



U.S. Department of the Interior
Bureau of Land Management

Arizona State Office

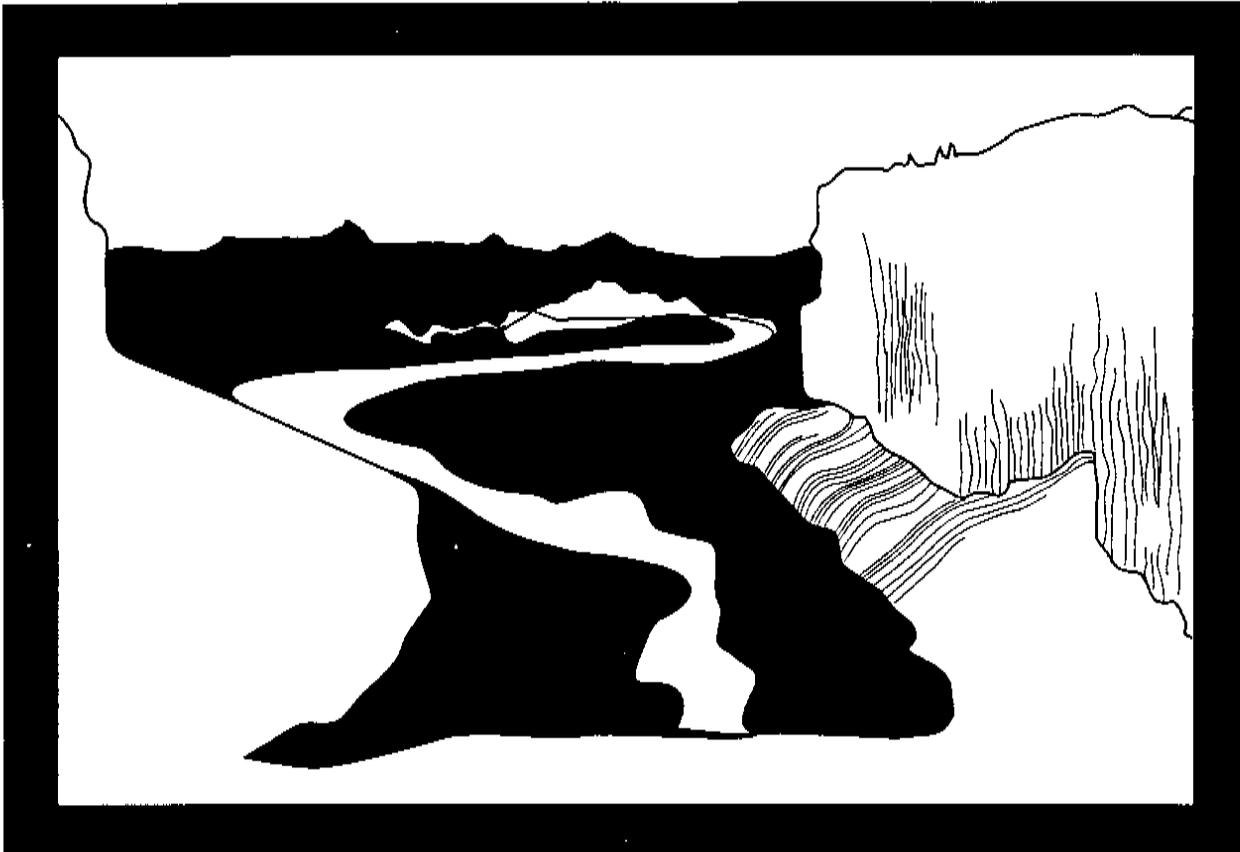
August 1995



Final

Arizona Statewide Wild and Scenic Rivers
Legislative Environmental Impact Statement

Public Review Comments



Final Legislative Environmental Impact Statement

In December 1994, the Arizona Statewide Wild and Scenic Rivers Final Legislative Environmental Impact Statement (FLEIS) was completed. On or about December 24, 1994, approximately 400 copies were mailed to agencies, organizations, and individuals involved in the review process. Concurrently, approximately 1400 Wild and Scenic River Updates were mailed to those on the wild and scenic river mailing list summarizing the recommendations and announcing the availability of the FLEIS for comment. A Federal Register Notice (Vol. 59, No. 250, pp. 67716-67717) announcing the Availability of the Final Environmental Impact Statement was published on December 30, 1994. The notice announced comments would be accepted through February 3, 1995. In addition, the notice stated that any comments in response to the FLEIS would be forwarded to Congress with the environmental impact statement.

In addition, on March 3, 1995, letters soliciting comments were sent from the Secretary of the Interior to the Secretaries of Army and Agriculture, and the Chair of the Federal Energy Regulatory Commission.

A total of 53 written responses to the FLEIS were received by the BLM during this period. Copies of each of these responses is included in this document.

In addition, three formal appeals were received by the BLM, and were filed with the Department of Interior Board of Appeals (IBLA). All appeals were specifically in regard to eligibility and/or suitability determinations of the Virgin River. The Bureau of Land Management, as respondent, has filed a motion with IBLA for a dismissal of the appeals filed by the State of Utah, Washington County, and Washington County Water Conservancy District. As of the date of this publication, IBLA has not ruled on these appeals.

For additional copies of the Arizona Statewide Wild and Scenic Rivers Final Legislative Environmental Impact Statement (FLEIS), or to obtain additional information, please contact:

Mr. Phil Moreland
Group Administrator, Lands and Recreation
Bureau of Land Management
Arizona State Office
3707 N. 7th Street
Phoenix, Arizona 85014

(602) 650-0509

307

**ROSTER OF RESPONDENTS TO
ARIZONA STATEWIDE WILD AND SCENIC RIVER
FINAL LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT**

Letter

No.	Individual Respondents	Location
1	Mark A. Bruns	Bariboo, Wisconsin
2	Jason van Doren	Glendale, Arizona
3	Mansur Johnson	Tucson, Arizona
4	Sarah Palmer	Tucson, Arizona
5	Marjorie L. Morzingo	Graham County, Arizona
6	George A. Hamilton	Graham/Greenlee County, Arizona
7	Dan Fischer	Willcox, Arizona
8	Carol Tepper	Tucson, Arizona
9	James Kennedy	Safford, Arizona
10	Larry Clark	Graham/Greenlee County, Arizona
11	Dena M. Clark	Graham/Greenlee County, Arizona
12	<i>Brian S. Sanchez</i>	Graham/Greenlee County, Arizona
13	<i>T.A. Burke</i>	Graham County, Arizona
14	James H. Vedders	Graham County, Arizona
15	William L. Schultheis	Graham County, Arizona
16	<i>E. Schuere</i>	Graham/Greenlee County, Arizona
17	<i>Farber S. Irion</i>	Graham/Greenlee County, Arizona
18	<i>Carol J. Irion</i>	Graham County, Arizona
19	Joseph Dugan	Graham County, Arizona
20	Lori R. Dugan	Graham County, Arizona
21	Maxine M. Hayes	Yarnell, Arizona
22	Bart J. Patterson for Clayton Jacobson	Phoenix, Arizona
23	Fred/Alta Towne	Kirkland, Arizona
24	Jerry Van Gasse	Tempe, Arizona
25	Mark Prein/Lori Morse	Show Low, Arizona
26	Josefina Bianes Melendrez	Avondale, Arizona
27	Barbara L. Hustin	Safford, Arizona
28	Lee J. Clark	Safford, Arizona
29	John Pamperin	Phoenix, Arizona
30	Steve Saway	Fort Huachuca, Arizona

Letter

No. **Group, Organizational and Corporate Respondents**

31	Judith M. Mikeal et al.	St. David, Arizona Residents
32	Dorothy Reed-Inman	White Mountain Conservation League
33	Timothy J. Flood	Friends of Arizona Rivers
34	Don Steuter, Conservation Chr.	Sierra Club-Grand Canyon Chapter
35	Pamela W. Hyde, Consr Assoc	American Rivers-Southwest Regional Office
36	Peter Pfeifer	Arizona Off-Highway Vehicle Association
37	Sylvia Allen, Field Coordinator	People for the West-Heber Chapter
38	Roger G. Tabar, Com. Member	Upper San Pedro Watershed Management Assn.
39	J. A. Sturgess, Consultant	Cyprus Climax Metals Company
40	Charles S. Eady	Phelps Dodge Corporation
41	Jerry Haggard, Attorney	Phelps Dodge Corporation

State and Local Government Agency Respondents

42	David McCullar, Mayor	Town of Clifton, Arizona
43	Larry Innes et al., Mayor	Town of Thatcher, Arizona
44	Delbert Householder et al., Chr.	Graham County Board of Supervisors
45	Tim Walters, President	Graham County Chamber of Commerce
46	M. Randolph Schurr	Yavapai County Deputy Attorney
47	Garth Brown, Chairman	Wickenburg Natural Resource Conservation Dist.
48	Gail Getzwiller, Chairman	San Pedro Natural Resource Conservation Dist.
49	Duane L. Shroufe, Director	Arizona Game & Fish Department
50	Ted Stewart, Executive Director	State of Utah, Department of Natural Resources
51	Gayle M. Aldred et al., Chairman	Washington County Commission
52	Ronald W. Thompson	Washington County Water Conservancy District Mngr.

