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DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

MANUAL TRANSMITTAL SHEET

Release	6-113
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Subject

6522 - FEDERAL AGENCIES

1. Explanation of Material Transmitted: This release updates subject Manual Section by adding the Animal and Plant Health Inspection Service responsibilities on animal damage control and by incorporating the revised MOU between BLM and the Fish and Wildlife Service.
2. Reports Required: None.
3. Material Superseded: Manual pages superseded are listed under "REMOVE" below. No other directives are superseded.
4. Filing Instructions: File as directed below.

REMOVE:

6522 (Rel. 6-82)

(Total: 19 Sheets)

INSERT:

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(Total: 19 Sheets)

Guy E. Baier
Assistant Director, Land and Renewable Resources
Acting

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- 1. Memorandum of Understanding Between the Bureau of Land Management and the Fish and Wildlife Service

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.01 Purpose. This Section provides basic information and guidelines for cooperation with Federal agencies.

.02 Objectives. The objective is to cooperate with Federal agencies whose activities affect wildlife and fisheries habitat management either directly or indirectly, in a manner that promotes harmonious working relationships and program efficiency in the public interest. Any agreement involving the transfer of funds between agencies requires an "Economy Act Determination" (see 31 U.S.C. 686 and BLM Manual Section 1510-17.500).

.03 Authority. (See BLM Manual Section 6500.03.)

.04 Responsibility. (See BLM Manual Section 6500.04.)

.05 References. (See BLM Manual Section 6500.05.)

.06 Policy. (See BLM Manual Section 6500.06.)

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.1 Department of the Interior.

.11 Fish and Wildlife Service (FWS). Agency relationships, responsibilities, and coordination process between the BLM and the FWS are set forth in an "umbrella" type Memorandum of Understanding (see Illustration 1 for example) and supplements thereto. BLM State Offices are encouraged to develop supplemental agreements as needed to clarify responsibilities and/or to strengthen cooperation and coordination on matters of mutual concern.

.12 National Park Service (NPS). BLM maintains close cooperation with NPS, particularly in places where national parks, monuments, or recreation areas adjoin public lands. NPS is responsible for management of areas established to conserve the scenery and the natural and historical objects, and the wildlife therein and to provide for the enjoyment of same.

.13 Bureau of Reclamation (BR). Proposed plans involving public lands are studied by BLM to ensure protection of fish and wildlife values and enhancement of habitat where BLM is involved. Impacts on watershed and wetland-riparian habitats for fish and wildlife are of prime consideration in water and power proposals/projects of BR.

.14 Bureau of Indian Affairs (BIA). BLM resource management programs are closely coordinated with BIA in areas where reservations and Indian allotments administered by BIA adjoin public lands.

.15 Geological Survey (GS). The GS collects and distributes water flow data and makes predictions on future ground and surface water flows.

.16 Office of Surface Mining, Reclamation, and Enforcement (OSM). This Agency implements the Surface Mining Control and Reclamation Act, which established a program for the regulation of surface coal mining and surface effects of underground mining on private and Federal lands. OSM works with other Federal, State and local agencies, industries, landowners, and other members of the public to ensure important environmental resources are protected, mitigate adverse environmental impacts, and reclaim lands which have been adversely affected by mining. Specific duties include designating lands unsuitable for surface mining in response to petitions and assisting operators and State agencies in identifying and including fish and wildlife considerations in mining and reclamation plans.

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.2 Department of Agriculture.

.21 Forest Service (FS). Movements of fish and wildlife between national forests and public lands create mutual habitat management opportunities that require close cooperation between BLM and FS. Cooperative HMP's, particularly those in which both the FS and State wildlife agencies participate, are highly desirable. Coordination with the FS is also desirable in range and aquatic and terrestrial wildlife habitat research and studies, inventory and data collection, and in recommendation of hunting seasons, bag limits, fire closures, and hunter and fisherman access.

.22 Soil Conservation Service (SCS). The SCS technically assists in forming, planning, and operating Soil Conservation Districts. Where public lands are included in such Districts, properly coordinated improvements may enhance fish and wildlife production for both public and privately owned areas. Public Law 566, The Small Watershed Projects Act, offers special opportunities to benefit wildlife where reservoirs are constructed on or adjacent to public lands.

.23 Science and Education Administration (SEA). SEA was established in January 1978 and reflects the consolidation of the former Agricultural Research Service, Cooperative State Research Service, Extension Service, and the National Agricultural Library. The basic mission of SEA is to improve the nationwide effectiveness of research, extension, and teaching in the food and agricultural sciences.

.24 Animal and Plant Health Inspection Service (APHIS). The APHIS assumed responsibility for the Animal Damage Control (ADC) program in December 1986 with passage of Public Law 99-190. Cooperative relationships between BLM and APHIS concerning ADC have been formalized in a Memorandum of Understanding (see BLM Manual Section 6830).

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.3 Department of Defense.

.31 Army Corps of Engineers. The Bureau cooperates with the Department of Defense in matters relating to fish and wildlife management on public lands withdrawn for military purposes. Flood control projects proposed by the Corps of Engineers are considered in a manner similar to those of the Bureau of Reclamation. In navigable waters, BLM must also comply with certain permitting requirements (e.g., section 404 of the Clean Water Act) of the Corps.

.31 Military Reservations. The Bureau cooperates with the Department of Defense for coordinated Sikes Act program actions involving military reservations and adjoining public lands.

