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 kathleenclarke@utah.gov[kathleenclarke@utah.gov]  
**From:** Younger, Cally  
**Sent:** 2017-12-20T14:49:28-05:00  
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**Subject:** Fwd: Lands with Wilderness Characteristics - Documents Requested  
**Received:** 2017-12-20T14:50:24-05:00  
[Manual 6310--Conducting Wilderness Characteristics Inventory on BLM Lands.pdf](#)  
[Manual 6320—Considering Lands with Wilderness Characteristics in the BLM Land Use Planning Process.pdf](#)  
[2239-IM No UT-2016-027 - Attachment 1 - BLM-Utah Additional Guidance for Manual 6310 – Conducting Wilderness Inventory on BLM Lands.pdf](#)  
[2239-IM No UT-2016-027 - Attachment 2 - BLM-Utah Additional Guidance for Manual 6320 – Considering Lands with wilderness characteristics.pdf](#)  
[2239-IM No UT-2016-027 - Bureau of Land Management \(BLM\)-Utah Lands with Wilderness Characteristics Guidance.pdf](#)  
[ID IM2017-015.pdf](#)  
[Media\\_PublicRoom\\_Utah\\_RichfieldSettlement\\_QsAndAs.pdf](#)  
[Microsoft Word - APPELLATE-#349176-v1-SUWA - \\_Final\\_Settlement\\_Agreement\\_January\\_13\\_2017.pdf](#)

FYI the list of documents I mentioned.

----- Forwarded message -----

**From:** Moore, Nikki <nmoore@blm.gov>  
**Date:** Thu, Oct 19, 2017 at 5:54 PM  
**Subject:** Lands with Wilderness Characteristics - Documents Requested  
**To:** John Ruhs <jruhs@blm.gov>, Brian Steed <bsteed@blm.gov>, Cally Younger <cyounger@blm.gov>  
**Cc:** Peter Mali <pmali@blm.gov>, Aaron Moody <aaron.moody@sol.doi.gov>, "Tryon, Steve" <stryon@blm.gov>, "McAlear, Christopher" <cmcalear@blm.gov>, "Smith, Michael" <michael.smith@sol.doi.gov>, Kathleen Benedetto <kbenedetto@blm.gov>

Hi,

Attached are the documents requested at the wilderness characteristics policy discussion today:

- SUWA settlement agreement
- BLM 6310 Manual "*Conducting Wilderness Characteristics Inventory on BLM Lands*"
- BLM 6320 Manual - "*Considering Lands with Wilderness Characteristics in the BLM Land Use Planning Process*"
- Instruction Memorandum No. UT 2016-027 and 2 Attachments - "*Utah Guidance for the Lands with Wilderness Characteristics Resource*"
  - Attachment 1 - *BLM - Utah Additional Guidance for Manual 6310* (including the frequency of updates to a wilderness characteristics inventory)
  - Attachment 2 - *BLM - Utah Additional Guidance for Manual 6320*

It looks like Idaho also issued supplemental guidance and is attached:

- IM No. ID-2017-015 "Additional Guidance Regarding Lands with Wilderness Characteristics"

Colorado IM is no longer online, so I have a follow up in to see if they have rescinded already.

Nikki Moore

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## **BLM-UTAH ADDITIONAL GUIDANCE FOR MANUAL 6310 – CONDUCTING WILDERNESS INVENTORY ON BLM LANDS**

### **Frequency of updates to a wilderness characteristics inventory**

The Federal Land Policy and Management Act (FLPMA) Section 201 requires BLM to maintain on a continuing basis an inventory of all public lands and their resources and other values. Manual 6310 Section .06 clearly directs BLM to consider updating a wilderness characteristics inventory under certain circumstances, including:

- Acquisition of lands that either independently or in concert with contiguous lands meet the size criteria or an exception described in the inventory process;
- A land use planning process (*note: the scope of certain targeted land use plan amendments may except making allocation decisions regarding lands with wilderness characteristics resource but must still assess impacts*);
- Development of NEPA analysis for a project that may impact wilderness characteristics;
- External scoping or internal review identifies the wilderness characteristics resource as a potential issue during the NEPA process;
- Receipt of new information concerning the wilderness characteristics resource from the public and the submission meets the BLM's minimum standard (Manual 6310 Section .06.B.); and
- Any other appropriate opportunity to maintain an inventory of the wilderness characteristics resource per FLPMA Section 201.

### **Key components to consider when assessing the accuracy of previous wilderness characteristics inventories**

BLM must maintain and update as necessary an inventory of wilderness resources on public lands. It is not uncommon for conditions relating to wilderness characteristics to change over time. Authorized projects in lands with wilderness characteristics units may have had impacts to the inventoried resource, resulting in a reduction or elimination of the resource. Conversely, an area that was once determined to lack wilderness characteristics may now possess them due to natural or intentional reclamation activities. BLM-Utah must ensure early in the NEPA process that a wilderness characteristics inventory of potentially affected lands (i.e., parcels that may meet the size criteria or exceptions and the naturalness criteria) is completed and documented in accordance with WO IM 2011-154 and Manual 6310.

If a project or planning area includes lands without any prior inventory for the presence or absence of wilderness characteristics on record, the BLM will consider whether the potential for wilderness characteristics exists within the area. Generally, this will require review of the most recent inventory on record to determine if there is reasonable probability that conditions have changed.

Any citizens' proposals submitted within the project or planning area must be addressed in the administrative record. In the absence of a citizens' proposal, the BLM must still consider scenarios that may initiate an update to historic inventory findings or amend historic unit boundaries, including, but not limited to:

- BLM specialists identify the probability or potential for the presence of wilderness characteristics within the planning or project area
- Development has occurred within a previously identified lands with wilderness characteristics unit that affects the unit's size and/or apparent naturalness
- The condition of a road used to define the boundary of a previously inventoried unit or sub-unit has deteriorated to the extent that it no longer meets the wilderness inventory road definition
- A chaining used to define the boundaries of a previously inventoried unit or sub-unit has naturally reclaimed and no longer impacts apparent naturalness
- A fenceline used to define the boundary of a previously inventoried unit or sub-unit is not substantially noticeable
- Recreational use patterns have substantially changed and prior determinations regarding outstanding opportunities for solitude and/or primitive and unconfined recreation require analysis

### **How does a field office consider and respond to new information from the public?**

#### *Initial Response to Submissions*

Members of the public may collect and submit inventory information to the BLM for consideration. While the public may not (1) be part of BLM wilderness characteristics inventory teams; (2) conduct an inventory on behalf of the BLM; or (3) make determinations for the BLM about the presence or absence of wilderness characteristics (see [WO IM 2013-106](#)), public information is valuable to the BLM's inventory process.

Field offices must consider new wilderness characteristics inventory information from the public that meets the minimum national standards established in [Manual 6310](#), Section .06.B and evaluate new wilderness characteristics inventory information in accordance with the requirements set forth in BLM Manual 6310 and this IM.

BLM-Utah strives to maintain positive working relationships with the public. In the interest of professionalism, as soon as practicable, and usually within 30 days after receiving new inventory information, the authorized officer will respond in writing to the submitting stakeholder to acknowledge receipt and to explicitly document the following aspects of the new information:

- Whether the new information meets the standards set forth in [Manual 6310](#) Section .06.B (*Note: If the submission does not meet the standards, include a description of what additional information is required to meet the minimum standards*); and
- The estimated timeframe for the field office's evaluation of new information. This timeframe should appropriately relate to any proposed projects and NEPA analysis within or near the inventory unit. For example, if the public submits information about the presence or absence of wilderness characteristics during the scoping period for a project, then the authorized officer should indicate that the review and potential update to the wilderness characteristics inventory will be completed during the NEPA analysis and made available prior to the decision.

BLM-Utah field offices will include all written correspondence and telephone conversation records regarding new wilderness characteristics inventory information in each applicable inventory unit's Permanent Documentation File in accordance with [Manual 6310](#), Appendix A.5.

The authorized officer is encouraged to provide submitting parties with timely written updates on substantive subsequent changes to the original estimate of the amount of time needed to evaluate the new information. The preferred mode of transmitting new information is through timely updates of the BLM website. Additionally, [WO IM 2013-106](#) instructs BLM to provide access to all relevant publicly available information to interested parties in a timely manner.

### **Updating the Inventory**

Keep all relevant official records related to a lands with wilderness characteristics inventory in a Permanent Documentation File. Each file must include sufficient detail to ensure that BLM determinations regarding wilderness inventory roads, determination of unit boundaries, and the presence or absence of wilderness characteristics are consistent with agency guidance. This often requires that BLM write detailed narratives regarding inventory determinations in Form 2 that directly correspond to and reference the route analysis, maps and GIS data, relevant publications, photos, and any other supporting documentation.

Occasionally, an update to the inventory may only require a review within the office to determine if conditions have changed depending on the quality of previous inventory information, existing spatial data, and recent photographs or field notes. However, where geo-referenced on-the-ground photos provided by the public reveal inconsistencies with previous BLM findings, a field visit is likely the most appropriate course of action to clearly document current conditions. Field data collection provides the BLM and the public with a clear record detailing BLM's determinations on wilderness characteristics.

Inventory teams may not introduce any criteria or include information in the inventory forms that is not outlined explicitly in Manual 6310. If other information is collected during the inventory (e.g., a unit's ecological integrity), it may be documented in field notes but is not included in the rationale for determination of the presence or absence of wilderness characteristics. Additionally, the inventory must not include any information related to the manageability of the unit for protection of wilderness characteristics (e.g., how much of the unit is leased for mineral development). Only existing developments may be documented.

### *Inventory Units Involving Multiple Field Offices*

When inventory units include BLM-administered lands that are managed by multiple field office jurisdictions, including crossover into adjoining states, specialists should work collaboratively and use the most accurate and current data available. The original case file and supporting data is generally maintained by the lead office (usually determined as the office that administers the most acreage within the unit). Copies of data and forms should be on file at the collaborating office. The forms should be reviewed and signed by a Field or District Manager representing both field offices, even if the Permanent Documentation File is maintained by a single office.

### *Boundary Delineation*

Determination of a unit's boundaries begins with a review of [historical documents](#), including the original wilderness characteristics inventory and any updates (e.g., [1999 Utah Wilderness Inventory](#), updates for 2008 RMPs, etc.). Refer to [Manual 6310](#) Section .06.C.1 for guidance on inventory unit boundary delineation.

Inventory teams generally adopt historic unit boundaries or consider citizens' proposed boundaries as a starting point for delineating the area to be inventoried. Constructed and maintained roads (Class B roads and Class D roads with documented maintenance) and land tenure generally form initial unit boundaries.

The unit boundaries are usually adjusted after field data collection based on an assessment of impacts to naturalness. Wilderness inventory roads must be excluded from the final inventory unit. Observations in the field may identify a need to exclude other substantially noticeable human-caused impacts to naturalness from the final inventory unit.

BLM's jurisdiction regarding the wilderness characteristics resource is limited to BLM-administered surface. Adjacent private lands or lands managed by the State of Utah or other agencies are not included in the inventory unit boundaries. However, units that are adjacent to designated wilderness or similar areas managed by other federal agencies may meet an exception to the size criteria (see [Manual 6310](#) Section .06.C.2.a for additional information). A unit may also encompass inholdings that are owned or managed by other entities, but the inholdings are excluded from the unit boundaries and the inventory unit acreage must only reflect surface lands administered by the BLM. Outside impacts, including disturbances on adjacent lands, are not normally cited as impacts to naturalness unless a major outside impact has a direct effect on the apparent naturalness of the unit. The analysis should clearly describe the extent of the impact of human modifications to apparent naturalness for the average visitor based on the unit's size, configuration and topographic screening.

Select the most logical and defensible boundary to delineate a unit. Do not use features (e.g., substantially unnoticeable features) that do not comply with [Manual 6310](#). Additionally, although such features may not constitute an appropriate unit boundary, they may still be evaluated as an impact under the naturalness criteria.

#### *Apparent Naturalness*

Route analysis forms ([Manual 6310](#) – Appendix C) should be completed for every road used as a unit or sub-unit boundary or that is cherry-stemmed into a wilderness characteristics unit, unless the road so clearly meets the criteria (i.e., a paved highway or crowned and ditched road) that further documentation is unnecessary. If the status of a route is contested (i.e., questions exist regarding mechanical construction or maintenance or use), then a route evaluation form should be completed. Human impacts that are cited as substantially noticeable should be mapped and photographed. Field data should be georeferenced, dated, and include the direction the camera is facing so that the information collected is contextual and repeatable. All photo point locations should be provided on the map of the unit (see [Manual 6310](#) Appendix A.5). Georeferenced aerial photos that were used to make determinations should also be cited as part of the administrative record. Inventory teams should take photographs from representative locations and include landscape level views where possible. The corresponding narrative should include sufficient information to allow readers to assess the impacts to apparent naturalness or outstanding opportunities for solitude or primitive and unconfined recreation and the extent of the impacts in relation to the size of the unit. Ensure that the analysis of naturalness adopts the terminology from [Manual 6310](#) and does not include any extraneous criteria.

*Outstanding Opportunities for Solitude or Primitive and Unconfined Recreation*

Manual 6310 employs the following definitions:

- Outstanding: 1. Standing out among others of its kind; conspicuous; prominent; 2. Superior to others of its kind [other BLM-administered lands in the broad geographical area]; distinguished; excellent.
- Opportunity: A situation or condition favorable for attainment of a goal.
- Solitude: The state of being alone or remote from others; isolation. A lonely or secluded place.
- Primitive and Unconfined Recreation: Non-motorized, non-mechanized (except as provided by law [for accessibility]), and undeveloped types of recreational activities.

Solitude can be considered the ability of a visitor to avoid the sights, sounds, and evidence of other people while **inside the unit**. The only time BLM considers impacts of sights and sounds from **outside** the inventory area is if these impacts are pervasive and omnipresent (i.e., inescapable throughout the unit). The outstanding opportunities criterion has been interpreted broadly across the agency and inventory teams should take care to avoid improperly eliminating units due to outside impacts (e.g., a large unit that is adjacent to a highway). Citing outside impacts is intended only for exceptional circumstances and requires clear documentation that the impacts are pervasive throughout the entire unit (e.g., a small unit immediately adjacent to a rock-crushing plant that operates around the clock). The subject matter expert should consider that Congress, for example, has designated wilderness areas that adjoin interstate highways and urban centers, where these outside impacts are considered neither pervasive nor omnipresent.

Documentation of the rationale for determining the presence or absence of outstanding opportunities is not solely based on topography or vegetative screening, though these features should normally be addressed in the analysis. The shape of the inventory unit may also play a role in determining whether outstanding opportunities exist for solitude or primitive and unconfined recreation. Ensure that the analysis of outstanding opportunities adopts the terminology from Manual 6310 and does not include any extraneous criteria.

Outstanding opportunities for primitive and unconfined recreation include those uses that would be appropriate in a wilderness setting (hiking, hunting, equestrian use) and not mechanical or motorized uses (mountain biking, car camping). The presence of motorized/mechanical use should be documented to the extent that it impacts primitive and unconfined recreation and solitude. If this mechanical-motorized use is a component of the rationale for finding the area does not have outstanding opportunities, clearly document its spatial and temporal extent (e. g. heavy ATV use during a two-week per year hunting season with almost no use the rest of the year is not normally a rationale for excluding an area based on motorized use.)

*Supplemental Values*

While the presence of supplemental values is not required for a unit to contain wilderness characteristics, BLM should document the full suite of resource values known to exist within the unit. This does not mean that the inventory team must conduct extensive research into supplemental values. Simply document the resources that are already on record or reasonably determined. The permanent documentation file should also include information on any

previously identified supplemental values, such as ecological, geological, or other features of scientific, educational, scenic, or historical value.

#### **State Office Review and Updating the Statewide Geodatabase:**

In order to maintain consistency across the state and to ensure compliance with Manual 6310, the Utah State Office National Conservation Lands Program Lead will be notified when a field office completes an update prior to making the findings publicly available. The Utah State Office will respond, usually within two weeks, with comments notifying the field office whether or not the inventory meets Manual 6310 standards. The Utah State Office review is intended to ensure consistency and completeness of BLM-Utah inventories, and comments are returned to a manager on an advisory basis. The authorized officer retains the authority for documenting and deciding whether or not the unit, or portions of the unit, possess or lack wilderness characteristics.

In order to accurately respond to public requests for information and data calls, field offices are required to update the statewide GIS geodatabase for lands with wilderness characteristics and provide the UTSO with a signed copy of Form 1, Form 2 and the Summary of Analysis whenever an inventory is updated. Coordinate these efforts with local and state office GIS staff and the National Conservation Lands Program Lead as needed to ensure consistency with NLCS data standards.

#### **Washington Office Instruction Memo 2013-106: Sharing of Wilderness Characteristics Inventory Information with the Public**

BLM requires direct sharing of inventory results with citizen groups that have provided inventory information for agency consideration (WO-IM-2013-106). Such information may qualify as “significant new information” under NEPA relative to resources potentially affected by ongoing or proposed actions, and the BLM considers and responds to these submissions.

Below is an example of a response to information submitted by the public for use in an individual letter or in a related NEPA document:

In (mo/yr), BLM reviewed the information and photos that (name/organization) submitted for the (unit name/number) on (mo/yr), and determined that this information (does/does not) indicate a significant change in actions, circumstances or information relative to the conditions present when BLM conducted the original wilderness inventory or when the agency updated the wilderness inventory for this unit in (year).

For information that does not indicate a change in conditions or findings, the example response could continue:

BLM specialists have verified that no changes are present that affect the size, naturalness, outstanding opportunities for solitude or primitive and unconfined recreation or supplemental values. As such, the submitted information represents a disagreement with BLM’s findings rather than new information warranting re-evaluation of our inventory analysis and conclusions.

Preliminary inventory findings may be subject to release under the Freedom of Information Act (FOIA). BLM-Utah field offices should make updated and approved wilderness characteristics



inventory findings (using the forms provided in BLM [Manual 6310](#), Appendix B) available to the public as soon as practicable after their completion and before the inventory data is used to inform decisions. BLM offices should make the findings publicly available by posting updated inventory forms on BLM websites, resulting in improved transparency and a possible decrease in FOIA requests from the public concerning BLM's final wilderness characteristics inventory findings.

As with any public document, the BLM must protect certain types of information consistent with applicable law, including Privacy Act information and sensitive cultural resources information, prior to the release of inventory findings. BLM field offices should consult with their respective FOIA, Privacy Act, and cultural resources specialists, as well as with their local/regional Solicitor's Office if they are concerned about information or data contained in these final inventory findings, as portions of these files may need to be redacted prior to their release.

***WO IM 2013-106: The Role of Cooperating Agencies (CAs) in the Wilderness Characteristics Inventory and Land Use Planning Process***

The BLM is responsible for compiling and maintaining the wilderness characteristics inventory, making findings regarding the presence or absence of wilderness characteristics, and incorporating the results of the inventory into the NEPA and/or land use planning processes. CAs for the project for which the inventory is being updated may collaborate and coordinate with the BLM in the inventory process (including data collection and analysis), the development of planning criteria, the formulation of alternatives, the estimation of effects of alternatives, and the selection of a preferred alternative under a Memorandum of Understanding (MOU). However, as with any member of the public, the opportunity to provide data and information does not mean that CAs may make decisions on how to manage public lands found to have wilderness characteristics. Any information provided to the BLM by CAs is given the same level of consideration as a submittal from any member of the public.

The BLM, as the agency that manages these lands, is ultimately responsible for making the final decisions in accordance with all legal requirements, and ensuring that the public interest is safeguarded. However, the BLM may, as appropriate, conduct field trips or educational sessions to explain the general inventory process to CAs or the public.

**Additional Resources**

Determinations on the presence or absence of wilderness characteristics is made by a BLM inventory team and signed by the authorized officer. Team members must be informed in the application of [Manual 6310](#).

While there are currently no courses for lands with wilderness characteristics offered through DOI Learn, additional training is available through the Arthur Carhart National Wilderness Training Center - [Agency Resources for BLM](#) and through BLM's National Training Center [Knowledge Resource Center](#). The Washington Office's National Conservation Lands Division periodically offers a webinar on lands with wilderness characteristics. The Utah State Office's Branch of Outdoor and Heritage Resources will schedule specific training modules on request.

## **BLM-UTAH ADDITIONAL GUIDANCE FOR MANUAL 6320 – CONSIDERING LANDS WITH WILDERNESS CHARACTERISTICS IN THE BLM LAND USE PLANNING PROCESS**

Lands with wilderness characteristics units are analyzed in a land use plan in a full range of alternatives that consider protecting none, some, or all of the lands with wilderness characteristics. The plan must include a suite of potential management actions, some of which are designed to protect the size, apparent naturalness and identified outstanding opportunities for solitude or a primitive-unconfined recreation of a unit. [Manual 6320](#) contains information on considering lands with wilderness characteristics during a Resource Management Plan (RMP) revision or amendment. Field offices undergoing a RMP revision or amendment should expect to work closely with the Utah State Office National Conservation Lands Program Lead throughout the RMP development process to incorporate the lands with wilderness characteristics policy. As most BLM-Utah field offices are currently in the implementation stage of their respective RMPs, rather than a revision or amendment, this IM focuses on site-specific NEPA rather than addressing this resource within the land use planning process.

### **How do we consider lands with wilderness characteristics within the NEPA process?**

When a proposed implementation-level action is being considered that could impact the presence of wilderness characteristics, all field offices must ensure early in the NEPA process that a wilderness characteristics inventory of potentially affected lands (i.e., parcels that may meet the size criteria or exceptions and the naturalness criteria) is completed and documented in accordance with [WO IM 2011-154](#) and [Manual 6310](#). Figure 1 (Attachment 2-11) provides an illustration of the process to ensure that the lands with wilderness characteristics inventory is up to date. At a minimum, Field Offices should confirm that existing inventories are up to date when there is reason to believe that any action will adversely impact the existing or potential wilderness characteristics of an area. Any findings should be made available to the public as soon as practicable.

If new information that meets the minimum standards for review (Manual 6310 Section .06.B) is submitted by the public during a formal scoping or public comment period that could affect the BLM's determinations of wilderness characteristics within the project area, these submissions are generally considered to be substantive, timely comments.

The BLM may occasionally receive, after the close of the formal comment period, submissions from the public that could affect the BLM's determinations of wilderness characteristics within the project area. All substantive comments received before reaching a decision must be considered to the extent feasible. Although the authorized officer may choose to do so, the BLM is not required to make findings on or respond to such untimely submissions prior to completing the final NEPA analysis on the project. For additional information regarding response to comments, refer to [H-1790-1](#), Section 6.9.2.

BLM-Utah analyzes the effects of proposed actions on all affected resources, including wilderness characteristics, when undertaking implementation-level reviews under NEPA. Analysis of the effects of an action on lands with wilderness characteristics must be completed whether or not the RMP selected an alternative to manage the lands for protection of wilderness characteristics. Restated, this means that even when a decision to select an alternative that

impairs wilderness characteristics conforms to the RMP, the impacts to the lands with wilderness characteristics unit must still be documented.

The process described in this guidance should be followed in all implementation-level NEPA reviews to ensure that impacts to lands with wilderness characteristics are analyzed, and that appropriate mitigation is considered before implementation-level decisions are made. This may include avoidance, minimization and compensation. Additionally, BLM may still reach a decision in an implementation level NEPA document to protect lands with wilderness characteristics even in areas where the land use planning decision does not emphasize the protection of lands with wilderness characteristics as a priority over other multiple uses. BLM should implement reasonable measures to minimize impacts to wilderness characteristics that are consistent with the purpose and need for the project, even when a LUP decision does not offer de facto protection for wilderness characteristics in land use planning allocations.

#### **A. Determining if lands with wilderness characteristics are an affected resource**

In accordance with the [Utah NEPA Guidebook](#) (July 2010), BLM-Utah uses an interdisciplinary team (ID) checklist to guide the preparation of a NEPA document. The checklist is completed at the onset of the NEPA process to determine what issues need to be analyzed in the NEPA document and whether lands with wilderness characteristics are a resource that is included on the checklist. There is no requirement to address lands with wilderness characteristics in an Environmental Assessment (EA) or Environmental Impact Statement (EIS) where BLM has completed an updated inventory and determined that they do not exist.

#### **B. Interdisciplinary Team Checklist**

Information on use of the interdisciplinary checklist can be found in Chapter 5 of the [Utah NEPA Guidebook](#). If the ID team member with responsibility for wilderness resources (usually an Outdoor Recreation Planner) on the ID checklist determines that wilderness characteristics are not present (NP), or not impacted (NI) to a degree that requires detailed analysis, there is no additional requirement to assess potential impacts to wilderness characteristics in the NEPA document. However, the specialist should briefly document the rationale for the NI or NP determination.

1. If a project area consists of BLM-administered surface ownership in roadless areas that are less than 5,000 contiguous acres and do not potentially meet the size exception criteria ([Manual 6310](#) Section .06.C.2.a), then the lands with wilderness characteristics resource is NP.

If a project area includes parcels previously determined by BLM as lacking wilderness characteristics, and the BLM has received no new information (internally or externally) that conditions have changed, then the lands with wilderness characteristics resource is NP. The initial project review is an excellent opportunity to ensure that BLM's findings for wilderness characteristics within the project area is complete and current. Do not merely compare the project area with a geodatabase of previously identified lands with wilderness characteristics. Review pertinent information to determine whether or not full documentation of an update to the inventory is necessary.

All records and methodology used to reach a determination that lands with wilderness characteristics are not present must be documented. Example language may include: “This area was determined not to contain wilderness characteristics during the (name of inventory (e.g., 1999 Utah Wilderness Inventory. inventory to support the 2008 Approved Resource Management Plan, etc.)). A recent interdisciplinary team review of the inventory information indicates that there has been no change in circumstances that reverse this finding.”

2. If wilderness characteristics are present, but would not be impacted by the implementation of a proposed project to an extent that detailed analysis is required, then explain why the determination of NI is appropriate. For example a site-specific EA for the renewal of a livestock grazing permit might state: “Livestock grazing is considered an acceptable land use in areas with wilderness characteristics. The proposed action does not result in any changes to the historic or current grazing regime or alter the number of animal-unit months. If the grazing permit is renewed, there would be no authorization of new range improvement projects or other surface disturbing activities. Therefore, there would be no impacts to wilderness characteristics and a detailed analysis of impacts to lands with wilderness characteristics is not required.”
3. If a project area includes lands without any prior inventory for the presence or absence of wilderness characteristics on record, and the potential for wilderness characteristics may exist, then the BLM must determine whether or not a new inventory should be completed. The BLM should initiate an inventory based on specialists’ knowledge of the potential for the presence of wilderness characteristics within the planning or project area, even when no new information has been submitted by the public. Additionally, when new information is received and an update to the inventory is pending, an initial determination of PI is appropriate until the presence or absence of wilderness characteristics is determined. Upon further review, if BLM determines that wilderness characteristics are not present, then the checklist will be updated to a determination of NP.

If the ID team member with responsibility for wilderness resources determines that the proposed action would potentially impact (PI) lands with wilderness characteristics, document the potential effect to the unit on the checklist. For example, “The authorization of a ROW has the potential to impact naturalness and outstanding opportunities for solitude and primitive and unconfined recreation in the (unit name and number) unit.” If a PI is included on the checklist, potential impacts to lands with wilderness characteristics are carried forward as an issue for analysis in the NEPA document.

### **C. Addressing lands with wilderness characteristics in NEPA documents**

There are two scenarios involving lands with wilderness characteristics that are addressed differently in NEPA documents.