Federal Government Agency Respondents

53	Elizabeth A. Moler, Chair	Federal Energy Regulatory Commission
	No response	Secretary, Department of the Army
	No response	Secretary, Department of Agriculture

Note: Names for which signatures were illegible are identified in italics. Refer to specific letters in the accompanying document, Arizona Statewide Wild and Scenic River Final Legislative Environmental Impact Statement Public Comments (July 1995).

Letter number appears only on the first page of each respondent's letter.

JAN 03 1995

PO # 545

Baraboo, WI

53913

Dear Mr Moreland,

I would like to simply reinforce my comments earlier submitted regarding the BLM Wild & Scenic Rivers statement for Arizona. Basically I support Wild & Scenic designation for all rivers considered in the study. My recommendation is based on both the natural qualities of those rivers and the threats that face them. So many rivers in the arid regions have been heavily manipulated. Dams and

ditches have destroyed a multitude of once beautiful waterways. It is imperative that those rivers that are still natural receive legislative protection. Thus I strongly support your recommendations, plus the inclusion of all other considered rivers. Thank you.

Sincerely,

Mark A. Bruas

JAN 05 1995

Dec. 31, 1994

JASON VAN DORN

3888 N 47 Ave #212

Glendale, AZ 85302

Dear Mr. Moreland,

First I would like to commend the BLM and their work in Arizona on Wild & Scenic River issues. I am glad to see so many rivers recommended for protection or specific designations. However, I am deeply disappointed that so few are recommended for inclusion in the Nat. Wild & Scenic River System (NWSRS).

The mere fact of these rivers scarcity in AZ should merit a greater number of rivers being included in the NWSRS. I strongly urge you to reconsider that more rivers should be included in this designation.

Sincerely,
Jason van Dorn

Tuesday, January 3, 1995
6056 N. Oracle Jaynes
Tucson, AZ 85741

JAN 05 1995

Mr. Phil Moreland, Branch Chief, Planning, Environment, etc.
BLM Arizona State Office
3707 N. 7th Street, PO Box 16563
Phoenix, AZ 85014

Dear Mr. Moreland,

Thank you for your work to preserve what is left of riparian systems. Still, you found arbitrary ways not clearly expressed not to give the public what I asked for.

You remember, my bias was expressed clearly in my earlier letter: I want all eligible rivers designated. We are looking at 5% of what used to be. Please give the public 100% of that 5%, I begged. You offer the public 61% and exclude 39% of all eligible river segments.

(The numbers used to make this calculation were taken from AZ BLM Wild and Scenic Rivers Update of January, 1995. Although it is stated, "BLM managers recommended the entire eligible portion of the following rivers...", the typist erred with regard to the Lower San Francisco: 6.4 is recommended, 8.0 miles were eligible. I include the overlooked 1.6 eligible miles in my calculation.)

Naturally I want to engage you in a specific discussion of your reasons, your rationale for eliminating segments or whole rivers. Your referral to a general response when a specific question is posed by commentators makes engagement impossible.

For example, American Rivers' request for reconsideration of Hassayampa River (p. 386) and Francis Creek (p. 388) and Santa Maria River (p. 389). The reason for your recommendation of "non-suitable" in each specific case is explained by reference to general response answers. How to engage you when your rationale for this recommendation is hidden from me?

Occasionally, you can be specific, as in your response on page 389 to American Rivers' questioning your exclusion of lower Bonita Creek. Thank you. This is a rare exception. What I say later about Santa Maria River and Burro Creek applies to Bonita Creek.

In short, river segments were deemed eligible knowing they had "parcels of private land." This should not be used as a basis to find them not suitable for designation. If you correct this capricious practice throughout, you will have to recommend many more river miles than you have recommended.

Hassayampa River was supported by at least three writers-- I have not tried to annotate every writer in favor--on pages 273, 435, and 382. It was once threatened with a dam. Threats like dams are one of your strongest criteria to recommend protection. The river warrants protection. The suitability study summary is not adequate explanation.

Turkey Creek feeds Aravaica Creek. You report 21-25 people attended a meeting in Klondyke (p. 615 Appendix) in April, 1993, but you publish no record of their comments for or against Turkey Creek. It merits protection.

You never answer American Rivers' contention that some protections are administrative and that stronger protection is necessary (p. 383). You sluff over this detail which criticizes your justification for non-suitability on the basis of pre-existing protection. Why?

Their point invalidates your use of existing protection as a basis for a recommendation of non-suitability. Hot Springs Canyon and Sycamore Springs Canyon are two of the recommended rivers, in which you use this rationale to not recommend them. They deserve maximum protection.

You refer to the San Carlos Apache tribe's objection to including 19.1 miles of the Middle Gila River (p. 10), which abuts their property, but where is the documentary evidence of their concerns?

Your rejection of some river segments which flow through private lands (They "would be unmanageable," p. 10, Santa Maria River) suggests private holdings disqualify rivers. This despite repeatedly noting (Appendix--Scoping Issues--Impacts on use of private property, p. 6, p. 68, p. 178, et.al) that, "There would be no impact on private property uses."

It is impossible to tell, given the information on p. 6-7, whether the "status of land ownership" suitability factor comes from the Wild and Scenic Rivers Act or the BLM Wild and Scenic Rivers Manual. But, wherever (my guess is the Manual) your higher mandate from the Act is to "preserve" and to "protect" rivers.

I believe it is wrong to find eligible rivers non-suitable because they flow through privately held lands. Federal designation would increase the value of private holdings, in the same way property bordering National Forest is more valuable. The same applies to Big Sandy River's 19.0 miles recommended non-suitable, "because it is in other than public ownership, so protection of values by BLM would be unmanageable."

Take Burro Creek. You suggest on page 8 that an intermingling of State Trust and private lands are unmanageable and eliminate 26.4 out of 51.6 miles, even though you find, "Some threats to scenic quality from mining activities exist without designation," (p. 80). Areas that are threatened with mining meet unambiguously one strong criteria for recommending designation. That's why more, if not all, of Burro Creek needs protection.

You fail, as required, to respond and explain your refusal to defend the procedural adequacy of a classification change favored by several commentators (p. 533, p. 387) in re: San Pedro River classification as recreational, rather than scenic, the commentators' preferred classification. I know this river, I have read the definitions of scenic and recreational. Once again, I cannot find your specific rationale justifying the weaker recreational classification.

The same on page 399, when a commentator questions the procedural adequacy of not classifying the Lower San Francisco River as scenic.

Wright Creek. Few spoke for Wright Creek, you say, but "local interest in Congressional designation may be considered moderate to high," (p. 11).

So, let me summarize in your words, "Local sentiment is against designation of Burro Creek," so it appears the BLM was intimidated not to designate, and for Wright Creek "local interest in Congressional designation" is "moderate to high," and BLM is still not persuaded. It looks like BLM just wants to eliminate rivers. Is this capricious or what?

Stacy Clawson-Damp and Dale Turner (p. 424) spoke for Wright Creek. So did Timothy J. Flood (p. 401). I too want it recommended for designation.

Again, thank you for recommending 61% of eligible rivers. As noted above, with no attempt to be exhaustive, it took a lot of work to discern the rationale for BLM recommendations and, in most cases, it was impossible. The mass of documentation gives the appearance of serious deliberation, but actually obscures the fact that much is not revealed.

I would like to see listed river by river, segment by segment, your case against that rejected 39% and an in depth defense of your case.

Why not offer protection to acknowledged "wild" (how rare!) rivers like Hassayampa River, Hot Springs Canyon and Swamp Spring Canyon?

In conclusion, and I am begging now, please protect Turkey Creek which flows into Aravaipa Creek. Please protect Francis Creek, which flows into Burro Creek. Please protect the other half of Burro Creek, the rest of Santa Maria River, the other half of Bonita Creek, the rest of Big Sandy River, and the rest of the Middle Gila River.

I cannot argue substantively, or demur for these segments, because you don't tell why they are declared unsuitable. Your neglect in clearly publishing reasons for non-suitability obfuscates this process and obviates more meaningful participation by all concerned.

You eliminate two miles of the San Pedro, "because a decision was made not to acquire easements for access," (p. 10). The State of Arizona Heritage Fund was established for such purposes. Just because BLM decides not to acquire the easements, it is wrong to recommend no protection. BLM should recommend for designation with the caveat: Others (Heritage Fund, Nature Conservancy, etc.) must acquire easements for utility to work.

Writers including The Department of Interior (p. 273), Sierra Club Grand Canyon Chapter (p. 435), American Rivers (p. 382), and Sierra Club Southwest (p. 425) have argued for Wright Creek, Hassayampa River, Turkey Creek, Francis Creek, Hot Springs Canyon and Swamp Spring Canyon--all of which you did not recommend, not a mile.

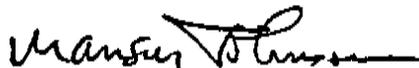
I accept your recommendations as priorities, but for you to eliminate whole eligible rivers is difficult to comprehend.

In many cases, the public, speaking for myself, don't care if you manage, in the sense of doing anything, in wild areas. They, we, I simply want protections in place to prevent negative impacts, like mining, dams and cows. TO PRESERVE ALL THE REST THAT REMAINS!

