

# APPENDIX D

## Issues Considered but Not Further Analyzed

Current management, BLM policy, or administrative action can address some of the issues raised during the scoping process. Other issues are beyond the scope of the RMP and cannot be addressed. These issues are discussed below.

How will Monument resources be managed to maintain the area as a Class 1 airshed?

The State of Montana has delegated responsibility for management of the Clean Air Act, including classification of airsheds. The Monument is within airshed 9 and is a Class 2 airshed. The BLM will comply with national and state air quality standards.

How will management consider water quality and water rights on the Missouri River and its tributaries?

Surface and groundwater quality must be maintained to meet or exceed state and federal water quality standards. Montana water laws govern water rights. BLM policy and current laws address this issue.

Livestock are adversely impacting riparian and upland health.

The Proclamation affirms that “Laws, regulations, and policies followed by the Bureau of Land Management in issuing and administering grazing permits or leases on all lands under its jurisdiction shall continue to apply with regard to the lands in the Monument.” The Standards for Rangeland Health and Guidelines for Livestock Grazing Management were established in 1997, and apply to all BLM land in northcentral Montana, including the Monument. Standard No. 1 established the indicators for healthy upland areas that contribute to proper functioning conditions in the uplands. Standard No. 2 established the indicators for healthy riparian areas that contribute to proper functioning conditions in riparian and wetland areas. In addition, grazing management guidelines specifically emphasize management practices that would maintain and/or improve rangeland health.

The watershed planning and grazing permit/lease renewal process assessed the impact of livestock grazing on the Standards for Rangeland Health, as well as other resource management goals. Part of the assessment process included reviewing allotments for their suitability for grazing, stocking levels, seasons of use, duration of grazing and other grazing management

practices and their impact on other resources. When livestock grazing was identified as a cause for not meeting standards or resource management goals, corrective actions were identified. The results of standards assessments and the corresponding corrective actions can be found in the watershed plans. Not all implementation actions occur immediately because of funding and resources available. Through ongoing monitoring and adaptive management strategies, implementation is continuing. Grazing management is discussed further in Chapters 2 and 3 under Vegetation – Native Plants and Vegetation – Riparian.

Will forage be properly allocated between livestock and wildlife?

Forage allocation to various uses in the Monument area was analyzed in the Missouri Breaks EIS in 1979. Since 1979, the West HiLine RMP and Judith-Valley-Phillips RMP brought forward these allocations. All activity planning and implementation efforts stipulate that ongoing monitoring will be used as a basis to adjust allocations, and the adjustments are made on a periodic basis as the need has been (and will be) apparent. (Activity planning includes watershed plans, allotment management plans, habitat management plans, etc.)

Range improvements must be maintained or upland health will suffer. Lack of access to range improvements will make management of grazing difficult.

Maintenance of and access to range improvements is an ongoing process consistent with completed watershed plans and BLM policy.

Livestock grazing is negatively impacting wildlife habitat.

When livestock grazing is identified as the cause of not meeting standards (particularly Standard #5 dealing with habitat), existing regulations and policy are in place to make necessary adjustments. All activity planning and implementation efforts stipulate that ongoing monitoring will be used as a basis to adjust allocations, and the adjustments are made on a periodic basis as the need has been (and will be) apparent. (Activity planning includes watershed plans, allotment management plans, habitat management plans, etc.)

To what extent will mining be allowed in the Monument?

If mining claims are tested and found to be valid, the claimants would be considered to have valid and existing rights. If mining claims are tested and found to be invalid, the claims would be terminated. Per the Proclamation, no new mining claims could be accepted.

To what extent should the BLM administer filming permits?

The administration of filming permits is addressed by current policy (IM MT-098-063).

How does the BLM decide what constitutes a road?

A road is a linear route segment that can be created by the passage of vehicles (two-track); constructed; improved; or maintained for motorized travel. Roads are classified as collector roads, local roads, or resource roads as defined in BLM Manual 9113. This issue is currently addressed by BLM policy.

Management of the Monument needs to recognize the need for adequate funding, including enforcement and interpretation activities. Does the BLM have the capability to implement a management plan for the Monument?