1. Lands inventoried by the BLM and found to have wilderness characteristics that have been evaluated through the RMP process (*Scenario 1*); and
2. Lands inventoried by the BLM and found to have wilderness characteristics that have not been evaluated in a RMP (*Scenario 2*). (*Note: This can include additional lands that*

*were not evaluated in an RMP that are contiguous to units that were evaluated in a RMP.)*

This IM instructs BLM-Utah on the method to address the two different scenarios described above in each section of the NEPA document, the FONSI (for a completed EA), and in the decision document (Decision Record (DR) for a completed EA, Record of Decision (ROD) for a completed EIS). If the discussion applies to both situations, it is titled *All lands with wilderness characteristics, regardless of evaluation in an RMP*. If it only applies to lands that have already undergone planning, it is titled *Scenario 1 - Lands with wilderness characteristics evaluated in a RMP*. If it only applies to lands that have been inventoried but have not undergone planning, it is titled *Scenario 2 - Lands with wilderness characteristics not evaluated in a RMP*.

## **1. Chapter 1: Purpose and Need**

Chapter 1 of an EA or EIS typically includes the purpose and need for the proposed action and a list of relevant issues in the project area. Issues identified in Chapter 1 are the focus of the environmental analysis.

### **All lands with wilderness characteristics, regardless of evaluation in an RMP**

Under the “Identification of Issues” section, identify potential issues related to lands with wilderness characteristics. For example:

“The proposed action could impact *(naturalness, outstanding opportunities for solitude, outstanding opportunities for primitive and unconfined recreation, supplemental values)* and degrade wilderness characteristics in the *(unit name and number)*.

- How would wilderness characteristics potentially be affected by each alternative?”

### **Scenario 1 - Lands with wilderness characteristics evaluated in a RMP**

If the RMP ROD included a decision to protect wilderness characteristics for a given unit within the project area, such as a 2008 RMP managing the unit as a “Natural Area”<sup>1</sup>, or if the RMP applied management restrictions (i.e., conditions of use, mitigation measures) to reduce impacts to wilderness characteristics, then the proposed action must be consistent with the RMP objectives/allowable uses and management actions that are in place to protect wilderness characteristics. Document under the “Conformance with BLM Land Use Plan(s)” section.

If the project does not conform to the land use planning decisions, the BLM should evaluate whether to modify the proposal to ensure conformance, deny the project, or amend the RMP to allow for the approval of the proposal.

## **2. Chapter 2: Proposed Action and Alternatives**

In accordance with NEPA, the BLM must explore alternative means of meeting the purpose and need for action. This includes consideration of whether or not the purpose and need of the proposed action could be fulfilled while avoiding or minimizing impacts to wilderness characteristics. Alternatives should be developed to address unresolved resource conflicts.

**All lands with wilderness characteristics, regardless of evaluation in an RMP**

Relevant and reasonable measures that could alleviate environmental effects of a proposed action must be identified for all resources. Analyze a full range of reasonable alternatives to provide a basis for comparing impacts to wilderness characteristics and to other resource values or uses.

**Scenario 1 - Lands with wilderness characteristics evaluated in a RMP**

*Lands with wilderness characteristics managed for the protection of wilderness characteristics as a priority over other multiple uses (includes "Natural Areas")*

Identify a preferred alternative or proposed action that conforms to the RMP decisions to protect wilderness characteristics. (Note: A land use plan amendment would be required prior to authorizing any actions that impact wilderness characteristics in an area managed for protection of wilderness characteristics).

*Lands with wilderness characteristics managed for emphasis of other multiple uses*

The preferred alternative or proposed action must demonstrate conformance with the RMP decisions for all affected resources. Manual 6320 directs: "In areas where the management decision is not to protect wilderness characteristics, consider measures to minimize impacts on those characteristics." For externally generated actions, if appropriate design features are not included in the Proposed Action, consider an alternative that minimizes effects to lands with wilderness characteristics. Often, measures that minimize impacts to other renewable resources (e.g., site designs to protect visual resources or intact wildlife habitat) would also minimize impacts to lands with wilderness characteristics.

**Scenario 2 - Lands with wilderness characteristics not evaluated in a RMP**

Include an alternative to the Proposed Action that is modified by appropriate protections, relocations, or design features to eliminate or considerably reduce the effects on wilderness characteristics, if possible. In some instances, the No Action alternative may satisfy this criterion.

***3. Chapter 3: Affected Environment***

The affected environment section succinctly describes the existing condition of each resource that may be affected by implementing the proposed action. The description must be of sufficient detail to serve as a baseline against which to measure the potential effects of implementing a proposed action. Lands with wilderness characteristics are considered resources, and not special designations, in all BLM correspondence and documents.

**All lands with wilderness characteristics, regardless of evaluation in an RMP**

The specific wilderness characteristics of a unit should be described in the narrative of the inventory reports for each unit determined to contain lands with wilderness characteristics. At a minimum, document:

- The name and number of the lands with wilderness characteristics unit and a short statement that provides context, such as the general location and a description of the unit's wilderness characteristics;

- Provide the total acreage of the lands with wilderness characteristics unit and the associated acreage that overlaps the project or study area (if applicable); and
- Provide a map depicting the project or study area in relation to the lands with wilderness characteristics unit.

### **Scenario 1 - Lands with wilderness characteristics evaluated in a RMP**

Tier to and incorporate by reference information included in the RMP/Final EIS. Refer to specific sections and page numbers in both documents. For example:

- “The *(unit name)* unit was inventoried during revision of the *(document name)* RMP and found to have wilderness characteristics. Protection of lands wilderness characteristics for the affected unit was analyzed in at least one alternative *(reference appropriate sections and page numbers in the RMP/Final EIS)*. The *(document name)* ROD selected an alternative that emphasizes other multiple uses as a priority over protecting wilderness characteristics because... *(include reference and page number(s) in the ROD/Approved RMP)*”.
- “The *(unit name)* unit was inventoried during revision of the *(document name)* RMP and found to have wilderness characteristics. The *(document name)* ROD manages the unit for protection of wilderness characteristics and included the following prescriptions... *(include reference and page number(s) in the ROD/Approved RMP)*”.

During reviews of existing inventories, document whether the existing inventory information reflects current conditions or whether there have been any changes, including significant new information submitted by the public. Cite the information from the RMP or inventory reports. For example:

- “The *(Name)* Field Office has reviewed the existing wilderness inventory findings. There have been no substantial changes to this information, as the field office has not authorized nor is aware of any actions that affect the presence or absence of wilderness characteristics within the project area or related wilderness characteristics units.”

### **Scenario 2 - Lands with wilderness characteristics not evaluated in a RMP**

Reference any inventories that have been conducted within the project area, including units identified since the completion of the land use plan. Include the dates of the field office inventory. Cite where the inventory findings are located and how they can be obtained by the public. For example:

- “The *(Name)* Field Office updated the wilderness inventory for the *(name of unit)* unit on *(date)* and determined that the project area (or a portion thereof) contains wilderness characteristics. Copies of the BLM’s wilderness characteristics inventory permanent documentation file have been included in the administrative record and are available for review at *(website link)* or at the field office upon request.”

## ***4. Chapter 4: Environmental Effects***

The EA or EIS analysis must predict the degree of impacts to a resource from the implementation of the proposed action or alternative. The level of detail must be sufficient to

support reasoned conclusions concerning the amount and the degree of change (impact) caused by the proposed action and alternatives.

**All lands with wilderness characteristics, regardless of evaluation in an RMP**

a. **Direct and Indirect Impacts:** Under the resource section for *Lands with wilderness characteristics*, analyze relevant short- and long-term effects on the area's size, its apparent naturalness, and outstanding opportunities for solitude or primitive and unconfined types of recreation and identified supplemental values.

Direct effects are the effects caused by the action which occur at the same time and location as the implementation of the action or alternative. Indirect effects are the effects caused by the action that occur later in time or are farther removed in distance, but are still reasonably foreseeable. For example, if a project is located in an area with wilderness characteristics, within the analysis, the BLM should disclose whether the visual and auditory effects from the project on naturalness and solitude or primitive recreation opportunities would extend beyond the area of direct disturbance.

The analysis must describe the duration and magnitude of potential impacts to wilderness characteristics. Determining the magnitude of expected impacts is an analytical process and should be approached independently for each new proposed project and for each lands with wilderness characteristics unit.

To help the public and the decision-maker understand the context of the direct and indirect impacts on the lands with wilderness characteristics, consider answering the following questions for each alternative analyzed in the NEPA process (when applicable):

1. **Size:** Would the action impact the unit so that there are no longer 5,000 acres or more of natural (i.e., roadless, primarily undeveloped) BLM lands? If so, would the area still meet the size criteria as defined in BLM Manual 6310, Section .06, Subsection C, 2(a), i(2)?

- Where is project located within the wilderness characteristics unit? Is the project located in the interior of the unit or near the boundary?
- Would the action bisect a lands with wilderness characteristics unit and segregate the area into multiple sub-units? If so, what would be the size of the sub-units?

2. **Naturalness:** Does the action affect the unit so that it no longer appears to be affected primarily by the forces of nature?

- Does the action affect the area so that it no longer appears to have been affected primarily by the forces of nature, and so that any work of human beings is no longer substantially unnoticeable? (*Note: examples of human-made features that may be considered substantially unnoticeable in certain cases are: trails, trail signs, bridges, fire breaks, pit toilets, fisheries enhancement facilities, fire rings, historic properties, archaeological resources, hitching posts, snow gauges, water quantity and quality measuring devices, research monitoring markers and devices, minor radio repeater sites, air quality monitoring devices, fencing, spring developments, barely visible linear disturbances, and stock ponds. Although individually these facilities may not substantially affect naturalness, their impacts should also be assessed cumulatively.*)



- Document all substantially noticeable human impacts that will be present in the area after implementation of each alternative. Note the expected duration of the impacts (i.e., long-term, short-term, defined period of time, etc.) If several minor impacts will occur, does their cumulative effect on the area's degree of apparent naturalness reach a threshold that cause the area to no longer meet the naturalness criterion?

**3. Solitude and Primitive and Unconfined Recreation:** Does the action affect the area so that it no longer provides the outstanding opportunities for solitude or primitive and unconfined types of recreation documented in the unit's permanent documentation file? Note the expected duration of the impacts. *(Note: Reference the inventory report when determining the effect on primitive and unconfined types of recreation. Some areas may provide outstanding opportunities for a diversity of primitive and unconfined recreational activities possible in the area, or simply for the outstanding quality of one opportunity. Not every unit will contain both outstanding opportunities for solitude and outstanding opportunities for primitive and unconfined recreation. Assess the effects only for the characteristics that have been documented as present.)*

- **Solitude:** Determine whether each alternative affects the area so that it would remove, or preclude, outstanding opportunities for solitude. Would the action cause a visitor to be unable to avoid the sights, sounds and evidence of other people in the area? Factors or elements of an action that may influence a visitor's solitude include distance between the project and areas of frequent visitation, vegetative screening and topography around the project area, likelihood that the project will attract significant additional public visitation, and the ability of visitors to avoid the project area and find seclusion in other parts of the inventory unit.
- **Primitive and Unconfined Recreation:** Determine whether each alternative affects the area in such a way that it prevents or removes outstanding opportunities for primitive and unconfined types of recreation. Would the action impair the qualities of the primitive and unconfined recreation opportunities to the degree that they would no longer be outstanding?

**4. Supplemental Values:** Does the alternative impact a unit's supplemental values? Determine and document any potential impacts to the supplemental values documented in the unit's permanent documentation file. Impacts to supplemental values may be analyzed in their respective resource sections in the NEPA document. Where applicable, analysis of impacts to supplemental values may simply reference other resource sections.

b. **Cumulative Impacts:** Document how the proposed action and alternatives would cumulatively impact lands with wilderness characteristics.

- Describe the cumulative impact analysis area, including acreage. Typically, the area of analysis should include the wilderness characteristics unit and any other lands that have been determined to have wilderness characteristics, such as Wilderness Study Areas and designated wilderness within the cumulative impact analysis area, including those areas managed by other agencies.
- List all relevant past, present or reasonably foreseeable actions that have affected or may affect lands with wilderness characteristics within the cumulative impact analysis area.

These may include future vegetation treatments for wildlife habitat restoration, travel management planning and other projects that are reasonably foreseeable.

- Analyze the cumulative effects to wilderness characteristics. Each alternative should be addressed separately following guidance provided in Section 6.8.3 of the BLM NEPA Handbook (H-1790-1). Be aware that indirect effects contribute to cumulative effects.

### ***5. Record of Decision/Decision Record and Finding of No Significant Impact***

For EA-level projects, the BLM must determine whether the effects of the selected alternative are significant. The FONSI is a document that explains the reasons why an action will have no significant effects. Neither an EA, FONSI, nor EIS is a decision document. The BLM uses the Decision Record (DR) to document decisions when an EA results in a FONSI. A Record of Decision (ROD) is used to document the selected alternative if an EIS is completed.

Impairment of wilderness characteristics does not automatically constitute a significant impact on the human environment that warrants preparation of an EIS. The NEPA analysis determines significance on a case-by-case basis, considering the level and intensity of impacts, and the context of the impact in consideration of the presence of other areas possessing wilderness characteristics that are protected within the project analysis area (including designated wilderness and Wilderness Study Areas).

### **Scenario 1 - Lands with wilderness characteristics evaluated in a RMP**

For EA-level projects, in the long-form FONSI, explain how the effects of the action being considered do not exceed those analyzed or approved in the RMP. Reference specific sections of the RMP/Final EIS and ROD/Approved RMP.

If the decision (DR or ROD) is to approve an action that will result in loss of some or all of the wilderness characteristics in an area, provide the rationale for the decision.

- Explain how approval of the action is necessary to meet the purpose and need of the project.
- Explain that in the ROD/Approved RMP that the BLM chose to emphasize other multiple uses as a priority over protecting wilderness characteristics, and instead selected an alternative that allows for other uses of the lands that may be incompatible with managing to protect wilderness characteristics.
- Discuss any design features or mitigation incorporated into the selected alternative that would minimize effects to wilderness characteristics.

### **Scenario 2 - Lands with wilderness characteristics not evaluated in a RMP**

Address whether the approval of the proposed action would impact existing wilderness characteristics so as to negate the eligibility of all or a portion of the inventoried area for consideration in a future planning effort for wilderness resource protection. BLM should consider selection of another alternative, such as the No Action Alternative or an alternative that avoids the lands with wilderness characteristics. The BLM may also consider deferral of the action, subject to valid existing rights, until a new land use plan is completed.

- Include in the NEPA analysis at least one alternative that avoids impacts to wilderness characteristics.

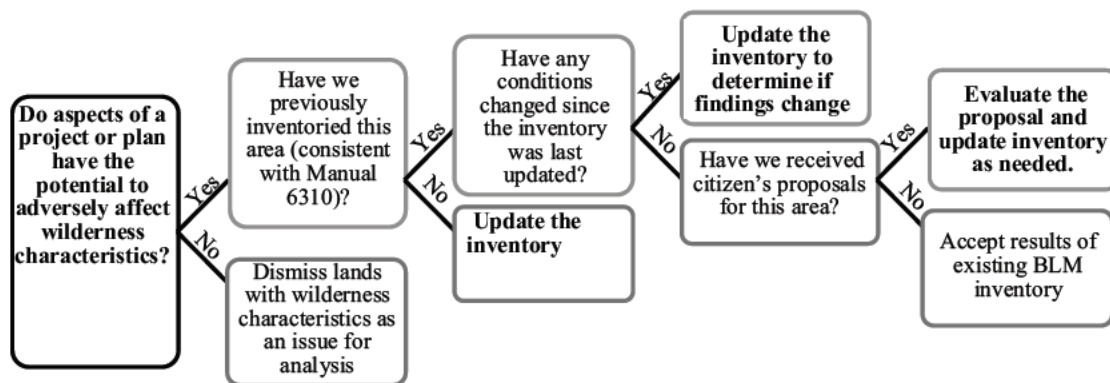
- If applicable, explain how the selected alternative meets the purpose and need of the proposed action and why BLM selected it rather than another alternative that includes management actions to protect wilderness characteristics in the decision document.
- Discuss any design feature or mitigation incorporated into the selected alternative that minimizes effects to wilderness characteristics.

If the current RMP does not address a wilderness characteristics unit that is affected by a new proposed action, BLM should also consider whether a plan amendment is appropriate<sup>2</sup>. BLM is not required to initiate a plan amendment each time an inventory is updated. The updated inventory is a change to the existing environment but does not change management decisions in the RMP. Plan amendments may be prompted in response to new or changed uses on the land, or to incorporate significant new information from resource assessment, monitoring, or research. When determining whether or not to amend a land use plan, the BLM must not only consider the resource, but also other workload priorities, budgetary constraints, and staff capabilities.

<sup>1</sup>The terms “Natural Area” and “designation” are no longer used by the BLM in reference to lands with wilderness characteristics. Therefore, any discussion of “natural areas” should be clearly related to the context of Utah’s 2008 planning decisions.

<sup>2</sup>The National Defense Authorization Act (NDAA § 2815 [a and d], 113 Stat. 512, 852 [1999]) provided in § 2815(d) that the Secretary of the Interior may not proceed with any amendment of any individual resource management plan adjacent to or near the Utah Test and Training Range and Dugway Proving Grounds or beneath Military Operating Areas, Restricted Areas, and airspace that make up the Utah Test and Training Range until the Secretary of Defense submits a study to Congress evaluating the impacts of any proposed changes to land management plans upon military training, testing, and operational readiness. BLM land use plans affected by the NDAA are the Box Elder RMP, House Range Resource Area RMP, Iso tract Management Framework Plan (MFP), Park City RMP, Pony Express RMP, Randolph RMP, and Warm Springs Resource Area RMP.

Figure 1. Ensuring the inventory is current prior to analysis



Form 1221 2  
(June 1969)



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

MANUAL TRANSMITTAL SHEET

Release  
6-129

Date  
03/15/2012

**Subject**

**6310—Conducting Wilderness Characteristics Inventory on BLM Lands (Public)**

- 1. Explanation of Materials Transmitted:** This manual contains the Bureau of Land Management's (BLM) policy and guidance for conducting wilderness characteristics inventories under Section 201 of the Federal Land Policy and Management Act of 1976 (FLPMA). This policy does not address Wilderness areas designated by Congress or Wilderness Study Areas (WSAs) pending before Congress.
- 2. Reports Required:** None
- 3. Materials Superseded:** This manual supersedes BLM Manual Section 6301
- 4. Filing Instructions:** File as directed below

**REMOVE**

All 6301 (Rel. 6-126  
(Total 29 Sheets)

**INSERT**

6310  
(Total: 31 Sheets)

/s/

**Robert V. Abbey**  
**Director**

**6310-CONDUCTING WILDERNESS CHARACTERISTICS INVENTORY ON BLM  
LANDS**

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BLM MANUAL  
Supersedes Rel. 6-126

Rel. No. 6-129  
Date: 03/15/2012

## **6310-CONDUCTING WILDERNESS CHARACTERISTICS INVENTORY ON BLM LANDS**

**.01 Purpose.** This policy contains the Bureau of Land Management's (BLM) guidance and general procedures for conducting wilderness characteristics inventories under Section 201 of the Federal Land Policy and Management Act of 1976 (FLPMA) and supersedes all previous guidance on this topic. Managing the wilderness resource is part of the BLM's multiple use mission. Lands with wilderness characteristics provide a range of uses and benefits in addition to their value as settings for solitude or primitive and unconfined recreation. This policy does not address Wilderness areas designated by Congress or Wilderness Study Areas (WSAs) pending before Congress.

**.02 Objective.** This Manual establishes BLM policy for identifying lands with wilderness characteristics.

**.03 Authority.** Principal authorities affecting the inventory of public lands for wilderness characteristics are:

- A. FLPMA, 43 U.S.C. 1701 *et seq.*, exclusive of 43 U.S.C. 1782.
- B. Wilderness Act of 1964, 16 U.S.C. 1131, *et seq.*

### **.04 Responsibilities.**

A. The Director shall:

- 1. Coordinate with State Directors in conducting wilderness characteristics inventories.

B. State Directors shall:

- 1. Implement policy and provide statewide program coordination and guidance for conducting wilderness characteristics inventories.
- 2. Provide program development, technical management assistance, and support to District and Field Offices as required for conducting lands with wilderness characteristics inventory.

C. District Managers and Field Managers shall:

- 1. Review and document relevant data, including citizen-submitted information, for conducting and maintaining the wilderness characteristics inventory on a continuing basis.
- 2. Determine and document which inventory areas or portions of inventory areas possess or lack wilderness characteristics.
- 3. Maintain a permanent documentation file for inventoried areas.
- 4. Coordinate with other Federal agencies in conducting wilderness characteristics inventories.



**.05 References.** Principal references for this Manual are:

- A. FLPMA, 43 U.S.C. 1701, *et seq.*
- B. Wilderness Act, 16 U.S.C. 1131 *et seq.*
- C. BLM Regulations, 43 CFR Part 1600.

**.06 Policy.**

A. **Maintaining the Inventory.** Section 201 of FLPMA requires the BLM to maintain on a continuing basis an inventory of all public lands and their resources and other values, which includes wilderness characteristics. It also provides that the preparation and maintenance of the inventory shall not, of itself, change or prevent change of the management or use of public lands. Regardless of past inventory, the BLM must maintain and update as necessary, its inventory of wilderness resources on public lands. In some circumstances conditions relating to wilderness characteristics may have changed over time, and an area that was once determined to lack wilderness characteristics may now possess them. The BLM will determine when it is necessary to update its wilderness characteristics inventory. Under the following circumstances, the BLM will consider whether to update a wilderness characteristics inventory or conduct a wilderness characteristics inventory for the first time:

1. The public or the BLM identifies wilderness characteristics as an issue during the National Environmental Policy Act (NEPA) process.
2. The BLM is undertaking a land use planning process.
3. The BLM has new information concerning resource conditions, including wilderness characteristics information submitted by the public that meets the BLM's minimum standard described in the Wilderness Characteristics Inventory Process section of this policy.
4. A project that may impact wilderness characteristics is undergoing NEPA analysis.
5. The BLM acquires additional lands.

There also may be other circumstances in which BLM will find it appropriate to update its wilderness characteristics inventory.

The primary function of an inventory is to determine the presence or absence of wilderness characteristics. Keeping an inventory current requires gathering information and ensuring that all inventories have permanent files. It is essential that an adequate record of the inventory and subsequent updates be maintained to ensure proper documentation of inventory findings, including relevant narratives, maps, photographs, new information, and any other relevant information.

**B. Wilderness Characteristics Inventory Process.** A wilderness characteristics inventory is the process of determining the presence or absence of wilderness characteristics. The BLM must document existing conditions as opposed to potential future conditions. The BLM may conduct the inventory using available information (e.g., existing maps, photos, records related to range projects, monitoring data) and will field check the information as necessary. This wilderness characteristics inventory process directive does not mean that the BLM must conduct a completely new inventory and disregard the inventory information that it already has for a particular area. Rather, the BLM must ensure that its inventory is maintained.

1. Documentation and Minimum Standards for Review of New Information.

- a. When new information regarding wilderness characteristics is received, the BLM will document the submitted materials including:
  - i. date of submission;
  - ii. name of proponent;
  - iii. name of proposal and/or area identified by the proponent;
  - iv. BLM District(s) and Field Office(s) affected;
  - v. type of material submitted (e.g., narrative, map, photo); and
  - vi. whether or not the public information meets the minimum standard for further review by the BLM.
- b. The minimum standard that new information must meet in order for the BLM to consider the information during a wilderness characteristics inventory process requires a submission of the following information to the BLM:
  - i. a map of sufficient detail to determine specific boundaries of the area in question;
  - ii. a detailed narrative that describes the wilderness characteristics of the area and documents how that information substantially differs from the information in the BLM inventory of the area's wilderness characteristics; and
  - iii. photographic documentation.

2. Evaluation of New Information.

When new information regarding wilderness characteristics meets the minimum standard for further review, as soon as practicable, the BLM shall evaluate the information regarding the validity of proposed boundaries of the area(s), the existence of wilderness inventory roads and other boundary features, the size of the

area(s), and the presence or absence of wilderness characteristics. This evaluation may be based on relevant information available in the office (prior BLM inventories, interdisciplinary team knowledge, aerial photographs, field observations, maps, etc.). Field checking may also be needed. The BLM will compare existing data with the submitted information, determine if the conclusion reached in previous BLM inventories remains valid, determine whether the area qualifies as lands with wilderness characteristics, and document its findings. The BLM will document the rationale for the findings, make the findings available to the public, and retain a record of the evaluation and the findings as evidence of the BLM's consideration.

3. Identification of Lands Requiring Inventory.

- a. Identification of a specific area where inventory is needed requires a combined review of existing land status and available route inventory data. Where acquired lands are inventoried, the area inventoried may be larger than the acquired lands because of the need to look at contiguous roadless Federal lands.
- b. Each area will be assigned a unique identifier using a two-letter state code, office code, and an inventory area number, e.g. NV-030-051. Where possible, numbers assigned should build on the original inventory.
- c. The Permanent Documentation File for each area will be updated or developed as appropriate (Appendix A).
- d. Split estate lands are excluded from the requirements for wilderness characteristics inventory.

4. Completing the Inventory.

- a. Necessary forms for each area will be completed (see Appendix B: Inventory Area Evaluation, Appendix C: Route Analysis, and Appendix D: Photo Log). The forms in Appendices B, C, and D should be adequate for most wilderness characteristics inventories, but minor modifications may be made to meet Field Office needs as long as primary criteria and definitions remain unchanged. In order to complete the inventory, District or Field Managers must document wilderness characteristics inventories according to attached Appendices A-D as applicable.

**C. Wilderness Characteristics.**

1. Wilderness Characteristics Inventory Unit Boundary Delineation. The boundary of the wilderness characteristics inventory unit must be established. Where possible, BLM offices should use existing wilderness characteristics inventory units for maintaining the inventory. The boundary is generally based on the presence of wilderness inventory roads (see Appendix C to determine if a route meets the

wilderness inventory road definition), and can also be based on property lines between lands in Federal ownership and other ownerships or developed rights of way. Other inventory unit boundaries may occasionally be identified.

2. Analysis of Wilderness Characteristics. The inventory will evaluate wilderness characteristics as defined in Section 2(c) of the Wilderness Act and incorporated in FLPMA. In order for an area to qualify as lands with wilderness characteristics, it must possess sufficient size, naturalness, and outstanding opportunities for either solitude or primitive and unconfined recreation. In addition, it may also possess supplemental values. There may be some circumstances under which an inventory of the entire area is not required. For example, if a proposed project would only cross a small corner of an inventory unit and would be confined to previously disturbed land that is an unnatural condition, a full inventory may not be necessary.

- a. Size.

- i. Determine if the size criteria will be satisfied for areas by meeting one of the following situations and circumstances:
  - 1) Roadless areas with over 5,000 acres of contiguous BLM lands. State or private lands are not included in making this acreage determination.
  - 2) Roadless areas of less than 5,000 acres of contiguous BLM lands where any one of the following apply:
    - a) They are contiguous with lands which have been formally determined to have wilderness or potential wilderness values, or any Federal lands managed for the protection of wilderness characteristics. Such lands include:
      - (1) designated Wilderness,
      - (2) BLM Wilderness Study Areas,
      - (3) U.S. Fish and Wildlife Service areas Proposed for Wilderness Designation,
      - (4) U.S. Forest Service (FS) Wilderness Study Areas or areas of Recommended Wilderness, and
      - (5) National Park Service (NPS) areas Recommended or Proposed for Designation.

They do not include NPS areas merely considered "Eligible for Wilderness Study," nor do they include FS Roadless Areas unless they

are also designated as “Recommended Wilderness” through a Forest Plan Revision.