It seems a shame to drop whole rivers and large segments--39%--which is 170.8 miles out of 441.4 miles of eligible rivers at this time when pressures by people will only increase, and, when this lengthy process has produced these few candidates out of what used to be.

I would say to the Congressional reps: BLM has not recommended enough, and was arbitrary and capricious in its recommendations. Please give all 20 rivers full protection as wild and scenic rivers.

Respectfully,



Mansur Johnson

cc McCain
Kyl
Kolbe

JAN 17 1995

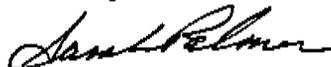
Sarah Palmer
2521 East 7th Street
Tucson, Arizona 85716
January 9, 1995

Mr. Phil Moreland, Branch Chief,
Planning, Environment, Lands & Recreation
BLM Arizona State Office
3707 North 7th Street
Phoenix, Arizona 85014

Dear Mr. Moreland;

I applaud the Arizona BLM recommended Wild and Scenic designation of the following aquatic resources: Virgin River, Aravipa Creek, Bill Williams River, Gila River, Lower San Francisco River, Paria River Agua Fria River, and Cienega Creek. The designation of portion of the San Pedro River is great but I would like to see a larger portion if not all, of Burro Creek and the Middle Gila protected by Wild and Scenic designation. I urge the Arizona BLM to also designate the Hassayampa and Turkey Creek as Wild and Scenic as well.

Sincerely,



January, 1995

Mr. Phil Moreland, Branch Chief
 Planning, Environment, Lands & Recreation
 BLM Arizona State Office
 P O Box 16563
 Phoenix, Arizona 85014

Re: Wild and Scenic Rivers Legislative Environmental Impact Statement

Thank you for the opportunity to respond to the Wild and Scenic Rivers
 Legislative Environmental Impact Statement.

I am a resident of Graham County. I chose this area for my retirement
 home. I enjoy the use of public lands for hiking, picnicking, bird
 watching and just enjoying the scenery. As a citizen, I use - but don't
 misuse the lands.

I do not believe that we need more management from the federal
 agencies to protect wild life nor the rivers, what I am concerned about
 however is the rights of the people.

The people in Graham County have a right to continue to earn their
 living in the traditional use of the lands. You need to identify what
 the economics of this area is based on and allow these people the
 right to their homes, their jobs and their future.

I vote NO on "Wild and Scenic" designation for the rivers and
 streams in Graham and Greenlee Counties.

Sincerely

Margie L. Thompson

cc:

Jerry Halbe
John McCain
John Hyle
Gov. Symington
J. D. Daynard
Frank Keeler *Safford BSM*

January, 1995

Mr. Phil Moreland, Branch Chief
Planning, Environment, Lands & Recreation
BLM Arizona State Office
P O Box 16563
Phoenix, Arizona 85014

Re: Wild and Scenic Rivers Legislative Environmental Impact Statement

Thank you for the opportunity to respond to the Wild and Scenic Rivers Legislative Environmental Impact Statement.

The economic base for Graham and Greenlee counties are completely dependent on agriculture, mining, ranching and tourism. Loss of those industries in Graham and Greenlee Counties would destroy the economy.

We feel strongly that the economic impact needs to be studied for individual areas. We support "No Action" and no change in the present management of our lands.

I am a veteran and I fought for the rights and freedom of American people. I resent our own government stepping in and destroying the very principles we fought to preserve - the right to own land, the right to earn a living, and a right to chose the place to accomplish that end.

Please do not impose further government restrictions on the management of our lands in Graham and Greenlee County. We want to continue living here and continue to be able to support our own families.

Thank you.

George A. Hamilton

CC: JIM KOLBE

JOHN KYLE

JOHN MCRAIN

GOV. SYMINGTON

J. D. HAYWORTH

FRANK ROWLEY
SAFFORD BLM

Dos Cabezas Rt., Box 6309
Willcox, AZ. 85643

January 21, 1995

Phillip Moreland, Branch Chief
Planning, Environmental, Lands and Recreation (931)
Arizona State Office
Bureau of Land Management
3707 North 7th Street
P.O. Box 16563
Phoenix, Arizona 85011

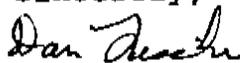
Re: Arizona Wild & Scenic Rivers Legislative Environmental
Impact Statement

Dear Mr. Moreland:

The process by the BLM through analysis and recommendation to designate certain Arizona rivers eligible for protection has been thorough and the procedure now needs to advance through Congressional action. I would encourage the Arizona Delegation and all other members of Congress to support this proposal through legislation.

The protection of these "National Treasures" through Congressional measures becomes increasingly more important for all who follow. It would be a grievous misjudgment if Congress fails to implement this action for the benefit of the people.

Sincerely,



Dan Fischer

JAN 27 1995

To: Phillip Moreland, Branch Chief
Planning, Environmental, Lands and Recreation
Arizona State Office
Bureau of Land Management

From: Carol Tepper
250 N. Arcadia #1302
Tucson, Az. 85711

January 23, 1995

Dear Mr. Moreland,

The BLM's proposal to designate a portion of the rivers it manages as Wild and Scenic is very exciting. As a professional naturalist, I am pleased with the findings of the final EIS, and impressed with the research the BLM has put into the study. As a longtime Arizonan, I am proud that my state will finally be acknowledging the preciousness of these green ribbons of life in the desert. My hope is that all decisions the BLM will make regarding these rivers will be based on ecological principles and ECOSYSTEM MANAGEMENT.

Before I comment on the plan, I have a few specific questions about what I read in the document:

1. What defines good/fair/poor water quality?
2. What laws, if any, can stop groundwater depletion? How can we know how much groundwater is left in our aquifers?
3. How does one measure the quantity of water a mine or ranch uses or wastes?
4. What ecological damage could potentially occur if a flood plain extended beyond a river's protected corridor?
5. What are the BLM's plans for "encouraging" or "regulating" recreation? What are "moderate-sized campgrounds"?
6. Wright Creek has no hiking, camping, or nature-observation value? Bonita and Cienega Creeks have no scenic values?
7. Could you please define the following terms that were absent from the glossary?: mineral estate; reach; riprapping; sand rail; silviculture.

It seems to me that the BLM is responsible for balancing the protection of land resources with their use and enjoyment by humans. In this balancing act, the scales must always tip toward protection, or there will eventually be nothing to enjoy or use. But even this theory is too anthropocentric for my liking. Humans are not the only ones affected by the Wild and Scenic Rivers Act. People are not the only ones needing rivers. We just happen to be the only ones who can defend our own rights. Enough of us speak for our own special interests; a few of us are beginning to speak for those that cannot speak for themselves, and to expand our scope of caring to include other lifeforms than ourselves.

If we were to, as some have suggested, exclude from protection all lands that have potential human use, or that have a human community nearby, that would basically leave the entire planet unprotected. Humans do not have to occupy every corner of the state. If we feel it is necessary to control nature, we should at least practice good stewardship. We must all sacrifice

a little for the health of our home. We cannot all have our way with the land. It would be unsustainable.

I believe that animal and plant habitat is the most important value Arizona's rivers have. Rivers are the lifeblood of the desert. If all of the rivers were wiped off this state's map, so would many species be. We would lose BIODIVERSITY. Perhaps some of this state's plants and animals do not have human value - but they do have intrinsic value. They have the right to exist. Ecologically, the terms "portions of rivers" and "natural-appearing areas" make little sense. Rivers are travel corridors for animals, so it is important that rivers connect, and are not fragmented. "Natural-like" rivers, trees, and rocks are poor substitutes for truly natural ones.

Humans will benefit, too, from the preservation of Arizona's rivers. A healthy ecosystem is, by nature, good to look at (read scenic). Our desert waterways provide us with shade, fresh air, clean water, peace and solitude, recreation, and much more, perhaps more than we know. In the recommended alternative, 241 miles of river would receive some protection. That is less than the 277 miles of Colorado River in the Grand Canyon. In the lower 48 states, less than 2% of the land is protected wilderness - not enough. Where else beside on public land is wildlife habitat maintained? The privately-owned Honeybee Canyon near Tucson is a riparian area about to be developed, as but one example of the constant loss of prime desert habitat.

Ideally, perhaps, humans would still be a part of nature, and there would be no such thing as wilderness - it would all be our home. But we choose to live separated from nature, so our entering it is an intrusion. Ideally, the public would take care of and respect the natural world, but that has not been the case. Shortsighted, greedy behavior is more common, so environmental laws are needed. The only reason the Western U.S. appears to have more natural resources than the Eastern states is that it hasn't been settled for as long. Throughout the world, most major rivers have been terribly degraded by long-term human abuse (the Nile, the Ganges, the Danube, the Thames). Without protection, our rivers will be degraded as well. Someday, if the "no-action" proposal is chosen, given inevitable population growth, we may look at the CAP canal as the state's wildest, longest, cleanest river. Some people have had their senses, hearts, and souls so dulled by money and civilization, they can no longer recognize a truly remarkable river.

