

Sublette County, WY

William W. Cramer, Commissioner
John P. Linn, Commissioner
Joel E. Bousman, Commissioner

Town of Big Piney

Phillip Smith, Mayor

Town of Marbleton

Jim Robinson, Mayor

Town of Pinedale

Stephen Smith, Mayor

February 9, 2009

Governor Dave Freudenthal
Capitol Building
200 West 24th Street
Cheyenne, WY 82002

Dear Governor Freudenthal:

We have reached the point of preparing a single priority list of the most urgent infrastructure needs to address the socio-economic impact of energy development throughout Sublette County. Our current estimate of the total cost to implement this list is \$71.1 million, of which we are short \$62.6 million in funds. We appreciate your patience over the last several years in helping to get us to this point.

Although our community has benefited enormously from energy development, our list illustrates that the costs of maintaining infrastructure and public services have outstripped our ability to fund these necessities. The towns in particular are at a disadvantage in funding infrastructure needs. They receive little in property tax receipts and rely on sales tax for the majority of their overall revenues. Sales tax receipts are generated by those who work and live in our communities, and have steadily risen over the past several years. They currently contribute an average of 74% of total revenue to the towns. In contrast, town revenue in the form of state severance taxes and federal mineral royalty taxes have changed only slightly during the same time period, as shown in Figure 1. These funds, which originate from tax monies paid directly by energy operators to the state and federal government, contribute little to overall revenue.

During the past four years, Sublette County and its municipalities have invested \$69.2 million in infrastructure improvements, of which the state contributed \$15 million through State Land Investment Board (SLIB) funding¹. We still have a long way to go. Our priority list contains projects which we believe are essential for the continued health, safety, and well-being of those who live and work within our county and our municipalities.

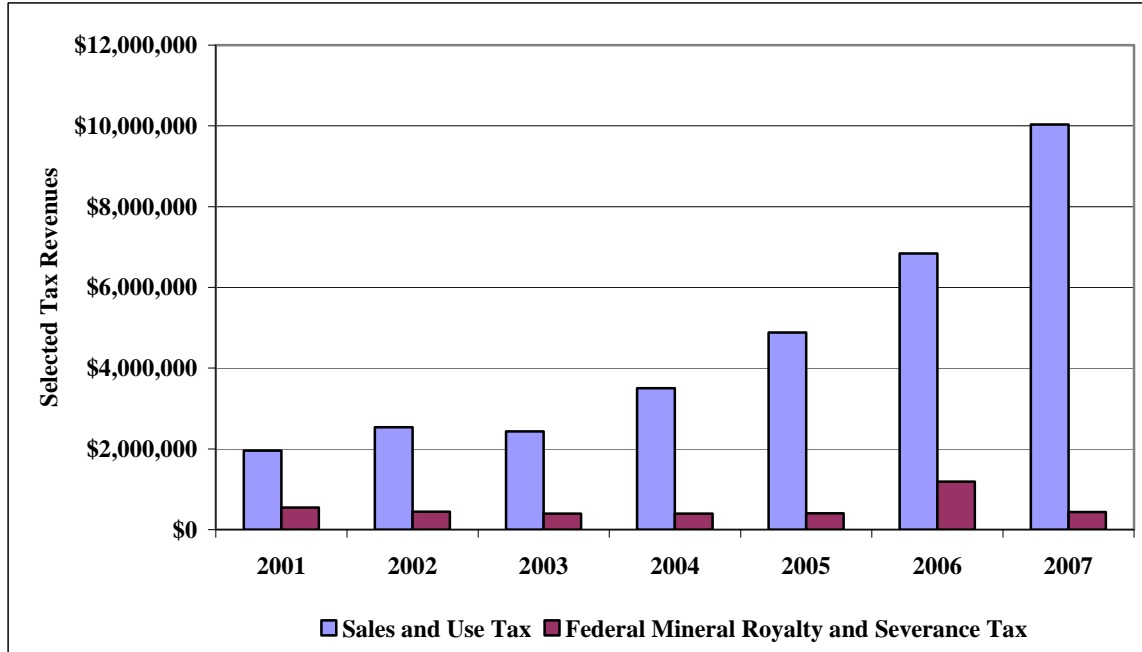
Please note that the pressing infrastructure needs expressed in this letter are just a portion of overall needs within the county and towns. Attached to this letter is a comprehensive list/map of infrastructure projects for each jurisdiction with current cost estimates. The cumulative list totals \$160.1 million, of which \$71.1 million is identified in this letter.

