elk Herd, a rare desert elk herd, uses this area for yearlong range.

Surface Geological Values – The base of the Powder Rim is dissected into colorful banded badlands, butted, and canyons of red and white, shown in the Adobe Town Very rare or Uncommon PowerPoint. These geological features in and of themselves merit Very Rare or Uncommon designation for their aesthetic and recreational value. In addition, this entire unit has been rated by BLM as having Probable Fossil Yield Category of ‘5’ (the highest potential), entailing “highly fossiliferous geologic units that regularly and predictable produce vertebrate fossils and/or scientifically significant vertebrate fossils, and that are at risk of natural degradation and/or human-caused adverse impacts” (BLM 2005: 61).

Aesthetic Values – This area is beautiful in its own right, both for the rolling slopes of meadow and juniper and the brightly-colored badland formations at their base. But easily as significant is the scenic value of protecting the vistas that are seen from the scenic overlooks atop the nearby Skull Creek Rim. The visual qualities of the Powder Rim are therefore of the highest order of importance.

The Powder Rim unit is Very Rare or Uncommon due to its outstanding geological, scenic, and wildlife values, and needs to be designated as protected.

Willow Creek Rim and Badlands (Area B)

This easternmost unit of the proposed Very rare or Uncommon Area is characterized by the tall, stately cliffs of the Willow Creek Rim rising above the dissected badlands of Willow Creek.

Historical/Prehistorical/Cultural Values – This area is mentioned prominently in the journal of the Exploration of the 40th Parallel as follows:

“In the region of Church Buttes outliers of the Bridger group constitute detached bodies rising above the Plains in the most picturesque forms, eroded in the

characteristic bad-land shapes; domed mounds and buttressed blocks remind one of a variety of architectural designs.”

Wildlife Values – The cliffs and badlands of the Willow Creek Rim area offer outstanding raptor nesting habitat, and BLM has documented an active golden eagle nest atop the Willow Creek Rim in this unit, as well as an active prairie falcon nest in the badlands to the east, also within this unit. An active sage grouse lek, or traditional dancing ground, has also been documented atop the rims in this unit.

Geological Values – The tall, regular, and even wall of the Willow Creek Rim is a marked contrast to the deeply dissected rims farther west, and is an uncommon landform in the Red Desert. The dissected badlands farther east also offer limitless possibilities for aesthetic and recreational enjoyment.

Aesthetic Values – This is an area of stark beauty and dramatic landforms, as observed by early explorers. During the spring, the area is particularly notable for its displays of desert wildflowers.

This portion of the area merits Very rare or Uncommon status due to the combination of its strong wildlife, geological, and aesthetic values.

Why it Makes Sense to Protect Public Lands in the Checkerboard with VR/U Designation

The Conservation community is working to protect the public land sections of the checkerboarded portion of The Haystacks while we work to secure willing-seller land swaps to consolidate the entire area in public ownership. A portion of the Haystacks unit, totaling over 8,000 acres, is already consolidated in public BLM ownership, and this portion was recognized by BLM as possessing wilderness qualities in their response to BCA’s wilderness inventory.

For the remaining checkerboard portion of The Haystacks, administrative and legal mechanisms to fully protect the land from industrial activities are available only for the public land sections. In particular, the BLM has the authority to withdraw any public land from future oil and gas leasing, and to impose substantial protective measures as conditions of approval for existing leases. BLM can designate public land parcels as unsuitable for coal leasing. BLM can also recommend to Congress that public land parcels be withdrawn from mineral entry for mining. The State EQC has the authority to designate both public and private holdings as Very Rare or Uncommon and thereby protect them from non-coal surface mining. This designation does not prevent in any way oil and gas drilling or leasing, coal surface mining, or subsurface mining. Thus, it is more difficult to justify a designation that includes private sections (which would thereby involve a limitation on private property rights, creating a legitimate beef for landowners within the boundary), when these private property sections could be degraded or destroyed through industrial activities not covered under Very Rare or Uncommon designation.