Based upon the above concepts, I recommend the following:

1. The all-suitable alternative should be submitted to Congress. A "compromise" has already occurred for too long, with Arizona's rivers giving much more than they received, and the people taking much more than they should have taken.
2. The San Pedro is an amazing riparian zone. Its trees are scenic. Its birds are scenic. Its sparkling water is scenic. It should be classified as scenic rather than recreational. The BLM should attempt to buy the two-mile segment of private land on the San Pedro in order to maintain the connectedness of the natural system.
3. The BLM should recognize that many special interest groups do

not understand well how nature works, and so are poor judges of the health of the land. The BLM knows, for example, that nature's flow is not "regular", and that natural processes are necessary. Grazing areas should not be protected from fire, a natural event. Floods and droughts must be adapted to by man. Ephemeral rivers are worth preserving, as they are able to sustain year-round life.

4. The BLM should include in the chosen plan a regulation to keep future visitor services out of the WSR areas. Do not prescribe recreational development in these fragile zones. While such developments may be hidden from human view, they cannot hide from nature. Construction always has adverse effects on wildlife, displacing it at the very least.
5. The Arizona BLM should protect its segments of interstate waters, to lead the way for our neighbors to do the same.
6. The BLM should assign more law enforcement officers to these special areas. Local communities have not proven their ability to manage their nearby public lands well.

I sincerely hope that Wild and Scenic River designation is not just a pretty package with nothing inside. Mega-industries have long controlled our state politicians and resources. The BLM must be doing something right if it finally angers the powers who are used to getting their way. I am disappointed by the city and county representatives, none of whom made mention, in their comments, of any non-consumptive use (i.e., enjoyment) their constituents derive from these rivers. Not one letter supported Arizona's irreplaceable environmental heritage. The majority of Arizonans appear to be poorly represented. Money has spoken.

Much of the future is unknown. Due to recent events in California, our population may quickly increase. New historic and archaeological sites may be found, with further surveying of the land. Scientists are discovering the potential of waterborne microorganisms to benefit humans through their technological use. So, "a good tinkerer saves all the parts".

Thank you for your effort in preparing a Wild and Scenic Rivers plan for Arizona. Your strong stand on behalf of protecting these rivers will be appreciated for many generations to come.

Sincerely,


Carol Tepper

January 20, 1995

Mr. Phil Moreland, Branch Chief
Planning, Environment, Lands & Recreation
BLM Arizona State Office
P.O. Box 16563
Phoenix, Az 85014

Re: Wild and Scenic Rivers Legislative Environmental Impact Statement

Thank you for the opportunity to respond to the Wild and Scenic Rivers Legislative Environmental Impact Statement. As a business owner in Graham County, I am dependent on successful farming, ranching, mining and tourism. Loss of these industries would destroy the economy. AND MY BUSINESS.

I feel strongly that the economic impact needs to be studied for individual areas. I support "NO ACTION" and no change in the present management of our lands.

I vote NO on "Wild and Scenic" designation for the rivers and streams in Graham and Greenlee Counties because I want to continue living here and to be able to support my own family.

Sincerely,

John Rowley
1122 Antecher Blvd
Safford Az 85546

cc: Congressman Jim Kolbe 405 Cannon House Office Bldg. Washington, DC 20515	Senator John McCain 111 Russell Senate Office Bldg. Washington, DC 20510	Congressman J.D. Hayworth 1023 Longworth House Bldg. Washington, DC 20515
Senator John Kyl 363 Russell Office Bldg. Washington, DC 20510	Gov. Fife Symington 1700 W. Washington 9th Floor Phoenix, AZ 85007	Frank Rowley, Safford BLM 711 14th Ave. Safford, Az 8546

JAN 30 1995

January, 1995

Mr. Phil Moreland, Branch Chief
Planning, Environment, Lands & Recreation
BLM Arizona State Office
P O Box 16563
Phoenix, Arizona 85014

Re: Wild and Scenic Rivers Legislative Environmental Impact Statement

**Thank you for the opportunity to repond to the Wild and Scenic Rivers
Legislative Environmental Impact Statement.**

**The economic base for Graham and Greenlee counties are completely
dependent on agriculture, mining, ranching and tourism. Loss of those
industries in Graham and Greenlee Counties would destroy the economy.**

**We feel strongly that the economic impact needs to be studied for
individual areas. We support "No Action" and no change in the present
management of our lands.**

**I am a veteran and I fought for the rights and freedom of American
people. I resent our own government ateping in and destroying the very
principles we fought to preserve - the right to own land, the right to earn
a living, and a right to chose the place to accomplish that end.**

**Please do not impose further government restrictions on the management
of our lands in Graham and Greenlee County. We want to continue living
here and continue to be able to support our own families.**

Thank you.

Larry Clark

JAN 30 1995

January 20, 1995

Mr. Phil Moreland, Branch Chief
Planning, Environment, Lands & Recreation
BLM Arizona State Office
P.O. Box 16563
Phoenix, Az 85014

Re: Wild and Scenic Rivers Legislative Environmental Impact Statement

Thank you for the opportunity to respond to the Wild and Scenic Rivers Legislative Environmental Impact Statement. As a miner, I am represent a large portion of Industry in Graham County.

The economic base for Graham and Greenlee Counties are completely dependent on agriculture, mining, ranching, and tourism. Loss of these industries would destroy the economy.

I feel strongly that the economic impact needs to be studied for individual areas. I support "NO ACTION" and no change in the present management of our lands.

I vote NO on "Wild and Scenic" designation for the rivers and streams in Graham and Greenlee Counties because I want to continue living here and to be able to support my own family.

Sincerely,

Dena M. Clark

cc: Congressman Jim Kolbe 405 Cannon House Office Bldg. Washington, DC 20515	Senator John McCain 111 Russell Senate Office Bldg. Washington, DC 20510	Congressman J.D. Hayworth 1023 Longworth House Bldg. Washington, DC 20515
Senator John Kyl 363 Russell Office Bldg. Washington, DC 20510	Gov. Fife Symington 1700 W. Washington 9th Floor Phoenix, AZ 85007	Frank Rowley, Safford BLM 711 14th Ave. Safford, Az 8546

January, 1995

Mr. Phil Moreland, Branch Chief
Planning, Environment, Lands & Recreation
BLM Arizona State Office
P O Box 16563
Phoenix, Arizona 85014

Re: Wild and Scenic Rivers Legislative Environmental Impact Statement

Thank you for the opportunity to respond to the Wild and Scenic Rivers Legislative Environmental Impact Statement.

The economic base for Graham and Greenlee counties are completely dependent on agriculture, mining, ranching and tourism. Loss of those industries in Graham and Greenlee Counties would destroy the economy.

We feel strongly that the economic impact needs to be studied for individual areas. We support "No Action" and no change in the present management of our lands.

I am a veteran and I fought for the rights and freedom of American people. I resent our own government stepping in and destroying the very principles we fought to preserve - the right to own land, the right to earn a living, and a right to chose the place to accomplish that end.

Please do not impose further government restrictions on the management of our lands in Graham and Greenlee County. We want to continue living here and continue to be able to support our own families.

Thank you.

A handwritten signature in cursive script, appearing to read "Brian S. Jacob", with a long horizontal flourish extending to the right.

January, 1995

**Mr. Phil Moreland, Branch Chief
Planning, Environment, Lands & Recreation
BLM Arizona State Office
P O Box 16563
Phoenix, Arizona 85014**

Re: Wild and Scenic Rivers Legislative Environmental Impact Statement

**Thank you for the opportunity to respond to the Wild and Scenic Rivers
Legislative Environmental Impact Statement.**

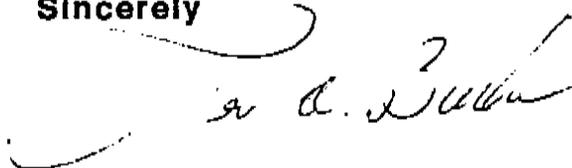
**I am a resident of Graham County. I chose this area for my retirement
home. I enjoy the use of public lands for hiking, picnicking, bird
watching and just enjoying the scenery. As a citizen, I use - but don't
misuse the lands.**

**I do not believe that we need more management from the federal
agencies to protect wild life nor the rivers, what I am concerned about
however is the rights of the people.**

**The people in Graham County have a right to continue to earn their
living in the traditional use of the lands. You need to identify what
the economics of this area is based on and allow these people the
right to their homes, their jobs and their future.**

**I vote NO on "Wild and Scenic" designation for the rivers and
streams in Graham and Greenlee Counties.**

Sincerely



January 20, 1995

Mr. Phil Moreland, Branch Chief
Planning, Environment, Lands & Recreation
BLM Arizona State Office
P.O. Box 16563
Phoenix, Az 85014

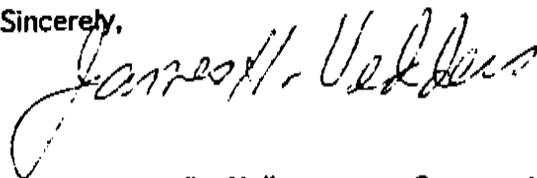
Re: Wild and Scenic Rivers Legislative Environmental Impact Statement

Thank you for the opportunity to respond to the Wild and Scenic Rivers Legislative Environmental Impact Statement. As a business owner in Graham County, I am dependent on successful farming, ranching, mining and tourism. Loss of these industries would destroy the economy. AND MY BUSINESS.

I feel strongly that the economic impact needs to be studied for individual areas. I support "NO ACTION" and no change in the present management of our lands.

