

21 September 1973

Mr. Kenneth G. Walker
Salmon District Manager
Bureau of Land Management
P.O. Box 430
Salmon, ID 83467

RE: Big Lost/Pahsimeroi Wilderness Environmental Impact Statement Draft

Dear Mr. Walker:

I greatly appreciate this opportunity for public comment on the Big Lost/Pahsimeroi Wilderness Draft Environmental Impact Statement analyzing the impacts of designating or not designating all, portions, or none of three Wilderness Study Areas as wilderness. The proposed action recommends a nonsuitable designation for the Appendicitis Hill WSA (31-14, comprising 21,900 acres) and the White Knobs Mountain WSA (31-17, 9,950 acres), and suggests that 8,300 acres of the 16,680 acre Burnt Creek WSA (45-12) be designated as suitable for wilderness designation. Thus, the BLM preferred Alternative (Alternative 4, Partial Wilderness) is to recommend only 14.6% of the acreage under consideration for wilderness status, which comprises 49.8% of the Burnt Creek WSA with none of the other two WSAs receiving wilderness qualification.

Of the Alternatives considered, the true public interest is best represented in Alternative 1, the "All Wilderness" Alternative. It is interesting to this reader that so few alternatives were designed, particularly for the Appendicitis Hill and White Knobs Mountain WSAs. It does not appear that a legally adequate full range of alternatives was designed or evaluated, as is mandated by NEPA and related guidelines. The choices presented in the DRAFT EIS for two of the WSAs do not include any kind of partial designation scheme, thus your document does not comply with NEPA in this regard. Lack of compliance with NEPA will place the BLM in the position of the Forest Service in the RARE II situation (see California v. Block, 690 Fed 2d 753, 1982, attached).

I would like to offer comment on the significant issues developed in the study process, as cited in the Summary (p. iv), as well as the listed "major reasons" leading to the exclusion of two WSAs from further wilderness qualification, and the "major reasons" for recommending only 8,300 acres of the Burnt Creek WSA as qualifying for wilderness recognition.

1) The amount of designated wilderness lands appropriate within the State of Idaho.

3-3: See Response 2-5.

3-4: Livestock grazing would not be affected by wilderness designation or nondesignation; its discussion is presented only to outline it as an allowable nonconforming use in BLM wilderness.

While the Wilderness Act's mineral exploration cut-off date is current law, we anticipate Congress will discuss in future wilderness legislation whether this cut-off is appropriate for BLM areas.

It is this reviewer's opinion that this issue is a red herring as regards wilderness designation recommendations. The amount or location of previously designated wilderness in the NWPS has no bearing whatsoever upon the qualifications of these sites. This kind of concern arises from an ignorance of the limits of use restraints wilderness designation would impose, and from a lack of understanding of the significance and values of wilderness to the larger public, the public trust responsibilities inherent in the FLPMA stewardship mandates of the BLM, and the limitedness of wilderness quality habitat in public domain lands. When one considers the vast expanse of public domain that has been historically transferred to state and private ownership, and the public domain as it exists today, the acreage of designated and surviving non-designated wilderness quality habitat is miniscule. This "issue" does not comprise valid grounds upon which BLM can found a "nonsuitable" designation, since wilderness is one of the highest of the seven "uses" delineated in the FLPMA. Organic Act stewardship (public trust) responsibility and multiple use mandates, in fact, could be construed to legally require All Wilderness as the Preferred Alternative - because of the limitedness of the resource, its fragility and the inability to mitigate heavily overgrazed public domain back to wilderness quality habitat at other sites, and because of the high standing wilderness has in comparison with secondary, consumptive and commodity based uses, such as grazing.

- 2) New wilderness designations are perceived as "locking up" public land areas.

This viewpoint is most often expressed by resource users in the commodity, consumptive, and commercial use categories. This misconception has no relevance to public interest based evaluations of potential wilderness.

- 3) The State of Idaho is concerned about access to and continued revenue production from State lands surrounded by Federal wilderness areas.

3-3

The BLM should explore land exchange possibilities with the State, or even outright purchase of conflicting inholdings if a cooperative arrangement cannot be reached. This issue should not deter BLM from recognizing wilderness qualities in its public trust lands.

