UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
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To: All AD's, SD's, and Center Directors

From: Director

Subject: BLM Implementation of the Settlement of Utah v. Norton Regarding Wilderness Study

Program Area: National Landscape Conservation System/Land Use Planning

Purpose: The following provides general guidance for interpretation of the Utah v. Norton wilderness study lawsuit settlement.

Background: In 1996, the State of Utah, Utah School Institutional Trust Land Administration, and the Utah Association of Counties (collectively Plaintiffs) filed suit challenging the Bureau of Land Management's (BLM) authority to re-inventory lands for possible wilderness study area designation in Utah. A settlement to this suit, as amended, was reached in April 2003 between the Department of the Interior and the Plaintiffs. Consistent with BLM policies for the identification, management and protection of multiple uses, terms of the settlement will be applied Bureau-wide.

Policy/Action: BLM is a multiple use agency committed to the balanced stewardship of public lands. The policies stemming from the settlement acknowledge that Congress established a deadline for BLM's authority to designate Wilderness Study Areas (WSAs) which are then managed under the non-impairment provisions of Section 603 of the Federal Land Policy and Management Act (FLPMA). Although Congress ended BLM's authority to designate WSAs in 1993, BLM retains its Section 201 FLPMA authority to inventory resources or other values, including areas with wilderness characteristics such as naturalness, or those that offer solitude and are conducive to primitive, unconfined recreation. Through its land use planning process, BLM will consider all available information to determine the mix of resource use and protection that best serves the FLPMA multiple use mandate.

As part of its litigation analysis in the above-described lawsuit, the Department reviewed its wilderness study policies in light of FLPMA's provisions on wilderness (Section 603), Inventory (Section 201), and land use planning (Section 202). Based upon this review, the Department settled the Utah wilderness inventory lawsuit. This settlement affects all states as follows:

1. The authority set forth in Section 603(a) of FLPMA to complete the three-part wilderness review process (inventory, study and reporting to Congress) expired on October 21, 1993.

2. Following expiration of the Section 603(a) process, there is no general legal authority for the BLM to designate lands as WSAs for management pursuant to the non-impairment standard prescribed by Congress for Section 603 WSAs. FLPMA land use plans completed after April 14, 2003 will not designate any new WSAs, nor manage any additional lands under the Section 603 non-impairment standard.

3. FLPMA land use plan decisions may accord special management protection for special values through the land use planning process.

4. The settlement does not affect the management of any of the following four categories of designated WSAs:

    a. WSAs identified through the Section 603 process and recommended by the President to the Congress;
    b. Section 202 WSAs identified and recommended by the President to the Congress through the Section 603 wilderness review process;
    c. WSAs established legislatively;
    d. Existing Section 202 WSAs already identified and designated in a current land use plan, although these designations may be changed when the land use plan is changed. For example, any existing WSA identified in a land use plan purporting to rely on the authority of Section 202 of FLPMA and not recommended by the President to the Congress, or by legislation, may be changed through the land use planning process and need not continue to be subject to the non-impairment standard and other provisions of the Interim Management Policy (IMP) upon changing the land use plan.

5. The BLM may continue to inventory public lands for resources or other values, including wilderness characteristics, as a part of managing the public lands and land use planning. Information provided by the public about resources and other values will be considered along with all other resource information in the planning process. New information may be considered in the NEPA process as appropriate. BLM will continue to manage public lands according to existing land use plans while new information (e.g., in the form of new resource assessments, wilderness inventory areas or "citizen's proposals") is being

considered in a land use planning effort. During the planning process and concluding with the actions after the planning process, BLM will not manage those lands under a congressionally designated non-impairment standard, nor manage them as if they are or may become congressionally designated wilderness areas, but through the planning process BLM may manage them using special protections to protect wilderness characteristics.

6. The BLM's authority to designate WSAs in Alaska under the authority of Section 1320 of the Alaska National Interest Lands Conservation Act is not affected by this settlement. This issue is addressed in a separate April 11, 2003 Secretarial policy decision limited to Alaska.

The Washington Office is developing additional guidance to implement the settlement.

Time Frame: This policy is effective immediately.

Budget Impact: It is not anticipated that implementation of this policy would result in any significant increase in cost to the Field Offices. Any costs will be covered within existing State Office base allocations.

Manual/Handbook Sections Affected: Bureau Manual Handbook, Wilderness Inventory and Study Procedures (H-6310-1) was rescinded, as per the terms of the settlement in memorandum "Rescission of National Level Policy Guidance on Wilderness Review and Land Use Planning (IM 2003-195). The Land Use Planning Handbook (H-1601-1) will also be modified to be in conformance with the settlement.

Coordination: Development of this policy has been coordinated with the Department, the Solicitor, BLM's Directorate, WO-200 and WO-300.

Contact: Please address any questions and concerns regarding this policy to Elena Daly, Director, National Landscape Conservation System, WO-170, (202) 208 3516.

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