I vote NO on "Wild and Scenic" designation for the rivers and streams in Graham and Greenlee Counties because I want to continue living here and to be able to support my own family.

Sincerely,



cc: Congressman Jim Kolbe 405 Cannon House Office Bldg. Washington, DC 20515	Senator John McCain 111 Russell Senate Office Bldg. Washington, DC 20510	Congressman J.D. Hayworth 1023 Longworth House Bldg. Washington, DC 20515
Senator John Kyl 363 Russell Office Bldg. Washington, DC 20510	Gov. Fife Symington 1700 W. Washington 9th Floor Phoenix, AZ 85007	Frank Rowley, Safford BLM 711 14th Ave. Safford, Az 8546

January 20, 1995

Mr. Phil Moreland, Branch Chief
 Planning, Environment, Lands & Recreation
 BLM Arizona State Office
 P.O. Box 16563
 Phoenix, Az 85014

Re: Wild and Scenic Rivers Legislative Environmental Impact Statement

Thank you for the opportunity to respond to the Wild and Scenic Rivers Legislative Environmental Impact Statement. As a business owner in Graham County, I am dependent on successful farming, ranching, mining and tourism. Loss of these industries would destroy the economy. AND MY BUSINESS.

I feel strongly that the economic impact needs to be studied for individual areas. I support "NO ACTION" and no change in the present management of our lands.

I vote NO on "Wild and Scenic" designation for the rivers and streams in Graham and Greenlee Counties because I want to continue living here and to be able to support my own family.

Sincerely,

William L. Schultze

cc: Congressman Jim Kolbe 405 Cannon House Office Bldg. Washington, DC 20515	Senator John McCain 111 Russell Senate Office Bldg. Washington, DC 20510	Congressman J.D. Hayworth 1023 Longworth House Bldg. Washington, DC 20515
Senator John Kyl 363 Russell Office Bldg. Washington, DC 20510	Gov. Fife Symington 1700 W. Washington 9th Floor Phoenix, AZ 85007	Frank Rowley, Safford BLM 711 14th Ave. Safford, Az 8546

January, 1995

Mr. Phil Moreland, Branch Chief
Planning, Environment, Lands & Recreation
BLM Arizons State Office
P O Box 16563
Phoenix, Arizona 85014

Re: Wild and Scenic Rivers Legislative Environmental Impact Statement

Thank you for the opportunity to respond to the Wild and Scenic Rivers Legislative Environmental Impact Statement.

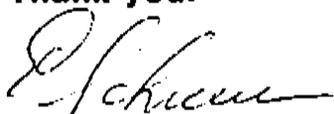
The economic base for Graham and Greenlee counties are completely dependent on agriculture, mining, ranching and tourism. Loss of those industries in Graham and Greenlee Counties would destroy the economy.

We feel strongly that the economic impact needs to be studied for individual areas. We support "No Action" and no change in the present management of our lands.

I am a veteran and I fought for the rights and freedom of American people. I resent our own government stepping in and destroying the very principles we fought to preserve - the right to own land, the right to earn a living, and a right to chose the place to accomplish that end.

Please do not impose further government restrictions on the management of our lands in Graham and Greenlee County. We want to continue living here and continue to be able to support our own families.

Thank you.



January, 1995

Mr. Phil Moreland, Branch Chief
Planning, Environment, Lands & Recreation
BLM Arizona State Office
P O Box 16563
Phoenix, Arizona 85014

Re: Wild and Scenic Rivers Legislative Environmental Impact Statement

Thank you for the opportunity to respond to the Wild and Scenic Rivers Legislative Environmental Impact Statement.

The economic base for Graham and Greenlee counties are completely dependent on agriculture, mining, ranching and tourism. Loss of those industries in Graham and Greenlee Counties would destroy the economy.

We feel strongly that the economic impact needs to be studied for individual areas. We support "No Action" and no change in the present management of our lands.

I am a veteran and I fought for the rights and freedom of American people. I resent our own government stepping in and destroying the very principles we fought to preserve - the right to own land, the right to earn a living, and a right to chose the place to accomplish that end.

Please do not impose further government restrictions on the management of our lands in Graham and Greenlee County. We want to continue living here and continue to be able to support our own families.

Thank you.

Farber S. Reio

January, 1995

Mr. Phil Moreland, Branch Chief
Planning, Environment, Lands & Recreation
BLM Arizona State Office
P O Box 16563
Phoenix, Arizona 85014

Re: Wild and Scenic Rivers Legislative Environmental Impact Statement

Thank you for the opportunity to respond to the Wild and Scenic Rivers Legislative Environmental Impact Statement.

I am a resident of Graham County. I chose this area for my retirement home. I enjoy the use of public lands for hiking, picnicking, bird watching and just enjoying the scenery. As a citizen, I use - but don't misuse the lands.

I do not believe that we need more management from the federal agencies to protect wild life nor the rivers, what I am concerned about however is the rights of the people.

The people in Graham County have a right to continue to earn their living in the traditional use of the lands. You need to identify what the economics of this area is based on and allow these people the right to their homes, their jobs and their future.

I vote NO on "Wild and Scenic" designation for the rivers and streams in Graham and Greenlee Counties.

Sincerely



January 20, 1995

Mr. Phil Moreland, Branch Chief
Planning, Environment, Lands & Recreation
BLM Arizona State Office
P.O. Box 16563
Phoenix, Az 85014

Re: Wild and Scenic Rivers Legislative Environmental Impact Statement

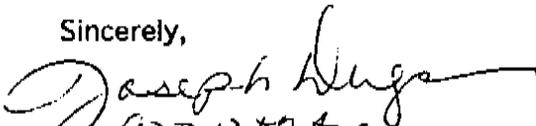
Thank you for the opportunity to respond to the Wild and Scenic Rivers Legislative Environmental Impact Statement. I live, work, and play in Graham County, and I feel that my entire existence will be compromised if the rivers and streams are designated as Wild and Scenic. The most obvious reason being that if we can't count on farmers, ranchers, miners, and tourists to be here, then I will be out of work and so will my spouse. And even if we did manage to survive the fallout, what would we do for fun? All of our friends will be gone, and we won't be able to play in the River.

I also want to remind you that people who live in the city, need to get out of there once in a while. They (you) need to reconnect with the simpler ways of life and to relax from all of the stress in town. Where are you going to go once you have designated every square inch of this planet as critical to something?

I feel strongly that the economic impact needs to be studied for individual areas. I support "NO ACTION" and no change in the present management of our lands.

I vote NO on "Wild and Scenic" designation for the rivers and streams in Graham and Greenlee Counties because I want to continue living here and to be able to expose my family to nature.

Sincerely,


1927 12th Ave.
Safford, Az. 85546

cc: Congressman Jim Kolbe
405 Cannon House Office Bldg.
Washington, DC 20515

Senator John McCain
111 Russell Senate Office Bldg.
Washington, DC 20510

Congressman J.D. Hayworth
1023 Longworth House Bldg.
Washington, DC 20515

Senator John Kyl
363 Russell Office Bldg.
Washington, DC 20510

Gov. Fife Symington
1700 W. Washington 9th Floor
Phoenix, AZ 85007

Frank Rowley, Safford BLM
711 14th Ave.
Safford, Az 8546

January 20, 1995

Mr. Phil Moreland, Branch Chief
 Planning, Environment, Lands & Recreation
 BLM Arizona State Office
 P.O. Box 16563
 Phoenix, Az 85014

Re: Wild and Scenic Rivers Legislative Environmental Impact Statement

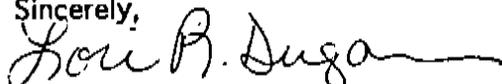
Thank you for the opportunity to respond to the Wild and Scenic Rivers Legislative Environmental Impact Statement. I live, work, and play in Graham County, and I feel that my entire existence will be compromised if the rivers and streams are designated as Wild and Scenic. The most obvious reason being that if we can't count on farmers, ranchers, miners, and tourists to be here, then I will be out of work and so will my spouse. And even if we did manage to survive the fallout, what would we do for fun? All of our friends will be gone, and we won't be able to play in the River.

I also want to remind you that people who live in the city, need to get out of there once in a while. They (you) need to reconnect with the simpler ways of life and to relax from all of the stress in town. Where are you going to go once you have designated every square inch of this planet as critical to something?

I feel strongly that the economic impact needs to be studied for individual areas. I support "NO ACTION" and no change in the present management of our lands.

I vote NO on "Wild and Scenic" designation for the rivers and streams in Graham and Greenlee Counties because I want to continue living here and to be able to expose my family to nature.

Sincerely,



1927 12th Ave.
 Safford, Az. 85546

cc: Congressman Jim Kolbe 405 Cannon House Office Bldg. Washington, DC 20515	Senator John McCain 111 Russell Senate Office Bldg. Washington, DC 20510	Congressman J.D. Hayworth 1023 Longworth House Bldg. Washington, DC 20515
Senator John Kyl 363 Russell Office Bldg. Washington, DC 20510	Gov. Fife Symington 1700 W. Washington 9th Floor Phoenix, AZ 85007	Frank Rowley, Safford BLM 711 14th Ave. Safford, Az 8546

Jan, 26. 1995

Mr. P. Moreland, Branch Chief
Arizona State Office-BLM
P.O.Box 16563
Phoenix, AZ 85011

Mr. Moreland;

RE: Arizona BLM Wild and Scenic Rivers

The proposal for any additional restrictions in the name of the ESA, (Southwestern Fly Catcher this week) is strongly protested. Every little stream or gulch with and sometimes without water is fair game for your BLM or the AFW with the backing of every extremist group in the USA. When does it all stop?