Decisions from an RMP would be implemented over a period of years depending on budget and staff availability. Enforcement and education to protect the values of the Monument will be part of this implementation. Funding levels affect the timing and implementation of management actions and project proposals, but do not affect the decisions made in an RMP. In Fiscal Year 2005, the Monument was managed with a staff of 21 individuals, which includes five seasonal employees, along with support from seven individuals from other BLM offices (this does not include other support services such as procurement, engineering, information resources, fire, etc.). This issue is addressed by BLM policy and budgets during implementation.

WSAs should be protected under the non-impairment mandate and the RMP should establish a program for doing so. WSAs should be managed as wilderness until such time that Congress acts; this includes managing and maintaining WSAs and other potential roadless areas in a pristine condition.

The WSAs within the Monument will be managed based on the Missouri Breaks Wilderness Suitability Study/EIS and consistent with Interim Management Policy and Guidelines for Lands under Wilderness

Review (BLM Manual H-8550-1). This issue is currently addressed by BLM policy.

The RMP should outline a specific schedule and timeline for reinventorying all Monument roadless areas with wilderness character, especially Bullwhacker Coulee.

A formal wilderness inventory of this area was completed in 1979 and 1980. The BLM has no information to suggest that this inventory needs revision. The public does have the opportunity to help provide information to the BLM concerning wilderness characteristics and inventory.

How will fires be managed within the Monument, especially those that threaten land or property outside the Monument or private land intermingled with the Monument?

The BLM will fully suppress any fires occurring on BLM land that threaten private land or BLM structures/improvements. This issue is addressed by BLM policy.

How are emergency services going to be provided on the river and how will this affect the local communities that may help provide these services? (Local communities should be reimbursed for the services they provide.) Local community assistance is needed due to increased fire protection workload from increased visitor use. Insufficient dialog exists between the BLM and communities in the Monument area related to fire protection and emergency services.

The Fergus, Chouteau, Blaine and Phillips County Sheriff's Departments conduct emergency services in the Monument. The BLM assists as requested with available resources. Emergency services are guided by BLM policy and administrative action.

The process of management should be open, involve the public, and include compromise. Management of the Monument must recognize local and community participation, the scientific community, and all Americans.

Preparation of the RMP will be consistent with the Federal Land Policy and Management Act (FLPMA) and NEPA, which provide for public involvement. This issue is addressed by law and BLM policy.

Management of the Monument must consider the baseline conditions in the area and the cumulative impacts occurring on adjacent private and BLM land.

The current resource conditions in the Monument and the analysis of effects are guided by the regulations for

implementing NEPA. The RMP/EIS will be consistent with current law, regulations, and policy.

Management of the Monument must consider the requirements under existing laws and regulations.

Preparation of the RMP will be consistent with FLPMA and NEPA. This issue is addressed by law, regulations, and BLM policy.

What type of visitors are we to expect?

Management of the Monument will consider what range of recreational opportunities should be provided to meet the wide variety of public demands. The BLM has no control over who may want to visit the Monument.

The Breaks is a place away from the noise and chaos of city/ everyday life. Americans need places where they can restore their sanity and this is one of those places. Keep in mind the long-term focus. Society's preferences and needs come and go but only the land can endure.

The management plan will look at the social conditions in the area along with the opportunities provided by the Monument consistent with the Proclamation and how those opportunities affect social wellbeing. This issue is addressed by BLM policy.

How will the quality of the river experience be maintained or improved relative to supersonic flights and sonic booms?

The Monument is located beneath the Hays Military Operations Area (MOA). The Hays MOA overlies a large portion of northcentral Montana at altitudes ranging from 300 feet above ground level, up to 18,000 feet above mean sea level. The Federal Aviation Administration has the responsibility to plan, manage, and control the structure and use of all airspace over the United States, including the Hays MOA. This issue is beyond the scope of the RMP since the BLM has no jurisdiction or authority for this MOA.

Hunting should continue to be used as a management tool and the State of Montana shall retain the authority and responsibility of managing fish and game within the Monument. How will current hunting and trapping uses of BLM land within the Monument be managed in the future?