Thus, the conservation community is pursuing the more promising tack of securing protection for the public sections, while simultaneously working toward land swaps that would make the private inholdings public land as well, at which point they too could be protected fully by Very

Rare or Uncommon designation plus administrative and legal protections that are available to federal agencies.

At present, we expect the surface and mineral owners to express incontrovertible opposition to the concept that they would ever sell or swap these lands, because the owners of these inholdings have expressed a desire to prevent conservation protections of any kind from applying to lands outside the already-protected Wilderness Study Area.¹ Thus, claiming that they will never give up these lands might suit their present agenda of preventing protections from applying to the area. However, separate conversations between BCA staff and Rock Springs Grazing Association and Anadarko Petroleum representatives at other times and in other contexts indicated possible interest in such a land swap, particularly if the involved property owners could gain advantage by doing so.

Anadarko commissioned a comprehensive seismic exploration program for The Haystacks in 2002 (Haystacks 3D Seismic Project). After the seismic testing was completed, the price of natural gas spiked from \$2/mcf to \$14/mcf, yet in the drilling frenzy that gripped the entire state, only one well was ever drilled in the Haystacks portion of the Very Rare or Uncommon area (and it was plugged and abandoned as uneconomic). The obvious conclusion is that the seismic exploration discovered very little in the way of oil and gas resources, leaving Anadarko Petroleum very little incentive to hold on to its mineral estate here.

And as BCA and other conservation groups are willing to concede indefinite grazing rights at present levels in this area if its were to come fully under federal ownership (a position we have communicated to the Association), the Rock Springs Grazing Association also has very little incentive to swapping for ownership of grazing lands elsewhere. Thus, BCA is optimistic that ultimately the entire Haystacks area can be brought into federal ownership, at which point the remaining (currently private) sections could be brought into VR/U protection.

In the meantime, it is important to maintain the public sections, over which protection can be secured, maintain their wild and pristine character until such time as land ownership consolidation takes place. While Very Rare or Uncommon does not prevent small-scale surface mining within the individual private sections, it is likely that large-scale surface mining, for uranium or oil shale, which presents the greatest threat to the area, would require the concurrent mining of adjacent public land sections (sections to which Anadarko Petroleum and the Rock Springs Grazing Association have no greater right or claim than the average grandmother in Tallahassee, Florida). Thus, Very Rare or Uncommon designation on the public sections has the potential to prevent the very type of large-scale destruction in The Haystacks area that represents the most important threat from a non-coal surface mining perspective, and does so without abridging or infringing on the private property rights of land or mineral owners.

¹ Both oil and gas industry representatives and the Rock Springs Grazing Association publicly encouraged the repeal of a Sweetwater County Commission resolution that has been passed unanimously, seeking the withdrawal from future oil and gas leasing of the same lands included in the Adobe Town Very Rare or Uncommon petition. This opposition was grounded in the concept that such a withholding of future mineral leases on BLM lands would curtail private property rights and/or existing mineral leases, an assertion that clearly contradicted the wording of the original resolution.

Public Access to the Very Rare/Uncommon area

For the majority of the Very Rare or Uncommon proposed area that is made up of contiguous public lands managed by the BLM, legal access to the area is relatively straightforward. The easiest access to the area is from the west (from BLM Road 4412) and south, from the improved road that follows the crest of the Powder Rim. Along the east end of the unit, public access is available via a spiderweb of gas field roads of the Willow Creek Reservoir field, but the confusion of dead-end roads in this area makes access and route-finding challenging. In the Adobe Town Wilderness Study Area, vehicular travel is limited to designated vehicle routes (essentially the roads and jeep trails that were there when the WSA was established). Elsewhere, vehicle travel is limited to existing routes, per federal regulation. Jeep trails in this area tend to be fairly rough, requiring high clearance and sometimes four wheel drive. Jeep trails traversing the center of the unit can be quite technical and difficult even in a high-clearance 4WD vehicle, and for this reason receive very little vehicle traffic. Most of the unit lacks even jeep trails, but is readily traversed on foot or by horseback.