- 4) The effects that a wilderness designation would have on existing uses, particularly livestock grazing and energy and mineral exploration and development.

3-4

Wilderness designation has no affect upon grazing levels unless they are so high that they impact the "naturalness" of the area. If they are abusively high, then they should be lowered in any event, since they would detract from multiple use protection of wilderness character and deny sustained yield. Mineral explorers have had ample time, i.e., from 1776 to 1984, to examine public domain lands. Mineral interests have known since the Wilderness Act was passed in 1964 that a deadline for exploration was approaching, and it is unreasonable to deny wilderness designation because special mining interests feel they have had inadequate opportunity to seek mineable assets in public domain land. Both of these issues are red herrings and should have nothing to do with the BLM's decision regarding wilderness suitability of these areas.

3-5: The quality of a WSA's natural characteristics must be evaluated as a part of a wilderness suitability determination. While the overall impact of vehicle ways and livestock watering sites is a subjective evaluation which will vary between individuals, they are in fact real on-the-ground modifications of the natural environment. The BLM has made a sincere effort to realistically evaluate the affect of human activity on the wilderness potential of this WSA. The example given in the comment is inappropriate because livestock grazing is a Congressionally allowed use in wilderness which would not be terminated and the EIS has not identified any areas being over-grazed.

3-6: See Response 1-8.

3-7: See Response 1-9.

- Quality of natural characteristics is low due to numerous improved vehicle ways and livestock watering sites.

3-5 Ecological condition and the presence of livestock watering sites should be a secondary consideration in present day wilderness designation evaluations. A century ago we might have had the luxury of picking and choosing among habitats of differing condition (had the Wilderness Act existed) so that only the best or the prime examples of habitat types were preserved. Today we are lucky to have a handful of potential examples surviving in varying degrees of "ecological condition." One of the remarkable aspects of the land and its biology, is its resilience once disturbing factors are removed. For example, if grazing is terminated in over-grazed areas, recovery usually occurs. There are some aspects which cannot be changed, such as the presence of introduced, rather than native, grasses or the loss of species diversity. Nonetheless, these sites are still possessing of wilderness character and unless they are designated, this quality will be eliminated or heavily diminished. These sites deserve designation regardless of historic evidence of grazing use. In two of the WSAs, the problem of terminating the "ways" could be solved by fencing the entire WSA and mitigating existing ways by obliterating them.

3-6 -Neither of the WSAs is required in the wilderness system to attain ecosystem diversity. The sagebrush steppe ecosystem (M3110-49) is represented in the Red Rocks Lake National Wildlife Refuge Wilderness Area.

The Bailey-Kuchler habitat classification system is notoriously macroscopic, and nowhere is it mentioned in the Wilderness Act. For example, aside from the macro-vegetation type recognized by your habitat classification system, a remarkable terrestrial lichen flora exists in the area of these WSAs. Included are species such as Agrestia hispida - otherwise unknown from the state. I would like to see some of this habitat preserved, rather than use "sagebrush steppe" representation in another removed setting as a reason for non-preservation. I would be very interested in seeing the BLM conduct lichen sampling using both transects and quadrats in the range of micro-habitats at these sites and compare the results with similar sampling at the Red Rocks Lake National Wildlife Refuge Wilderness Area. My guess is that there would be significant differences in species composition, dominants in communities, and species diversity. This issue is not a substantive reason justifying a non-suitability recommendation, and has nothing to do with the quality of the sites.

3-7 -Wilderness designation of both WSAs would increase primitive recreation and solitude acreage available to residents of Boise, Idaho by only 1%.

Again, the language with which you describe your evidence indicates your lack of objectivity and the clear intent to not designate these sites. In terms of the Bailey-Kuchler habitat designations, how much of the available sagebrush steppe wilderness habitat would this represent? Rather than use public appreciation in a negative manner, why not say that this would increase opportunities for a population base of over 100,000 individuals to enjoy wilderness quality sagebrush steppe habitat recreation in three areas totalling 56,830 acres.