- b) It is demonstrated that the area is of sufficient size as to make practicable its preservation and use in an unimpaired condition.
- c) Any roadless island of the public lands.
- ii. Determine whether or not at least one of the size criteria are met by lands within the inventory unit and document in writing the rationale for arriving at this determination.

Note: If an inventory area does not meet at least one of the size criteria, it does not contain wilderness characteristics. Further inventory activity to document naturalness, outstanding opportunities for solitude or a primitive and unconfined type of recreation, and supplemental values is unnecessary. The findings must be documented.

b. Naturalness.

- i. Affected Primarily by the Forces of Nature. Determine if the area appears to be in a natural condition.
  - 1) The area must appear to have been affected primarily by the forces of nature, and any work of human beings must be substantially unnoticeable. Examples of human-made features that may be considered substantially unnoticeable in certain cases are: trails, trail signs, bridges, fire breaks, pit toilets, fisheries enhancement facilities, fire rings, historic properties, archaeological resources, hitching posts, snow gauges, water quantity and quality measuring devices, research monitoring markers and devices, minor radio repeater sites, air quality monitoring devices, fencing, spring developments, barely visible linear disturbances, and stock ponds.
- ii. Describing Human Impacts. Document noticeable human impacts within the area. If several minor impacts exist, summarize their cumulative effect on the area’s degree of apparent naturalness.
  - 1) The review of human impacts will assess the presence or absence of apparent naturalness (i.e., do the works of humans appear to be substantially unnoticeable to the average visitor?). There is an important difference between an area’s natural integrity and its apparent naturalness as explained below.
    - a) Natural integrity refers to the presence or absence of ecosystems that are relatively unaffected by modern human activities.

- b) Apparent naturalness refers to whether or not an area looks natural to the average visitor who is not familiar with the biological composition of natural ecosystems versus human-affected ecosystems.
- 2) Caution should be used in assessing the effect of relatively minor human impacts on naturalness. Some human works are acceptable so long as they are substantially unnoticeable. Avoid an overly strict approach to assessing naturalness. For example, the presence of a water trough is a relatively minor human impact on naturalness, and may be considered substantially unnoticeable.
- iii. Outside Human Impacts. Human impacts outside the area will not normally be considered in assessing naturalness of an area. If, however, a major outside impact exists, it should be noted in the overall inventory area description and evaluated for its direct effects on the area.
- iv. Determination and Documentation. Determine whether or not the naturalness criterion is met and document in writing the rationale for arriving at the determination.

Note: If an inventory area does not meet the naturalness criterion, it does not contain wilderness characteristics. Further inventory activity to document outstanding opportunities for solitude or a primitive and unconfined type of recreation or supplemental values is unnecessary. Document the findings.

- c. Outstanding Opportunities for Solitude or a Primitive and Unconfined Type of Recreation. Determine if the area has outstanding opportunities for solitude or a primitive and unconfined type of recreation. The word “or” in this sentence means that an area only has to possess one or the other. The area does not have to possess outstanding opportunities for both elements, nor does it need to have outstanding opportunities on every acre, even when an area is contiguous to lands with identified wilderness characteristics. In most cases, the two opportunities can be expected to go hand-in-hand. An outstanding opportunity for solitude, however, may be present in an area offering only limited primitive recreation potential. Also, an area may be so attractive for primitive recreation that it would be difficult to maintain an opportunity for solitude.

Each area must be assessed on its own merits or in combination with any contiguous lands described in the Analysis of Wilderness Characteristics section of this policy as to whether an outstanding opportunity exists. Do not disqualify an area based on a finding that outstanding opportunities exist in only a portion of the area. Do not compare the lands in question with other parcels. Do not use any type of rating system or scale—whether numerical, alphabetical, or qualitative—in making the assessment. Use professional judgment in determining whether

outstanding opportunities exist in each area and document in writing the rationale for arriving at the determination.

i. Solitude. Determine whether or not the area has outstanding opportunities for solitude.

- 1) In making this determination, consider factors that influence solitude only as they affect a visitor's opportunity to avoid the sights, sounds, and evidence of other people in the area. Only consider the impacts of sights and sounds from outside the inventory area on the opportunity for solitude if these impacts are pervasive and omnipresent.
- 2) Factors or elements influencing solitude may include size, configuration, topographic and vegetative screening, and ability of the visitor to find seclusion. It is the combination of these and similar elements upon which an overall solitude determination will be made. It may be difficult, for example, to avoid the sights and sounds of people in some areas unless the area is relatively large. Outstanding opportunities for solitude can be found in areas lacking vegetation or topographic screening. A small area could also provide opportunities for solitude if, due to topography or vegetation, visitors can screen themselves from one another.

ii. Primitive and Unconfined Recreation.

- 1) Determine whether or not the area offers an outstanding opportunity for a primitive and unconfined type of recreation. In making this determination, consider those activities that provide dispersed, undeveloped recreation which do not require facilities, motor vehicles, motorized equipment, or mechanized transport.
- 2) Some examples of primitive and unconfined types of recreation include hiking; backpacking; fishing; hunting; spelunking; horseback riding; climbing; river running; cross-country skiing; snowshoeing; dog sledding; photography; bird watching; canoeing; kayaking; sailing; and sightseeing for botanical, zoological, or geological features.
- 3) An area may possess outstanding opportunities for a primitive and unconfined type of recreation through either the diversity in primitive and unconfined recreational activities possible in the area or the outstanding quality of one opportunity. Other factors to consider include:
  - a) Present visitor use of an area is not necessary in evaluating this criterion. Determine whether an outstanding opportunity is present, regardless of the amount of use.

- b) A trail system or convenient access is not essential for an outstanding opportunity for primitive and unconfined recreation. The absence of these facilities may increase opportunities for primitive and unconfined recreation.
- c) The presence of water is not essential for an outstanding primitive recreation opportunity.
- d) The presence of “challenge” and “risk” are appropriate considerations, but not essential for an outstanding primitive recreation opportunity to exist in an area.

Note: If an inventory area does not meet the solitude criterion and does not meet the primitive and unconfined recreation criterion, it does not contain wilderness characteristics. Further inventory activities to document supplemental values are unnecessary. If the area meets the primitive recreation and/or solitude criteria as well as the size and naturalness criteria, it does contain wilderness characteristics. Document in writing the rationale for arriving at the determination.

- d. Supplemental Values. If size, naturalness, and outstanding opportunities criteria are met, then determine if the area contains ecological, geological, or other features of scientific, educational, scenic, or historical value. Supplemental values are not required to be present in order for an area to be identified as lands with wilderness characteristics, but their presence should be documented where they exist.
3. Boundary Delineation. Define the area with wilderness characteristics to exclude wilderness inventory roads and other substantially noticeable human-caused impacts (Appendix C provides a framework for determining whether a route is a road for the purposes of wilderness characteristics inventory). Minor impacts rarely require an adjustment. Where there are several minor impacts, they should be evaluated for their cumulative effect on an area’s apparent naturalness. The defined area of lands with wilderness characteristics must meet the previously described criteria for size, naturalness, and outstanding opportunities for solitude or primitive and unconfined recreation.
- a. Lands located between individual human impacts should not be automatically excluded from the area.
  - b. When establishing the boundary, do not create a setback or buffer from the physical edge of the imprint of man.
  - c. Developed rights-of-way (ROW) are treated like other impacts, and the boundary should be drawn to exclude those ROWs.



- d. Undeveloped ROWs and similar undeveloped possessory interests (e.g., mineral leases) are not treated as impacts to wilderness characteristics because these rights may never be developed.
- e. An area can have wilderness characteristics even though every acre within the area may not meet all the criteria. The boundary should be determined largely on the basis of wilderness inventory roads and naturalness rather than being constricted on the basis of opportunity for solitude or primitive and unconfined recreation. The location of boundaries should primarily be set to exclude the unnatural portions of the area.

Note: Inventory areas that meet the size, naturalness, and the outstanding solitude and/or the outstanding primitive and unconfined recreation criteria are lands with wilderness characteristics.

#### **.07 Glossary.**

Following are definitions for terms used in this policy. Also see definitions for terms used in Section 103 of FLPMA, BLM planning regulations at 43 CFR 1601.0-5, the wilderness regulations at 43 CFR 6301.5, and the Wilderness Act. This glossary does not supersede those definitions or those in other laws or regulations.

Apparent Naturalness: See naturalness.

Boundaries: Inventory unit boundaries are normally formed by wilderness inventory roads, property lines, developed rights-of-way, or other substantially noticeable imprints of human activity. Dead-end roads (i.e., “cherry stem roads”) may extend into the unit and are excluded from the unit, which will modify the unit boundary.

Contiguous: Lands or legal subdivisions having a common boundary. Lands either bisected by wilderness inventory roads or having only a common corner are not contiguous. A checkerboard land pattern does not contain contiguous lands.

Island: An area of land surrounded by water.

Land Use Plan: A set of decisions that establish management direction for land within an administrative area, as prescribed under the planning provisions of the FLPMA; an assimilation of land-use-plan-level decisions developed through the planning process outlined in 43 CFR 1600, regardless of the scale at which the decisions were developed. As used in this policy, Land Use Plan also includes Integrated Activity Plans used in the National Petroleum Reserve – Alaska.

Naturalness: The degree to which an area generally appears to have been affected primarily by the forces of nature with the imprint of people’s work substantially unnoticeable. It is not synonymous with “natural integrity.”

Natural Integrity: The presence of ecosystems that are relatively unaffected by modern human activities.

Opportunity: A situation or condition favorable for attainment of a goal.

Outstanding: 1. Standing out among others of its kind; conspicuous; prominent; 2. Superior to others of its kind; distinguished; excellent.

Primitive and Unconfined Recreation: Non-motorized, non-mechanized (except as provided by law), and undeveloped types of recreational activities.

Primitive Route: Any transportation linear feature located within areas that have been identified as having wilderness characteristics and not meeting the wilderness inventory road definition.

Road: For the purpose of inventorying wilderness characteristics only, the BLM will continue to base the “road” definition on FLPMA’s legislative history. The language below is from the House of Representatives Committee Report 94-1163, page 17, dated May 15, 1976, on what became FLPMA.

“The word ‘roadless’ refers to the absence of roads that have been improved and maintained by mechanical means to insure relatively regular and continuous use. A way maintained solely by the passage of vehicles does not constitute a road.”

The BLM will refer to routes that meet the above definition as wilderness inventory roads. The BLM previously adopted and will continue to use sub-definitions of certain words and phrases in the BLM wilderness inventory road definition stated above. Routes that have been improved and maintained by mechanical means to insure relatively regular and continuous use are wilderness inventory roads.

- a. Improved and maintained – Actions taken physically by people to keep the road open to vehicle traffic. “Improved” does not necessarily mean formal construction. “Maintained” does not necessarily mean annual maintenance.
- b. Mechanical means – Use of hand or power machinery or tools.
- c. Relatively regular and continuous use – Vehicular use that has occurred and will continue to occur on a relatively regular basis. Examples are: access roads for equipment to maintain a stock water tank or other established water sources; access roads to maintained recreation sites or facilities; or access roads to mining claims.

A route that was established or has been maintained solely by the passage of vehicles would not be considered a road for the purposes of wilderness inventory, even if it is used on a relatively regular and continuous basis. Vehicle routes constructed by mechanical means but that are no longer being maintained by mechanical methods are not wilderness inventory roads. Sole use of hands and feet to move rocks or dirt without the use of tools or machinery does not meet the definition of “mechanical means.” Wilderness inventory roads need not be “maintained” on a

regular basis but rather “maintained” when road conditions warrant actions to keep it in a usable condition. A dead-end (cherry-stem) road can form the boundary of an inventory area and does not by itself disqualify an area from being considered “roadless.”

A route, or a segment of a route, which was mechanically improved to permit the passage of vehicles, but which to date has not needed any further mechanical improvement or maintenance to facilitate the relatively regular and continuous passage of vehicles, can be a road in those circumstances where the road would be maintained if the need were to arise.

While the purpose of a route is not a deciding factor to consider in determining whether a route is a road for wilderness inventory purposes, it does provide context in which to consider the criteria for a road determination. For example, the purpose of the route provides context when the BLM considers whether maintenance of the route insures relatively regular and continuous use and whether maintenance, that may so far have been unnecessary to insure the use, would occur when the need arises.

Route: Roads, primitive roads, and trails that are part of the transportation system.

Setback: A buffer or border, including “zone of influence.”

Solitude: The state of being alone or remote from others; isolation. A lonely or secluded place.

Supplemental Values: Ecological, geological, or other features of scientific, educational, scenic, or historical value. These values may be present in an area with wilderness characteristics, but they are not required.

Transportation System: The transportation systems represent the sum of the BLM’s recognized inventory of linear features (roads, primitive roads, and trails) formally recognized and approved as part of the BLM’s transportation network.

Untrammelled: Unhindered and free from modern human control or manipulation.

Wilderness: An area defined in Section 2(c) of the Wilderness Act, and included in the National Wilderness Preservation System.

Wilderness Characteristics: These attributes include the area’s size, its apparent naturalness, and outstanding opportunities for solitude or a primitive and unconfined type of recreation. They may also include supplemental values. Lands with wilderness characteristics are those lands that have been inventoried and determined by the BLM to contain wilderness characteristics as defined in section 2(c) of the Wilderness Act.

Wilderness Inventory Road: See road.

Wilderness Study Area: Areas with wilderness characteristics identified and designated through the inventory and study processes authorized by Section 603 of FLPMA, and, prior to 2003, through the planning process authorized by Section 202 of FLPMA.

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**.08 Acronyms.**

BLM – Bureau of Land Management

CFR – Code of Federal Regulations

FLPMA – Federal Land Policy and Management Act of 1976

FS – U.S. Forest Service

NEPA – National Environmental Policy Act of 1969

NPS – National Park Service

ROW – Right-of-way

U.S.C. – United States Code

WSA – Wilderness Study Area

**WILDERNESS CHARACTERISTICS INVENTORY**  
**APPENDIX A – PERMANENT DOCUMENTATION FILE**

The permanent documentation file should include the following:

1. **Inventory Area Evaluation:** Appendix B.
2. **Route Analysis:** Appendix C.
3. **Inventory Maps:** Inventory maps used in conducting and documenting findings of wilderness characteristics inventories must be retained. Maps should depict the area's unique identifier, boundary, and any photo points.
4. **Photo Documentation:** Documentation could include a descriptive log and photographs (Appendix D).
5. **Supporting Documentation:** Include additional notes, forms, and documents.

**WILDERNESS CHARACTERISTICS INVENTORY**  
**APPENDIX B – INVENTORY AREA EVALUATION**

**Evaluation of Current Conditions:**

1) Document and review any existing BLM wilderness characteristics inventory findings on file regarding the presence or absence of individual wilderness characteristics, using Form 1, below.

2) Consider relevant information regarding current conditions available in the office. Identify and describe any changes to the existing inventory information. Use interdisciplinary team knowledge, aerial photographs, field observations, maps, etc. and document the findings on Form 2, below. Document current conditions regarding wilderness characteristics, as opposed to potential future conditions.

Conduct field reviews as necessary to verify information and to ascertain current conditions. Reach conclusions on current conditions including boundaries, size of areas and presence or absence of wilderness characteristics. Fully explain the basis for each conclusion on Form 2, including any critical differences between BLM and citizen information.

Document the findings regarding current conditions for each inventoried area. Describe how the present conditions are similar to, or have changed from, the conditions documented in the original wilderness characteristics inventory. Document the findings on Form 2 for each inventory area. Cite to or attach data considered, including photographs, maps, GIS layers, field trip notes, project files, etc.

**FORM 1****Documentation of BLM Wilderness Characteristics Inventory Findings from Previous Inventory on Record****1. Is there existing BLM wilderness characteristics inventory information on all or part of this area?**

**No** \_\_\_\_\_ (Go to Form 2) **Yes** \_\_\_\_\_ (If yes, and if more than one area is within the area, list the unique identifiers for those areas.):

**a) Inventory Source:**

**b) Inventory Area Unique Identifier(s):**

**c) Map Name(s)/Number(s):**

**d) BLM District(s)/Field Office(s):**

**2. BLM Inventory Findings on Record:**

Existing inventory information regarding wilderness characteristics (if more than one BLM inventory area is associated with the area, list each area and answer each question individually for each inventory area):

Inventory Source:

<b>Area Unique Identifier</b>	<b>Sufficient Size? Yes/No (acres)</b>	<b>Naturalness? Yes/No</b>	<b>Outstanding Solitude? Yes/No</b>	<b>Outstanding Primitive &amp; Unconfined Recreation? Yes/No</b>	<b>Supplemental Values? Yes/No</b>

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**FORM 2****Current Conditions: Presence or Absence of Wilderness Characteristics**

Area Unique Identifier \_\_\_\_\_ Acreage \_\_\_\_\_  
(If the inventory area consists of subunits, list the acreage of each and evaluate each separately).

In completing steps (1)-(5), use additional space as necessary.

(1) Is the area of sufficient size? (If the area meets one of the exceptions to the size criterion, check "Yes" and describe the exception in the space provided below),

Yes \_\_\_\_\_ No \_\_\_\_\_

Note: If "No" is checked the area does not have wilderness characteristics; check "NA" for the remaining questions below.

Description (describe the boundaries of the area--wilderness inventory roads, property lines, etc.):

(2) Does the area appear to be natural?

Yes \_\_\_\_\_ No \_\_\_\_\_ N/A

Note: If "No" is checked the area does not have wilderness characteristics; check "NA" for the remaining questions below.

Description (include land ownership, location, topography, vegetation, and summary of major human uses/activities):

(3) Does the area (or the remainder of the area if a portion has been excluded due to unnaturalness and the remainder is of sufficient size) have outstanding opportunities for solitude?

Yes \_\_\_\_\_

No \_\_\_\_\_

N/A

Description (describe the area's outstanding opportunities for solitude):

(4) Does the area (or the remainder of the area if a portion has been excluded due to unnaturalness and the remainder is of sufficient size) have outstanding opportunities for primitive and unconfined recreation?

Yes \_\_\_\_\_ No \_\_\_\_\_ N/A

Note: If "No" is checked for both 3 and 4 the area does not have wilderness characteristics; check "NA" for question 5.

Description (describe the area's outstanding opportunities for primitive and unconfined recreation):

(5) Does the area have supplemental values (ecological, geological, or other features of scientific, educational, scenic or historical value)?

Yes \_\_\_\_\_ No \_\_\_\_\_ N/A

Description:

### Summary of Analysis\*

#### Area Unique Identifier:

#### Summary

Results of analysis:

(Note: explain the inventory findings for the entirety of the inventory unit. When wilderness characteristics have been identified in an area that is smaller than the size of the total inventory unit, explain why certain portions of the inventory unit are not included within the lands with wilderness characteristics (e.g. the inventory found that certain parts lacked naturalness).

- |   |     |    |     |
|---|-----|----|-----|
| 1. Does the area meet any of the size requirements?   | Yes | No |     |
| 2. Does the area appear to be natural?  | Yes | No | N/A |
| 3. Does the area offer outstanding opportunities for solitude or a primitive and unconfined type of recreation? | Yes | No | N/A |
| 4. Does the area have supplemental values?  | Yes | No | N/A |

Check one:

The area, or a portion of the area, has wilderness characteristics and is identified as lands with wilderness characteristics.

The area does not have wilderness characteristics.

#### Prepared by (team members):

(Name, Title, Date)

#### Reviewed by (District or Field Manager):

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\* This form documents information that constitutes an inventory finding on wilderness characteristics. It does not represent a formal land use allocation or a final agency decision subject to administrative remedies under either 43 CFR parts 4 or 1610.5 3.

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**Name:**

**Title:**

**Date:**

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## WILDERNESS CHARACTERISTICS INVENTORY

### APPENDIX C – ROUTE ANALYSIS<sup>1</sup>

*(Factors to consider when determining whether a route is a road<sup>2</sup> for wilderness characteristics inventory purposes.)*

Wilderness Characteristics Inventory Area Unique Identifier:

Route or Route Segment<sup>3</sup> Name and/or Identifier:

(Include Transportation Plan Identifier, if known, and include route number supplied by citizen information, when available.)

**I. LOCATION:** Refer to attached map and BLM corporate data (GIS). List photo point references (where applicable) or reference attached photo log:

Describe:

## **II. ROUTE CONTEXT**

A. Current Purpose<sup>4</sup> (if any) of Route: (Examples: Rangeland/Livestock Improvements (stock tank, developed spring, reservoir, fence, corral), Inholdings (ranch, farmhouse), Mine

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<sup>1</sup> This form documents information that constitutes an inventory finding on wilderness characteristics. It does not represent a formal land use allocation or a final agency decision subject to administrative remedies under either 43 CFR parts 4 or 1610.5 3.

<sup>2</sup> Road: An access route which has been improved and maintained by mechanical means to insure relatively regular and continuous use. A way maintained solely by the passage of vehicles does not constitute a road.

a. Improved and maintained Actions taken physically by people to keep the road open to vehicle traffic. “Improved” does not necessarily mean formal construction. “Maintained” does not necessarily mean annual maintenance.

b. Mechanical means Use of hand or power machinery or tools.

c. Relatively regular and continuous use Vehicular use that has occurred and will continue to occur on a relatively regular basis. Examples are: access roads for equipment to maintain a stock water tank or other established water sources, access roads to maintained recreation sites or facilities, or access roads to mining claims.

<sup>3</sup> If a portion of a route is found to meet the wilderness inventory road criteria (see Part III) and the remainder does not meet these criteria (e.g., a cherrystem road with a primitive route continuing beyond a certain point), identify each segment and explain the rationale for the separate findings under pertinent criteria.

Site, Concentrated Use Site (camp site), Recreation, Utilities (transmission line, telephone, pipeline), Administrative (project maintenance, communication site, vegetation treatment)).

Describe:

**B. Right-of-Way (ROW):**

1. Is there a ROW associated with this route?

Yes      No      Unknown

2. If yes, what is the stated purpose of the ROW?

3. Is the ROW still being used for this purpose?

Yes      No      Unknown or N/A

Explain:

**III. WILDERNESS INVENTORY ROAD CRITERIA**

A. Evidence of construction or improvement using mechanical means:

Yes      (if either A.1 *or* A.2 is checked “yes” below) No      (if both A.1 *and* A.2 are checked “no” below)

1. Construction: (Is there evidence that the route or route segment was originally constructed using mechanical means?) Yes      No

Examples: Paved      Bladed      Graveled      Roadside Berms      Cut/Fill      Other

Describe:

---

<sup>4</sup> The purpose of a route is not a deciding factor in determining whether a route is a road for wilderness characteristics inventory purposes. The purpose of a route does provide context for factors on which such a determination may be based, particularly the question of whether maintenance of the route ensures relatively regular and continuous use. The purpose also helps to determine whether maintenance that may so far have been unnecessary to ensure such use would be approved by BLM when the need arises.

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2. Improvements: (Is there evidence of improvements using mechanical means to facilitate access?) Yes      No      If “yes”: by Hand Tools      by Machine

Examples: Culverts      Hardened Stream Crossings      Bridges      Drainage      Barriers  
Other

Describe:

B. Maintenance: (Is there evidence of maintenance that would ensure *relatively* regular and continuous use?): Yes      (if either B.1 *or* B.2 is checked “yes” below) No      (if both B.1 *and* B.2 are checked “no” below)

1. Is there Evidence or Documentation of Maintenance using hand tools or machinery?  
Yes      No      If “yes”: by Hand Tools      by Machine

Explain:

2. If the route or route segment is in good<sup>5</sup> condition, but there is no evidence of maintenance, would mechanical maintenance with hand tools or machines be approved by BLM to meet the purpose(s) of the route in the event this route became impassable?  
Yes      No

Explain:

---

<sup>5</sup> Good condition would be a condition that ensures regular and continuous use relative to the purposes of the route. Consider whether the route can be clearly followed in the field over its entire course and whether all or any portion of the route contains any impediments to travel.

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C. Relatively regular and continuous use: (Does the route or route segment ensure relatively regular and continuous use?) Yes      No

Describe evidence (e.g., direct, vehicles or vehicle tracks observed, or indirect, evidence of use associated with purpose of the route such as maintenance of facility that route accesses) and other rationale for whether use has occurred and will continue to occur on a *relatively* regular basis (i.e., regular and continuous use relative to the purpose(s) of the route).<sup>6</sup>

#### IV. CONCLUSION:

Does the route or route segment<sup>7</sup> meet the definition of a wilderness inventory road (i.e., are items III.A *and* III.B *and* III.C all checked yes)?

Yes      = Wilderness Inventory Road      No      = Not a road for wilderness inventory purposes

Explanation<sup>8</sup>:

Evaluator(s):

Date:

---

<sup>6</sup> Include estimate of travel rates for the stated purposes, e.g., trips/day or week or month or season or year or even multiple years in some facility maintenance cases.

<sup>7</sup> If part of the route meets the wilderness inventory road definition and the remainder does not, describe the segment meeting the definition and any remaining portion not meeting the definition and why.

<sup>8</sup> Describe and explain rationale for any discrepancies with citizen proposals.

**WILDERNESS CHARACTERISTICS INVENTORY****APPENDIX D – PHOTO LOG**

Photographer(s):

Inventory Area Unique Identifier

<b>Date</b>	<b>Frame #</b>	<b>Camera Direction</b>	<b>Description</b>	<b>GPS/UTM Location</b>	<b>Town- ship</b>	<b>Range</b>	<b>Sec.</b>	<b>Photo Point #</b>

## **BLM Idaho: Statewide Supplemental Guidance for Lands with Wilderness Characteristics**

### **Background**

It is often necessary for Bureau of Land Management (BLM) field offices to maintain and update resource inventory information to ensure adequate data is available to support decision making. Inventory updates are frequently performed when a land use plan is being revised, although they can also be updated at any time to ensure that the baseline information is current and relevant. This is especially important when using this information to perform an analysis for the National Environmental Policy Act (NEPA). One of the resource inventories that requires updating is lands with wilderness characteristics. Lands with wilderness characteristics, while a seemingly new concept to many, have been recognized as a distinct resource since the passage of the Federal Land Policy and Management Act of 1976 (FLPMA), and should be considered equally with all other resources present in a planning or project area. Section 201 of FLPMA requires the BLM to maintain, on a continuing basis, an inventory of all public lands and their resources and other values, including wilderness characteristics. To ensure that a consistent approach is taken on this matter, the BLM issued two manuals in March of 2012:

Manual 6310 – *Conducting Wilderness Characteristics Inventory on BLM Lands*

Manual 6320 – *Considering Lands with Wilderness Characteristics in Land Use Plans*

All of the Idaho guidance should be should be considered in the context of Manuals 6310 and 6320.

In an effort to ensure that the BLM has the most up to date information to use in analysis and decision making, this Idaho policy has been developed to guide the BLM in updating and maintaining its inventory of wilderness characteristics. This policy is also intended to assist staff in determining how to analyze potential impacts to wilderness characteristics through the NEPA process and to consider potential options to reduce impacts to the resource when management options have not been determined through the land use planning process. The following direction outlines the steps the BLM Idaho will take to ensure that wilderness characteristics are considered as a resource value.

This direction is divided into three parts. Part I identifies the process by which the BLM Idaho will ensure inventories are up to date and considers all available information while determining if wilderness characteristics are an issue for analysis in relevant NEPA processes. Part II will assist the BLM Idaho in considering management options for lands with wilderness through the NEPA process. Part III will provide guidance on how to appropriately analyze impacts to wilderness characteristics where potential resource conflicts exist.