Public access to the checkerboard portion of the proposed unit is difficult to characterize due to the multitude of conflicting information that is out there. It is apparent that there is a considerable amount of public access occurring in the checkerboard area at the present time, particularly associated with hunting activity in the autumn. When BCA performed its comprehensive wilderness inventory of these lands in 2002, we consulted with BLM in an effort to get contact information for the owners of the private sections in order to gain trespass permission. At that time, BLM informed us that no permission was required, that access across the checkerboard was freely permitted by the Rock Springs Grazing Association as long as gates were left in the same open or closed position that they were found.

More recently, both Rock Springs Grazing Association and Anadarko Petroleum have expressed the opinion that the checkerboard lands are not open to public access, and that roads in the area marked as having public easements (i.e., the Fort LaCledde/Barrel Springs Road and the Manuel Gap jeep trail) were not in fact open to public use. When queried, BLM agreed with this assertion that the roads marked as public access through the checkerboard did not have the public easement shown on the map. Further, BCA was informed last spring that we would need a permit from Anadarko (which owns no surface estate of which we are aware) to visit checkerboard lands in Adobe Town. As checkerboard lands are not a usual destination for our outings, this turned out to be a non-issue. Yet we have also heard Anadarko and the Rock Springs Grazing Association express that they have never done anything to limit public access to this part of the checkerboard in the past. A clarification of the actual state of public access in the checkerboard area, along with restrictions (if applicable), permissions required and methods to obtain such permissions, would be helpful to public visitors interested in recreating in this area.

Beneficiaries of Very Rare/Uncommon Designation

The protection of Adobe Town, both the wilderness study area and surrounding lands in the citizens' wilderness proposal, is a high priority for the public. This is evidenced by over 20,000 public comments received by BLM during scoping of the Great Divide plan revision and an additional 65,000 comments received during the Draft EIS comment period, comments which

specifically called for protection of the Adobe Town citizens' proposed wilderness, which corresponds exactly with the boundaries of the proposed Very Rare or Uncommon area.

In particular, the current Wilderness Study Area extends insufficient protections to maintain the wilderness and scenic qualities of lands inside the WSA, principally due to the fact that pristine areas adjacent to the WSA that comprise the viewshed from prominent overlooks along the Skull Creek Rim were excluded from the protection of the Wilderness Study Area. The Skull Creek Rim is one of the most important destinations for visitors seeking scenic grandeur in a natural setting, and the protection of those lands at the base of the rims that are currently open to industrial use is imperative if today's primitive and natural viewsheds are to be preserved for future visitors.

Essentially, Adobe Town should be protected for all of us, Wyoming residents and visitors, current and future generations. Everyone will be able to benefit from enjoying this last large untamed tract of the Red Desert in its original and natural state.

Best Case/Worst Case Scenarios from a Very Rare/Uncommon Designation Standpoint

The best case scenario would be that the EQC designates the entire Adobe Town Very Rare or Uncommon proposed area for protection under the EQA statute.

In best-case outcomes not directly determined by Very Rare or Uncommon designation, but quite possibly influenced by it, BLM follows suit by putting these lands off-limits to mining and future oil and gas leasing in its Great Divide and Green River plan revisions. The Rock Springs Grazing Association trades its surface estate lands for fee title to public lands elsewhere in the checkerboard, while retaining rights to graze on its former holdings. Anadarko Petroleum trades its mineral estate lands in the VR/U area for mineral holdings in more promising oil and gas plays. Surface mining is prevented (there are no coal outcrops to worry about in this area), and eventually existing oil and gas leases expire in the absence of a compelling reason to develop the marginal resources found here.² Ten years from now, the area remains much the same as it is today, and visitors and native wildlife remain able to enjoy this spectacular and rich landscape much as they always have.