- 3-8: See Response 1-10.
- 3-9: The BLM is not attempting to abrogate its management responsibilities. However, extensive fencing and enforcement implies a management problem.
- 3-10: The statement referred to has been removed from the FEIS as suggested. One must remember, however, that under the No Wilderness Alternative, exploration for mineral resources could occur and would indeed provide the industry the greatest opportunity to conduct such activities.

3-8

-The WSAs would not help balance geographic distribution of wilderness. Instead they would tend to concentrate it in central Idaho.

This is a ridiculous rationalization for non-designation. What should these areas do, move? Geographic adjacency to other sites of similar quality should only enhance an area's integrity. This kind of pointless whittling away at our wilderness core should be eliminated in the Final E.I.S. BLM does not suggest exploring only part of a rich mineral deposit because some has already been mined, nor should it imply this kind of logic regarding wilderness.

3-9

-The WSAs would be potentially difficult to manage as wilderness due to ease of vehicle access and lack of natural features for blocking vehicle access.

Vehicle access could be eliminated by fencing the WSAs and enforcing vehicle exclusion. It is true that it would be much easier to exclude vehicles from "cliff and lava flow" sites, but these sites don't happen to be cliffs, mountains, or impassible natural situations. That should in no way reflect upon the BLM's responsibility to maintain the wilderness qualities they possess or their qualification for wilderness designation.

3-10

-The no wilderness alternative provides the energy and minerals industry the greatest opportunity to conduct exploration activities.

This obvious statement should be removed from the Final E.I.S. The energy and minerals industry has had from 1776 to January 1, 1984 to explore these sites. When the Wilderness Act was passed in 1964 the energy and mineral industry was very well appraised that it had twenty additional years in which to explore potential wilderness areas for their commercial products. Indeed, it was because of this industry that such a clause was inserted in the Act. As the deadline approaches, there has been a flurry of activity and filing, so that there is no justification whatsoever for an extension of this timeline enacted long ago. It is extremely dangerous for the BLM to bow to this special interest pressure and imply that a wilderness designation decision would be at all influenced by the approaching cutoff date for free filing in wilderness quality undesignated habitats. The BLM would lose superior court review of such a decision.

-The No Wilderness alternative permits mechanical manipulation of vegetation to improve mule deer habitat in WSA 31-14 Appendicitis Hill.

The All Wilderness Alternative affords opportunity for greatest wilderness quality recreation and other benefits associated with BLM land use management toward broader public interest appreciation based upon non-commodity resource production and non-consumptive resource uses. Mule deer are a common, widely distributed species which can be hunted, observed, and studied over much of western North America. Wilderness quality habitat, however, is now extremely limited, and the kind of argument upon which the above statement is founded has little relevance to BLM's stewardship responsibilities and FLPMA mandates in making wilderness designation decisions. This is one of the lamest reasons I've ever encountered for justifying a non-suitability recommendation.

Both Burnt Creek and Short Creek roads should be closed, and the BLM should

3-11: See Response 2-1.

3-12: The WSAs not designated as wilderness would be managed according to the existing land use plans. The existing MFPs did not designate former WSAs 45-1 or 47-4, or any of the three WSAs in the EIS as ACECs. At any time these plans can be amended to reflect consideration of management of a WSA as an Area of Critical Environmental Concern.

make effort to ameliorate these marks of man. All of the Burnt Creek WSA should be designated wilderness. Roads and ways are greatly overblown by this Draft document, and it is clear that this analysis is striving for reasons to eliminate 85.6% of the potential acreage it evaluates.

The BLM should remember what the true public interest is, and keep in mind that uses such as grazing are ubiquitous on the public domain, while wilderness quality habitat has survived on only a small portion of the public domain. Were one confident that the BLM would manage these three sites to retain and enhance wilderness characteristics if the sites are not designated wilderness, compromise would be reasonable. However, your Draft document makes it clear that you fully intend to eliminate these characters after denial of wilderness suitability. As stewards of the public domain you should be taking the course of least consequences in your handling of fragile, limited resources. In reality we don't need more deer habitat enhancement in Idaho, and it is probably not legal for the BLM to discuss mineral and energy exploration after the January 1, 1984 as a reason to deny a WSA wilderness recommendation. This document seems to have evaded entirely the spirit and intent of the Wilderness Act,