### **Part I – Maintaining and Updating Inventories**

It is BLM policy that field offices complete and maintain a current inventory of lands with wilderness characteristics (see BLM Manual 6310.06 A Maintaining the Inventory). This is particularly important when projects are proposed in areas that are known to have wilderness characteristics or in areas that may have wilderness characteristics but have not been inventoried. Additionally, if new inventory findings are received from the public, the BLM should acknowledge the receipt of this information in a timely manner.

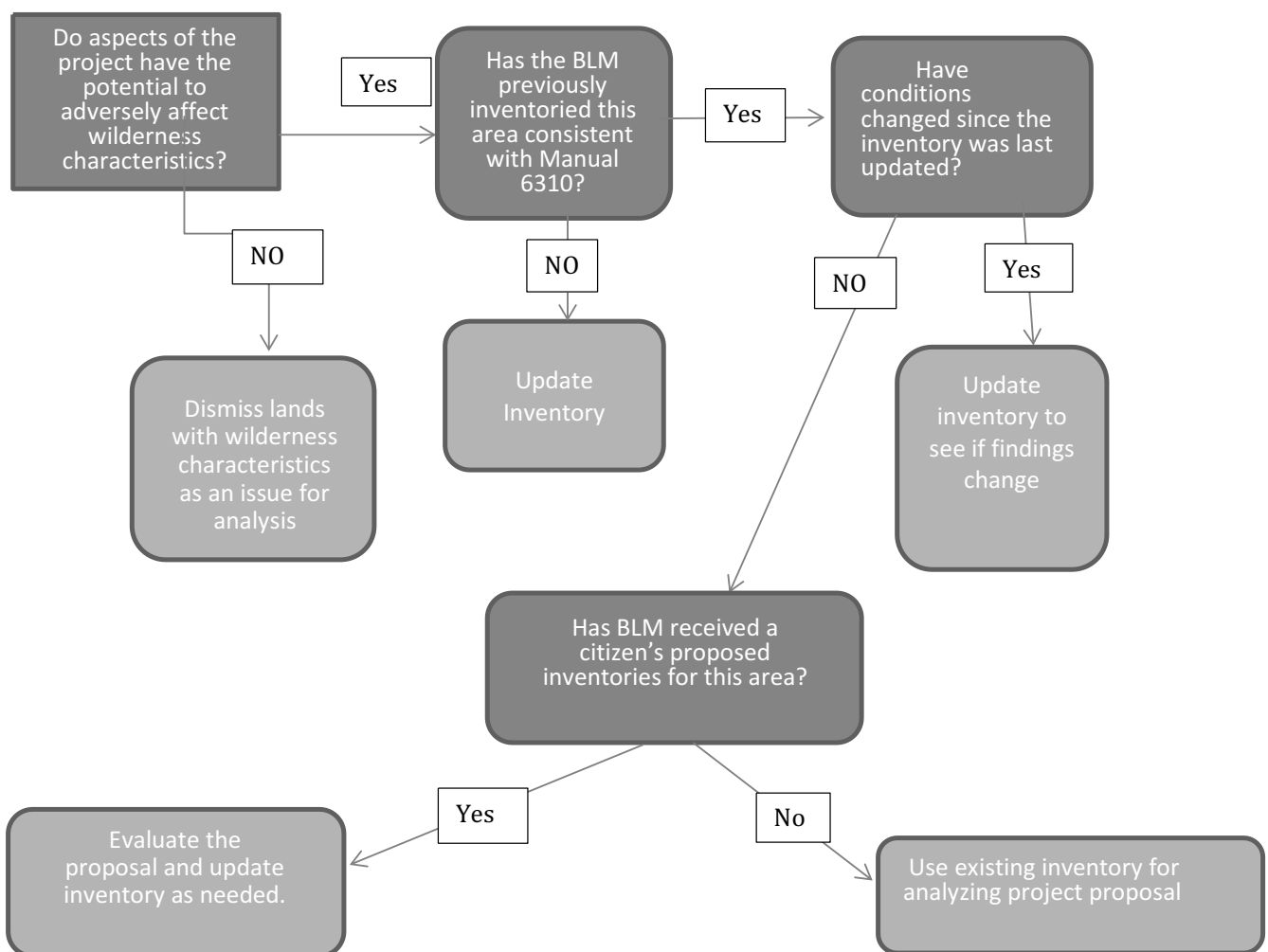
The BLM Idaho should ensure that inventories are completed and documented before approving activities where wilderness characteristics may exist and when there is potential for adverse impacts. Following submittal of a project proposal within or near lands that may have wilderness characteristics, or that would potentially cause negative impacts to wilderness characteristics, consider the following:

- Determine if the inventory needs to be updated. No update is necessary if there is no potential for adverse impacts to lands with wilderness characteristics from the proposed action. This

determination should be carefully documented in the project file and/or the NEPA document as an issue considered but dismissed from further analysis.

- If an update is necessary, follow the procedures outlined in the BLM Manual 6310 for documentation of the inventory process.
- Make the results of the updated inventory available to the public (see more guidance about this below) and notify submitters of the citizen's inventory of the results when applicable.
- If the updated inventory shows that no wilderness characteristics exist in the project area, dismiss the issue from further analysis.
- If the updated inventory shows that wilderness characteristics are determined to be present and have the potential to be impacted, follow the procedures in Part II.

**Figure 1. Ensuring the inventory is up to date**



*Inventory Maintenance*

Regardless of past inventory efforts, the BLM must maintain its inventory of wilderness resources on public lands. Conditions relating to wilderness characteristics often change over time. For example, permitted projects that occurred prior to the BLM policy on lands with wilderness characteristics may result in a reduction, or elimination of, one or more wilderness characteristics. Conversely, an area once lacked wilderness characteristics may now possess them due to natural or human-caused reclamation activities. Other activities such as wildfire suppression activities (dozer-lines or engine tracks, highly visible seeded rows from rehabilitation efforts), trespass, or proliferation of unauthorized Off Highway Vehicle routes, may reduce or eliminate wilderness characteristics. According to Manual 6310, the following circumstances may help to determine when to consider if updates to an existing wilderness characteristics inventory are necessary:

1. The public or the BLM identifies wilderness characteristics as an issue for analysis during the NEPA process.
2. The BLM is undertaking a land use planning process (i.e., land use plan revision or amendment).
3. The BLM receives new information concerning resource conditions, including wilderness characteristics information submitted by the public that meets the BLM's minimum standard described in the BLM Manual 6310 B(1).
4. The BLM acquires additional lands.

The BLM may find it appropriate in other circumstances to update its wilderness characteristics inventory. At a minimum, field offices should confirm that existing inventories are up to date when there is reason to believe that an action will adversely impact the existing or potential wilderness characteristics of an area.

The BLM has an obligation to review any new wilderness characteristics information submitted by the public, and determine whether the submitted information meets the Minimum Standards for Review of New Information as outlined in the BLM Manual 6310, Section .06, Subsection B1. This minimum standards review should be performed within 60 days of receipt of the public's submission. Upon completion of the review, the field office should respond in writing to the person or entity submitting the information. The response should include an evaluation of the information's completeness, and whether it meets the BLM's minimum standards for further review.

The task of performing updates to an inventory, particularly in response to large amounts of new information from the public, may present staffing and budget challenges to field offices. Field offices should routinely update existing inventories when any of the triggers listed above necessitate an update. Not all submittals from the public will require a full update of the inventory; however, some documentation of the review of their information should be included in the inventory files. If a field office receives a large amount of new information from the public, and updating existing inventories will result in a significant burden on staff-time and budget, the field office should develop a plan of action and associated timeline for completing the inventory updates. Considerations for prioritizing areas to complete inventory updates include:

- Areas for which projects have been proposed.
- Well-known or potentially controversial areas.
- Areas that have a high probability for future proposed actions.

If field offices determine they do not have the internal capacity to complete inventory updates in a

reasonably responsive time frame, they should seek assistance from the District Office, State Office and Washington Office. This assistance may be provided in the form of additional budget, or through other means, such as the BLM interns or seasonal employees. If the inventory update is required specifically for an external or proponent-driven project, then field offices may also request that the cost of the completion of the inventory update be funded by that proponent (i.e., as cost recovery). The field office should ensure that all inventories completed by third parties meet the standards identified in the BLM Manual 6310 prior to acceptance of the findings.

In order to maintain consistency across the state and to ensure compliance with Manual 6310, the Idaho State Office National Conservation Lands Program Lead will review all new and updated inventory findings prior to releasing the information to the public.

#### *Releasing Inventory Information to the Public*

All the BLM field offices should release finalized and signed wilderness characteristics inventory findings to the public as soon as practicable *after* their completion and *before* the inventory data is used to inform decisions. This should occur before the publication of any draft NEPA analysis associated with an action. Hard copies of all documentation should be kept in the field office.

At a minimum, the following items should be available for every inventoried lands with wilderness characteristics unit:

- Forms 1 and 2 in Appendix B of BLM Manual 6310
- A map of each inventoried area, clearly depicting the general location of the area, the boundaries of the area, and any routes that have been cherry-stemmed out of the unit
- Documentation of any updates to the inventory for the unit (including maps)
- Determination memorandum signed by the authorized officer

Field offices should provide notification to the submitters of inventory information that was used to inform inventory updates when these updates become available.

#### **Part II: Consideration of Lands with Wilderness Characteristics in Planning.**

The Resource Management Plan (RMP) is not required to be amended or revised solely as a result of an inventory update. According to Section 201 of FLPMA, *“The preparation and maintenance of such inventory or the identification of such areas shall not, of itself, change or prevent change of the management or use of public lands.”* The updated inventory is a change to the existing environment analysis baseline for the inventoried resource. The RMP analyzed the existing environment with the information that was available at the time of analysis. The authorized officer has the discretion to determine when a change in land use planning allocations and management actions are necessary to protect an area with wilderness characteristics. At the implementation level, new NEPA analysis should incorporate new information as it becomes available. New analyses should consider the full context of the updated inventory as it relates to the proposed actions. An amendment is not required to avoid or mitigate impacts to wilderness characteristics. This can be accomplished through the project-activity level NEPA process by development of alternatives, mitigation measures, or design features.

If wilderness characteristics might be impacted by a proposed project or management action, the field office must determine if the area was previously analyzed as part of an RMP revision or an amendment process. If the RMP considered management of the area within the range of alternatives analyzed in the Environmental Impact Statement, the field office will follow the management prescriptions as identified in the Approved RMP.

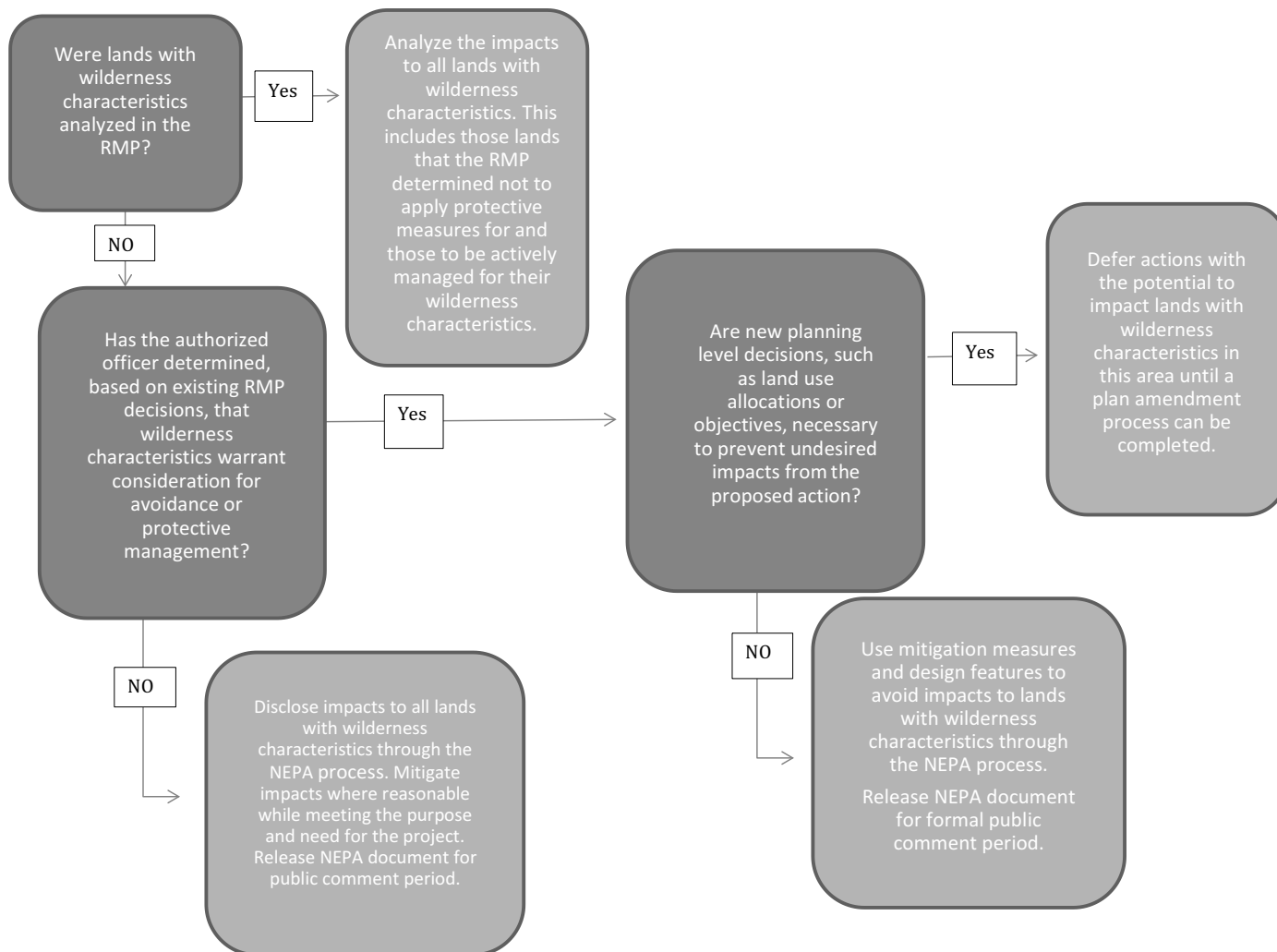


If the area was not addressed through an RMP revision or amendment, the authorized officer must determine if the new information about the presence of wilderness characteristics warrants specific management or protection not already provided by the existing RMP. This should include consideration of the other resource values and uses present, the scarcity of various resources and other factors as provided under Sections 201 and 202 of FLPMA. A determination regarding whether a land use plan amendment or revision is warranted should be made through regular periodic RMP evaluations under the direction of the Land Use Planning Manual (1601).

The authorized officer will consider potential adverse impacts to wilderness characteristics through the NEPA process for a proposed project. A NEPA process considering potential impacts to wilderness characteristics within an area not previously considered for protection in a land use planning process should analyze alternative management options for the area including an alternative that avoids impacts to wilderness characteristics. This could be accomplished through analysis of the No Action alternative and/or an action alternative proposing mitigation of adverse impacts to lands with wilderness characteristics. Analysis of the proposed action or any alternatives should disclose the potential adverse impacts to lands with wilderness characteristics from approval of the activities. Careful consideration should be given to cumulative effects of multiple projects that impact wilderness characteristics when they have not been considered for protection in a land use plan. The NEPA documents should be released for public comment if the analysis finds that the effects will result in a change to the wilderness characteristics. The decision record for the project should identify the rationale for the final decision on whether or not to allow impacts.

If the authorized officer determines that impacts to wilderness characteristics in an area must be avoided, she should determine whether existing resource protection measures are sufficient to avoid impacts from the proposed activity or if planning level decisions are necessary to protect the area. Not all protection measures may require a plan amendment. An authorized officer could determine that an area warrants protection but that existing planning decisions or decisions related to protection of other resource values (e. g. management for non-motorized recreation, Visual Resource Management class II, no surface occupancy) are adequate to avoid potential impacts to wilderness characteristics. This may protect lands with wilderness characteristics from some proposed actions but may not protect from all uses. The authorized officer could still determine that new allocations and management actions are necessary to protect the wilderness characteristics, which would initiate a land use plan amendment. Interim management of the area needing additional protection should defer activities that cannot be adequately mitigated with existing management decisions until an amendment can be completed.

BLM Idaho  
Statewide Lands with Wilderness Characteristics Guidance



### **Part III: Analyzing Potential Impacts to Lands with Wilderness Characteristics**

Impacts should be assessed using the wilderness characteristics inventory criteria (roadless, naturalness, outstanding opportunities for primitive/unconfined recreation and supplemental values) defined in the BLM Manual 6310 as a guide, combined with referencing the existing lands with wilderness characteristics inventory reports for the affected area, reviewers should be able to accurately describe and analyze the impacts.

Potential impacts should be analyzed for the individual wilderness characteristics determined to be present in the inventoried unit. The nature of these characteristics should be described in the narrative of the inventory reports for each specific area determined to have lands with wilderness characteristics, and summarized in the affected environment of the NEPA document. For example, if the project is a proposed non-motorized trail that winds through a lands with wilderness characteristics unit, it would be appropriate to make a determination if the project is temporary or long-term (in this case a trail would be a long-term impact) and determine if the project is consistent with the defining characteristics of the area (would it provide additional opportunities for solitude or take away from opportunities for solitude, or would the project provide additional opportunities for primitive types of recreation or remove those opportunities). Would the project negatively impact the naturalness of an area? If so, what is the magnitude of this impact (e.g., the impact would be minimal because the design of the trail would limit bank cuts and prohibit the use of built structures).

Assessing the presence or absence of impacts, and determining the magnitude of those impacts, is an analytical process and should be approached independently for each new proposed project and for each inventoried lands with wilderness characteristics unit. The reviewer should also determine whether the impacts from the proposed project are so great that the area would no longer meet the inventory criteria; or conversely, determine whether the impacts are isolated and the impact to the unit as a whole is minimal, thereby not affecting the determination that the area possesses wilderness characteristics.

Below are some additional questions to consider for each inventory criteria when conducting an impact assessment for lands with wilderness characteristics.

1. **Size:** Would the proposed action bisect the unit so that there are no longer 5,000 acres or more of contiguous BLM lands? If so, would the area still meet one of the other size criteria as defined in the BLM Manual 6310, Section .06, Subsection C, 2(a), i (2)?
2. **Naturalness:** Does the proposed action affect the unit so that it no longer appears to be affected primarily by the forces of nature?
  - a. Does the proposed action affect the area so that it no longer appears to have been affected primarily by the forces of nature, and so that any work of human beings is no longer substantially unnoticeable? (Note -- examples of human-made features that may be considered substantially unnoticeable in certain cases are: trails, trail signs, bridges, fire breaks, pit toilets, fisheries enhancement facilities, fire rings, historic properties, archaeological resources, hitching posts, snow gauges, water quantity and quality measuring devices, research monitoring markers and devices, minor radio repeater sites, air quality monitoring devices, fencing, spring developments, barely visible linear disturbances, and stock ponds). Although individually these facilities may not substantially affect naturalness, their impacts should also be assessed cumulatively.
  - b. Describe human impacts that will remain after the project is completed. Document

noticeable human impacts that will be added to the area. If several minor impacts will be added, does their cumulative effect on the area's degree of apparent naturalness reach a threshold that would make the area no longer meet the naturalness criterion?

3. **Solitude and Primitive and Unconfined Recreation:** Does the proposed action affect the area so that it no longer provides outstanding opportunities for solitude or primitive and unconfined types of recreation? (Note - An area does not need to contain outstanding opportunities for both solitude and primitive and unconfined types of recreation, only one of the two. Additionally, an area does not need to possess outstanding opportunities on every acre).
  - a. *Solitude:* Determine if the proposed action affects the area so that it would remove, or preclude, outstanding opportunities for solitude. Would the proposed action create a situation whereby a visitor would not be able to avoid the sights, sounds and evidence of other people in the area? Factors or elements of a proposed action that may influence a visitor's solitude include distance between areas of frequent visitation, vegetative screening around the proposed action, topography of the area around the proposed action, likelihood that the project will attract significant additional public visitation, and the ability of visitors to avoid the proposed action and find seclusion in other parts of the inventory unit.
  - b. *Primitive and Unconfined Recreation:* Determine if the proposed action affects the area in such a way that it prevents or removes outstanding opportunities for primitive and unconfined types of recreation. Would the proposed action impair the qualities of the primitive and unconfined recreation opportunities to the degree that they would no longer be outstanding? Examples of primitive and unconfined types of recreation include hiking, backpacking, fishing, hunting, spelunking, horseback riding, climbing, river running, cross-country skiing, snowshoeing, dog sledding, photography, bird watching, canoeing, kayaking, sailing, and sightseeing for botanical, zoological, or geological features, among others. (Note - It is important to reference the inventory report for an area when determining a proposed action's effect on primitive and unconfined types of recreation. Some areas may provide outstanding opportunities for a diversity of primitive and unconfined recreational activities possible in the area, or simply for the outstanding quality of one opportunity).

**Supplemental Values:** Does the proposed action negatively impact any supplemental values which were inventoried for the area? Determine and document any potential impacts to inventoried supplemental values of the area. (Note - The presence of supplemental values are not required for an area to be considered as containing lands with wilderness characteristics. As such, if there are impacts to the supplemental values of an area, but to none of the other inventoried criteria, the determination of whether the area possesses wilderness characteristics would be unaffected. It may be necessary to consider the impacts to the supplemental values in their respective resource sections in the NEPA document if impacted. You may reference the other resource section for these impacts if applicable.)

Form 1221 2  
(June 1969)



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

MANUAL TRANSMITTAL SHEET

Release

6-130

Date

03/15/2012

**Subject**

**6320—Considering Lands with Wilderness Characteristics in the BLM Land Use Planning Process (Public)**

**Explanation of Materials Transmitted:** This manual contains the Bureau of Land Management's (BLM) policy and guidance for considering lands with wilderness characteristics in the Bureau of Land Management's (BLM) land use planning process under the Federal Land Policy and Management Act of 1976 (FLPMA) and other applicable law and supersedes all previous guidance on this topic. It does not address or affect policy related to Congressionally-designated Wilderness or existing Wilderness Study Areas (WSAs) pending before Congress.

**1. Reports Required: None**

**2. Materials Superseded: This manual supersedes BLM Manual Sections 6302 and 6303**

**4. Filing Instructions: File as directed below**

**REMOVE**

**All 6302 (Rel. 6-127)  
(Total 14 Sheets)**

**All 6303 (Rel. 6-128)  
(Total 8 Sheets)**

**INSERT**

**6320**

**(Total 8 Sheets)**

/s/

**Robert V. Abbey  
Director**

**6320 MANUAL-CONSIDERING LANDS WITH WILDERNESS CHARACTERISTICS  
IN THE BLM LAND USE PLANNING PROCESS**

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## **6320 MANUAL-CONSIDERING LANDS WITH WILDERNESS CHARACTERISTICS IN THE BLM LAND USE PLANNING PROCESS**

**.01 Purpose.** This policy outlines general procedures for considering lands with wilderness characteristics in the Bureau of Land Management's (BLM) land use planning process under the Federal Land Policy and Management Act of 1976 (FLPMA) and other applicable law and supersedes all previous guidance on this topic. It does not address or affect policy related to Congressionally-designated Wilderness or existing Wilderness Study Areas (WSAs) pending before Congress.

**.02 Objective.** This Manual establishes BLM policy on considering lands with wilderness characteristics in land use plans and land use plan amendments or revisions.

**.03 Authority.** Principal authorities affecting the consideration of lands with wilderness characteristics in the planning process are:

- A. FLPMA, 43 U.S.C. 1701 *et seq.*, exclusive of 43 U.S.C. 1782.
- B. Wilderness Act of 1964, 16 U.S.C. 1131 *et seq.*
- C. National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* (NEPA).
- D. Naval Petroleum Reserves Production Act of 1976, 42 U.S.C. 6501 *et seq.* (NPRPA).
- E. Alaska National Interest Lands Conservation Act (ANILCA), Section 1320, 43 U.S.C. 1784.
- F. Oregon and California Lands Act of 1937, 43 U.S.C. 1181a-1181j.
- G. Council on Environmental Quality (CEQ) Regulations, 40 CFR 1500-1508.
- H. BLM Regulations, 43 CFR Part 1600, 43 CFR Part 2360.
- I. Department of the Interior (DOI) NEPA Regulations, 43 CFR Part 46.

### **.04 Responsibilities.**

- A. The BLM Director shall:
  - 1. Coordinate with State Directors on considering and, as warranted, protecting lands with wilderness characteristics in land use plans.
- B. State Directors shall:
  - 1. Implement policy and provide statewide program coordination and guidance for the consideration of lands with wilderness characteristics inventories and, as warranted, the protection of lands with wilderness characteristics in land use plans.

2. Provide program development, technical management assistance, and support to District and Field Offices to ensure lands with wilderness characteristics and potential resource conflicts are adequately analyzed.

C. District Managers and Field Managers shall:

1. Update and maintain the wilderness inventory for lands within the planning area consistent with BLM wilderness characteristics inventory guidance.
2. Ensure that wilderness characteristics inventories are considered and that, as warranted, lands with wilderness characteristics are protected in a manner consistent with this manual in BLM planning processes.

**.05 References.** Principal references for these instructions are:

- A. FLPMA, 43 U.S.C. 1701 *et seq.*
- B. Wilderness Act, 16 U.S.C. 1131 *et seq.*
- C. NEPA, 42 U.S.C. 4321 *et seq.*
- D. NPRPA, 42 U.S.C. 6501 *et seq.*
- E. Oregon and California Lands Act of 1937 (O&C Lands Act), 43 U.S.C. 1181a.
- F. ANILCA Section 1320, 43 U.S.C. 1784.
- G. CEQ Regulations, 40 CFR 1500-1508.
- H. BLM Regulations, 43 CFR Part 1600.
- I. BLM Handbook H-1601-1, Land Use Planning.
- J. DOI NEPA Regulations, 43 CFR Part 46.

**.06 Policy.** Managing the wilderness resource is part of the BLM's multiple use mission. Consistent with FLPMA and other applicable authorities, the BLM will consider the wilderness characteristics of public lands when undertaking land use planning. The BLM will use the land use planning process to determine how to manage lands with wilderness characteristics as part of the BLM's multiple-use mandate. The BLM will consider a full range of alternatives for such lands when conducting land use planning. The BLM will analyze the effects of (1) plan alternatives on lands with wilderness characteristics and (2) management of lands with wilderness characteristics on other resources and resource uses.

In some circumstances, consideration of management alternatives for lands with wilderness characteristics may be outside the scope of a particular planning process (as dictated by the statement of purpose and need for the planning effort). For example, a targeted amendment to address a specific project or proposal may not in all circumstances require consideration of an alternative that would protect wilderness characteristics. In these situations, the NEPA document



associated with the plan amendment must still analyze effects of the alternatives on lands with wilderness characteristics.

The process described in this policy shall be integrated into land use plans in order to ensure that lands with wilderness characteristics and their management are adequately evaluated in an environmental analysis.

**A. Procedures for Considering Lands with Wilderness Characteristics in Land Use Planning.** The BLM will evaluate lands with wilderness characteristics through the land use planning process. When such lands are present, the BLM will examine options for managing these lands and determine the most appropriate land use allocations for them. Considering wilderness characteristics in the land use planning process may result in several outcomes, including, but not limited to: (1) emphasizing other multiple uses as a priority over protecting wilderness characteristics; (2) emphasizing other multiple uses while applying management restrictions (conditions of use, mitigation measures) to reduce impacts to wilderness characteristics; (3) the protection of wilderness characteristics as a priority over other multiple uses. The BLM will continue to engage cooperating agencies, the public, and other interested parties in the land use planning process as it relates to the management of lands with wilderness characteristics.