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.4 Department of Commerce.

.41 National Oceanic and Atmospheric Administration (NOAA). The mission of NOAA is to explore, map, and chart the global ocean and its living resources; to manage, use, and conserve those resources; and to describe, monitor, and predict conditions in the atmosphere, ocean, sun, and space environments; issue warnings against impending destructive natural events, develop beneficial methods of environmental modification, and assess the consequences of inadvertent environmental modification over several scales of time.

.42 National Marine Fisheries Service (NMFS). The NMFS is an organizational element of NOAA and has as its principal functions the conduct of an integrated program of management, research, and services related to the protection and rational use of living marine resources and the protection of marine mammals.

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.5 Department of Energy (DOE). The DOE provides the framework for a comprehensive and balanced national energy plan through the coordination and administration of the energy functions of the Federal Government. DOE is responsible for the research, development, and demonstration of energy technology; the marketing of Federal power; energy conservation; nuclear weapons program; regulation of energy production and use; pricing and allocation; and a central energy data collection and analysis program.

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.6 Environmental Protection Agency (EPA). The EPA administers and enforces water pollution control in accordance with the Clean Water Restoration Act of 1977. The States must establish standards which meet Federal criteria or the Federal standards will be applicable. Federal grants on a matching basis are available from the EPA to municipalities. Such grants are available also for States and groups of States for planning comprehensive pollution control and abatement plans for river basins and for research and development in sewage or waste treatment. The public lands, including waters arising or flowing across them, are managed and developed to prevent pollution from sewage and waste disposal and soil erosion. The State is the enforcement agency unless interstate waters are affected. The EPA conducts, studies, and collects data important to the BLM habitat management operations. Specific items include, but are not limited to, water quality, oil pollution, aquatic plants, and animals. Technical training is also provided by EPA. In addition to the above, EPA is also the Federal focal point for registration of pesticides, rodenticides, and associated animal damage control toxicants.

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.7 Federal Energy Regulatory Commission (FERC). The Bureau recommends stipulations to safeguard all public land resources for inclusion in licenses issued by FERC. Problems encountered in connection with large-scale water projects include adequate water releases, intake locations, minimum stream flow and pool levels, loss of crucial habitat, protection of habitat for threatened and endangered species, and blocking fish migration routes. BLM participates with FWS and State fish and wildlife agencies in field examinations of wildlife and fisheries and in development of measures to mitigate damage to or enhance fish and wildlife resources where public lands are involved.

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.8 Department of Transportation (DOT). Where Federal highways will cross public lands, construction plans should be reviewed to ensure protection of habitat, hunter and fisherman access, and needs of migrating wildlife.

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MEMORANDUM OF UNDERSTANDING
Between the
BUREAU OF LAND MANAGEMENT AND FISH AND WILDLIFE SERVICE

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MEMORANDUM OF UNDERSTANDING
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I. PURPOSE

The purpose of this agreement is to promote harmonious and effective cooperative relationships between the Bureau of Land Management (BLM) and the Fish and Wildlife Service (FWS) in resource planning and management activities in a manner that recognizes existing cooperative relationships with the States, consistent with the statutory authorities and responsibilities of the two Agencies.

II. AUTHORITY

This agreement is made under authority of the Economy Act of June 20, 1932 (31 U.S.C. 686, 6866), Federal Land Policy and Management Act (43 U.S.C. 1701-1782), Fish and Wildlife Coordination Act (16 U.S.C. 661-661c), Fish and Wildlife Act of 1956 (16 U.S.C. 742a-742j), and Sikes Act (16 U.S.C. 670a-670o).

III. RESPONSIBILITIES

The key to achieving the purpose of this agreement is clear definition of BLM and FWS roles and responsibilities within respective statutory authorities. Broad responsibilities are defined below. Specific relationships are set forth in subsequent sections of this agreement.

A. The BLM has the statutory responsibility for cadastral survey, inventory, land use planning, and multiple-use management of the public lands (those lands from the public domain not appropriated for other Federal uses) and public land resources, including fish and wildlife. BLM is also required to assure that fish and wildlife resources are effectively considered in all stages of its land management programs and activities. In connection with this responsibility, BLM must have the capability to effectively inventory, manage, and protect fish and wildlife habitat.

B. The FWS has principal statutory responsibility and authority for migratory birds, threatened and endangered (T/E) species, anadromous fish, certain marine mammals and international resources within the continental United States, and all fish and wildlife on lands under FWS control and as described in the Fish and Wildlife Act of 1956 (16 U.S.C. 742(a)-754) and the National Wildlife Refuge System Administration Act of 1966, as amended. FWS also has responsibility to conduct analyses of impacts (including contaminants) on fish and wildlife resources and to recommend mitigation for Federal or federally approved water-related projects.

C. FWS and BLM have general responsibilities to conduct research and to compile information on the status of fish, wildlife, and plant resources and those factors affecting them in their respective areas of responsibility. FWS assessments for wildlife and vegetation conditions and trends may at times extend to areas within the public lands under BLM administration in response to statutory, Presidential, or Secretarial direction. Likewise, information gathering and research by BLM may extend to areas administered by FWS.

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IV. COORDINATION

A. Field Coordination: Frequent informal discussion of matters of mutual concern is to be encouraged at all levels. Where disagreements arise, they should be expressed through the levels of authority of the two Agencies, beginning at the lowest appropriate field level.