Any further designation of Wild and Scenic rivers (?) is seen as another ploy thought up by the Babbitt-Gore green agenda team to take more land, much privately owned, and secure illegally the water rights from the American people and into the hands of these power hungry, greedy and non-elected "officials".

The American people, both in the east and certainly in the west, have nearly reached the saturation point of having actions which take away their rights, their land (with out compensation) and being locked out of all the public lands, by all branches of the Interior Department. Apparently they still haven't gotten the picture of what "we the people" said in Nov.

If you are uninformed of the facts, please read the Audit Report from the Inspector General, report no. 92-1-833, titled "Dept. of the Interior Land Acquisitions conducted with the assistance of NON-Profit (?) organizations".

Please put **me on** your **mailing** list for all BLM purposals and any action from this "Scenic Rivers" plan.

Sincerely,

Maxine M. Hayes
P.O.Box 342
Yarnell, Az 85362

cc: Stump, Kyle, McCain, Hayworth, Kolbe, Shandegg,

DAUGHTON BROCKELMAN
GUINAN & PATTERSON

A Professional Association
LAWYERS

January 31, 1995

HAND DELIVERED

Mr. Philip Moreland
 Planning, Environment,
 Lands and Recreation
 Arizona State Office
 Bureau of Land Management
 3707 North 7th Street
 Post Office Box 16563
 Phoenix, AZ 85011

Re: Comments on the Final Arizona Statewide Wild and Scenic
 Rivers Legislative Environmental Impact Statement

Dear Mr. Moreland:

We represent Clayton Jacobson, who owns property through which the Bill Williams River runs. Mr. Jacobson owns most of the private land in Segment 2, nearly 600 acres. We submit these comments on the Final Arizona Statewide Wild and Scenic Rivers Legislative Environmental Impact Statement (the "FLEIS") on behalf of Mr. Jacobson.

We submitted comments on behalf of Mr. Jacobson in connection with the draft legislative impact statement. While the FLEIS addresses a few of those comments, its responses are not sufficient. More importantly, the FLEIS fails completely to address many of the important issues we raised.

For example, as we have pointed out several times, the private property in segment 2 has long been used for purposes inconsistent with designation of segment 2 as wild and scenic. Segment 2 consists primarily of domesticated and fenced private property. There are several wells with permits. Mr. Jacobson's property is posted and fenced, and the River wanders through it. Public access to the area and the River is plentiful and easy. There are three existing airstrips in use in the area. Another 5,000 foot runway has been cleared and rough graded, and will be paved. One of the existing airstrips and the airstrip to be paved are very close to the River. There are a number of mining claims in the area as well. At least 14 buildings are located along Segments 1 and 2 of the River; a number of those are within one-quarter mile of the River.

Mr. Philip Moreland
January 31, 1995
Page 2

Furthermore, this private land may be put to other uses in the future. Mr. Jacobson has considered forming a 12-acre lake (not in the immediate River bed), completing a paved 5,000 foot runway, and building custom homes and recreational facilities. The FLEIS does not address these historical and continuing uses or their incompatibility with designation under the Wild and Scenic Rivers Act.

The FLEIS, which implements the recommendations in the draft environmental impact statement, classifies Segment 2 as scenic and Segments 1 and 3, which fall within existing wilderness areas, as wild. Designation of all three segments is inappropriate. Ample protection for the public lands already exists. The three segments in the Bill Williams study area are already covered by management plans through the Wilderness Act, a portion of the Kingman Resource Management Plan, the Three Rivers Riparian Area of Environmental Concern, the Yuma District Resource Management Plan and the Bill Williams Riparian Management Plan. These management plans will govern use of the public lands in Segments 1 and 3 regardless of action taken under the Wild and Scenic Rivers Act.

Because ample protection for the public lands in Segments 1 and 3 already exists, and designation under the Wild and Scenic Rivers Act cannot affect the private land in Segment 2, designation of these sections of the Bill Williams River is inappropriate. In fact, 3.6 miles, or more than 60%, of Segment 2 is private. Thus, designation under the Wild and Scenic Rivers Act will not affect management of Segments 1 and 3, and at least two-thirds of Segment 2.

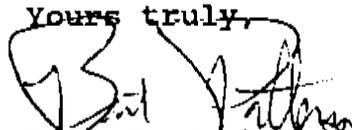
While the section of the FLEIS that pertains to the Bill Williams River states more clearly that the BLM has no authority to regulate private land, the FLEIS fails to explain why a segment of the River that consists mostly of private lands should be designated under the Act. The FLEIS adds that the BLM may try to acquire the private land, or an easement on the private land, but fails to address the effect of taking private land out of commerce. Mr. Jacobson's plans will provide jobs and tax revenue to La Paz County, which badly needs such developments. Governmental authorities already own well over 90% of the land in La Paz County, foreclosing many opportunities for growth. Property such as Mr. Jacobson's is one of the few sources of tax revenue for La Paz County. Restrictions on the use of land will reduce economic development opportunities in La Paz County, an area which needs to preserve and enhance every economic development opportunity it has. While the BLM has pointed out that the federal government makes payments in lieu of taxes to La

Mr. Philip Moreland
January 31, 1995
Page 3

Paz County, it does not distinguish between the effect of economic development by private persons, which adds to the tax base, and the transfer of taxes paid to the federal government to the county government. Clearly, the former has a more beneficial impact on the economy. Furthermore, in light of the BLM's admission that designation of the Bill Williams River as wild and scenic is unlikely to cause more than a minimal increase in tourism, the purchase of the private property seems to be an unwise expenditure of scarce resources.

For these reasons, the sections of the Bill Williams River should not be designated under the Wild and Scenic Rivers Act.

Thank you for considering these comments.

Yours truly,

Bart J. Patterson

BJP:nrh

cc: Mr. Clayton Jacobson

BLM.

MR. MORELAND

WILD & SCENIC RIVERS
PROPOSED ACTION

THANK YOU FOR EXTENDING DEADLINE ON THIS.

OUR OPPOSITION TO THIS PROPOSED AGENDA IS THAT IT IS JUST ANOTHER LOCK UP OF OUR PUBLIC DOMAIN & PRIVATE PROPERTY FROM MULTIPLE USES.

YOUR DATA IS NOT COMPLETE AS YOU HAVE NOT FOLLOWED N.E.P.A. IN SETTING DOWN WITH THE COUNTIES & LET THEM INCLUDE THEIR CUSTOMS, CULTURE & ECONOMY OF THE PEOPLES OF THE COUNTIES.

YOUR DATA IS WRONG IN MANY WAYS BECAUSE YOU TAKE YOUR INFORMATION FROM THE ECO FREAKS. WE'VE ALWAYS BEEN ON THE SIDE OF THE ENVIRONMENT BUT WON'T GO ALONG WITH THESE PEOPLE THAT PUT BUGS & MICE ABOVE HUMANS. DO GET YOUR DATA FROM THE PEOPLE WHO WORK & LIVE ON THIS LAND YOU WANT TO LOCK UP.

I CANNOT FIND ANYTHING IN THIS DATA THAT SHOWS HOW MUCH IS THE COST TO TAXPAYERS TO IMPLEMENT YOUR PROPOSED AGENDA. HOW CAN YOU PUT THIS THROUGH WITH OUR COUNTRY 4.7 TRILLION IN DEBT? DOES YOUR CONSCIENCE REALLY FEEL GOOD? THIS ABSOLUTELY NOT NECESSARY!

ALTA ROSE TOWNE
HC68 BOX 95
KIRKLAND AZ 86332



Fred J. Towne
Alta Rose Towne
602-727-3248

C.C. TO REP. DON YOUNG - ALA

REP. J.D. HAYWORTH - AZ

SEN. JOHN MCCAIN - AZ

REP. MAT SALMON - AZ

REP. ED PASTOR - AZ

REP. BOB STUMP - AZ

REP. JOHN SHADEGG - AZ

REP. JIM KOLBE - AZ

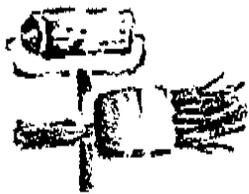
GOV. FIFE SIMINGTON - AZ

SEN. JON KYL

STATE REP. RUS. W. BOWERS

P.S. PLEASE KEEP US
INFORMED ON ALL ACTIONS

AZ. FARM BUREAU - PEOPLE FOR THE WEST
WEAVER MINING DIST. YAVAPAI CATTLE GROWERS
ARIZONA CATTLE GROWERS - AZ + YAVAPAI COWBELLES
NORRHEAN AZ. MUSEUM SKULL VALLEY MUSEUM



JERRY VAN GASSE
P.O. BOX 26028
TEMPE, ARIZONA 85282



PAINTING SPECIALISTS
INTERIOR/EXTERIOR
838-7428

COMMERCIAL RIVER OUTFITTER
CUSTOM RIVER TRIPS
831-0977

Dear Mr. Moreland -

I applaud your office for its efforts in finalizing the recommended "Wild & Scenic River segments". I've worked with your Safford and Strip Districts to push the inclusion of several of the recommended segments. Hopefully, their final designation will be expeditious. Once again, congratulations on a good job!