3-11

This is an extremely cursory document; I urge you to read the attachments (though there is no need to reproduce them in the Final E.I.S. due to the volume), design additional "Partial Wilderness" Alternatives for the two WSAs without adequate alternative representation (to meet the legal requirements of NEPA), and to reconsider your preferred Alternative. If, because of manageability problems, you intend to maintain that these three areas are largely unmanageable without fencing - then you should pick the All Wilderness Alternative as your preference because this is the true public trust and public domain stewardship decision that must be reached if you are to live up to your role as keepers of the public's land. If a wilderness advocate were to argue that grazing, commodity production, and commercial uses were viewed the way private interests that make money off the public domain look at wilderness, a conservationist would be justified in saying that a vastly disproportionate acreage of the public domain is "locked up" in consumptive uses - which degrade and permanently exclude wilderness character. The FLPMA cites seven "multiple use" categories - and wilderness allows shared uses (such as grazing) and sustained yield more than many consumptive uses allow the survival of fragile resource elements. Wilderness has historically taken a back seat to all other uses, especially consumptive ones, and as we reach the "final" opportunity for preserving wilderness-quality habitat it should be BLM's decision to do so.

3-12

I nominate the former WSAs 45-1 Goldberg and 47-4 Borah Peak as Areas of Critical Environmental Concern on the basis of the qualities which originally made them eligible for wilderness Study Area status. Since all they lack is size, being less than 5,000 acres, these sites should be managed as ACECs to retain their wilderness character in lieu of designation of wilderness. As I mentioned earlier in this comment, one of the disturbing aspects of non-designation recommendation is that you offer no indication that management would make any attempt to preserve naturalness and wilderness characteristics in undesignated sites. I urge you to consider ACEC status for any excluded WSAs or portions of WSAs as an in lieu of management strategy for sites denied a positive designation recommendation. The "all or nothing" approach forwarded in the draft and reflected in the deficient range of alternatives for two WSAs could be moderated by consideration of the excluded sites as ACECs.

Our culture in America is famous for its Wilderness Areas and its National

Parks. These are all the heritage we have in terms of the oldest elements of our society's formation in the natural heritage setting - we have no medieval cathedrals or Roman ruins. It is a sign of cultural wisdom that we have chosen to preserve these key segments of our lands. Europeans and other cultures with no wildernesses admire us for this wisdom. There is no mitigation for the loss of any additional wilderness or habitat which could be restored to wilderness. The maximum potential value of these sites (i.e., mitigate through long-term management for wilderness character retention and toward maximum ecological condition) should be taken into account in your recommendation. What could they be at their best? That is what the public trust element of BLM stewardship mandates.

I am attaching California v. Block, 690 Fed 2d 753 (1982) so that you and your counsel will clearly understand why it is mandatory to re-design the Partial Wilderness Alternative to avoid the problem the U.S. Forest had resulting in the RARE II decision. I'm also attaching a number of other papers I would like included in the record. Since there has clearly been special interest pressure, I am including DeVoto's (1948) revealing analysis of pressure by grazing interests during the late 1940s. Nash (1978) discusses the values of wilderness to the public at large, and Coggins et al. (1982) analyzes the basic range law which demonstrates the bias special interests have had historically. I will forward the rest of the Environmental Law series as they are published.

Thank you for your consideration. Please include this letter and the attachments in the E.I.S. record.

Respectfully,



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- 4-1: All three of the WSAs were found to possess the required wilderness attributes. The staff members evaluating suitability of the WSAs also developed the basic data and are thoroughly familiar with it. Refer to Response 2-9.
- 4-2: The purpose of this EIS is to examine the impacts of designating or not designating WSAs as wilderness. The allocation of forage for livestock and wildlife have been considered in the Ellis/Pahsimeroi and Big Lost MFPs, and in the Ellis/Pahsimeroi and Big Lost/Mackay Grazing EISs.
- 4-3: The impact of sand and gravel extraction in the appropriate WSAs has been described in the FEIS (see Chapter 4).