1. Factors for Consideration of Lands with Wilderness Characteristics. Consider and document the wilderness characteristics for each area identified as possessing wilderness characteristics through the inventory described in Manual 6310.
  - a. Manageability. Consider and document whether the lands can be effectively managed to protect their wilderness characteristics. Consider whether boundary modification of the area would improve manageability. Manageability may vary depending on the planning alternative.
    - i. General. The BLM must determine how lands with wilderness characteristics will be managed over the life of the plan, based on present knowledge of the resources, ongoing uses, and valid existing rights in the area.
    - ii. Documenting Land Status. Document the land status and mineral ownership of lands with wilderness characteristics. Subsurface rights in an area owned by a party other than the Federal government may limit the BLM's ability to protect wilderness characteristics on the surface.
    - iii. Access to State or Private Inholdings. In addressing manageability, assess the potential impact of providing access to non-Federal inholdings.
    - iv. External Impacts. The fact that incompatible activities or uses can be seen or heard from areas possessing wilderness characteristics should not be a determining factor when analyzing the manageability of such areas unless these impacts are pervasive and omnipresent.
    - v. Other Statutory Requirements. Some lands managed by the BLM are subject to specific additional statutory requirements (e.g., the National Petroleum Reserve Production Act (NPRPA) and the Oregon and California (O&C)

Lands Act). Consider those requirements where appropriate in determining manageability of lands with wilderness characteristics.

- b. Resource Values and Uses. Consider and document the extent to which other resource values and uses of lands with wilderness characteristics would be forgone or adversely affected if the wilderness characteristics are protected. Consider the benefits that may accrue to other resource values and uses as a result of protecting wilderness characteristics. Consider the following:
    - i. Presence of Other Resources. The degree to which other resources or uses are present in the area with wilderness characteristics;
    - ii. Development Potential. The potential for further development or use of the other resources on the lands with wilderness characteristics;
    - iii. Resource Availability. The degree to which other resources or uses are present on other public and private lands outside the area containing wilderness characteristics;
    - iv. Economic Importance. Local, regional, or traditional (e.g. Tribal) economic value of various resources on the lands with wilderness characteristics and the potential to enhance the economic importance by protecting the lands with wilderness characteristics; and
    - v. Compatibility with Protection. The degree to which use or development of each resource is compatible with or conflicts with management of the area to protect wilderness characteristics.
  - c. Congressional Release of WSAs. Periodically, Congress considers a WSA for Wilderness designation. When Congress decides not to designate a WSA or a portion of a WSA as Wilderness and releases that WSA from FLPMA Section 603's non-impairment standard, the BLM shall take into serious consideration the Congressional action—as well as any changed circumstances—in the BLM's subsequent land use planning decisions for the released land. Document the basis for the BLM land use planning decisions regarding the management of the released land.
2. Land Use Planning Process. Additional information is included in the Land Use Planning Handbook H-1601-1.
- a. Preparation Plan. The preparation plan provides the foundation for the entire planning process. The preparation plan should also identify the skills, data/meta-data, budget, and interim tasks (such as completing or updating the wilderness characteristics inventory) necessary to address the issues through the planning process.
    - i. Issue Identification. Planning issues include disputes or controversies about existing and potential land and resource allocations, levels of resource use, development, and protection opportunities for consideration in the preparation

of the land use plan. Identify whether lands with wilderness characteristics are a planning issue to be addressed and any associated management concerns.

- ii. Planning Criteria. Planning criteria guide development of the plan by helping define the decision space. Identify preliminary planning criteria related to wilderness characteristics management, including plan parameters, constraints, or existing planning decisions that will be carried forward.
  - iii. Data Needs. The preparation plan should identify the information or data needed to resolve issues or to perform the requisite analysis. Identify existing lands with wilderness characteristics-related data sources, such as prior wilderness inventories and new inventory information provided by external sources. Identify data gaps and other information necessary to address lands with wilderness characteristics, such as completion of a new wilderness characteristics inventory pursuant to BLM Manual 6310.
  - iv. Budget. Identify labor and operation support costs necessary to obtain skilled personnel, inventory information, and other data to address lands with wilderness characteristics through the planning process. Include indirect costs and an allocation of support labor and operations costs. Include the land records and other documentation expenses.
- b. Scoping. The Notice of Intent should include lands with wilderness characteristics if they are a planning issue to be addressed. The Notice of Intent should also identify any lands with wilderness characteristics-related preliminary planning criteria. Initiate government-to-government consultation with Tribes potentially affected by planning decisions regarding such lands. In the Scoping Report, summarize comments related to wilderness characteristics received during the formal scoping period and describe any additional wilderness characteristics-related issues from internal or external scoping meetings.
  - c. Analysis of the Management Situation (AMS). The AMS provides the basis for formulating reasonable alternatives and can begin as soon as the planning project is approved. Where lands with wilderness characteristics have been identified in an inventory, describe current management direction relating to such lands from existing planning documents. Prepare an area profile for lands with wilderness characteristics that describes their locations and current trends and levels of other resource uses and activities in those areas. Incorporate the analysis and documentation performed under the Factors for Consideration of Lands with Wilderness Characteristics section of this policy regarding the quality, manageability, and other resource values and uses of such areas. Identify management opportunities to respond to identified issues.
  - d. Resource Considerations and Formulation of Alternatives. BLM's multiple-use mission includes, where appropriate, preservation and protection of public lands in their natural condition. The concept of multiple-use management as defined in FLPMA also includes the use of some land for less than all of the resources. Where lands with wilderness characteristics have been identified through the

inventory process, the NEPA document used to support the land use plan (or land use plan amendment or revision) decision shall contain a full range of reasonable alternatives to provide a basis for comparing impacts to wilderness characteristics and to other resource values or uses. Lands with wilderness characteristics must be delineated as discrete units to which management prescriptions may be applied.

Each alternative should include management actions and allowable uses and restrictions designed to achieve the desired outcomes (goals and objectives) of the land use plan. An alternative that protects lands with wilderness characteristics must contain management actions to achieve protection. Examples of land use plan decisions that could protect lands with wilderness characteristics include, but are not limited to, the following:

- i. Recommend withdrawal from mineral entry.
- ii. Close to leasing or allow leasing only with no surface occupancy with no exceptions, waivers, or modifications.
- iii. Designate as right-of-way exclusion areas.
- iv. Close to construction of new roads.
- v. Designate as closed to motor vehicle use, as limited to motor vehicle use on designated routes, or as limited to mechanized use on designated routes.
- vi. Close to mineral material sales.
- vii. Exclude or restrict with conditions for certain commercial uses or other activities (e.g., commercial or personal-use wood-cutting permits).
- viii. Designate as Visual Resource Management Class I or II.
- ix. Restrict construction of new structures and facilities unrelated to the preservation or enhancement of wilderness characteristics or necessary for the management of uses allowed under the land use plan.
- x. Retain public lands in Federal ownership.

Note: In developing management actions and allowable uses for land use plans in Alaska, the BLM should take into account the relevant management provisions of the Alaska National Interest Lands Conservation Act (ANILCA).

Management actions pertaining to lands with wilderness characteristics should be placed in a "Lands with Wilderness Characteristics" subheading under the Resources section of planning documents.

In areas where the management decision is not to protect wilderness characteristics, consider measures to minimize impacts on those characteristics.

- e. **Affected Environment.** In the NEPA document used to support the planning decision, describe the inventory process, summarize any information received from the public, and incorporate inventory information by reference. The NEPA document should include a brief description of each land with wilderness characteristics, including a map delineating the boundaries of each such area and the acreage. Also describe the existing administrative designations, land use allocations, uses, management actions, and mitigation measures that are currently in place.
- f. **Environmental Consequences.** In the NEPA document used to reach the planning decision, describe the direct, indirect, and cumulative effects of (1) various alternatives on lands with wilderness characteristics and (2) managing to protect lands with wilderness characteristics on other affected resources.

The extent to which managing to protect the wilderness characteristics affects a particular resource or use will vary from area to area, depending on a number of factors, including:

- i. The degree to which use or development of the resource is compatible with or conflicts with protection of wilderness characteristics.
  - ii. The degree to which protection of wilderness characteristics enhances other multiple use benefits on or near the management area such as recreational opportunities, protection of watersheds, wildlife habitat, natural plant communities, cultural resources, scenic quality, and similar natural values.
- g. **Final Planning Decision.** In making the final planning decision regarding management of lands with wilderness characteristics, consider both the resources that would be forgone or adversely affected, and the resources that would benefit under each alternative. As with any planning decision, document the reasons for its determination regarding management of lands with wilderness characteristics.

## **Questions and Answers Related to the Settlement of Longstanding Land Use Plan Litigation in Utah**

### **GENERAL QUESTIONS**

#### **What litigation does this settlement address?**

If approved by the district court, the agreement will settle a longstanding legal challenge originally filed in December 2008 in federal district court for the District of Columbia and later transferred to the District of Utah in 2012. The litigation involves challenges to the land use and travel management plans for the BLM-Utah Richfield, Moab, Price, Monticello, Kanab, and Vernal Field Offices, as well as challenges to the November 2014 oil and gas lease sale.

In 2015, the Utah district court gave the BLM three years to correct errors it identified in BLM-Utah Richfield's land use and travel planning relating to the National Historic Preservation Act (NHPA) and the Wild & Scenic Rivers Act, and the Federal Land Policy and Management Act (FLPMA) initially identified by the court in 2013. The court further required the BLM to undertake on-the-ground archaeological surveys along the entirety of every route designated as open; the BLM appealed the district court's rulings related to the NHPA and its requirement for archaeological surveys to the Tenth Circuit.

This settlement would resolve all of plaintiffs' claims in the district court and the pending appeals. It will not be effective, however, unless the Tenth Circuit agrees to dismiss the appeals and the district court agrees to dismiss plaintiffs' case and vacate its earlier rulings.

#### **What area would be covered by the settlement?**

If approved by the district court, the settlement will resolve litigation affecting all of the lands in the BLM-Utah Richfield, Moab, Price, Monticello, Kanab, and Vernal Field Offices, which is approximately 10 million acres. Most of the BLM's obligations under the settlement would pertain to approximately half of the area managed by the Richfield, Moab, Price, Kanab, and Vernal Field Offices and significantly less than half of the area included in the plaintiffs' lawsuit. Certain air quality commitments would pertain to the Price and Vernal Offices while others apply to all six field offices.

#### **Who are the parties to the settlement?**

The parties to the settlement include a consortium of ten conservation groups (Southern Utah Wilderness Alliance, The Wilderness Society, Natural Resources Defense Council, Sierra Club, National Parks Conservation Association, National Trust for Historic Preservation, Utah Rivers Council, Great Old Broads for Wilderness, Rocky Mountain Wild, Grand Canyon Trust), three off-road vehicle (ORV) organizations (Blue Ribbon Coalition, Colorado Off-Highway Vehicle Coalition, Trails Preservation Alliance), and federal defendants (including the BLM and the Interior Department).

Although they are not parties to the agreement, several entities who intervened on behalf of the United States in the litigation have reviewed the agreement and agreed not to oppose it in the federal district court. These include the Utah School and Institutional Trust Lands Administration, EOG Resources, XTO Energy, Crescent Point Energy US Corp., and Badlands Energy.

Other entities who intervened on behalf of the United States have indicated that they will oppose the settlement. These include the State of Utah, and Carbon, Duchesne, Daggett, Emery, Grand, Kane, San Juan, and Uintah Counties.

**What is required for the settlement to go into effect?**

The settlement has been signed by the plaintiffs, defendants, and certain intervenors, but it will only go into effect if the Tenth Circuit dismisses the appeals of the federal defendants and intervenors supporting the federal defendants and the district court agrees to dismiss the plaintiffs' lawsuit and vacate two prior orders. Intervenors who so choose will have an opportunity to oppose those actions by the district court and Tenth Circuit.

**What would be the BLM's primary travel management commitments under the settlement?**

If the district court approves the settlement, the BLM will commit to do the following:

- During the next eight years, the BLM would prepare 13 new travel management plans for parts of the BLM-Utah Richfield, Moab, Price, Kanab, and Vernal Field Offices. State and local governments, federal agencies, tribal governments, and the public would be invited to participate in each of these individual travel management planning processes.
- In preparing the new travel management plans, the BLM would conduct on-the-ground archaeological surveys along routes proposed for designation where each field office determines through state-of-the-art predictive modelling that there is a high potential for cultural resources. The BLM would also conduct these surveys along routes in areas of critical environmental concern (ACECs) that are designated to protect cultural resources. The BLM would develop its exact survey commitments for each travel management plan in consultation with Native American tribes, the State of Utah, cultural resource experts, and other consulting parties.
- The BLM would conduct additional monitoring of motorized vehicle use off of designated routes in Wilderness Study Areas, Natural Areas, and lands with BLM-inventoried wilderness characteristics in those areas where it is creating new travel management plans under the settlement. This additional monitoring would take place in conjunction with the BLM's ongoing obligation to monitor motorized vehicle use on all designated routes. If the BLM determines that motorized vehicle use is causing certain types of harm on any route, regardless of its location, the BLM will take appropriate management action as required by regulation.
- Over the course of five years, the BLM would evaluate three previously proposed ACECs that were not designated in the 2008 land use plans. As part of this re-evaluation, the BLM would determine whether further action is necessary to protect any relevant and important values.

**What are the BLM's primary oil and gas commitments under the settlement?**

If the district court approves the settlement, the BLM will commit to do the following:

- The BLM would update its 2011 Utah Air Resource Management Strategy (ARMS) and 2013 photochemical modeling analysis in the Price and Vernal Field Offices to take account for the most up-to-date information. The ARMS and photochemical modeling analysis are tools that the BLM can use to ensure that certain decisions related to oil and gas development are consistent with federal air quality standards. These tools are non-binding, meaning that the BLM would not need to use the ARMS or photochemical modeling analysis for any oil and gas development decision.
- For any lease sales or land use plan changes related to oil and gas development undertaken in the next eight years in the Richfield, Moab, Price, Monticello, Kanab, and Vernal Field Offices, the BLM would determine through the NEPA process whether air quality mitigation measures can be incorporated into lease stipulations and notices.

**What are the plaintiffs' commitments under this settlement?**

The settlement requires the plaintiffs to move to dismiss all of their claims against the six land use plans and travel management plans, as well as the November 2014 oil and gas lease sale. In addition, the plaintiffs will request that the district court vacate its prior rulings in the litigation.

**How does this settlement benefit BLM?**

If approved by the district court, the settlement agreement will have a number of significant benefits for the BLM:

- The settlement would resolve eight years of contentious litigation that has consumed substantial BLM, Department of Justice (DOJ), and other federal government resources and has required the BLM to divert funds from other BLM state budgets. The settlement would allow the BLM to appropriately focus its time and resources on other agency priorities.
- The settlement would preserve the 2008 land use plans in the Richfield, Moab, Price, Monticello, Kanab, and Vernal Field Offices. Preserving the 2008 land use plans would provide the BLM and the public certainty regarding thousands of land management decisions in all program areas across much of the eastern and southern portions of Utah.
- The settlement primarily would commit the BLM to travel management planning in less than half of the geographic area covered by the plaintiffs' lawsuit. It also would commit the BLM to undertaking archeological surveys only along routes in areas with a high potential for cultural resources.
- The settlement encourages robust public participation in the travel planning process, which will allow BLM to hear and consider concerns from local communities about travel management plans and route designations.
- The settlement would save the Department of the Interior and DOJ considerable litigation costs that would be required to continue to litigate the plaintiffs' claims. Litigating would require completing the BLM's current appeal and then litigating in trial court the plaintiffs' claims related to the other five land use plans, travel management plans, and the 2014 oil and gas lease sale in the Moab, Price, Monticello, Kanab, and Vernal Field Offices. The settlement will only go into effect if the district court vacates its adverse decisions against BLM and in particular its burdensome order requiring the BLM to conduct archeological surveys on every mile of route designated for use by the public.

**QUESTIONS ABOUT TRAVEL MANAGEMENT PLANNING****Would the settlement agreement reverse or otherwise modify the decisions made in the 2008 land use plans or in existing travel management plans?**

No. Those decisions would remain in place. The settlement agreement would not modify, supersede or otherwise affect the 2008 land use plans; the plaintiffs' lawsuit challenging those plans would be dismissed, ending longstanding litigation over the plans.

Under the settlement, the BLM would prepare new travel management plans for route designation in certain areas. Until those planning processes are complete, existing travel management plans would remain in effect. Areas not covered by the new travel management plans would continue to be governed by existing travel management plans.

**Where would the BLM be engaging in new travel management planning?**

The settlement includes maps that identify where BLM would engage in new travel management planning. These areas include roughly half of the area within the Richfield, Moab, Price, Kanab, and



Vernal Field Offices. The settlement does not commit BLM to engaging in new travel management planning within the Monticello Field Office.

**Would I be able to participate in BLM's travel management planning process?**

Yes. Public involvement is an important part of BLM's travel management planning process.

**Would the settlement require the BLM to close roads or restrict OHV use?**

No. The settlement does not identify roads that the BLM would have to close and it also would not impose any new restrictions on ORV use. The BLM has an existing legal obligation to take appropriate management action—which could potentially involve road closures—if motorized vehicle use is causing certain types of harms. The settlement would not change that existing legal obligation.

**Would the settlement affect Revised Statute 2477 (RS 2477) claims?**

No. Neither the settlement nor the BLM's development or adoption of new travel management plans would affect RS 2477 claims that have been, or may be, asserted by the State of Utah or local governments within the state.

**Would the settlement create new wilderness study areas or natural areas or require BLM to inventory lands for wilderness characteristics?**

No. The settlement makes no designations or management decisions of any kind, including designating new wilderness study areas or natural areas, and does not otherwise affect the BLM's obligations to maintain inventories under existing law. As provided by the BLM's regulations, the BLM will consider whether ORV use is damaging public land resources, including BLM-inventoried wilderness characteristics, and if damage is found, will take appropriate action to minimize the damage through the travel management process.

**Would the settlement create new travel planning regulations?**

No. The settlement would require the BLM to follow travel planning procedures and documentation requirements that are compliant with existing regulations, within the agency's discretion, and designed for transparency and public involvement that are consistent with current BLM policy.

**Which travel management plans would govern areas for which the BLM is not preparing new plans?**

The new travel management plans that would be required by the settlement cover approximately half of each of the Utah BLM's Richfield, Moab, Price, Kanab, and Vernal Field Offices. The route designations in existing travel management plans would continue to apply in those portions of all six field offices not covered by the new travel management plans required by the settlement.

## QUESTIONS ABOUT OIL AND GAS

**Why is the BLM including oil and gas commitments in the settlement agreement?**

In addition to their oil and gas related challenges to the land use plans, Plaintiffs added a challenge to the November 2014 oil and gas lease sale to their complaint. This settlement would resolve all of those claims.

**Would the settlement undo the November 2014 oil and gas lease sale?**

No. The settlement agreement would not affect completed lease sales.

**Would the settlement prohibit the BLM from approving new oil and gas projects?**

No. The settlement agreement would not limit the BLM's authority to approve new oil and gas projects consistent with existing law and regulations.

**Would the settlement require the BLM to impose mitigation measures when approving new oil and gas projects?**

No. The settlement would require the BLM to analyze potential mitigation measures during the environmental review process required by NEPA. The BLM would make decisions about new projects based on existing laws, regulations, and policies, which would not be affected by the settlement.

**OTHER QUESTIONS**

**What happens next?**

The parties to the settlement will file a motion with the district court requesting that it vacate its prior rulings in the case. If the court agrees, and the plaintiffs successfully dismiss their claims, the BLM will ask the Tenth Circuit to dismiss its appeal, the settlement will become effective, and the BLM will begin the process of implementing the settlement consistent with the existing regulatory framework. If the court does not agree to vacate its prior rulings in the case, the parties will have no further obligations under the settlement agreement and the BLM will continue to litigate in the district court and in the Tenth Circuit.

**Does the settlement affect the recent Bears Ears monument designation?**

No. The Bears Ears monument designation does not affect the BLM's travel planning commitments it would assume under the settlement, and the BLM's obligations under the settlement would not affect the Bears Ears monument designation.



**United States Department of the Interior**

**BUREAU OF LAND MANAGEMENT**

Utah State Office

440 West 200 South, Suite 500

Salt Lake City, UT 84101-1345

<http://www.blm.gov/ut/st/en.html>



In Reply Refer To:  
6310 & 6320 (UT-934) P

September 30, 2016

EMS TRANSMISSION 10/04/2016  
Instruction Memorandum No. UT 2016-027  
Expires: 09/30/2019

To: Recreation and Wilderness Staff, Planning and Environmental Coordinators, Field Managers, and District Managers

From: Utah State Director

Subject: Bureau of Land Management (BLM)-Utah Guidance for the Lands with Wilderness Characteristics Resource

**Program Area:** Lands with wilderness characteristics resource

**Purpose:** This Instruction Memorandum provides additional guidance to BLM Utah in considering external information, updating, and maintaining an inventory of lands with wilderness characteristics. This guidance outlines the process by which BLM Utah will analyze potential impacts to lands with wilderness characteristics through the National Environmental Policy Act (NEPA) process and consider potential management options for the lands with wilderness characteristics resource outside of the land use planning process.

**Policy/Action:** This instruction memorandum (IM) serves as BLM-Utah's additional guidance to:

- Prepare and maintain on a continuing basis an inventory of wilderness characteristics on BLM-administered public lands that reflects changes in conditions;
- Communicate with the public regarding the wilderness characteristics inventory process; and
- Consider the wilderness characteristics resource through the National Environmental Policy Act (NEPA) and/or land use planning process

**Timeframe:** This policy is effective immediately.

**Budget Impact:** This guidance may require additional staff time during the development of a NEPA document. The additional time needed to comply with this guidance is nominal and should not represent an adverse budget impact.

**Background:** Lands with wilderness characteristics have been recognized as a distinct resource since the passage of the Federal Land Policy and Management Act of 1976 (FLPMA), and should be considered equally along with all other resources present in a planning area. Section 201 of FLPMA requires the BLM to maintain, on a continuing basis, an inventory of all public lands and their resources and other values, including wilderness characteristics. BLM field offices must maintain and update resource inventory information to ensure that adequate data is available to support decision making.

BLM Manual 6310 states that, “State Directors will implement policy and provide statewide program coordination and guidance for conducting wilderness characteristics inventories.” BLM Manual 6320 states that, “State Directors will implement policy and provide statewide program coordination and guidance for the consideration of lands with wilderness characteristics inventories and, as warranted, the protection of lands with wilderness characteristics in land use plans.” The topics addressed in this IM respond to BLM-Utah’s need for additional wilderness characteristics guidance identified by the BLM-Utah Executive Leadership Team in 2014 and are intended to ensure consistency in the application of policy.

**Manual/Handbook Sections Affected:** This IM supplements national policies in BLM Manual 6310 - *Conducting Wilderness Characteristics Inventory on BLM Lands* and BLM Manual 6320 - *Considering Lands with Wilderness Characteristics in the BLM Land Use Planning Process*, while integrating national guidance in Washington Office (WO) IM 2013-106: Bureau of Land Management Manual No. 6310 and 6320 — *Additional Guidance Regarding Public and Cooperating Agency Involvement in and Access to Wilderness Characteristics Inventory Information and the Land Use Planning Process*.

These national documents continue to serve as BLM-Utah’s primary and foundational policies for inventorying, planning and managing for wilderness characteristics, which are not repeated in this Utah IM. Readers should consult these sources prior to interpreting or implementing this additional guidance.

**Coordination:** BLM-Utah Outdoor and Heritage Resources and Planning and Environmental Coordination program staff developed this guidance in coordination with the BLM-Utah Leadership Team; the BLM Washington Office National Landscape Conservation System staff; and the U.S. Department of the Interior’s Intermountain Region Office of the Solicitor staff.

**Contact:** Allison Ginn, National Conservation Lands Program Lead, BLM Utah State Office at (801) 539-4053, or via email [aginn@blm.gov](mailto:aginn@blm.gov).

Signed by:  
Jenna Whitlock  
Acting Utah State Director

Authenticated by:  
Doug York  
Utah State Records Manager

2 Attachments:

- 1- BLM-Utah Additional Guidance For Manual 6310 – Conducting Wilderness Inventory On BLM Lands (7pp)
- 2- BLM-Utah Additional Guidance For Manual 6320 – Considering Lands With Wilderness Characteristics In The BLM Land Use Planning Process (11pp)

**Settlement Agreement in**  
***Southern Utah Wilderness Alliance, et al. v. U.S. Department of the Interior, et al.,***  
**U.S. District Court (D. Utah) Consolidated Case No. 2:12-cv-257 DAK**  
**U.S. Court of Appeals for the Tenth Circuit Nos. 15-4151, 15-4152, 15-4153, 15-4155, 15-4158**

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This Settlement Agreement is entered into between: (1) Plaintiffs Southern Utah Wilderness Alliance (“SUWA”), Natural Resources Defense Council, Wilderness Society, National Parks Conservation Association, Grand Canyon Trust, Sierra Club, National Trust for Historic Preservation, Utah Rivers Council, Great Old Broads for Wilderness, and Rocky Mountain Wild; (2) Federal Defendants U.S. Department of the Interior, S.M.R. Jewell, in her official capacity as Secretary of the Department of the Interior, the U.S. Bureau of Land Management, and Janice Schneider, in her official capacity as Assistant Secretary for Land and Minerals Management of the U.S. Department of the Interior (collectively, “Federal Defendants”); and (3) Defendant Intervenors BlueRibbon Coalition, Colorado Off Highway Vehicle Coalition, and Trails Preservation Alliance. Plaintiffs, Federal Defendants, and Defendant Intervenors who have signed this Settlement Agreement will be collectively referred to herein as “the parties,” and individually as a “party,” unless specifically identified otherwise. In addition to the above named parties, the above captioned cases include Defendant Intervenors State of Utah, Carbon County, Duchesne County, Daggett County, Emery County, Grand County, Kane County, San Juan County, Uintah County, Utah School And Institutional Trust Lands Administration (“SITLA”), Badlands Energy, Crescent Point Energy US Corp., EOG Resources, and XTO Energy. Defendants Intervenors sought, and were granted, intervention shortly after each complaint was filed.

WHEREAS, in 2008, the U.S. Bureau of Land Management (“BLM”) issued six Resource Management Plans (“RMPs”) and associated Travel Management Plans (“TMPs”) for the Kanab, Moab, Monticello, Price, Richfield, and Vernal Field Offices, which are all administered by the Utah State Office of BLM (“BLM Utah”).

WHEREAS, Plaintiffs subsequently filed two complaints challenging each of the RMPs and TMPs, alleging, among other things, that BLM violated the Administrative Procedure Act (“APA”), 5 U.S.C. § 706(2)(A), the Federal Land Policy and Management Act (“FLPMA”), 43 U.S.C. §§ 1701 *et seq.*, the National Historic Preservation Act (“NHPA”), 54 U.S.C. §§ 300101 *et seq.*, the National Wild and Scenic Rivers Act (“WSRA”), 16 U.S.C. § 1271, the National Environmental Policy Act (“NEPA”), 42 U.S.C. §§ 4321 *et seq.*, and BLM’s off road vehicle (“ORV”) designation criteria regulation, 43 C.F.R. § 8342.1.

WHEREAS the district court consolidated the two cases and, based upon the parties’ agreement to litigate the matter in stages, proceeded to adjudicate the claims challenging the Richfield RMP and TMP.