Below, please find information on the most critical infrastructure needs in our communities. Our signatures signify our collective agreement to the listings, and, to the best of our knowledge, we vouch for the accuracy of the information included. As our next step we request that you review our list of needs and offer suggestions and advice on how we could best succeed in our joint efforts. One option is to

¹ Jeanne Norman, Office of State Lands and Investments, State of Wyoming, June 2, 2008.

utilize the Sublette Community Partnership to discuss this list with key industry representatives and seek their pledges toward cost sharing.

Figure 1 Cumulative Federal Mineral Royalty, Severance, and Sales and Use Tax Revenue to Pinedale, Big Piney, Marbleton 2001-2007



Sources: Town of Big Piney financial statements 2001-2003; Town of Marbleton financial statements 2001-2003; Town of Pinedale financial statements 2001-2003; Treasurer of the State of Wyoming Annual Reports 2001-2007; Wyoming Department of Revenue Reports 2004-2007

Sewer and Water Repair and Maintenance

Pinedale’s existing sewer infrastructure is 80 years old and disintegrating. Current sewer and water lines are made of clay which is cracked and broken throughout the system. All lines within Pinedale will be replaced by 2014. Phases 5 and 6 of the Pinedale Sewer Replacement Project will replace 32,000 linear feet of pipe. At the same time, roads affected by these phases will be repaired or resurfaced. Marbleton’s existing sewer lagoon freezes during the winter and has been out of compliance with Department of Environmental Quality standards for at least the past eight years. Big Piney’s water and sewer lines are 50 years old and made of cast iron. Lines are broken throughout the system and must be replaced. Big Piney has already replaced the town’s sewer lines and is in the process of replacing all water lines. At the same time, affected roads will be repaired or resurfaced.

Table 1 lists the highest priority sewer and water repair and maintenance projects in Sublette County’s towns. Additionally, the overall project costs, the funds currently available for each project, and the shortfall for each project are identified.

Table 1 Sewer and Water Repair and Maintenance Costs (Arthur 2008; Hurd 2008; Murphy 2008; Ninnie 2008)

Location	Project	Project Cost	Funds Available	Shortfall
Pinedale	Sewer Repair, Phases 5 and 6	\$16.4 million	\$2.0 million	\$14.4 million
Marbleton	Aerated Sewer Lagoon	\$5.1 million	\$2.9 million	\$2.2 million
Big Piney	Water Line Replacement	\$9.1 million	\$400,000	\$8.7 million
Total		\$30.6 million	\$5.3 million	\$25.3 million

Water Supply and Treatment

Two water towers serve the town of Marbleton and are the only sources of water for energy operators in the area. One of Marbleton's two water towers is very old and structurally unreliable, requiring replacement. In addition, Marbleton recently drilled an additional well to provide domestic and commercial water but found that fluoride levels were unacceptably high. Treatment is required to remove the excess fluoride. Pinedale's drinking water is obtained from Fremont Lake. The Environmental Protection Agency requires all surface water to be filtered or otherwise treated for microbes. Big Piney has two historic landfills that must be monitored to maintain water quality. Table 2 lists the highest priority water supply and treatment projects in Sublette County.

Table 2 Water Supply and Treatment Costs (Murphy 2008; Ninnie 2008)

Location	Project	Project Cost	Funds Available	Shortfall
Marbleton	Fluoride Treatment, Water Tower Replacement	\$1.6 million	\$249,000	\$1.4 million
Pinedale	EPA-Mandated Ultraviolet Water Treatment	\$3.8 million	None	\$3.8 million
Big Piney	DEQ-Mandated Groundwater Monitoring	\$125,000	None	\$125,000
Total		\$5.5 million	\$249,000	\$5.3 million

Road Repair and Maintenance

Traffic on the Calpet Highway and the Dry Piney Road has increased tremendously since 2000, turning them into high-use roads with an accelerated need for maintenance. A substantial number of vehicles travel these roads annually, with 20% being larger than a pickup. The cost of paving is approximately \$1.1 million per mile. Table 3 lists the highest priority road repair in Sublette County.