The worst-case scenario from a designation standpoint is that the designation is not granted or is limited to only the Wilderness Study Area, which is already protected by federal law. Large-scale strip-mining for oil shale (fueled by a lack of domestic crude oil) or uranium creates

² Interestingly, when the WSA lands were initially designated for interim protection, almost all of Adobe Town was leased for oil and gas development. For this reason, BLM recommended to Congress for wilderness designation only the 10,900 contiguous acres of the WSA that were unleased at the time, even though the agency fully admitted that the wilderness qualities were just as great for the rest, and oil and gas leasing is a paper exercise that often means nothing on the ground. In the intervening years, industry had the option to drill on all of these leases within the WSA; only 2 wells were drilled and the rest of the leases were abandoned without any exploration activity, so low was the mineral potential viewed by industry. Today, the exact same circumstance covers much of the Very Rare or Uncommon land outside the WSA, and the BLM is taking the same myopic approach – reluctant to protect pristine, wilderness quality lands that are leased for oil and gas but may never be drilled if the leases are allowed to run without renewal.

gigantic gashes in the earth at the foot of the Skull Creek Rim, in the Haystacks, Powder Rim, and in the Willow Creek Rim area, with attendant dust and traffic that destroy the natural setting and scenic values for visitors to the tall overlooks all over Adobe Town. A further possible outcome would be the “hard release” of Adobe Town’s WSA status by act of Congress, followed by industrial uses of all types, including strip mining and/or oil and gas field development, throughout the Wilderness Study Area (admittedly, it is far-fetched to project that any Wyoming Congressional would ever introduce a bill to strip protections from the WSA lands in Adobe Town, much less get such a bill passed).

An indirectly related and equally disturbing outcome would be BLM keeping the area open to oil and gas development with the current minimal protections for the environment, the discovery of a previously unknown oil and gas resources and its development with ultra-high-density drilling, creating wall-to-wall drilling pads stretching for miles along the base of the Skull Creek Rim and across The Haystacks, Willow Creek Rim, and Powder Rim.

Conclusion

There has never been a landscape more deserving of Very Rare or Uncommon Designation for so many different reasons. There may never again be a landscape that is so spectacular or so fulfilling of Very Rare or Uncommon criteria again. This petition puts the Environmental Quality Council in the position of doing something great – protecting a crown jewel landscape that would have been set aside years ago but for a lack of leadership, backbone, and vision. Adobe Town is Very rare or Uncommon for almost all of the reasons that have been laid out for the EQC in the Chapter VII regulations, but it is even rarer and more uncommon because it is the largest remaining piece of wild country in Wyoming’s lowland basins. As such, it bears the legacy of the irreplaceable Western landscape, to be experienced in a way that the first people may have set eyes on it 12,000 years ago. This last unscathed stretch of Wyoming deserves to be protected, and we urge the EQC to take leadership in doing so.

Sincerely yours,

Erik Molvar

Literature Cited

BLM. 1991. Wyoming statewide wilderness study report: Wilderness Study Area specific recommendations. Cheyenne: BLM Wyoming State Office, 392 pp.

BLM. 2001. Decision Record, Haystacks Geophysical Project, Rock Springs Field Office, Sept. 13, 2001.

BLM. 2005. Environmental assessment for the Cherokee West 3D Seismic Project. Rawlins Field Office, July 12, 2005.

Cope, E.D. 1884. The vertebrata of the Tertiary formations of the West. I. Report of the U.S. Geological Survey of the Territories, 3: 1-1009.

McCarroll, S.M., J.J. Flynn, and W.D. Turnbull. 1996. The mammalian fossils of the Washakie Formation, Eocene Age, of Southern Wyoming. Part III. The Perissodactyls. *Fieldiana Geology* no. 33, 38 pp.