1. The BLM State Offices and the FWS Regional Offices or their delegated field offices will be the primary offices through which field coordination will take place. The Endangered Species staff of FWS offices should be contacted on all matters regarding listed, proposed, or candidate T/E species. Each Agency is responsible for ensuring that appropriate offices of its organization are involved whenever appropriate.

2. On matters of mutual interest, the FWS Regional Director or the BLM State Director will determine which of their respective offices should be the focal point for coordination, including referral to other field organizational units. The Directors or Leaders of these field units will apprise FWS Regional Directors and BLM State Directors of planned or ongoing studies, projects, and activities.

B. Washington Office (WO) Coordination Committee: Close coordination is also essential at the WO level. This agreement re-establishes the BLM-FWS Interagency Committee for Program Coordination with the following responsibilities:

1. To coordinate the full range of related programs between the two Agencies.

2. To arrange for cooperation, support, and standards in the operational conduct of programs relating to fish and wildlife resources.

3. To provide for exchange of data, information, findings, and services of mutual concern.

The Committee will have the authority to make decisions within its areas of responsibility where the cochairpersons of both Agencies agree. The Committee will have the authority to establish working groups on specific proposals or problem areas, as required.

The Committee will be jointly chaired by the Deputy Director, BLM, and the Deputy Director, FWS. The Committee will be made up preferably with officials at the policy level concerned with the activities involved. It will meet as needed, but at least once every year, at the call of the cochairpersons.

C. Meetings: There shall be, as a minimum, annual coordination meetings between State Offices and appropriate FWS Regional Offices, and such other offices as deemed appropriate, timed to coincide with the budget cycle and to review program matters and planning activities, including schedules of concern to both Agencies for the coming year. WO level meetings shall be held by the BLM/FWS Coordinating Committee. Inter-office communication is encouraged at all organizational levels to keep each Agency informed of items of mutual interest.

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D. Written Communication: When the responsible official of either Agency solicits from the other Agency advice/recommendations on subjects related to this agreement, 30 days, unless specified otherwise, will be afforded for reply. If no response is received by the responsible official within the specified time period, the requesting Agency will assume that the other either concurs or has no comments to offer.

E. Supplemental Agreements: BLM State Offices and FWS Regional Offices or other appropriate organizational units may enter into supplemental agreements where needed to specify interrelationships in detail or for specific project-type activities. Such agreements must be within the policy parameters of this agreement and will stress coordination at lowest appropriate field units.

F. General Assistance: When requested, FWS will assist BLM in a manner consistent with this Memorandum of Understanding (MOU), through cooperative procedures mutually agreed to by BLM State Directors and FWS Regional Directors, or as appropriate, Directors or Leaders of other BLM or FWS field units. Likewise, BLM will be available to participate in certain FWS field projects and activities to provide specialized expertise in programs of contaminant resource investigations, data collection such as T/E species habitat information, range management assistance on National Wildlife Refuges, as well as matters involving land exchanges or transfers, mineral reports, cadastral surveys, and land patents.

G. Conflicts: Conflicts shall be resolved in accordance with procedures set forth in Section X of this agreement. Each Agency will strive to support the other in the public arena, to the maximum extent possible.

V. GENERAL PRINCIPLES AND PROCEDURES

A. RESOURCE MANAGEMENT (LAND USE) PLANNING

Principles: The cooperative relationship between the two Agencies is built upon the concept that the timely opportunity for review, advice, suggestions, and information exchange on issues or topics which may affect or influence the other Agency's programs during the resource management (land use) planning processes, will contribute to the achievement of objectives of both Agencies. Coordination helps managers of both Agencies keep apprised of the other's plans and assures that appropriate consideration is given to those plans. Further, it helps both Agencies to jointly identify opportunities for enhancement of their respective programs.

Procedures:

1. Both Agencies will review the draft resource management (land use) planning documents of the other within their area of expertise by participating in a consultative manner to minimize conflicts and disagreements. FWS will recognize BLM's responsibility to balance fish and wildlife interests with other concerns in multiple-use management. BLM will recognize FWS's responsibility to manage primarily for fish and wildlife resources on lands under its jurisdiction.

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2. Both Agencies will annually share and exchange resource management (land use) planning schedules and planning status reports showing both the status of resource management plans being prepared and projected planning schedules.

3. BLM and FWS will coordinate the preparation and revision of planning manuals and handbooks implementing their land use planning processes and procedures in order to provide for procedural compatibility and uniformity, consistent with Agency requirements.

4. Both Agencies will provide for appropriate dual representation on the other's planning teams where lands are contiguous, or where other conditions suggest dual representation.

5. BLM and FWS will conduct joint and/or coordinated review of activities with other Federal agencies, State and local governments, and Indian tribes where planning schedules, issues, and contiguous or related planning activities make such approaches feasible.

6. Both Agencies will establish comparable resource program standards and guidelines for use in land use planning and management, consistent with each Agency's mission, goals, and objectives under respective legislative authorities. Such supplemental program guidance may include but not be limited to transportation and utility corridor designations, the identification of areas of Federal minerals acceptable for further consideration for leasing, Wild and Scenic River recommendations, wilderness studies, and important fishery resources (e.g., salmon and steelhead).

7. BLM State Directors and FWS Regional Directors will develop supplemental procedures, consistent with this MOU, to provide for regular exchange of information and advice as early as feasible in the planning process of their respective Agencies.