Table 3 Road Repair (Lankford 2008)

Location	Project	Project Cost	Funds Available	Shortfall
Sublette County	Repave Calpet Highway and Pave Dry Piney Road (32 miles)	\$35 million	\$3 million	\$32 million

We will be happy to provide more information or answer any questions you may have. Thank you for your continued support for and interest in addressing Sublette County's energy-related impacts.

Sincerely Yours,

Stephen Smith
Mayor, Pinedale

Jim Robinson
Mayor, Marbleton

Phillip Smith
Mayor, Big Piney

Joel E. Bousman
Commissioner,
Sublette County

William W. Cramer
Commissioner,
Sublette County

John P. Linn
Commissioner,
Sublette County

Categorical Exclusions (CXs) Fact Sheet

June 2009

What they are:

Activities conducted on public lands (primarily oil and gas development activities) that are excluded from environmental review and impact analyses. These activities and their potential impacts are normally reviewed and analyzed, with adequate public input, according to the requirements of the National Environmental Policy Act (NEPA). Analysis is conducted and contained in NEPA documents such as the Pinedale Anticline Environmental Impact Statement (EIS). Applicability of CXs is presumed for all oil and gas development, but subject to rebuttal (called a rebuttable presumption).

How they came to be:

CXs were established in Section 390 of the Energy Policy Act of 2005.

What they say:

If a proposed oil and gas activity fits into one of these five categories, then the application of a categorical exclusion shall be presumed if:

- (1) Individual surface disturbances are less than 5 acres so long as the total surface disturbance on the lease is not greater than 150 acres and site-specific analysis in a document prepared pursuant to NEPA has been previously completed.
- (2) An oil or gas well is drilled at a location or well pad site at which drilling has occurred previously within 5 years prior to the date of “spudding” (beginning to drill) the well.
- (3) An oil or gas well is drilled within a developed field for which an approved land use plan or any environmental document prepared pursuant to NEPA analyzed such drilling as a reasonably foreseeable activity, so long as such plan or document was approved within 5 years prior to the date of spudding the well.
- (4) A pipeline is placed in an approved right-of-way corridor, so long as the corridor was approved within 5 years prior to the date of placement of the pipeline.
- (5) There is maintenance of a minor activity, other than any construction or major renovation of a building or facility.

Why the use of CXs has raised concerns in the Pinedale BLM Field Office:

In both the Jonah and Pinedale Anticline EISs, BLM has made commitments to conduct additional, site-specific environmental analyses when Applications for Permit to Drill (APDs) are filed. “The Authorized Officer will review and authorize each component of the project that involves disturbance of federal lands on a site-specific basis.” (Jonah ROD, pg. 3.)

However, BLM has used CXs to circumvent site-specific review, so impacts have not been thoroughly analyzed, and the public has been deprived of the opportunity to examine or comment on impacts, as required by NEPA.

Simply put, complete and accurate federal agency analysis and public oversight of impacts from oil and gas development to public resources is inadequate or missing altogether.

What are the problems with authorizing development under CXs?

As we have seen in Pinedale, water quality, air quality, and wildlife impacts have grown exponentially since natural gas development began:

Water Quality Contamination

- 89 industrial water wells & 1 livestock well have been contaminated w/ hydrocarbons;
- ~ 14 contaminated wells have been plugged by the operators, preventing further monitoring;
- 13 water wells have low levels of methane present at the surface, making them too dangerous to monitor;
- Some high-elevation lakes monitored in the Wind River Range are experiencing decreasing acid neutralizing capacity (indicating a tendency toward acidification).