Sincerely -
Jerry Van Gasse

24

P.O. Box 1612
Show Low, AZ 85901

January 24, 1995

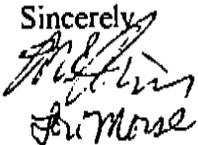
Mr. Phillip Moreland, Branch Chief
Planning, Environmental, Lands and Recreation (931)
Arizona State Office
Bureau of Land Management
P.O. Box 16563
Phoenix, AZ 85011

We would like to comment on the final LEIS for Wild & Scenic Rivers designations on BLM lands in Arizona. After reviewing the LEIS and the comments on the draft LEIS, we feel that the BLM has done a very good job in balancing the various interests in making their recommendation. We support the BLM's recommended alternative and encourage the Arizona congressional delegation to introduce and pass a Wild & Scenic Rivers bill based on this alternative. We also encourage the delegation to include suitable US Forest Service Rivers in a bill.

We have studied the Wild & Scenic Rivers Act and believe that many of the concerns expressed in the comments on the Draft LEIS are valid concerns that are appropriately addressed in the Wild & Scenic Rivers Act. Water rights, for example, are a valid concern but it is clear in the law that the water right established by a designation is governed under state water law and is junior to existing rights. Therefore, existing rights are protected. Private property rights within the river corridor are also protected. Free flowing rivers are a rarity in our desert state and the best segments of what remain need additional protection. This protection will benefit not only recreational users and wildlife but also all the people of Arizona.

We hope that the delegation will see this as an opportunity to benefit the state of Arizona and will work to pass a Wild & Scenic Rivers bill.

Sincerely,



Mark Prein and
Lori Morse

cc: Representative J.D. Hayworth, Senator John McCain, Senator Jon Kyl

JAN 31 1995**JOSEFINA BIANES MELENDREZ**

11217 WEST ASHBROOK PLACE
AVONDALE, AZ 85323-3605
602-877-9113

January 31, 1995

Bureau of Land Management
c/o Arizona State Office FAX Transmission 602 650 0452
3707 North 7th Street
Phoenix, AZ 85014

PUBLIC COMMENTS ON**FINAL LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT DECEMBER 1994**

I recognize that there are significant values associated with these resources and on one hand I support the objectives and planned actions. At best, this appears to be an objective that can benefit the Gila Valley in long term objectives land resource management of public lands. This process acknowledging the unique biological and cultural characteristics associated with the Gila River (Gila Box), and taking the initiative to acquire and protect this valuable riparian ecosystem, while still providing for the protection, enhancement and providing opportunities for recreational use.

Although I am generally support of including the Bonita Creek 8.1 Recommended Miles for the wild and scenic river designation I have a twofold half hearted support for the Middle Gila River 7.5 Recommended Eligibility. Primarily because I believe a portion of this designation has taken the opportunity for me to acquire adjacent land that had at one time been in my family for 50 years subsequent to BLM eviction in 1969. I have waited twenty-two years for the opportunity to purchase this land, and unbeknown to me when the Safford District BLM Office recently amended their Land Tenure to the Safford District Resource Management Plan, I became aware of this current designation.

- Quotation from July 25, 1994 Response from Safford District Office [Exhibit 1]:
- Issue 1.

"One purpose of the RMP amendment is to satisfy community expansion needs. The BLM invited all parties, both individuals and organized entities, to reveal their needs. All proposals were considered and served to the best of our ability. If an individual's or entity's land acquisition needs were not represented in this RMP amendment, it is because the lands were not identified in the scoping process or disposal of the land would be inconsistent with other law or policies.

Bureau of Land Management c/o Arizona State Office

Page 2 of 3

- Response 1.
... Unfortunately, we cannot include the third area which is lots 3-8 sec. 29, T. 6 S., R. 28 E. This area must be held in public ownership due to its riparian qualities, threatened and endangered fish habitat, and wild and scenic river designation.
- Issue 2.
"The lands considered for disposal in the RMP amendment are located in areas of high minority populations, areas of unincorporated communities, and areas of unequal opportunity.
- Response 2.
The BLM is aware of and sensitive to the issue of 'Environmental Justice' as it is defined in the Executive Order No. 12898 which was recently enacted by President Clinton. The Executive Order requires each Federal agency to make achieving environmental justice part of its mission by identifying and addressing disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.

Through this RMP amendment process, the BLM is attempting to assist individuals,, industries, and communities with their ever-increasing need for growth and improved quality of life. In our assessment, such growth will enhance the human health and environment of the areas found in proximity to the proposed BLM disposal areas". . . .

The BLM process did include a protest procedure which ended September 2, 1994. I decided not to go this route because it is ultimately futile for me to proceed in this manner with the time constraints involved. It was evident to me, even though my intention for the use of the land on Sec. 29 above was to work with BLM to strive for conservation and restoration of cultural characteristics and to provide for opportunities to develop cooperative management plans in support of this riparian ecosystem and still provide for opportunities for a balance of protection and recreational use.

Thereafter, The Safford District Office provides a public comment period for Land Exchanges for the Morenci and Safford area for the Phelps Dodge Corporation, which the BLM decides that it is a fair exchange for BLM to give them the land holdings in the district.

"Phelps Dodge has proposed to acquire, by exchange, certain parcels of public lands currently managed by the Bureau of Land Management for the purpose of consolidating land holdings in the district, provide buffer areas for environmental purposes and accommodate potential future mining operations. The public lands selected by Phelps Dodge for acquisition are adjacent to, and in some surrounded by, the private land owned by the company. In return for the public lands, Phelps Dodge is offering parcels of land it owns including inholdings of private lands within the Gila Box Riparian National Conservation

Bureau of Land Management c/o Arizona State Office

Page 3 of 3

Area and the Empire Cienega Resource Conservation Area and a parcel adjoining public lands near the Dos Cabezas Wilderness." (Reference Phelps Dodge Corporation Morenci Land Exchange handout.)

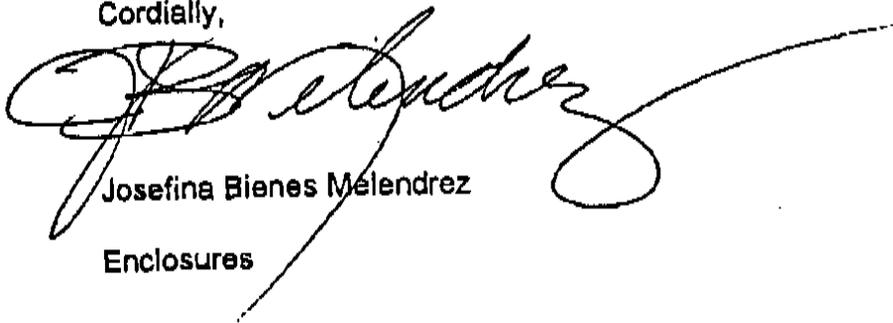
To attempt to balance my comments for support of the for the Study Report, Final Legislative Environmental Impact Statements is impossible. Therefore, I will take an affirmative position in not supporting the decisions made at the Safford District Office or the Arizona State Office of the Bureau of Land Management.

The enclosed supporting documents that will identify:

- Exhibits 1: Correspondence for the Final Land Tenure Amendment and Environmental Assessment to the Safford District Resource Management Plan.
- Exhibit 2: My comments to AZ-040-03-20 Draft Interdisciplinary Activity Plan Environmental Assessment (IAP/EA) Gila Box Riparian National Conservation area, September 1993. I never received any response to this submission.

I strongly recommend that the Bureau of Land Management include not only comments from the public, but also any supporting documentation into the Study Report that will be seen by the Arizona State Director, the Secretary of Interior, the OMB and finally the Congress.

Cordially,



Josefina Bienes Melendrez

Enclosures



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

Safford District Office

711 14th Avenue
Safford, AZ 85546

(502) 428-4040



In reply refer to:

1510 (040)

July 29, 1994

Ms. Josefina Blanes Melandres
11217 Ashbrook Place
Avondale, Arizona 85323-3603

Dear Public Land User:

Enclosed is the Final Land Tenure Amendment and Environmental Assessment for the Safford District Resource Management Plan. The environmental assessment addresses issues raised by BLM staff, the public and other state and federal agencies during the scoping process. Written comments were accepted on the Draft Environmental Assessment for a 30 day period ending July 18, 1994.

The need for this amendment to the Safford District Resource Management Plan is generated by the creation of a third resource area, changes in District boundaries, adjustment of resource area boundaries, designation of wilderness areas, consideration of rivers and streams for Wild and Scenic designation and tentative proposals by the private sector to acquire or exchange lands within the District.

The resource management planning process includes an opportunity for administrative review via a protest to the BLM Director if you believe the approval of this amendment would be in error (see enclosed 43 CFR 1610.5-2). Careful adherence to these guidelines will assist in preparing a protest that will assure consideration of your concerns.

In order to be considered timely, your protest must be postmarked by September 2, 1994.