B. INVENTORY, ANALYSIS, AND SHARING OF RESOURCE DATA

Principles: BLM is responsible for assuring the collection, inventory, and subsequent analysis of fish, wildlife, vegetation, and other resource-related data on the public lands. FWS has responsibilities for collection and analysis of data to meet its requirements relative to endangered species, fishery resources, migratory birds, and other wildlife species. Both Agencies are concerned with the general adequacy of data and analysis for management and protection of fish and wildlife and their habitats, and T/E species on a national, regional, and/or State basis.

Procedures:

1. Both Agencies will coordinate inventory system development and applicable data-gathering activities to foster a common and compatible resource data base, to share information, and to minimize conflicts and disagreements concerning adequacy of relevant fish and wildlife and mineral resource data. Both Agencies will work in partnership to ensure that needed data are obtained in a cost-effective and expedient manner, including coordination to use compatible inventory techniques and developing standards and methods to facilitate data exchange.

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2. BLM will conduct public land inventories where and when necessary as determined by management decisions. Each Agency will seek participation of the other in the actual conduct of data collection activities to meet their requirements where practical to do so. FWS and BLM will provide mutual support in terms of cooperative development of new methodology and inventory techniques that will facilitate data collection and mutual management decisions.

3. FWS will conduct inventories and collect data necessary for Critical Habitat determinations under the Endangered Species Act on private surface, including lands under which Federal minerals are located. These and other pertinent data will be provided to BLM when requested. All pertinent information on public lands will be made available to the FWS upon request.

4. Both Agencies have a management thrust to identify, protect, manage or otherwise enhance important wetland resources. FWS conducts the National Wetlands Inventory mapping activities and will provide assistance to BLM upon request in wetlands delineation, mapping, mitigation, and enhancement activities.

5. Each Agency will furnish or otherwise make available unpublished resource information and data to the other, upon request, when practical to do so. Both Agencies will explore ways to improve the exchange and distribution of resource-related materials which may be applicable to the planning, decisionmaking, and evaluation needs of the other.

C. ENVIRONMENTAL ANALYSIS

Principles: The National Environmental Policy Act (NEPA) requires agencies taking major Federal actions significantly affecting the quality of the human environment to prepare environmental impact statements (EISs) on those actions. Key features of the NEPA process, including scoping, public notice, and review requirements, provide both Agencies meaningful opportunities to coordinate proposed Agency decisions/actions of interest to the other Agency. The preparation of EISs (and EAs under some circumstances) must be carried out in consultation with all appropriate agencies and organizations.

Procedures:

1. Each Agency will keep the other apprised of the status of EISs in preparation and the schedule for projected new EISs, via the regularly scheduled meetings of the FWS/BLM Coordinating Committee, meetings of field organizational officials and by other means, as appropriate.

2. Each Agency will request from the other data and other inputs into the applicable EISs and EAs at the earliest possible date. Where one Agency has special expertise or unique talent needed by the other, it will be made available to the EIS or EA team under terms and conditions mutually agreeable to the concerned FWS Regional Director and BLM State Director. This may include detail of personnel to assist in EIS or EA preparation.

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3. Where budgets are being formulated in advance for specific efforts that involve contiguous lands or preparation of EISs where either BLM or FWS is a cooperating Agency, normally the budget of the Agency which has the lead for such EIS or EA preparation will be the vehicle for appropriate fund and manpower requests. Coordination at the field level will be in accordance with procedures agreed to by FWS Regional Directors and BLM State Directors.

4. Each Agency will provide to the other review copies of draft EISs at the earliest possible time for official review and comment within specified time frames.

D. RESEARCH

Principles: Resource-related research efforts of both Agencies will be coordinated in the best interest of sound resource management and for maximum cost effectiveness.

Procedures:

1. Each Agency will be given an opportunity to identify and review the other's research proposals relating directly to its lands or management responsibilities to avoid duplication, help ensure management application when appropriate, and determine whether similar research is being conducted by other sources.

2. Pertinent research results, including significant interim findings, of either Agency will be made available to the other on a timely basis. BLM State and District offices are to be included on applicable FWS mailing lists, including cooperative fishery and/or wildlife units, for research reports and summaries on matters that relate or that are applicable to fish and wildlife, mineral, and vegetation resource management on the public lands. FWS Regional and appropriate Field Offices are also to be included on the mailing list for BLM Technical Notes and similar publications.

3. FWS and BLM may conduct cooperative research either on public lands or elsewhere. FWS shall coordinate, in advance, with the appropriate BLM State Director, plans for research or special studies on public lands.

E. ENDANGERED SPECIES CONSULTATION/COORDINATION

Principles: Both Agencies are firmly committed to the protection and recovery of listed or proposed T/E species. Both also recognize the need and requirements for close consultation on any action which may affect such species or their habitats.

Procedures/Consultation:

1. General

(a) Whenever the Bureau suspects that T/E species or their habitat may be affected by BLM activities, the concerned BLM State Director must initiate consultation in accordance with the Endangered Species Act and Interagency

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Cooperation Regulations. Conferences are also required for all actions that are likely to jeopardize the continued existence of species proposed for listing or result in the destruction or adverse modification of proposed critical habitat. To the extent that the concerned BLM State Director and FWS Regional Director can agree, and as provided for in the above regulations, an aggregate approach to consultation on the public lands will be followed.