WHEREAS, on November 4, 2013, the district court issued a merits ruling that was partially adverse to Federal Defendants. The court found that “[i]n designating 4,277 miles of routes in this case, BLM did not discuss the minimization criteria in the ROD, RMP, or any other travel planning documents,” and “therefore, there [was] no evidence in the ROD that the minimization criteria was applied or applied correctly.” The court also found that BLM violated the NHPA in adopting the Richfield TMP. Specifically, the court found that BLM did not make a good faith effort to identify cultural resources along designated routes in light of its instruction memorandum (“IM”) 2007 030, which the court interpreted to require BLM to conduct intensive “Class III” surveys along all 4,277 miles of designated routes in the Richfield Field Office. The court also found that BLM did not adequately explain its RMP decisions not to designate the potential Henry Mountains Area of Critical Environmental Concern (“ACEC”) as an ACEC and that BLM’s eligibility decision regarding certain river segments in Happy, Buck, and Pasture Canyons under the WSRA was arbitrary. The court ruled in favor of BLM on Plaintiffs’ remaining claims.

WHEREAS, on May 22, 2015 the district court issued its remedy order requiring BLM to resolve these legal infirmities in a phased manner within three years.

WHEREAS, in October 2015, BLM and several Defendant Intervenors timely appealed the district court's merits decision and the remedy order.

WHEREAS, on February 17, 2016, Plaintiffs amended their complaint adding site specific allegations stemming from BLM's November 2014 Oil and Gas Lease Sale in BLM's Price and Vernal Field Offices, and the district court has approved a briefing schedule for Plaintiffs' claims relating to BLM's Price and Vernal Field Offices, which has been extended pending settlement efforts.

WHEREAS, since 2013, BLM has worked with numerous consulting parties, including Plaintiff SUWA and Defendant Intervenors State of Utah, SITLA, and Duchesne, Emery, San Juan, and Uintah Counties, and the BlueRibbon Coalition, to develop a comprehensive travel and transportation planning programmatic agreement, pursuant to 36 C.F.R. § 800.14(b), that guides how BLM accounts for cultural resources when designating routes. BLM anticipates that this programmatic agreement, to be titled "Programmatic Agreement for Travel Management Activities," will be completed in early 2017.

WHEREAS, the parties, without any admissions relating to Plaintiffs' claims, believe that it is in the interests of the public, the parties, and judicial economy to resolve these claims without further litigation.

WHEREAS, Defendant Intervenors SITLA, Badlands Energy, Crescent Point Energy US Corp., EOG Resources, and XTO Energy do not oppose or object to the parties entering into this Settlement Agreement.

NOW, THEREFORE, the parties hereby stipulate and agree to the following:



**A. GENERAL PROVISIONS**

1. In exchange for the consideration set forth herein, Plaintiffs release Federal Defendants, all other federal agencies, the United States, and all of their employees and officials from, and Plaintiffs covenant not to sue on, all claims, causes of action, obligations, or liabilities that they alleged or could have alleged in the above captioned cases based on facts that existed as of the date the Settlement Agreement is signed by the last party to sign to the Settlement Agreement. The parties do not waive any claims or defenses that they may have in any subsequent litigation or administrative proceedings initiated after that date, except as expressly stated herein.

2. This Settlement Agreement in no way affects or relieves any party of its responsibility to comply with the United States Constitution or with any applicable federal law or regulation, including the APA, NEPA, FLPMA, and NHPA. Nothing in this Settlement Agreement shall be construed to limit or modify the discretion accorded to Federal Defendants by any applicable federal law or regulation, including the APA, NEPA, FLPMA, and NHPA, or general principles of administrative law with respect to either the procedures to be followed in making any determination required herein or the substance of any determination.

3. This Settlement Agreement is for the purpose of settling the above captioned litigation. Nothing in this Settlement Agreement shall be deemed as precedent in this or any other proceeding or shall constitute an admission or concession by any party as to the validity of any fact or legal position concerning the claims or defenses in this or any other proceeding. Nothing in this Settlement Agreement shall be construed to be an admission or shall constitute evidence that the commitments made by BLM in this Settlement Agreement are necessary to satisfy any requirement under any applicable law.

4. Though any party may use this Settlement Agreement to document the fact that one or more claims were disposed of pursuant to the terms and conditions herein, the discussions leading to the Settlement Agreement are confidential under 10th Circuit Rule 33.1.

5. It is hereby expressly understood and agreed that this Settlement Agreement was negotiated at arm's length with each party receiving advice from legal counsel. The parties hereby agree that any and all rules of construction to the effect that ambiguity is construed against the drafting party shall be inapplicable in any dispute concerning the terms, meaning, or interpretation of this Settlement Agreement. Unless the context clearly requires otherwise, all of the following apply to the interpretation of this Settlement Agreement: (a) the masculine, feminine, and neuter genders each include the others; (b) the words "includes" and "including" and "such as" are not limiting; (c) "days" refers to calendar days unless otherwise specified; and (d) headings are included for convenience and do not affect the construction or interpretation of any provision of, or the rights or obligations of a party under, this Settlement Agreement. This Settlement Agreement shall be governed by and construed under federal law.

6. Nothing in this Settlement Agreement shall be construed to make any other person or entity not executing this Settlement Agreement a third party beneficiary to this Settlement Agreement.

7. This Settlement Agreement in no way affects the rights of any party as against any person or entity not a party hereto. Nothing in this Settlement Agreement shall be interpreted as imposing obligations on any federal agency or other non federal entity that is not a signatory to this Settlement Agreement.

8. This Settlement Agreement contains all of the agreements between the parties, and is intended to be and is the final and sole agreement between the parties concerning the complete and final resolution of Plaintiffs' causes of action in the above captioned cases. The parties agree that any other prior or contemporaneous representations or understanding not explicitly contained in this Settlement Agreement, whether written or oral, are of no legal or equitable force or effect.

9. The provisions of this Settlement Agreement shall apply to and be binding upon each of the parties.

10. The undersigned warrant that they have full authority to enter into this Settlement Agreement and by their signatures bind to the terms of this Settlement Agreement the party or persons on whose behalf they have signed.

11. The obligations imposed upon Federal Defendants under this Settlement Agreement can only be undertaken using appropriated funds. No provision of this Settlement Agreement shall be interpreted as or constitute a commitment or requirement that Federal Defendants obligate or pay funds in contravention of the Anti Deficiency Act, 31 U.S.C. § 1341, or any other law.

12. Any subsequent modifications, supplements, or amendments to this Settlement Agreement must be in writing, and must be signed and executed by or on behalf of the affected parties, or their successors in interest, as necessary.

## **B. SPECIFIC PROVISIONS**

### **New Travel Management Plans in Certain Travel Management Areas**

13. **New Travel Management Plans subject to this Settlement Agreement.** BLM will issue a new TMP for each of the following travel management areas (“TMA”) within the Richfield, Vernal, Price, Moab, and Kanab Field Offices according to the deadlines set forth below, which will start to run on the effective date of this Settlement Agreement established in Paragraph 37. Each TMP will be considered issued upon the date the authorized officer signs the decision document approving the TMP. The geographic scope of each TMA is included in the Attachments A1 5 (Maps 1 through 5), which are hereby incorporated into this Settlement Agreement:

- a. Richfield Field Office (Attachment A1: Map 1)
  - i. Henry Mountains and Fremont Gorge: 2.5 years
- b. Vernal Field Office (Attachment A2: Map 2)
  - i. Dinosaur (North): 3.5 years
  - ii. Book Cliffs: 5.5 years
  - iii. Nine Mile Canyon: 7 years
- c. Price Field Office (Attachment A3: Map 3)

- i. San Rafael Desert: 2.5 years
  - ii. San Rafael Swell (including part of the former Forest Planning Unit in the Richfield Field Office): 4.5 years
  - iii. Nine Mile Canyon: 7 years
- d. Moab Field Office (Attachment A4: Map 4)
  - i. Indian Creek: 4 years
  - ii. Book Cliffs: 5.5 years
  - iii. Labyrinth/Gemini Bridges: 6 years
  - iv. Dolores River: 8 years
- e. Kanab Field Office (Attachment A5: Map 5)
  - i. Trail Canyon: 4 years
  - ii. Paunsaugunt: 6 years

14. **Travel planning outside of TMAs.** The TMPs for the Richfield, Vernal, Price, Moab, and Kanab Field Offices that are in effect as of the effective date of this Settlement Agreement will remain in effect until BLM issues new TMPs for the TMAs identified in paragraph 13; those new TMPs will supersede the corresponding portions of the TMPs. However, subject to valid existing rights, nothing herein restricts BLM's discretion to revise or amend the 2008 TMPs, to impose limitations or closures, as provided by 43 C.F.R. §§ 8341.2 and 8364.1, to open, close, modify, or add new routes, or otherwise consider or institute temporary management prescriptions in accordance with applicable law and regulations. Any remaining public lands in Utah that fall outside of the geographic scope of the TMAs identified in paragraph 13, including the remainder of the public lands in the Richfield, Price, Vernal, Moab, and Kanab Field Offices, are not subject to the provisions outlined in paragraphs 15-24 of this Settlement Agreement.

#### **Process for Completing TMPs**

15. **Applicable law and agency guidance.** BLM will prepare the new TMPs for each of the TMAs identified in paragraph 13 pursuant to applicable statutes, regulations, BLM Utah

Instruction Memorandum No. 2012 066 (“BLM Utah IM 2012 066”), and the terms identified in paragraphs 16 24 of the Settlement Agreement. In addition to BLM Utah IM 2012 066, relevant existing guidance includes, but is not limited to: BLM Utah Guidance for the Lands with Wilderness Characteristics Resource, Instruction Memorandum No. UT 2016 027 (September 30, 2016); BLM National Environmental Policy Act Handbook H 1790 1 (January 2008); BLM Utah Handbook 8110, *Guidelines for Identifying Cultural Resources* (2002); BLM Handbook H 8342, Travel and Transportation (March 16, 2012); BLM Manual 1613, *Areas of Critical Environmental Concern* (September 29, 1988); BLM Manual 1626, *Travel and Transportation* (July 14, 2011); BLM Manual 6320, *Considering Lands with Wilderness Characteristics in BLM Land Use Planning* (March 15, 2012); BLM Manual 6330, *Management of BLM Wilderness Study Areas* (July 13, 2012), 6340, *Management of BLM Wilderness* (July 13, 2012); and BLM Manual 8110, *Identifying and Evaluating Cultural Resources on Public Lands* (December 3, 2004). Nothing in the Settlement Agreement makes binding the aforementioned guidance. Nothing in this Settlement Agreement shall be construed as limiting BLM’s discretion to promulgate new manuals, handbooks, or instruction memoranda consistent with relevant law and regulations. The parties may agree to modify the Settlement Agreement to reflect updated regulations or guidance, consistent with paragraph 12.

16. **Procedural requirements.** BLM will follow the procedure set forth below when conducting its travel planning for the TMPs for the TMAs identified in paragraph 13, except as provided in paragraphs 18 and 19 for the Henry Mountains and Fremont Gorge TMA and the San Rafael Desert TMA.

a. **Cooperating agencies.** Prior to initiation of public scoping for a new TMP, BLM will invite eligible federal, tribal, state, and local government agencies to participate in the development of the TMPs as cooperating agencies. Cooperating agency agreements will be established in accordance with law and regulations, including 43 C.F.R. § 46.225.

b. **Public scoping.** At the initiation of the travel planning scoping period for a new TMP, BLM will make available to the public and stakeholders maps of all BLM inventoried routes

being considered for designation under 43 C.F.R. § 8342.1. Such route inventory maps will include spur routes leading to Utah State Institutional Trust lands, facilities, campsites, and other points of interest, which may include overlooks and natural and historic features. The maps will provide a unique identifier, including any state or county identifying number or common name known to BLM, for each individual route and be of sufficient detail that the public can provide meaningful input on each individual route's purpose and need, as well as potential resource and user conflicts. The maps and their underlying GIS data will be made available on the internet and BLM will make a reasonable effort to make paper copies available in each respective field office. BLM will provide a reasonable period for the public and stakeholders to provide information regarding the maps or any routes being considered for designation within the TMA, which may include evidence of valid existing rights and route maintenance agreements, prior to BLM's preliminary route evaluation.

c. **Preliminary route evaluations.** A BLM interdisciplinary team ("ID Team") will conduct a preliminary evaluation of each route being considered for designation in the TMP. The preliminary evaluation will include (1) assessing how each potential route designation within the TMA is consistent with 43 C.F.R. § 8342.1; (2) consideration of the goals and objectives for resource values and uses established in the applicable RMP; (3) consideration and documentation of any purpose and need of the route, including but not limited to activities relating to existing motorized and non motorized uses for recreation, hunting, law enforcement, search and rescue, fire suppression, access to private or Utah State Institutional Trust lands, exploration and development, administrative, and authorized motorized travel; and (4) consideration and documentation of any known or asserted resource or user conflict. BLM will also consider designating spur routes leading to Utah State Institutional Trust lands, facilities, campsites, and other points of interest, which may include overlooks and natural and historic features. When considering routes for designation, BLM will consider whether there are multiple routes leading to the same location. The ID Teams may consider designating routes in any manner consistent with BLM's authority under 43 C.F.R.

§ 8340.0 5(g), which includes, but is not limited to, designating routes for motorized, non motorized, and administrative travel.

d. **Public and stakeholder review of preliminary route evaluations.** At the conclusion of the ID Team's preliminary evaluation of all the routes being considered for designation in the TMP, BLM will prepare (1) a Travel Management Plan Scoping Report, including an appendix with copies of all public and stakeholder correspondence received to date, unless prohibited by law; (2) preliminary alternatives maps; and (3) draft route reports. BLM will make these documents available to the public and stakeholders upon completion. Commensurate with the level of public and stakeholder interest, BLM may seek further public and stakeholder input as to the preliminary alternatives maps and draft route reports and/or hold a public meeting to further engage the public in the travel planning process. All written input received from the public and stakeholders will be made available to the public as provided by law.

e. **NEPA compliance.** BLM will consider all substantive and timely input received as a result of its public and stakeholder engagement efforts in updating the draft route reports and developing a draft TMP NEPA document. BLM will make the updated route reports and the draft TMP NEPA document simultaneously available for public review and comment for a 30 day period (or longer, at BLM's sole discretion). In providing for public review and comment, BLM will follow applicable NEPA regulations.

f. **Final decision.** BLM will consider the information obtained during the public review and comment period to develop final route reports, its final NEPA document, and its decision document approving each new TMP. Decision records or records of decisions approving TMPs will be appealable to the Interior Board of Land Appeals as provided in 43 C.F.R. Part 4.

g. **Responses to public and stakeholder comments.** BLM will respond to substantive and timely public and stakeholder comments in accordance with all cooperating agency agreements and applicable NEPA regulations. BLM may occasionally receive, outside of a specified

comment period, submissions from the public or stakeholders; BLM may consider such submissions at its sole discretion.

17. **Documentation requirements.** BLM will adhere to the following documentation requirements when conducting its travel planning for the new TMPs for the TMAs identified in paragraph 13:

a. **Purpose and need.** BLM will identify and document in each route report the purpose and need for the route. BLM will identify all known current motorized and non motorized use that occurs on the route. In considering if a route has a purpose and need, BLM will take into account information indicating if a route is no longer used by motorized vehicles, is revegetating or reclaiming, and/or is impassable to motorized vehicles. A route without an identified purpose and need will not be proposed as part of the dedicated route network in any action alternatives in the NEPA document.

b. **Affected resources.** For each route for which BLM has identified a purpose and need, BLM will document in the route report any public land resources, as set forth in 43 C.F.R. § 8342.1(a), that may be affected by motorized vehicle use of the route. Public land resources include, but are not limited to, identified cultural resources and public lands with BLM inventoried wilderness characteristics, regardless of whether BLM administers or manages the subject public lands to maintain or enhance those resources.

c. **Resource impact.** BLM will identify and document in each route report all direct and indirect impacts to “soil, watershed, vegetation, or other resources of the public lands,” 43 C.F.R. § 8342.1(a), including identified cultural resources and public lands with BLM inventoried wilderness characteristics, that are caused by motorized vehicle use.

d. **Route-specific minimization alternatives.** BLM will document in the route report how each alternative route designation will “minimize damage” to affected “soil, watershed, vegetation, or other resources of the public lands,” 43 C.F.R. § 8342.1(a), including identified cultural resources and public lands with BLM inventoried wilderness characteristics. In each route



report, BLM will include a brief narrative summary of how it has applied the designation criteria to the route for each alternative route designation.

e. **Travel network minimization alternatives.** BLM will explain in the NEPA document for each TMP how each proposed alternative route network will “minimize damage” to “resources of the public lands,” 43 C.F.R. § 8342.1(a), including identified cultural resources and public lands with BLM inventoried wilderness characteristics. For purposes of minimizing damage to public lands with BLM inventoried wilderness characteristics, BLM will consider the potential damage to any constituent element of wilderness characteristics, including naturalness, outstanding opportunities for solitude, and outstanding opportunities for primitive and unconfined recreation, for each alternative route network. BLM will consider in the NEPA document at least one proposed alternative route network that would not designate for ORV use any route where BLM has determined that such use may “damage,” 43 C.F.R. § 8342.1(a), BLM inventoried wilderness characteristics; however, BLM need not consider closing such a route to ORV use to the extent the use is authorized by an existing right of way or other BLM authorization or by law, including *State of Utah v. Andrus*, 486 F. Supp. 995 (D. Utah 1979), which will be documented in the final route report.

f. **Alternative route networks within WSAs and Natural Areas.** For routes or portions thereof that are located on public land within wilderness study areas (“WSAs”) and Natural Areas, BLM will analyze in the NEPA document at least one alternative route network that would enhance BLM inventoried wilderness characteristics by designating the routes or the relevant portions thereof as closed to ORV use, unless ORV use of the route is authorized by an existing right of way or other BLM authorization or by law. To the extent ORV use of a route is authorized, this alternative route network will include measures limiting ORV use to enhance BLM inventoried wilderness characteristics to the greatest extent possible consistent with applicable laws, regulations, or existing right of way authorizations.

g. **Alternatives proposed by parties.** Any party to this Settlement Agreement may propose a route network alternative during public scoping and BLM will consider any such

alternative, as appropriate, in its NEPA document. This does not foreclose BLM from determining that such an alternative will not be analyzed in detail.

h. **R.S. 2477 assertions.** Route designations do not signify a recognition or rejection of R.S. 2477 assertions.

i. **Preservation of discretion.** Nothing in this Settlement Agreement shall be construed to require BLM to adopt any particular alternative or portion thereof presented in a route report or NEPA document or to limit in any way BLM's discretion to make route designations or adopt a final TMP, consistent with paragraph 2. Nothing in this Settlement Agreement shall be construed to limit in any way BLM's discretion to open, close, or modify use on routes.

18. **Henry Mountains and Fremont Gorge TMA.** Because BLM has already initiated some components of travel planning for the Henry Mountains and Fremont Gorge TMA to comply with the district court's 2015 remedy order, this paragraph, rather than paragraph 16, applies to BLM's travel planning process there. BLM will invite eligible federal, tribal, state, and local government agencies to be cooperating agencies as outlined in paragraph 16.a, so that cooperating agencies may participate in the remainder of the travel planning process for the Henry Mountains and Fremont Gorge TMA. BLM will not be required to undertake any of the actions identified in paragraphs 16.b or 16.d other than as specified below: no later than completion of its interdisciplinary evaluation of routes within the TMA, including its consideration of Class III cultural resource survey data, BLM will make available to the public and stakeholders: (1) maps and GIS data of the inventoried routes being considered for designation; (2) preliminary alternatives maps; and (3) draft route reports. The maps will provide a unique identifier for each individual route and be of sufficient detail that the public can provide meaningful input on each individual route's purpose and need, as well as potential resource and user conflicts. In addition, BLM will hold at least one public meeting during this period. BLM will comply with all requirements of paragraphs 16.c, 16.e, 16.f, and 16.g.

19. **San Rafael Desert TMA.** Because BLM has already initiated travel planning for the San Rafael Desert TMA, this paragraph, rather than paragraph 16, applies to BLM's travel planning process there. BLM will invite eligible federal, tribal, state, and local government agencies to be cooperating agencies as outlined in paragraph 16.a, so that cooperating agencies may participate in the remainder of the travel planning process for the San Rafael Desert TMA. However, because BLM already provided a 30 day public travel planning scoping period and has undertaken its preliminary interdisciplinary evaluation of the inventoried routes in this TMA, BLM will not be required to undertake any actions set forth in paragraph 16.b. BLM will also not be required to create new preliminary route evaluation forms. However, BLM will update its preliminary route evaluations to include the information listed in paragraph 16.c. BLM will comply with all requirements of paragraphs 16.d, 16.e, 16.f, and 16.g.

**Monitoring During and After Travel Planning**

20. **Monitoring in the Vernal, Price, Moab, and Kanab TMAs.**

a. **Baseline Monitoring Report.** Except for the Henry Mountains and Fremont Gorge TMA, for each TMA identified in paragraph 13, BLM will complete a baseline monitoring report that will document visually apparent unauthorized surface disturbances off routes as well as visually apparent damage to public lands resources caused by motorized vehicle use within WSAs, Natural Areas, and/or lands with BLM inventoried wilderness characteristics. To create the baseline monitoring report, BLM will physically inspect those portions of routes within the TMA that are within or constitute a boundary to a WSA, Natural Area, and/or lands with BLM inventoried wilderness characteristics. For those portions of routes, BLM will document by site photography and written narrative each disturbance and damage site. At a minimum, BLM will document the following information: (1) the geospatial coordinate of the site of disturbance or damage; (2) the route number or other identifier where the disturbance or damage was observed, the date of the physical inspection, the TMA in which the inspection took place, and the name of the inspector; (3)

the observed usage intensity (i.e., none, light, medium, or heavy); (4) the apparent geographic extent of the disturbance or damage; and (5), if possible, (a) the apparent type of motorized vehicle(s) that caused the disturbance or damage, (b) the apparent purpose of the disturbance (e.g., short spur, dispersed camping, play area, or inadvertent travel), and (c) the type of public land resource damaged by motorized vehicle use. The baseline monitoring report will include the information gathered and recorded during the physical inspection, as well as maps showing the location and nature of any documented disturbance or damage sites. BLM will make its baseline monitoring report available for public review at the same time as the preliminary route evaluation documents identified in paragraph 16.d. BLM need not complete the baseline monitoring report prior to that time, but may do so at its discretion. Baseline monitoring reports described in this paragraph may be used to explain or support any BLM final agency action, but do not themselves constitute final agency action.

b. **Monitoring during planning.** After BLM completes the baseline monitoring report required by paragraph 20.a, BLM will, at least one time per year, inspect all sites where BLM's baseline monitoring report previously identified disturbance and damage. If BLM receives credible information that any new visually apparent unauthorized surface disturbances off routes or visually apparent damage to public lands resources caused by motorized vehicle use (1) has occurred along those portions of routes within the TMA that are within or constitute a boundary to a WSA, Natural Area, and/or lands with BLM inventoried wilderness characteristics and (2) is adversely affecting public land resources, then BLM will inspect the portion of that route, subject to available personnel and passable route conditions. BLM will document its inspection and monitoring of these sites during planning by site photography and written narrative describing each disturbance and damage site. BLM's documentation will include, at a minimum, the following information: (1) the geospatial coordinate of the site of disturbance or damage; (2) the route number or other identifier where the disturbance or damage was observed, the date of the physical inspection, the TMA in which the

inspection took place, and the name of the inspector; (3) the observed usage intensity (i.e., none, light, medium, or heavy); (4) the apparent geographic extent of the disturbance or damage; and (5), if possible, (a) the apparent type of motorized vehicle(s) that caused the disturbance or damage, (b) the apparent purpose of the disturbance (e.g., short spur, dispersed camping, play area, or inadvertent travel), and (c) the type of public land resource damaged by motorized vehicle use. BLM's documentation and/or reports described in this paragraph may be used to explain or support any BLM final agency action, but do not themselves constitute final agency action. BLM will undertake monitoring more frequently if it determines additional monitoring is warranted. BLM's monitoring obligation identified in this paragraph for the TMAs identified in paragraph 13 will terminate when BLM issues the new TMP for that TMA, regardless of whether administrative or judicial review is sought.

21. **Monitoring in the Henry Mountains and Fremont Gorge TMA.** BLM will prepare a summary monitoring report for the Henry Mountains and Fremont Gorge TMA that will include: (a) all off highway vehicle observation reports and other route monitoring data collected in the TMA since the May 22, 2015 remedy order; (b) all additional route monitoring data that has been collected in the TMA in conformance with the Richfield 2008 Resource Management Plan and Record of Decision; and (c) all BLM generated monitoring data related to the 129 routes within the TMA identified by Plaintiffs in an April 18, 2016 submission to BLM. Starting on the effective date of this Settlement Agreement, BLM will begin documenting all of its route monitoring data that it will collect pursuant to this paragraph in the Henry Mountains and Fremont Gorge TMA using site photography and written narrative in a manner that describes all visually apparent unauthorized surface disturbance off routes and visually apparent damage to public lands resources caused by motorized vehicle use. BLM's documentation will include, at a minimum, the following information: (1) the geospatial coordinate of the site of disturbance or damage; (2) the route number or other

identifier where the disturbance or damage was observed, the date of the physical inspection, the TMA in which the inspection took place, and the name of the inspector; (3) the observed usage intensity (i.e., none, light, medium, or heavy); (4) the apparent geographic extent of the disturbance or damage; and (5), if possible, (a) the apparent type of motorized vehicle(s) that caused the disturbance or damage, (b) the apparent purpose of the disturbance (e.g., short spur, dispersed camping, play area, or inadvertent travel), and (c) the type of public land resource damaged by motorized vehicle use. The summary monitoring report will include the information gathered and recorded during the physical inspection, as well as maps showing the location and nature of any disturbance or damage site. BLM will make the summary monitoring report for the Henry Mountains and Fremont Gorge TMA available to the public within 180 days of the effective date of this Settlement Agreement, but, regardless of the effective date of the Settlement Agreement, no sooner than October 15, 2017.

**22. Consideration of Considerable Adverse Effects.**

a. Any party to the agreement may provide BLM with evidence that (1) motorized vehicle use is causing or will cause considerable adverse effects as set forth in 43 C.F.R. § 8341.2(a) or (2) that action is required to protect persons, property, and public lands and resources pursuant to 43 C.F.R. § 8364.1. When BLM receives such information, it will promptly make such information available to all other parties to the Settlement Agreement. BLM will provide a written response assessing whether action pursuant to § 8341.2(a) or § 8364.1 is necessary to the party submitting such information as well as all other parties to the agreement within 90 days of receiving the information.

b. BLM will consider the information collected during monitoring identified in paragraphs 20-21 of this Settlement Agreement and any other relevant information to determine whether motorized vehicle use is causing or will cause considerable adverse effects as set forth in 43

C.F.R. § 8341.2(a) or requires action to protect persons, property, and public lands and resources pursuant to 43 C.F.R. § 8364.1. If so, BLM will take appropriate management action.

c. The obligations outlined in this paragraph start on the effective date of this Settlement Agreement and end eight years after this Settlement Agreement becomes effective, provided that nothing in this Settlement Agreement exempts or absolves BLM from compliance with applicable regulations, including 43 C.F.R. subparts 8341 and 8364.

23. **Monitoring after TMPs are issued.** BLM will develop a long term motorized vehicle monitoring protocol as part of each new TMP prepared for the TMAs identified in paragraph 13. BLM's proposed long term monitoring protocol will be outlined in the draft and final NEPA document for each TMP, and the public, cooperating agencies, and other stakeholders will have an opportunity to provide input on each TMP's long term monitoring protocol during the relevant public comment period. Each TMP's long term monitoring protocol will become effective as provided in the applicable TMP. Once each TMP is issued, the long term monitoring protocol specific to that TMP will apply and not the terms of this Settlement Agreement.