Air Quality Contamination

- Ozone levels have exceeded the federal, 8-hour standard over a three-year period, prompting the Governor to request a “non-attainment” designation from the EPA;
- Visibility impacts in the Bridger Wilderness Class I airshed have exceeded the Forest Service and BLM standards of no more than 0 days of visibility impairment above (respectively) the 0.5 and 1.0 deciview change thresholds. Visibility impairment in the Bridger Wilderness is predicted by BLM to occur ~67 days per year.

Wildlife Population Declines

- 30% reduction in mule deer populations on the Anticline over a 7-year study period, compared to the control area (46% decline during the first 4 years of the study);
- 51-89% decline in sage-grouse male lek attendance in the Anticline and Jonah Fields, with a predicted local extirpation of the bird within 19 years, contributing to the need to list the greater sage-grouse as an endangered species;
- Habitat fragmentation of previously undisturbed lands may lead to reduced pronghorn usage and ultimate abandonment of habitat.

How many Applications to Drill are approved with the use of CXs in the Pinedale BLM?

Here are counts for the categorical exclusions used over the past few years in the BLM Pinedale Field Office. It appears that BLM is now processing a majority of APDs as CXs.

2007 (10/01/06 through 09/30/07)

Total CXs used: 540
 Total APDs approved: 648
 Percentage of total CXs used compared to total APDs approved: 83%
 (Breakdown by category not available)

2008 (10/01/07 through 09/30/2008)

Cat. 1	Cat. 2	Cat. 3	Cat. 4	Cat. 5
50	320	294	1	5

Total CXs used: 670
 Total APDs approved: 762
 Percentage of total CXs used to total APDs approved: 88%

2009 (10/01/08 through 05/19/2009)

Cat. 1	Cat. 2	Cat. 3	Cat. 4	Cat. 5
5	7	518	1	1

Total CXs used: 532 (but not all are applied to APDs; they also apply to sundry notices and realty actions).
 Percentage of total CXs used to total APDs approved: ~85-90%

What are the solutions?

1. EPA could initiate discussions with Council on Environmental Quality (CEQ) to amend the Energy Policy Act and rescind all statutory CX provisions.
2. APDs could be issued with a "contingency rights" clause, so that permits that may cause environmental damage are not grandfathered in.
3. If used, all proposed categorical exclusions authorized by Sec. 390 of the Energy Policy Act of 2005 should conform with 40 CFR 1507.3, which states that BLM must, (a)... utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decision making which may have an impact on the human environment. (b) Identify

methods and procedures ... to insure that presently unquantified environmental amenities and values may be given appropriate consideration.

4. If used, all proposed categorical exclusions authorized by Sec. 390 of the Energy Policy Act of 2005 should conform with current Department of the Interior policies for applying the “extraordinary circumstances” screen to categorical exclusion proposals found at 69 FR 10878, in which: “a normally excluded action may have a significant environmental effect thus requiring additional analysis and action. ... Any action that is normally categorically excluded must be subjected to sufficient environmental review to determine whether it meets any of the extraordinary circumstances, in which case, further analysis and environmental documents must be prepared for the action.”
5. Promote better planning and use of superior strategies for evaluating landscape-scale cumulative impacts to wildlife habitat and ecological communities while minimizing the amount of well-by-well consultation and mitigation planning. Instructional Memorandum IM 2003-152 (April 13, 2003), outlines the use of geographic area NEPA analysis and comprehensive development plans and strategies.

(For more information: Linda Baker, Upper Green River Valley Coalition: 367-3670 or email: linda@uppergreen.org.)

Federal Funding- Town of Pinedale

1. In Fiscal Year 2009 (July 1, 2008 through June 30, 2009) the Pinedale Airport Board received \$2,201,173.00 from the FAA. In Fiscal Year 2008 (July 1, 2007 through June 30, 2008) the Pinedale Airport Board received \$1,384,619.00 from the FAA. This information was taken from the Survey of Local Government Finances Form F-32.

Jim Parker
Airport Manager-Pinedale

2. The Town of Pinedale was recently awarded approximately \$6.6 million in ARRA funding. To date, the Town has not received or drawn on these funds.

Eugene Ninnie, PE
Engineer- Pinedale