(b) Whenever FWS finds that additional data would provide a better information base upon which to issue a biological opinion, such data should be provided by BLM before the consultation process can be concluded. Information on T/E species collected by FWS or BLM should be routinely exchanged to benefit the data gathering and analysis efforts of both Agencies.

(c) It is jointly agreed that only those habitat modifications which destroy or adversely modify designated critical habitat of a listed species or proposed critical habitat of a proposed species, or which jeopardize the continued existence of the species, are prohibited.

(d) The FWS will provide methodology, expertise, and recommendations, upon request, to help resolve problems caused by activities not wholly compatible with the presence of threatened or endangered species on public lands.

(e) FWS will alert BLM at the earliest possible date when species inhabiting public lands have been scheduled for proposed listing. This will enable BLM to supplement data already available to FWS with any that it may have available.

(f) FWS will alert BLM prior to proposing to determine critical habitat. It also will ensure proper coordination prior to proposing experimental populations. This includes discussion of potential management restrictions that may occur as a result of establishing such experimental populations.

2. Recovery Teams

(a) FWS shall provide technical leadership, unless otherwise designated to a representative of another agency, in developing and implementing recovery plans for T/E species.

(b) BLM shall be afforded an opportunity to participate on recovery teams where such plans involve species inhabiting public lands under its administration.

F. SIKES ACT COOPERATION

Principles: Both Agencies agree to the need for maintaining guidelines and procedures for the planning, coordination, and development of fish and wildlife programs under authority of the amended Sikes Act.

Procedures:

1. BLM, in cooperation with the States, will develop and implement comprehensive programs for management, conservation, and rehabilitation of wildlife resources on the public lands under its control.

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2. FWS, upon request and within its responsibility and capability, will provide technical assistance to BLM relative to such comprehensive plans for management of the public lands under BLM control.

3. State cooperative wildlife habitat management plans developed in accordance with the Act shall be coordinated to the extent practical with statewide comprehensive plans developed under authority of the amended Federal Aid in Fish and Wildlife Restoration Act (Public Law 91-503).

G. FISH AND WILDLIFE DISEASES

Principles: A variety of diseases are capable of inflicting heavy losses among fish and wildlife populations. To minimize losses from disease, both Agencies recognize the need for close cooperation in the early detection, quick and accurate diagnosis, and rapid implementation of suitable control activities.

Procedures: BLM State Directors and FWS Regional Directors will prepare contingency plans which will describe procedures and methods for combatting disease outbreaks which occur on public lands.

H. FISH AND WILDLIFE COORDINATION ACT COOPERATION

Principles: Both Agencies agree that the Fish and Wildlife Coordination Act should be read and interpreted in the light of its primary purpose. Recognizing exclusions provided by Section 2(h) of the Act, the purpose is nonetheless to ensure that fish and wildlife and associated environments be given equal consideration and be coordinated with other features of water resource development programs.

Procedures:

1. BLM will consult--at the earliest appropriate stage of its planning process--with the FWS and with the appropriate State agency when it is proposing to construct or to permit actions involving water development other than those excluded by Section 2(h) of the Act.

2. FWS will review the proposed water development activity and will prepare a report to BLM which will assess or concur in BLM's assessment of project impacts on fish and wildlife resources. In addition, FWS will make recommendations or concur with BLM's recommendations on (1) how to avoid or compensate through established mitigation procedures for loss of fish and wildlife and associated resources, and (2) how to improve or enhance these resources.

3. BLM will give full consideration in its decisions to the report and recommendations made by the FWS and will incorporate into the permit or lease mutually agreed-upon stipulations that would avoid or compensate for adverse impacts, and/or enhance fish and wildlife resources.

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I. PERMITS REGARDING WORK AFFECTING NAVIGABLE WATERS, WATERS OF THE UNITED STATES, AND OCEAN WATERS

Principles: The Secretary of the Interior has delegated to the FWS the responsibility for coordinating and reporting Interior's comments on applications for permits issued by the Corps of Engineers (COE) for dredging, filling, excavation, discharge of dredged or fill material, and other activities, including construction of facilities and works in the navigable waters and ocean waters of the United States (503 DM 1, August 3, 1973) when permit issuance does not require an EIS, or an EA accompanied by a COE project report. (Navigable waters include all streams, rivers, lakes, headwaters, impoundments, waters used for interstate commerce, and adjacent wetlands.) Permits pursuant to the Rivers and Harbors Act of 1899, the Clean Water Act of 1977, the Marine Protection, Research, and Sanctuaries Act of 1972, and other applicable legislation may be required for activities conducted on public lands and waters under the control of BLM. These permits may or may not fall under the provisions of 503 DM 1.

Procedures:

1. Proposals and permit applications for applicable activities and operations on public lands under BLM control and conducted by the BLM shall be coordinated by the BLM District Offices with the appropriate FWS Regional or Field Office before a formal application is made to the appropriate regulatory agency.

2. For all permit applications falling under the provision of 503 DM 1, BLM District Offices will be responsible for arranging for the receipt of permit applications, reviewing them in accordance with their program interests, and cooperating in resolution of differing views pursuant to Section 503.1.3 E. Review comments proposed by BLM for COE public notices will be provided to FWS for inclusion in the DOI letter that FWS prepares. Note: The COE's regulatory policy regarding "pre-discharge" notification for proposed filling activities affecting 1 to 10 acres is specified in the Final Regulation for Controlling Certain Activities in Waters of the U.S. (33 CFR 320, 323, and 330). For these 1-to-10-acre filling activities, it is the FWS' responsibility to recommend whether an individual permit should be required. The COE ultimately makes the final decision.