#### **NHPA Identification Efforts for Travel Planning**

24. **Applicability and limitation.** BLM will complete the following NHPA identification efforts prior to issuing a TMP for the TMAs identified in paragraph 13 of this Settlement Agreement. To the extent that an existing BLM authorized Class III cultural resource survey exists for the route(s) subject to this Settlement Agreement, BLM in its discretion may choose to rely on the existing Class III survey to meet its obligations under this Settlement Agreement.

a. **Henry Mountains and Fremont Gorge TMA.** Before issuing a TMP for the Henry Mountains and Fremont Gorge TMA identified in paragraph 13, BLM will ensure Class III cultural resource surveys have been conducted for 100% of all routes that will be designated as open

in the Henry Mountains and Fremont Gorge TMP, except for the Fremont Gorge portion of the TMA identified in Attachment A1 (Map 1).

b. **Class III surveys in certain ACECs.** Before issuing TMPs for the Vernal, Price, Moab, and Kanab TMAs identified in paragraph 13, BLM will ensure Class III surveys have been conducted along all routes or portions of routes that are designated as open within the following designated ACECs, which are currently protecting identified relevant and important cultural, archaeological, or historic resources and/or properties. These designated ACECs are identified in Attachment A6 (Map 6), which is hereby incorporated into this Settlement Agreement, and are specifically identified below:

- i. Vernal Field Office: Browns Park and Nine Mile Canyon.
- ii. Price: Big Hole, Copper Globe, Cottonwood Canyon, Dry Lake

Archeological District, Dry Wash, Grassy Trail, Hidden Splendor, Hunt Cabin, King's Crown, Little Susan Mine, Lucky Strike, Molen Seep, Muddy Creek, Muddy Creek Tomsich Butte, North Salt Wash, Pictographs, Sand Cove, Shepard's End, Short Creek, Smith Cabin, Swasey's Cabin, Temple Mountain, Tidwell Draw, and Wild Horse Canyon.

- iii. Moab: Highway 279, Long Canyon, Shafer Basin, and Ten Mile Wash.
- iv. Kanab: Cottonwood Canyon.

c. **Class III surveys in high potential areas.** In addition to the requirements set forth in paragraphs 24.b above, before issuing TMPs for the Vernal, Price, Moab, and Kanab TMAs identified in paragraph 13, BLM will ensure Class III cultural resources surveys have been conducted along all routes or portions of routes that are designated as open in the TMAs identified in paragraph 13 and that are located in areas that BLM has identified in a Class I cultural resource inventory as having a high potential for cultural resources.



**Areas of Critical Environmental Concern**

25. **Evaluation of nominated ACECs related to special status species.** The parties acknowledge that, in the Vernal RMP protest decision response, BLM committed to “consider[] at the earliest opportunity as part of the next planning process in the [Vernal] Field Office” the potential ACECs nominated to protect the special status species Graham’s penstemon and Pariette cactus. For these two nominated ACECs, BLM will evaluate whether the relevance and importance criteria are met in accordance with BLM Manual 1613, *Areas of Critical Environmental Concern* (September 29, 1988). If the relevance and importance criteria are met, BLM will establish any necessary temporary management prescriptions to protect the relevant and important resource values, as required by Manual 1613. In considering these potential ACECs, BLM may consider, among other things, any protection provided by existing management prescriptions, conservation agreements, or conservation strategies, when determining whether temporary management prescriptions may be necessary.

26. **Reevaluation of nominated ACEC with new visual resources information.** The parties acknowledge that BLM has updated its visual resources inventory for the area included in the Vermilion Cliffs nominated ACEC that was considered, but not designated, in the 2008 Kanab RMP. This ACEC is identified on Attachment A7 (Map 7). BLM will re evaluate this nominated ACEC and consider whether additional management prescriptions may be warranted to protect any unprotected relevant and important resource values in the potential ACEC. This reevaluation will be based on the updated visual resources inventory, and any other relevant new information that may be available. If BLM determines that any relevant and important resource values in the potential ACEC are unprotected, BLM will establish any necessary temporary management prescriptions to protect those resource values, as required by BLM Manual 1613, *Areas of Critical Environmental Concern* (September 29, 1988).

27. **Process.** At the commencement of each evaluation required by paragraphs 25-26 of this Settlement Agreement, BLM will post a notice on the internet and provide an opportunity for interested parties to submit updated information regarding the potential ACEC. Within 30 days of the completion of an evaluation conducted pursuant to paragraphs 25-26, BLM will notify the parties to this Settlement Agreement that it has completed its evaluation and provide the parties with a written summary of the results of its evaluation. BLM will complete the reevaluations before the deadlines specified below as consistent with applicable law, with the time commencing on the effective date of the Settlement Agreement outlined in paragraph 37:

- a. Vernal Field Office
  - i. Pariette cactus potential ACEC 2 years.
  - ii. Graham's penstemon potential ACEC 5 years.
- b. Kanab Field Office
  - i. Vermilion Cliffs potential ACEC 2 years.

28. **Limitations.** Nothing in this Settlement Agreement affects or limits BLM's discretion in conducting the evaluations, or in deciding whether to initiate a land use plan amendment that would designate an ACEC as a result of the evaluations. The parties agree not to seek administrative or judicial review of BLM's notification, summary, or evaluation outlined in paragraphs 25-26, or to assist in any way any person or entity that attempts to do so. However, to the extent that BLM makes and issues a land use plan amendment decision subsequent to its evaluation that constitutes final agency action within the meaning of 5 U.S.C. § 704, nothing herein limits the parties from seeking administrative or judicial review of BLM's subsequent land use plan amendment decision.

**Oil and Gas**

29. BLM will continue to use the Utah Air Resource Management Strategy (July 2011) (“2011 ARMS”) and the Memorandum of Understanding Among the U.S. Department of Agriculture, U.S. Department of the Interior, and U.S. Environmental Protection Agency, Regarding Air Quality Analyses and Mitigation for Federal Oil and Gas Decisions Through the National Environmental Policy Act Process (“2011 National MOU”) to inform and guide BLM’s analyses of air quality impacts for any lease sales and land use plan amendments/revisions, including master leasing plans, that occur on public lands subject to the 2008 Moab, Monticello, Price, Vernal, Richfield and Kanab RMPs, unless those documents are amended or superseded. Nothing in this Settlement Agreement makes binding the provisions of the 2011 ARMS or 2011 National MOU.

a. BLM will update the 2011 ARMS within 1 year from the effective date of the Settlement Agreement. Prior to updating the 2011 ARMS, BLM will provide an opportunity for public comment and BLM will provide a written response to any substantive and timely comments that are submitted. When updating the 2011 ARMs, BLM will:

- i. Ensure that the update to the 2011 ARMS is consistent with relevant existing guidance and provides updated guidance on current air quality management issues;
- ii. Describe how BLM will use the Intermountain West Data Warehouse, consistent with current BLM guidance;
- iii. Describe how BLM will, in future NEPA processes, identify reasonable mitigation and control measures and design features to address adverse impacts to air quality or air quality related values (“AQRVs”) on all affected public lands and reduce greenhouse gas emissions when those measures are

reasonable and consistent with relevant BLM statutory authorities and policies and lease rights and obligations.

Nothing in this Settlement Agreement precludes BLM from continuing to make final decisions relating to oil and gas on public lands before completing the updated ARMS.

b. Subject to available funding, within 2 years of the update of the 2011 ARMs, BLM will update the 2013 ARMS photochemical modeling analysis. The analysis will include an updated emissions inventory for both the Vernal and Price Field Offices that will include an estimation of greenhouse gases in addition to criteria and other regulated air pollutants. BLM will conduct photochemical modeling where the updated emissions inventory indicates that modeling is appropriate. The photochemical modeling will examine cumulative impacts to air quality and AQRVs based on existing and reasonably foreseeable development in the planning areas. The modeling will also disclose the contribution of reasonably foreseeable oil and gas development and other activities on BLM land to such cumulative impacts. This process will be consistent with any applicable federal regulations (including those of other federal agencies). Nothing in this Settlement Agreement precludes BLM from continuing to make final decisions relating to oil and gas on public lands before completing the updated photochemical modeling analysis.

c. Consistent with the 2011 ARMS (pgs. 15 16), BLM Utah will compile an Annual Air Resource Report that will include: (1) BLM air monitoring activities during the year; (2) a summary of air monitoring data collected; (3) trend analysis on air quality issues of concern; (4) topical reports on air quality issues of interest or concern; (5) air resource management plans; and (6) issues for the coming year. The first Annual Air Resource Report will cover the time period between adoption of the ARMS and the date of the report. The yearly reports will be made publically available on the internet. BLM Utah's obligation to

prepare an Annual Air Resource Report expires after BLM Utah has prepared eight Annual Air Resource Reports. Annual Air Resource Reports described in this paragraph may be used to explain or support BLM final agency action, but do not themselves constitute final agency action. Nothing in this Settlement Agreement precludes BLM from continuing to make final decisions relating to oil and gas on public lands before completing the Annual Air Resource Reports.

30. For any future lease sales or land use plan amendments/revisions, including master leasing plans, that BLM commences during the eight years after the effective date of this settlement and that BLM determines is covered by the 2011 National MOU that occurs in areas on public lands subject to the 2008 Moab, Monticello, Price, Vernal, Richfield and Kanab RMPs, BLM will determine through the NEPA process whether it may incorporate into lease stipulations and lease sale notices any reasonable and available air quality mitigation measures to address the formation of ozone and the emission of greenhouse gases. When BLM incorporates air quality mitigation measures into lease stipulations and lease sale notices to address the formation of ozone and the emission of greenhouse gases, BLM will explain in its NEPA documentation why BLM has incorporated such mitigation measures.

31. Nothing in this Settlement Agreement shall be construed as limiting BLM's discretion to promulgate new regulations or modify the 2011 ARMs, or any updated version of the ARMS, or the 2011 National MOU, or issue program guidance to comply with new statutes, regulations, or updated air quality or AQRVs regulations issued by the State of Utah or EPA.

**Vacatur of District Court Decisions and Dismissal of Third Amended Complaint**

32. Plaintiffs agree to dismiss with prejudice their original complaint, amended complaints, and supplemental complaint (ECF Nos. 1, 65, 86, 465, and *SUWA v. U.S. Dep't of the*

*Interior*, No. 1:10 cv 1930 (D.D.C.) ECF No. 1) in the above captioned litigation in their entirety.

The parties agree that the district court's November 4, 2013 decision (ECF No. 329), May 22, 2015 remedy order (ECF No. 388), and October 16, 2015 judgment (ECF No. 419) should be vacated in their entirety.

33. Within 7 calendar days of the complete execution of this Settlement Agreement, the parties shall jointly file a motion under Fed. R. Civ. P. 62.1 in the district court for an indicative ruling requesting the district court to indicate whether it would grant a motion to (1) vacate its November 4, 2013 decision (ECF No. 329), May 22, 2015 remedy order (ECF No. 388), and October 16, 2015 judgment (ECF No. 419) in their entirety; (2) dismiss with prejudice Plaintiffs' original complaint, amended complaints, and supplemental complaint (ECF Nos. 1, 65, 86, 465, and *SUWA v. U.S. Dep't of the Interior*, No. 1:10 cv 1930 (D.D.C.) ECF No. 1) in the above captioned litigation in their entirety; and (3) retain limited jurisdiction to enforce the terms of this Settlement Agreement as outlined in paragraph 40. The parties shall also jointly file a motion requesting that the district court stay all proceedings in the district court (2:12 cv 257), including the entirety of its May 22, 2015 remedy order, as amended (ECF Nos. 388, 506, 508, 510, 512), until the district court rules on the parties' joint motion to vacate as outlined in paragraph 35. If the district court does not indicate that it would grant the motion in full or if the district court does not subsequently grant the joint motion to vacate, dismiss, and retain jurisdiction, the parties agree to jointly file a motion seeking to extend all remaining deadlines for BLM to comply with the district court's May 22, 2015 remedy order, as amended, from their current deadlines by the number of months commensurate with the time elapsed between the filing of the motion for an indicative ruling and motion for a stay until the date the district court rules either on the motion for an indicative ruling or on the joint motion to vacate, dismiss, and retain jurisdiction, plus an additional three months. The parties shall also ask the Tenth Circuit Court of Appeals to stay proceedings in 10th Circuit Case Nos. 15 4151,

15 4152, 15 4153, 15 4155, and 15 4158 until the district court issues its order on the motion for an indicative ruling.

34. Should the district court indicate that it will grant the motion, the parties will file a joint motion in the Court of Appeals under Fed. R. App. P. 12.1 asking the Court of Appeals for a limited remand of the matter for further proceedings in the district court as outlined in paragraph 35. The parties shall also ask the Court of Appeals to retain jurisdiction over the appeals in 10th Circuit Case Nos. 15 4151, 15 4152, 15 4153, 15 4155, and 15 4158 until the district court issues its ruling in response to the joint motion to vacate outlined in paragraph 35, so as not to prejudice BLM's ability to pursue its appeal if the terms of paragraphs 35 and 36 of this Settlement Agreement are not satisfied.

35. Should the Court of Appeals remand the matter to the district court while retaining jurisdiction as outlined in paragraph 34, the parties shall jointly move the district court to (1) vacate its November 4, 2013 decision (ECF No. 329), May 22, 2015 remedy order (ECF No. 388), and October 16, 2015 judgment (ECF No. 419) in their entirety; (2) dismiss with prejudice Plaintiffs' original complaint, amended complaints, and supplemental complaint (ECF Nos. 1, 65, 86, 465, and *SUWA v. U.S. Dep't of the Interior*, No. 1:10 cv 1930 (D.D.C.) ECF No. 1) in the above captioned litigation in their entirety; and (3) retain limited jurisdiction to enforce the terms of this Settlement Agreement as outlined in paragraph 40.

36. Should the district court (1) vacate its November 4, 2013 decision (ECF No. 329), May 22, 2015 remedy order (ECF No. 388), and October 16, 2015 judgment (ECF No. 419) in their entirety; (2) dismiss with prejudice Plaintiffs' original complaint, amended complaints, and supplemental complaint (ECF Nos. 1, 65, 86, 465, and *SUWA v. U.S. Dep't of the Interior*, No. 1:10 cv 1930 (D.D.C.) ECF No. 1) in the above captioned litigation in their entirety; and (3) retain limited jurisdiction to enforce the terms of this Settlement Agreement as outlined in paragraph 40,

the parties to this Settlement Agreement will move to dismiss the appeals in 10th Circuit Case Nos. 15 4151, 15 4152, 15 4153, 15 4155, and 15 4158 within 7 days of the District Court's vacatur, dismissal, and retention order, with each party bearing its own costs on appeal.

**C. EFFECTIVE DATE, REINSTATEMENT, ATTORNEYS' FEES**

37. The terms and agreements contained in paragraphs 1 31, and 37 42 of this Settlement Agreement go into effect only when (1) the district court enters an order (a) vacating its November 4, 2013 and May 22, 2015 orders and October 16, 2015 judgment (ECF Nos. 329, 388, 419), (b) dismisses with prejudice Plaintiffs' original complaint, amended complaints, and supplemental complaint (ECF Nos. 1, 65, 86, 465) in the above captioned litigation in their entirety, and (c) retains limited jurisdiction to enforce the terms of this Settlement Agreement as outlined in paragraph 40; and (2) the Tenth Circuit dismisses the appeals of the parties to this Settlement Agreement.

38. If the district court does not (1) vacate its November 4, 2013 decision (ECF No. 329), May 22, 2015 remedy order (ECF No. 388), and October 16, 2015 judgment (ECF No. 419) in their entirety; (2) dismiss with prejudice Plaintiffs' original complaint, amended complaints, and supplemental complaint (ECF Nos. 1, 65, 86, 465) in the above captioned litigation in their entirety; and (3) retain limited jurisdiction to enforce the terms of this Settlement Agreement as outlined in paragraph 40, this Settlement Agreement will be void and the parties will have no further obligations under this Settlement Agreement. In this circumstance, Federal Defendants and the Defendant Intervenor reserve their rights to pursue their appeals in 10th Cir. Nos. 15 4151, 15 4152, 15 4153, 15 4155, 15 4158 and Plaintiffs reserve their rights to pursue their claims in district court.

39. **Deadline limitations.** BLM is not obligated to meet any of the deadlines identified herein if it is prevented from doing so due to an event beyond the reasonable control of BLM that prevents BLM from fulfilling any obligation required by this Settlement Agreement despite the



exercise of due diligence. Such events may include, but are not limited to, situations where BLM does not receive adequate appropriations (including due to sequestration), where BLM Utah does not receive adequate funds from the Department of the Interior or BLM's national office, delays in the consultation process under Section 106 of the NHPA that are beyond BLM's control, natural disasters, as well as all unavoidable legal impediments or prohibitions. In the case of such an event, BLM shall be relieved of those specific obligations directly precluded by the event, as well as those other obligations whose performance is precluded by the inability to perform, or delay in performing, the directly precluded obligations, and only for the duration of such event, as provided herein. Where BLM cannot comply with any deadlines identified herein due to such an event, it shall provide notice to the parties and, should the deadlines be one of those over which the district court has continuing jurisdiction, shall also notify the district court. Such notice shall include a new estimated date by which BLM will comply with the deadline and a description, to the extent then known by BLM, of the steps taken or proposed to be taken to prevent or minimize the event's interference with BLM's performance of any affected obligations under this Settlement Agreement. BLM will provide status reports to the parties at regular intervals not to exceed 90 days notifying the parties and the district court, if applicable, of BLM's efforts to address and resolve the event. If any party disputes BLM's claim that it cannot comply with any of the deadlines identified herein due to an event, or the adequacy of BLM's efforts to address and resolve such event, such party shall proceed in the manner specified in paragraph 40.

40. **Enforcement.** The exclusive remedies for any alleged breach or noncompliance with the Settlement Agreement are provided for solely in this paragraph.

a. The district court shall retain jurisdiction over this Settlement Agreement for the purpose of judicial resolution of disputes that may arise among the parties to this Settlement Agreement concerning compliance with the TMP and ACEC deadlines specified

in paragraphs 13 and 27, respectively, as well as the one year deadline to update the ARMS identified in paragraph 29.a. Disputes over BLM's alleged failure to meet any of these deadlines shall be resolved through the process set forth in paragraphs 40.a c. The district court's continuing jurisdiction to resolve such disputes will be triggered only by BLM's failure to meet a deadline identified in paragraphs 13, 27, and 29.a; it shall not extend to resolve disputes concerning any other issues, including but not limited to questions of whether BLM complied with (i) any other provisions of this Settlement Agreement, (ii) any statutory or regulatory requirements, or (iii) any guidance or policy documents. The district court's jurisdiction shall continue no later than BLM's issuance of the last TMP for the TMAs identified in paragraph 13 or BLM's completion of its evaluation of the last potential ACEC identified in paragraph 27, whichever is later.

b. The parties agree that they will first attempt to resolve any disputes related to compliance with the deadlines in paragraphs 13, 27, and 29.a informally among themselves before invoking the jurisdiction of a court to resolve compliance disputes. If such a dispute arises, the complaining party shall notify the other parties in writing of the dispute. The parties shall meet and confer in an attempt to resolve the dispute within 30 days of the written notice. If the parties do not reach a resolution within 60 days of the written notice of the dispute, the complaining party may invoke the jurisdiction of the court to resolve the dispute, as set forth in paragraph 40.c.

c. In the event the parties are unable to resolve a dispute regarding compliance with the deadlines in paragraphs 13, 27, and 29.a through informal means, any party may thereafter immediately invoke the jurisdiction of this Court to resolve such a dispute, in accordance with the procedures set forth below. The sole remedy for any alleged violation

by BLM of the deadlines specified in paragraphs 13, 27, and 29.a of this Settlement

Agreement shall be as follows:

(i) The complaining party shall file a motion, in accordance with the Local Rules of this Court, requesting judicial resolution of the dispute. The parties may, by stipulation approved by the Court, alter the time table for briefing the motion; otherwise, briefing shall proceed as set forth in the Local Rules.

(ii) In exercising the retained jurisdiction to resolve disputes brought before the Court by the parties, the Court shall award only such relief as is provided for in 5 U.S.C. § 706(1), namely, to “compel agency action unlawfully withheld or unreasonably delayed.” The Court’s decision as to whether relief is appropriate should be guided by the following non exhaustive list of considerations: (1) the time agencies take to make decisions must be governed by a rule of reason; (2) the Court should consider BLM’s reasons for the delay, taking into account that BLM is a land management agency with numerous competing priorities and limited resources; (3) the Court should consider the effect of expediting delayed action on agency activities of a higher or competing priority; (4) the Court should also take into account the nature and extent of the interests prejudiced by delay.

d. Any party to this Settlement Agreement may meet and confer with BLM to resolve any disputes related to compliance with the obligations outlined in this Settlement Agreement other than the deadlines specified in paragraphs 13, 27, and 29.a.

(i) The complaining party shall initiate the meet and confer process by sending a letter to the applicable BLM Utah Field Office, BLM Utah State Director, and the other parties to the Settlement Agreement. The initiation letter shall identify the terms of the Settlement Agreement at issue, include a detailed explanation of the

dispute, and provide all supporting evidence of the alleged noncompliance with the terms of the Settlement Agreement. The BLM Utah State Director may notify other intervenors of the dispute and, if so, will also notify the parties to the Settlement Agreement that other intervenors have been notified.

(ii) If, within 30 days, BLM Utah does not respond in writing or does not provide a response that the complaining party deems adequate to resolve the dispute, the complaining party shall notify the other parties to the Settlement Agreement, in writing, that the dispute is unresolved. The BLM Utah State Director or Associate State Director shall, within 30 days of receipt of the second letter from the complaining party, meet with no more than three representatives of the complaining party. If both the BLM Utah State Director and Associate State Director are unavailable, the meeting shall be attended by the BLM Utah State Director's representative with his/her delegated authority related to the issue involved. Other parties to this Settlement Agreement may participate in the meeting at their discretion with no more than three representatives. The BLM Utah State Director or Associate State Director may notify the other intervenors of the continued dispute and provide them with a separate opportunity to meet, and, if so, will also notify the other parties to the Settlement Agreement. A complaining party may request up to one meeting with BLM Utah per quarter and a single meeting may address multiple issues.

(iii) BLM Utah will memorialize the outcome of the meeting and will provide a copy to the parties to the Settlement Agreement within 30 days of the meeting. If BLM Utah cannot meet the 30 day deadline due to the nature of the issues or other exigent circumstances, BLM will notify the complaining party within 25 days of the meeting

and will provide a response as expeditiously as possible, but no later than 60 days after the meeting. After providing a copy to the parties, BLM's obligations under this subparagraph are complete. The parties agree not to seek administrative or judicial review of BLM's resolution of the dispute, or to assist in any way any person or entity that attempts to do so.

(iv) The meet and confer process set forth in paragraph 40.d is not a prerequisite to the filing of a lawsuit challenging BLM's final agency actions pursuant to paragraph 40.e. The meet and confer process shall remain in effect until BLM's issuance of the last TMP for the TMAs identified in paragraph 13 or BLM's completion of its evaluation of the last potential ACEC identified in paragraph 27, whichever is later.

e. The parties' sole remedy for any alleged violation of paragraphs 15 24, 29 (except for the deadline identified in 29.a), and 30 of this Settlement Agreement shall be to seek administrative review or to file a new civil action seeking judicial review of BLM's final agency action under the APA, 5 U.S.C. §§ 701 06. In no event shall any term of this Settlement Agreement be construed as limiting any claims or defenses that BLM or any party may raise in any such subsequent proceedings. No term of this Settlement Agreement turns BLM's actions into administratively or judicially reviewable final agency action if they would not otherwise qualify for review under applicable agency rules or as final agency action within the meaning of the APA. Any judicial review of any alleged violation of this Settlement Agreement shall be limited to the administrative record and subject to the APA's standard of review, 5 U.S.C. § 706(2).

f. The parties agree that contempt of court is not available as a remedy for any alleged violation of any portion of this Settlement Agreement. The parties therefore knowingly waive any right that they might have to seek an order for contempt for any such

violation. The parties also agree that a suit for money damages against BLM or any Federal Defendant is not available as a remedy for any alleged violation of any portion of this Settlement Agreement.

41. **Attorneys' fees.** Plaintiffs agree to accept payment of four hundred thousand dollars (\$400,000.00) in satisfaction of any and all claims that have been or could be sought for attorneys' fees, costs, and expenses related to the above captioned litigation against any part of the United States government for all district court and appellate proceedings, including attorneys' fees and costs for any and all settlement negotiations related to the above captioned litigation. Federal Defendants' payment shall be accomplished by an electronic payment to a bank account. Federal Defendants agree to submit all necessary paperwork to federal funding authorities within twenty one (21) days of the effective date of the Settlement Agreement. Plaintiffs agree that receipt of this payment from the Federal Defendants shall operate as a release of Plaintiffs' claims for attorneys' fees, costs, and expenses in this matter. Plaintiffs shall send written confirmation of the receipt of the payment to the Federal Defendants within seven (7) days of receiving the payment.

42. **Notices.** Any notices regarding this Settlement Agreement shall be in writing, effective upon receipt, and sent to the following:

For the plaintiffs:

Steve Bloch  
Attorney, Southern Utah Wilderness Alliance  
425 East 100 South  
Salt Lake City, Utah 84111  
801 428 3981  
steve@suwa.org

Robin Cooley  
Staff Attorney, Earthjustice  
633 17th Street, Suite 1600  
Denver, CO 80202 3625  
303 623 9466  
rcooley@earthjustice.org

Nada Culver  
Senior Counsel and Director, BLM Action Center, The Wilderness Society  
1660 Wynkoop, #850  
Denver, CO 80202  
303 650 5818  
nada\_culver@twc.org

For BLM:

Edwin L. Roberson  
Utah State Director  
Bureau of Land Management  
440 West 200 South, Suite 500  
Salt Lake City, Utah 84101 1345  
801 539 4001

John Steiger  
Regional Solicitor, Intermountain Region  
Office of the Solicitor  
U.S. Department of the Interior  
125 South State Street, Suite 6201  
Salt Lake City, Utah 84138  
801 239 0548

Thekla Hansen Young  
U.S. Department of Justice  
Appellate Section, Environment and Natural  
Resources Division  
PO Box 7415  
Ben Franklin Station  
Washington, DC 20044  
202 307 2710  
thekla.hansen.young@usdoj.gov

Luther L. Hajek  
U.S. Department of Justice  
Natural Resources Section, Environment and  
Natural Resources Division  
999 18th St. South Terrace, Suite 370  
Denver, CO 80202  
303 807 1376  
Luke.Hajek@usdoj.gov

For Defendant Intervenor BlueRibbon Coalition, Colorado Off Highway Vehicle Coalition,  
Trails Preservation Alliance.

Paul Turcke  
MSBT Law  
950 W. Bannock Street, Suite 520  
Boise, ID 83702  
208 331 1800  
pat@msbtlaw.com

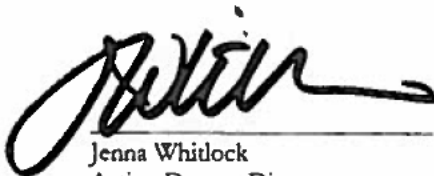
BlueRibbon Coalition/Sharetrails  
c/o Clif Koontz, Ride with Respect  
395 McGill Avenue  
Moab, UT 84532  
435 259 8334  
clif@ridewithrespect.org

Colorado Off Highway Vehicle Coalition  
Trails Preservation Alliance  
c/o Don Riggle  
P.O Box 38093  
Colorado Springs, CO 80937  
719 338 4106  
info@coloradotpa.org


Any party to this Settlement Agreement may change the contacts or contact information identified for that party in this paragraph by notice in writing to all other parties.