The Proclamation designating the Monument did not "... enlarge or diminish the jurisdiction of the State of Montana with respect to fish and wildlife management." This issue is beyond the scope of the RMP since the BLM does not have the jurisdiction or authority for managing fish and wildlife within the Monument.

What will be the effect on the livestock industry if the recreating public is granted exclusive use of the river corridor?

The Proclamation designating the Monument provided that the area be managed "... pursuant to applicable legal authorities, including the National Wild and Scenic Rivers Act ..." and that "Laws, regulations, and policies followed by the Bureau of Land Management in issuing and administering grazing permits or leases ... shall continue to apply." The Upper Missouri was designated a Wild and Scenic River in 1976 with a multiple use mandate, which means the BLM must recognize all the resource uses present (PL 94-486). This issue is beyond the scope of the RMP since the BLM cannot grant exclusive use of the river to the recreating public under PL 94-486 or the Proclamation.

How will private property be protected from the impact of campers?

The Proclamation designating the Monument applies to "all lands and interests in lands owned or controlled by the United States ...." This issue is beyond the scope of the RMP since management of the Monument does not apply to private property.

How should the communities near the Monument prosper with management of the Monument?

The BLM has a strong commitment to work with communities in managing the Monument, including activities and needs such as planning, transportation, emergency services, law enforcement, infrastructure, and tourism. Throughout the RMP, opportunities to work with private landowners and surrounding communities have been identified and we can assess effects to communities from our activities. However, preparation of specific community economic development plans is beyond the scope of this RMP.

How will the Monument be managed to restore the area to the conditions of the time of Lewis and Clark?

The Proclamation designating the Monument provided that the area be managed "... pursuant to applicable legal authorities, including the National Wild and Scenic Rivers Act ..." and the "establishment of the Monument is subject to valid existing rights." The Upper Missouri was designated a Wild and Scenic River in 1976 with a multiple use mandate, which means the BLM must recognize all the resource uses present (PL 94-486). This issue is beyond the scope of the RMP since the BLM must manage the river under a multiple use mandate as required by PL 94-486 and manage the Monument subject to valid existing rights.

The river's flow needs to correspond to historic floods and lows. The Army Corps of Engineers and Bureau of Reclamation should emulate historic flows via Canyon Ferry Dam and Tiber Dam on the Missouri and Marias Rivers.

This issue is beyond the scope of this RMP since the BLM has no jurisdiction or authority over water flows on the Missouri and Marias Rivers.

Leave private land out of the Monument and let landowners choose for themselves whether to have their land included within the boundaries.

The Proclamation designating the Monument applies to "all lands and interests in lands owned or controlled by the United States within the boundaries of the area described on the map ...." The BLM has no jurisdiction over private land.

What is the BLM's authority to regulate recreational activities on the Upper Missouri National Wild and Scenic River, including recreation user fees and motorized watercraft restrictions?

FLPMA gives the BLM general authority to regulate and enforce the occupancy and use of the public lands through permits and fees (43 USC § 1732 (b), 1733 (1994)). Through 2004, the Land and Water Conservation Fund Act of 1964 empowered the BLM to issue

Special Recreation Permits (SRPs) according to its own procedures and fee schedules (16 USC § 4601-6a(c) (1994)). These SRPs help manage group activities, recreation events, motorized recreation vehicle activities, and other special recreation uses in accordance with procedures at fees established by the agency involved.

The Federal Lands Recreation Enhancement Act (FLREA) of 2004 gives the Secretary of the Interior authority to issue SRPs and charge fees connected to issuing those permits. This authority began in 2005, and applies to group activities, recreation events and motorized vehicle use activities on federal recreational lands and waters. This act replaces the BLM authority to charge fees under the Land and Water Conservation Fund Act.

Bureau regulations (43 CFR 2930) require SRPs for all commercial uses on the public lands and waters that the BLM manages, including permits for any uses in special areas such as wild and scenic rivers. The BLM can manage, require and enforce permits and fees within a wild and scenic river to protect the river values, even if the river users do not set foot upon BLM land (63 IBLA at 381-82). Management activities and enforcement are designed to protect public lands, property, users, occupants, resources, and activities on or having a clear potential to affect lands adjacent to BLM land or related waters.