J. WILD HORSES AND BURROS

Principles: Both Agencies recognize the need for cooperative management of wild free-roaming horses and burros which normally range interchangeably upon their lands.

Procedures:

1. BLM State Directors and FWS Regional Directors will develop agreements and, as appropriate, joint plans for the management of wild horses and burros which range interchangeably upon the lands of the other.

2. BLM State Directors shall consult with FWS Regional Directors in those areas where wild free-roaming horses and burros are found when determining appropriate management levels for these animals and whether actions should be taken to remove excess animals.

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K. FIRE MANAGEMENT AND PROTECTION

Principles: The need for sound wildland fire management programs, rapid response to wildfire in high danger situations, and efficient utilization of fire control personnel and equipment is jointly recognized. Where fire management plans are prepared, coordination along common boundaries will occur. Further, the use of prescribed fire as a habitat or other resource management tool will be practiced by both Agencies, to the extent appropriate.

Procedures: Each Agency will provide fire management assistance to the other as determined by appropriate field officials. Fire suppression capabilities of both Agencies will be coordinated, as appropriate, through the Boise Interagency Fire Center and through fire officials designated by BLM State Directors and FWS Regional Directors. (In Alaska, the Alaska Fire Service (BLM) is the lead fire suppression Agency, as specified in the BLM-FWS-BIFC agreement of April 1982.) Prescribed fire, where practical, will be conducted in conformance with the respective Agency's land use or resource management plans. A prescribed fire plan will identify personnel, equipment, fire engines, and needs and assignments. Aviation assets of both Agencies will be coordinated in the best interest of sound resource management and for maximum cost effectiveness.

L. CADASTRAL SURVEYS

Principles: Cadastral surveying involves the creation and reestablishment of the Public Land Survey System (PLSS), which defines the boundaries, the subdivision of the areas, and the determination of the amount of area within such surveys; the preparation of the official plat and written record of these surveys to be used in describing lands for patents, leases, or retention for Federal management purposes and the preparation of protracted Federal boundaries over unsurveyed lands.

Procedures:

1. Departmental cadastral surveying will follow the Manual of Instructions for the Survey of the Public Lands of the United States (1973 edition), and its amendments and supplements published by BLM (see 757 DM 2.7).

2. The BLM is responsible for the administration, coordination, and execution of the Public Land Survey System (PLSS). This includes the establishment and maintenance of a system for the storage and dissemination of survey data for use by local and national realty, land title, and mapping interests. The data also include the geographic coordinates of all corner positions established or reestablished under, or directly related to, the PLSS, called the Geographic Coordinate Data Base (GCDB). BLM is the custodian of the official U.S. public land survey records and maintains public information centers in those States which still have active cadastral survey programs and in Washington, D.C. BLM is also responsible for establishing a direct line of cadastral survey data communication to the Department's National Mapping Program (U.S. Geological Survey (USGS)) on a continuing basis (see 757 DM 2.3B, National Mapping Program).

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3. BLM responsibilities include the segregation by survey of valid private rights acquired through a variety of public land laws, including the general mining laws.

4. The FWS will coordinate its cadastral surveying needs with BLM through the Interagency Cadastral Coordinating Council. Note: The FWS has no authority to change the official PLSS records.

5. FWS shall submit its requirements for cadastral surveys to BLM with adequate lead time for program implementation. BLM will determine the appropriate action necessary to satisfy the needs of each request. This may include the use of existing survey data or original surveys or resurveys by BLM. Such surveys may be provided by BLM on a reimbursable basis or funded by establishing a national priority program and transfer of funding to a 98xx account. In cases where BLM will provide the necessary instructions, guidance, and official approval of the records, the records of such surveys will then become part of the Bureau's public records.

M. INTERNATIONAL ACTIVITIES

Principles: In the development and implementation of international treaties, agreements, and legislation, both Agencies will work cooperatively in the study, protection, and management of fish and wildlife and other matters of mutual interest.

Procedures:

1. Each Agency will keep the other apprised of international actions of mutual concern.

2. Where mutually beneficial, both Agencies will jointly develop and implement programs to carry out international responsibilities.

N. WITHDRAWALS

Principles: The FWS and BLM jointly recognize that the National Wildlife Refuge System (NWRS) is an independent land management system mandated by statute and that it is appropriate for public lands needed for units of the system to be made available through Federal Land Policy and Management Act Section 204 withdrawal. It is also recognized that public lands needed for the National Wildlife Refuge System or for other FWS uses such as fish hatcheries, administrative sites, research areas, etc., be kept to a minimum necessary for proper administration of such areas.

Procedures:

1. To the greatest extent practical, outright withdrawal will be considered only after it has been determined that neither a right-of-way nor a cooperative agreement would provide for the proposed use.

2. FWS and BLM agree that discretionary mineral leasing operations on lands withdrawn for FWS purposes shall be allowed after compatible and enforceable lease stipulations and terms have been agreed to by FWS.

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3. It is recognized that most FWS lands are not subject to Section 204(1) review provisions of the Federal Land Policy and Management Act of 1976. However, except for units of the NWRS, wherein by statute only Congress can remove lands from the Refuge System, the FWS will adhere to agreed-upon withdrawal review schedules and will make every effort to return other withdrawn public land to BLM administration when such lands are no longer needed for FWS purposes.