D. SIGNATURE OF PARTIES

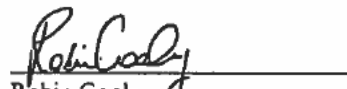
43. The undersigned representatives of each party certify that they are fully authorized to consent to the terms and conditions of this Settlement Agreement. Signature on a counterpart shall constitute a valid signature.

  
Jenna Whitlock  
Acting Deputy Director,  
Bureau of Land Management

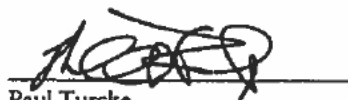
Dated: 1/13/17

  
Steve Bloch  
Legal Director, Southern Utah Wilderness Alliance  
Counsel for Plaintiffs Southern Utah Wilderness Alliance et al.

Dated: 1/13/17

  
Robin Cooley  
Staff Attorney, Earthjustice  
Counsel for Plaintiffs Southern Utah Wilderness Alliance et al.

Dated: 1/13/17

  
Paul Turcke  
Counsel for Defendant-Intervenors BlueRibbon Coalition, Colorado Off-Highway Vehicle Coalition, Trails Preservation Alliance

Dated: 13 JAN 2017

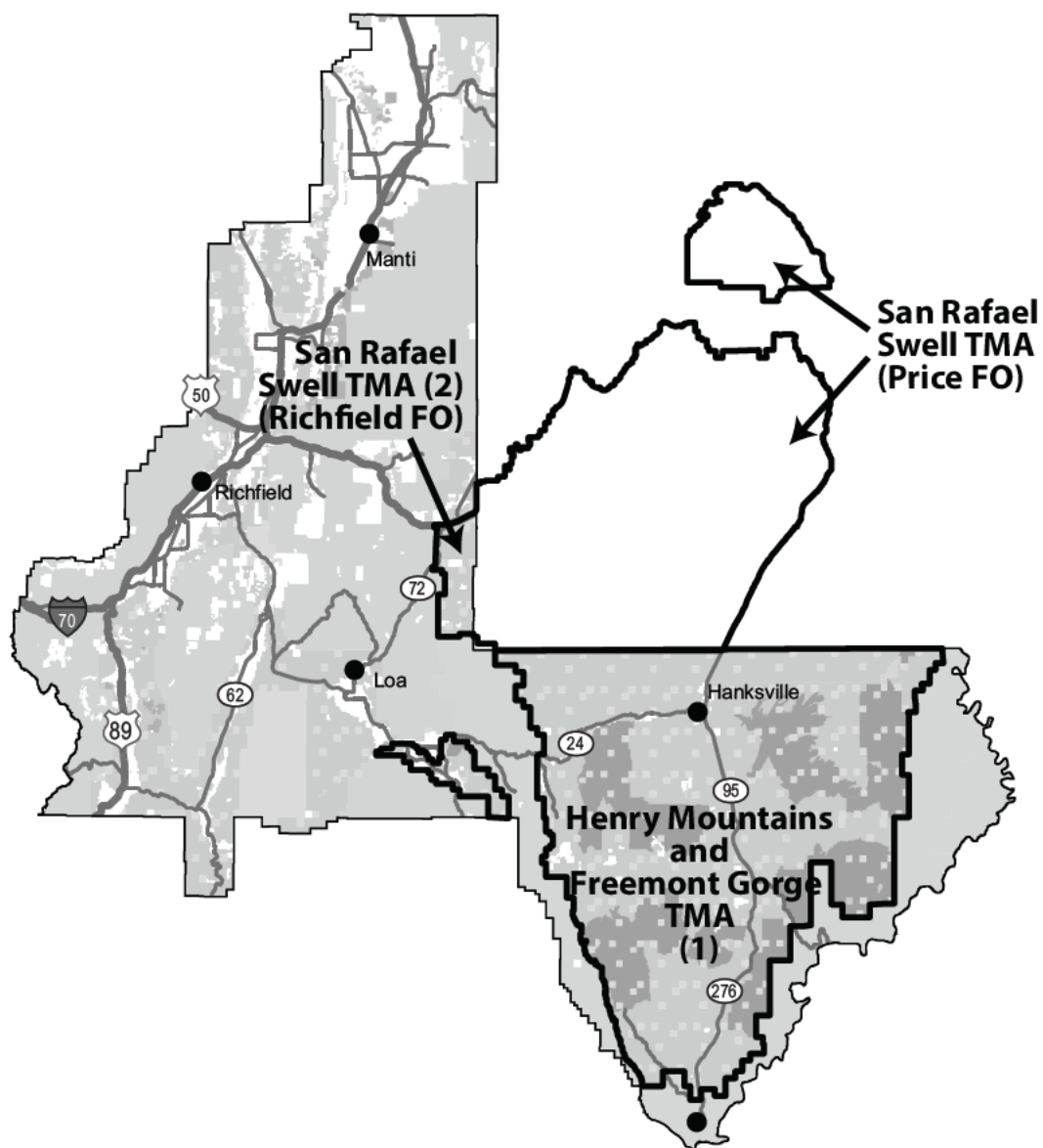




## Attachment A1: Map 1

## Legend

TMA Boundary	Bureau of Land Management (BLM)	Military Reservations and Corps of Engineers	State Parks and Recreation
Field Office Bdry	BLM Wilderness Area	National Park Service (NPS)	State Wildlife Reserve/Management Area
US Highways	Wilderness Study Area	Private	USFW National Wildlife Refuge
State Highways	Indian Reservation (IR)	State	USFS Wilderness Area



0 30 60 120 Miles

Richfield Field Office

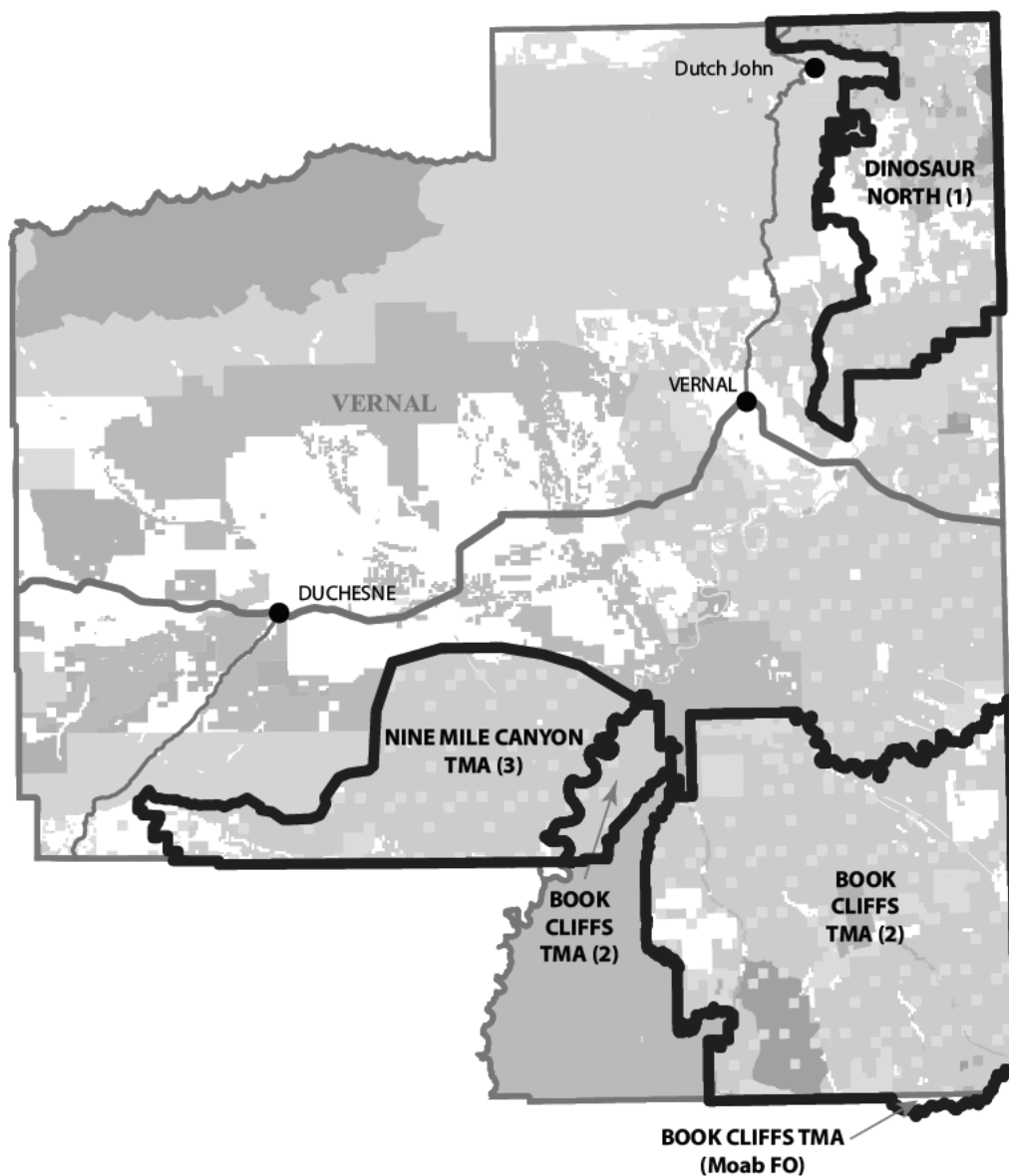
JANUARY 13, 2017



## Attachment A2: Map 2

## Legend

	TMA Boundary		Bureau of Land Management (BLM)		Military Reservations and Corps of Engineers		State Parks and Recreation
	Field Office Bdry		BLM Wilderness Area		National Park Service (NPS)		State Wildlife Reserve/Management Area
	US Highways		Wilderness Study Area		Private		USFW National Wildlife Refuge
	State Highways		Indian Reservation (IR)		State		USFS Wilderness Area



0 5 10 20 30 Miles

Vernal Field Office

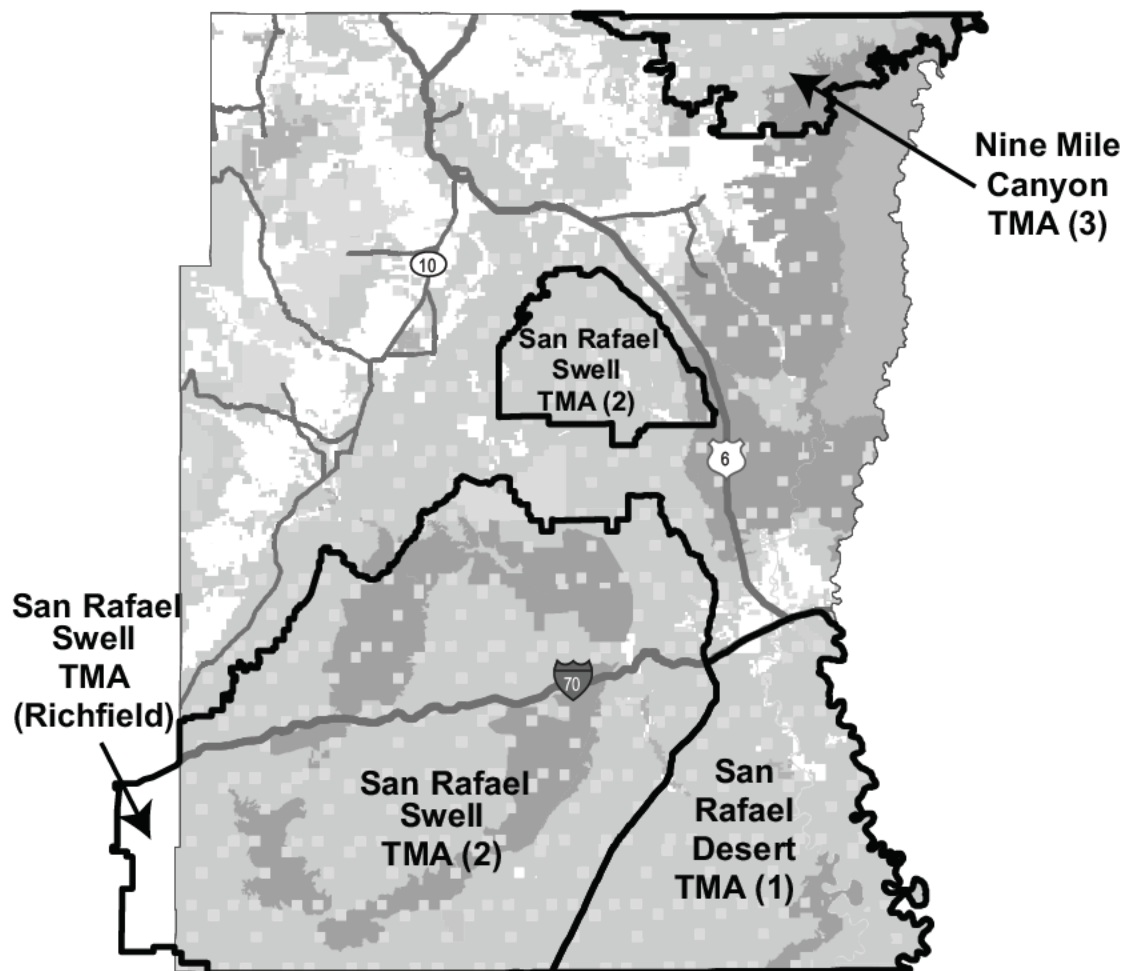
JANUARY 13, 2017



## Attachment A3: Map 3

## Legend

US Highways	Bureau of Land Management (BLM)	Military Reservations and Corps of Engineers	State Parks and Recreation
State Highways	BLM Wilderness Area	National Park Service (NPS)	State Wildlife Reserve/Management Area
TMA Boundary	Wilderness Study Area	Private	USFW National Wildlife Refuge
	Indian Reservation (IR)	Lake	USFS Wilderness Area



0 10 20 40 Miles

Price Field Office

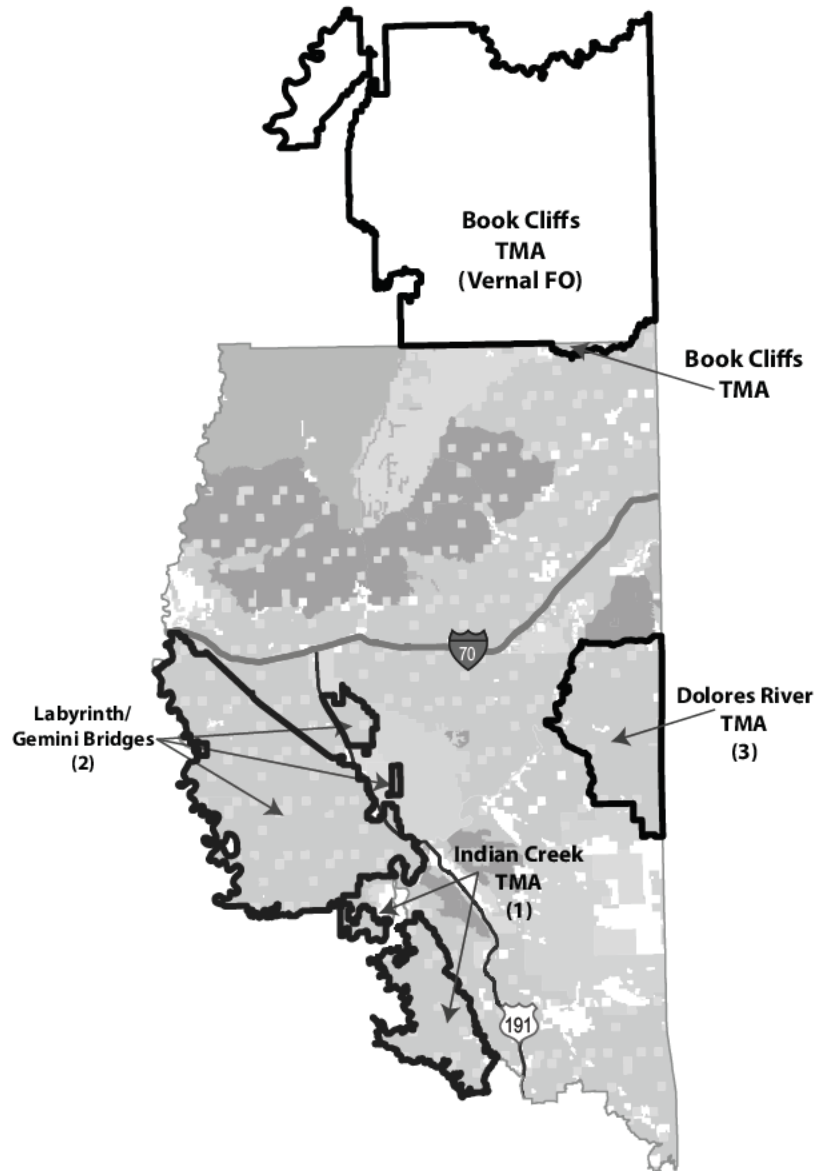
JANUARY 13, 2017



## Attachment A4: Map 4

## Legend

US Highways	Bureau of Land Management (BLM)	Military Reservations and Corps of Engineers	State Parks and Recreation
State Highways	LM Wilderness Area	National Park Service (NPS)	State Wildlife Reserve/Management Area
	Wilderness Study Area	Private	SFW National Wildlife Refuge
	Indian Reservation (IR)	State	SFS Wilderness Area



0 10 20 30  
Miles

Moab Field Office

JANUARY 13, 2017



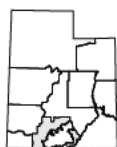
Attachment A5: Map 5

## Legend

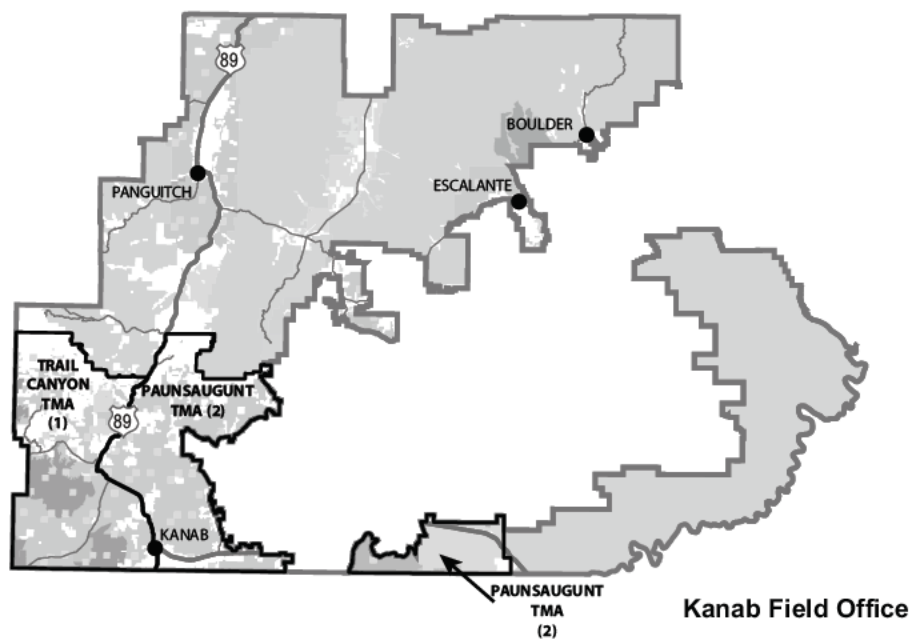
- US Highways
- State Highways
- Field Office Boundary
- TMA Boundary
- Kanab Field Office Boundary
- Bureau of Land Management (BLM)
- M W Wilderness Area
- Designated Study Area
- Indian Reservation (IR)
- Military Reservations and Corps of Engineers
- National Park Service (NPS)
- Private
- State
- State Parks and Recreation
- Wildlife Reserve/Management Area
- Federal Wildlife Refuge
- Forest Wilderness Area

0 5 10 20 30  
Miles

NORTH



JANUARY 13, 2017



Kanab Field Office



## Attachment A6 (Map 6)

## Legend



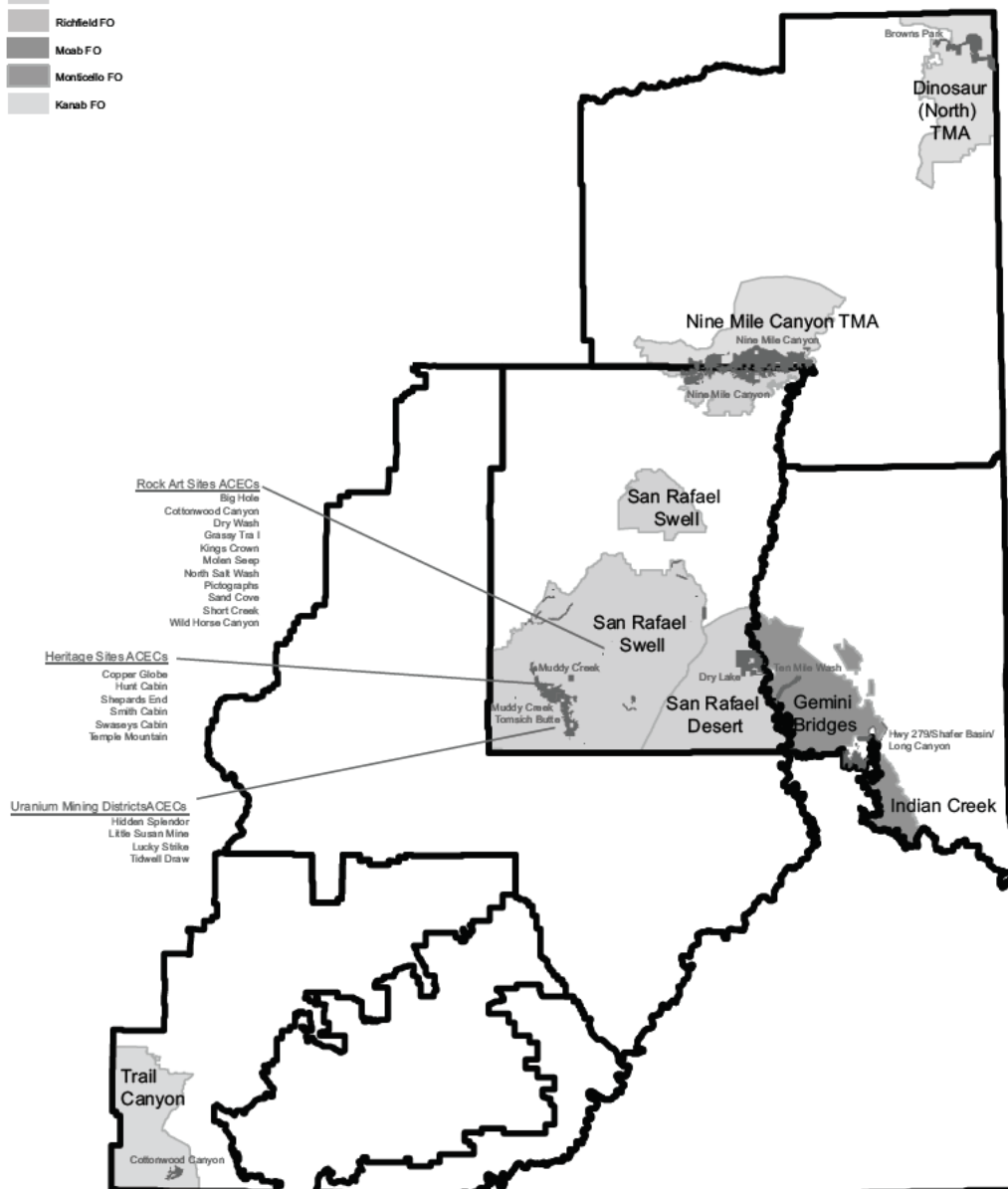
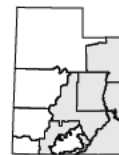
Field Office Boundary



CEC with Relevant and Important Cultural Resource Values

## TMAs Containing ACEC

- Vernal FO
- Price FO
- Richfield FO
- Moab FO
- Monticello FO
- Kanab FO



0 25 50 100  
Miles

JANUARY 13, 2017



# Attachment A7 (Map 7)

## Legend

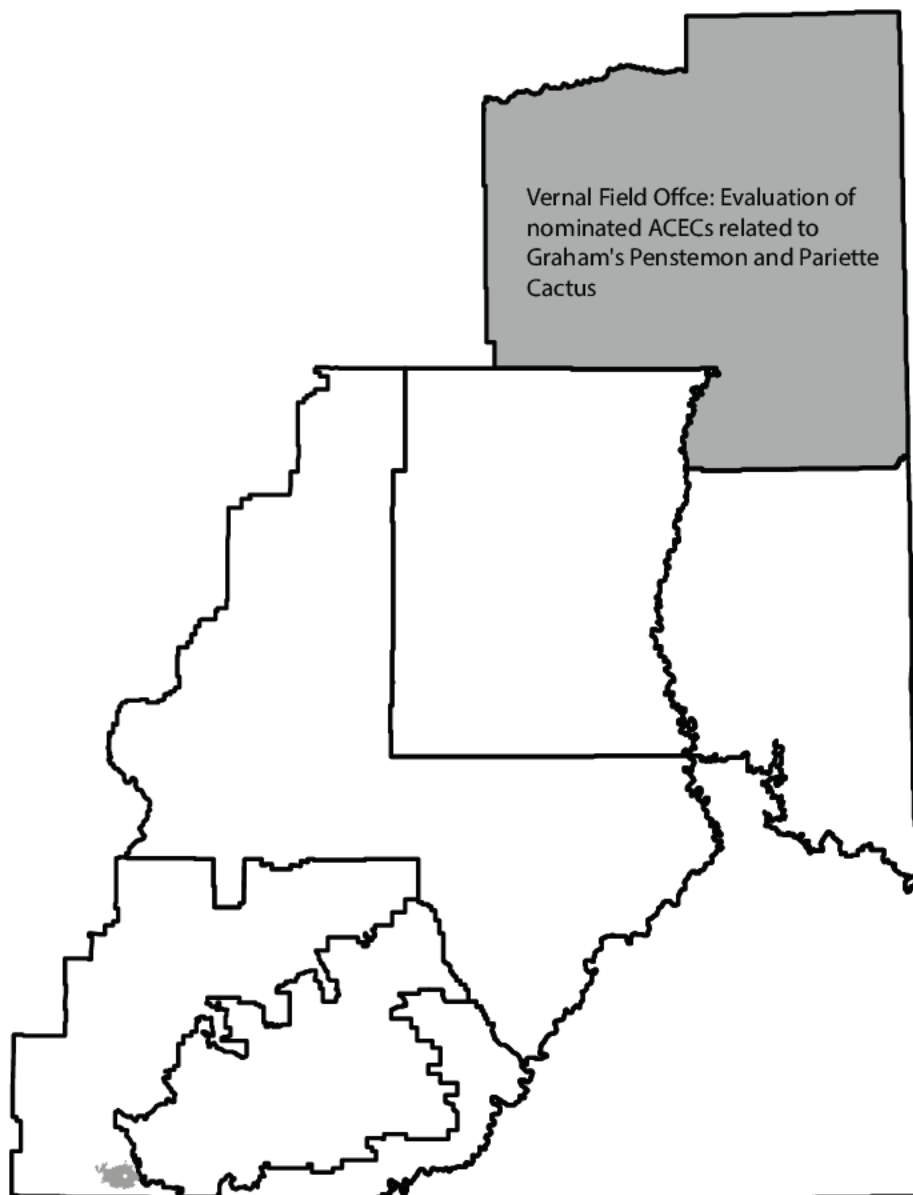
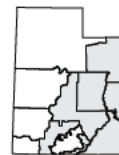


Field Office Boundary

## Potential ACECs Re-Evaluations



Vermilion Cliffs



0 25 50 100 Miles

JANUARY 13, 2017