4. FWS and BLM will cooperate to the fullest extent possible to process withdrawal applications to completion in a timely manner.

5. BLM shall promptly furnish FWS the status of pending applications for withdrawals and revocations upon request.

O. LAND TENURE ADJUSTMENTS - EXCHANGES

Principles: The FWS and BLM jointly recognize that opportunities exist to effect ownership and management area adjustments to form more logical and efficient land and resource management areas for both Agencies. It is further recognized that land exchanges are a valuable tool with which to effect such changes. To take advantage of such opportunities, BLM and FWS understand the need for close cooperation in pursuing mutually beneficial exchanges, in a manner consistent with the Large Land Exchange Task Force Report as approved by the Under Secretary.

Procedures:

1. BLM and FWS shall ensure early communications at Field Office levels concerning exchange proposals before commitments are made by either Agency.

2. BLM and FWS shall exchange information and advice as early as possible in the planning process of each Agency where exchange opportunities are a consideration.

3. To the extent mandated by the Federal Land Policy and Management Act of 1976 and implementing regulations in 43 CFR Part 2200, BLM land use planning processes shall be used to determine the availability of public lands for exchange.

4. The benefitting Agency shall bear the administrative costs to the United States of an exchange.

5. BLM and FWS will actively seek and consider comments of affected States, local government and the general public before completion of an exchange.

P. PESTICIDES AND OTHER TOXIC SUBSTANCES

Principles: The application of pesticides is sometimes essential in the management of public lands for the protection of resources. It is recognized, however, that both positive and negative habitat changes may result from pesticide applications.

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Procedures:

1. Pesticide applications on public lands will be conducted within the framework of BLM and Departmental policies. All such applications will be consistent with public land management decisions and stipulations regarding use as determined by BLM and with the registration labeling of the Environmental Protection Agency as required by P.L. 92-516. Alternatives to pesticide use should be fully explored before any pesticide application is initiated, if it is feasible to do so.

2. FWS and BLM each have expertise which the other may request for special projects involving the impact of toxic substances or the use of pesticides on public lands.

Q. LAW ENFORCEMENT COOPERATION/COORDINATION

Principles: The Secretary of the Interior has delegated law enforcement authority to the Directors of both Agencies and given them responsibility for cooperative assistance in enforcing the laws under their respective jurisdictions.

Procedures:

1. Special Agents of BLM and FWS are expected to recognize possible violations of Federal laws in the Agencies' respective jurisdictions and report immediately all such possible violations to the nearest available Special Agent of the Agency having primary jurisdiction.

2. Specific requests for investigative assistance will be handled on an individual basis through the Washington Office Chief, Branch of Law Enforcement of BLM and the FWS Assistant Regional Director for Law Enforcement.

3. When Special Agents of the BLM or FWS provide investigative assistance to the other Agency, the following guidelines will apply:

(a) In those situations where Special Agents of both Agencies are working together, the Agency having primary jurisdiction over the subject matter of the case will be the primary Agency, and will designate a case agent who will be responsible for directing the investigation and case reporting.

(b) In those situations where Special Agents are working independently while assisting the other Agency, supervision and case reporting will follow the normal routine of their Agency. Case reports will be promptly transmitted to the Agency having primary jurisdiction. Such reports shall be transmitted to the other Agency by the FWS Assistant Regional Director for Law Enforcement, and by the Washington Office Chief, Branch of Law Enforcement, BLM.

4. Special stipulations are as follows:

(a) The parties hereto shall meet as necessary to review operations hereunder. It is agreed that a mutually convenient date, time, and place will be set for said meetings.

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(b) Each party will render such assistance as may be requested by the other provided that such assistance is within its capabilities and that such action will not jeopardize its ability to respond to demands within its own primary jurisdiction.

(c) Equipment may be loaned by one party to the other on an individual case basis. Such equipment becomes the responsibility of the borrower and will be returned in the same condition as when received, normal wear and tear excepted. Damage in excess of normal wear and tear will be repaired. Lost or destroyed items will be replaced or reimbursed.

(d) The parties agree to reimburse reasonable costs incurred by the assisting Agency in rendering requested assistance. Such reimbursement between Agencies shall be accomplished in the following manner: Agents shall submit all invoices for payment and vouchers for reimbursement of expenses to be processed for payment through normal channels. Immediately upon completion of the requested investigation, the agent shall forward his Agency an itemized list of expenses incurred, and in any case that an investigation extends more than one month from its inception, shall submit such itemization monthly. The assisting Agency shall promptly submit a SF-1081 billing to the requesting Agency with an itemized attachment showing the total amount incurred by the following categories: (1) Transportation expense; (2) Travel and per diem; (3) Miscellaneous and special expenditures.

R. PIPELINES

Principles - Section 28(C)(2) of the Mineral Leasing Act of 1920, as amended, and applicable regulations (43 CFR 2880) authorize the Secretary of the Interior, through BLM, to grant or renew rights-of-way (ROW) and/or temporary use permits (TUP) and to enter into cooperative agreements with other Federal agencies to expedite review of ROW and TUP applications for construction, operation, and maintenance of oil, gas, and associated products pipelines whenever such a project will cross lands administered by two or more Federal agencies. Whenever such a pipeline involves the statutory responsibilities of both the FWS and BLM, close coordination is essential and shall be guided by the following procedures.

Procedures:

1. Each Agency shall notify the other as soon as a proposed pipeline becomes known.
2. The appropriate FWS Regional Office shall notify the appropriate BLM State Office of any proposed pipelines crossing FWS-administered lands.
3. Project-specific cooperative agreements between the lead FWS Regional Office and BLM State Office may be required to define procedures to be used. These procedures will address relevant involvement in the needed environmental analysis, review and comment on the ROW grant, TUPs and associated terms and conditions and other matters related to mitigating fish and wildlife adverse environmental impacts.

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4. Both Bureaus shall follow Departmental cost recovery guidelines and respective Bureau procedures in the collection and transfer of funds, and in the estimating and reporting of project obligations. Reimbursable costs will include direct and indirect agency costs (exclusive of management overhead) for project-related activities, including:

- a. Preparation of an environmental analysis.
- b. Section 7, Endangered Species Act Compliance.
- c. Review and processing applications for TUPs.
- d. Review and processing applications for ROW grants.
- e. Development and review of grant and permit terms and conditions, including Notices-to-Proceed.
- f. Review of project design and environmental plans.
- g. Project monitoring and enforcement during the construction, operation, maintenance, and termination phases.
- h. Special studies, as required and approved.

5. Prior to issuing a grant for a ROW across lands in the National Wildlife Refuge System, the BLM Authorized Officer must have a signed Compatibility Statement from the FWS Regional Director as required by 16 U.S.C. 668dd(d)(1)(B). The terms and conditions of the ROW grant must include mitigation requirements for crossing FWS-administered lands in accordance with 50 CFR 29.21-7(c). The fair market value for ROW across FWS-administered lands shall be determined separately and receipts deposited into the Migratory Bird Conservation Fund for National Wildlife Refuge System lands and to the Revenue Sharing Fund for other FWS lands.

6. The FWS has certain responsibilities on all pipeline projects, whether or not they cross FWS lands. For example, the Fish and Wildlife Coordination Act specifies responsibilities where water development may be involved. The FWS level of involvement will be determined by statutory responsibilities and the potential effects of the project on fish and wildlife resources.

VI. RELATIONSHIPS TO STATES, OTHER AGENCIES, AND INSTITUTIONS

Nothing in this MOU is intended to modify in any manner the present or future cooperative programs of either Agency with States, other public agencies, or educational institutions. BLM will ensure State wildlife agency involvement in its programs. Officials of both Agencies will also keep other agencies informed of their respective resource-related activities on lands under their jurisdiction. BLM and FWS both share the concern that State fish and wildlife resource agencies be routinely consulted to strengthen coordination and cooperative relationships. Every effort should be made to prevent duplicative requests or contacts for information and data assistance with these State agencies.

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VII. OBLIGATION OF FUNDS

Nothing in this agreement shall be construed as obligating either party to the expenditure of funds in excess of appropriations authorized by law or otherwise commit either Agency to actions for which it lacks statutory authority.

VIII. RELATIONSHIPS TO PREVIOUS MEMORANDA OF UNDERSTANDING

The previously developed MOUs listed below become annexes to this Master MOU on the date subscribed by the last signatory, and are not changed by this agreement without prior joint review and concurrence. These include:

- A. Interagency Coordination in Nonemergency Critical Habitat Determinations pursuant to Section 7 of the ESA of 1973 (effective March 18, 1976) (Annex I).
- B. MOU on Coal (effective September 26, 1978) (Annex III).
- C. BLM-FWS Fire Management Agreement (BIFC Intra-Department Agreement, April, 1982 (Annex IV).

The previously developed MOUs listed below are rescinded upon signature of this MOU since appropriate components are incorporated in this agreement or in the case of OCS, BLM responsibilities have been transferred to the Minerals Management Service.

- A. Responsibility Definitions for OCS Operations (GS-BLM-FWS) (effective November 8, 1982).
- B. MOU concerning OCS Activities (effective March 30, 1976).
- C. MOU between BLM, FWS, and USGS concerning OCS Environmental Research and Monitoring Activities (effective April 30, 1976).
- D. MOU between BLM and FWS on Mutual Law Enforcement Support (effective February 23, 1978).
- E. Joint Subcommittee on Wildlife Management (effective October 7, 1975).
- F. Joint Subcommittee on Program and Budget Development (effective October 30, 1975).
- G. Supplemental MOU on Pipelines (effective September 26, 1980).

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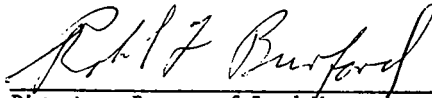
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IX. EFFECTIVE DATE, REVIEW, AMENDMENT, AND TERMINATION


This agreement shall become effective upon the date subscribed by the last signatory, and shall remain in force until terminated by either Agency upon 90 days written notice. It shall be reviewed by all parties no later than Calendar Year 1990 for adequacy and timeliness. Amendments to existing wording within this agreement may be proposed by either Agency at any time and shall become effective upon joint approval.

X. CONFLICT RESOLUTION

Responsible officials of both Agencies will strive to anticipate and avoid conflicts and seek to resolve conflicts that arise at the lowest organizational level possible. The facts regarding any conflict or issue that cannot be resolved at the working level will be forwarded to the next higher level of authority for resolution.



Director, Bureau of Land Management



Director, Fish and Wildlife Service

Dec 24, 1986
Date

DEC 22 1986
Date