Protest must be sent to:

Director (760)
Bureau of Land Management
1849 "C" Street, NW
Washington, D.C. 20240

2 Enclosures

Sincerely,

William T. Clavin
District Manager



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

Safford District Office

711 14th Avenue
Safford, AZ 85546

(502) 428-4040



In reply refer to:

1600 (044)

July 25, 1994

Ms. Josefina Blanes Melandres
11217 Ashbrook Place
Avondale, Arizona 85323-3603

Dear Ms. Melandres:

Thank you for your letter of February 4, 1994 which offers your original scoping comments, and your letter of June 18, 1994 which offers a response to our Draft Environmental Assessment No. AZ-040-04-12 - Land Tenure Amendment to the Safford District Resource Management Plan. In your letter of response, you expressed two issues of concern. The following is our summary of these issues and our response to them:

Issue 1.

The lands considered for disposal in the RMP amendment would benefit the mining industry, the State of Arizona, and municipalities to such an extent as to be discriminatory.

Response 1.

One purpose of the RMP amendment is to satisfy community expansion needs. The BLM invited all parties, both individuals and organized entities, to reveal their needs. All proposals were considered and served to the best of our ability. If an individual's or entity's land acquisition needs were not represented in this RMP amendment, it is because the lands were not identified in the scoping process or disposal of the land would be inconsistent with other laws or policies.

In your original scoping comments, you requested that three specific areas be included with the lands to be considered for disposal. We were gladly able to accommodate you by including two of the three areas. Unfortunately, we cannot include the third area which is lots 3-8 sec. 29, T. 6 S., R. 28 E. This area must be held in public ownership due to its riparian qualities, threatened and endangered fish habitats, and wild and scenic river designation.

Issue 2.

The lands considered for disposal in the RMP amendment are located in areas of high minority populations, areas of unincorporated communities, and areas of unequal opportunity.

M

2

FROM : JB Helveros

PHONE NO. : 4822 8778113

Jan. 31 1995 04:17PM F05

FROM : JB Helveros

PHONE NO. : 4822 8778113

Jan. 31 1995 04:18PM F07



It's not what you do,
but how you do it!

JOSEFINA BAINES MELENDRIZ
1107 ASPENCRE PLACE
AVONDALE, ARIZONA 85323-2605

002-877-8113

February 4, 1994

Mr. Mike McQueen, District Planning and
Environmental Coordinator, Safford District Office
Bureau of Land Management, U.S.D.I.
711 14th Avenue, Safford, Arizona 85546

RE: PROPOSED AMENDMENT TO RESOURCE MANAGEMENT PLAN

Dear Mr. McQueen,

I would like to propose that the Bureau of Land Management take into consideration the lands disposal being considered in the Amendment to the Resource Management Plan and include the following:

1. Buena Vista Area: Township 7 South, Range 27 East, Section 11, N1/2NE 1/4, N1/2NW 1/4, SW 1/4NW 1/4.
2. Buena Vista: Township 7 South, Range 27 East, Section 2, S1/2 SE 1/4 SW 1/4; and
3. T8S, R28E, Section 29 Lots 3, 4, 5, 7 & 8.

I would also like to recommend that BLM consider in the Amendment, to prohibit mineral entry, mineral sale and mineral lease the entry in T8S, R28E, Section 29, Lot 6, to preserve the important cultural resource area, and eliminate potential adverse impacts to the resource area.

I did not have an opportunity to travel to Safford during the comment period to review data relating the proposed amendment. Without the opportunity to directly review the data, this particular proposal may be limited in requesting disposition of other areas of interest.

I look forward to working with you in the near future.

Sincerely,

Josefina Baines Melendrez



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Safford District Office
711 14th Avenue
Safford, Arizona 85546
(602) 428-4040



Dear Public Land User:

Enclosed is the Draft Land Tenure Amendment and Environmental Assessment to the Safford District Resource Management Plan for your review and comment. The environmental assessment addresses issues raised by BLM staff, the public and other state and federal agencies during the scoping process. Written and verbal scoping comments were accepted for a 30 day period ending February 5, 1994.

The need for this amendment to the Safford District Resource Management Plan is generated by the creation of a third resource area, changes in District boundaries, adjustment of resource area boundaries, designation of wilderness areas, consideration of rivers and streams for Wild and Scenic designation and tentative proposals by the private sector to acquire or exchange lands within the District.

We encourage you to submit your comments concerning the content of this environmental assessment in writing. In order for your comments to be considered timely they must be post marked by July 18, 1994.

All comments must be sent to :

William T. Clivish
District Manager
Bureau of Land Management
711 14th Avenue
Safford, AZ 85546

Sincerely,

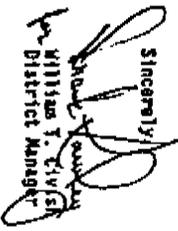
William T. Clivish
William T. Clivish
District Manager

Response 2.

The BLM is aware of and sensitive to the issue of "Environmental Justice" as it is defined in the Executive Order No. 12898 which was recently enacted by President Clinton. The Executive Order requires each Federal agency to make achieving environmental justice part of its mission by identifying and addressing disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.

Through this ROP amendment process, the BLM is attempting to assist individuals, industries, and communities with their ever-increasing need for growth and improved quality of life. In our assessment, such growth will enhance the human health and environment of the areas found in proximity to the proposed BLM disposal areas. As a further protection, site specific environmental assessments and/or environmental impact statements will be conducted on all specific disposal actions to ensure, in part, that minority populations and low-income populations are protected from any adverse human health or environmental effects.

We appreciate your concerns and hope you will continue to participate in the public process.

Sincerely,

William T. Civer
District Manager

CONSENT LETTER #3

June 18, 1994

U.S. Dept of the Interior
Bureau of Land Management
Safford District - P.O. Box 1602 Has Veto
7100 14th Avenue
Safford, AZ 85544

RE: Draft Environmental Assessment
EA No. AZ-040-04-12
Land Tenure Amendment to the
Safford District Resource
Management Plan, June 17, 1994

3-1 In reviewing the Draft EA, I find it to be very discriminatory to Safford BLM, it appears to look towards the disposal of land to benefit the mining industry and to the State of Oregon for mine reclamation facilities, and/or municipalities for landfill requirements.

3-2 It can hardly be disputed that these types of land disposal to the above mentioned entities are in the less populated areas of Blahom and Glenfel Counties, and can be utilized as reclamation, organic and the removal of population, with increased cost insurance, long term opportunity and beyond.

Delia W. Reynolds
Safford District
608 579 913 Safford, AZ

JOSEFINA BIANES MELENDEZ

Address: 1001 N. 10th St., Phoenix, AZ 85006

Page 2

BLM are: the quality of being useful in or important to the maintenance of a specified social and/or cultural group's traditional systems of (a) religious belief, (b) cultural practice, or (c) social interaction, not closely identified with definite locations. In all references, BLM should state the traditional cultural properties or traditional literary values for the Native Indian American and the Hispanic Community needs to be identified and provide a means to do so through oral interviews, literary research and field inventories. The first step in identifying potential values and properties beyond providing the opportunity to participate in the planning process, would be for BLM to complete the studies outlined in the BLM IAP/EA.

I find the Draft IAP/EA rather bleak by BLM in promoting the Preferred Alternative and not necessarily meeting the stated objectives outlined in the document committee to identified needs of the public.

I believe if you prescribe that limited access vehicles or grazing on the Preferred Alternative, then that should include that restricting and no hauling (non-motorized and motorized) should also be eliminated, especially that of not allowing commercial or private utilities or concessions. Too much recreation facility development and activity will adversely impact the riparian vegetation, water quality, wildlife habitat and cultural resources.

I recommend that the current management be maintained and evaluate restrictions rules on how to recreate within the area until the research and education opportunities are determined as to what a proper riparian functioning condition is.

I recommend that BLM develop a second draft taking into consideration the written comments during the 90 day comment period and develop new alternatives with an additional 60 day comment period. The September 1993 Draft IAP/EA is too confusing and not ergonomic enough, and you cannot identify all the sites, locations, roads, etc. on the accompanying maps to fully visualize the concepts with the recommended alternatives. There are significantly good concepts in the Preferred but not all embracing, whereby Alternative III can embrace some of the grazing and recreational concepts of the Preferred Alternative.

There are many more areas of concern that I have, unfortunately, I would necessitate an additional 60 days comment period submission. It would seem appropriate that a second draft could be issued to include all the comments that BLM has received on Draft IAP/EA to provide a more comprehensive review of the public needs and desires.

I would like to identify myself as a former resident of the Buena Vista community, and I still have family members residing in the area and the Gila Valley OUR FAMILY HISTORY INCLUDES SIX GENERATIONS IN THE GILA VALLEY. I am a Graham County property owner, and I visit the area frequently, but mostly during the weekends, which does not provide for first hand review of the documentation relative to the Gila Box Riparian NCA.

In your request for comments, you also requested any corrections and the "misstatements" names in the document has been misspelled. There are numerous typographical errors throughout the document.

When BLM Sedona District Office held the open house in Phoenix November '97, I mentioned to Mr. Jonathan Calera, the reference to the Melendez Farm Road, should historically reflect it as the "Melendez-Bianes" Farm Road.

Thank you the opportunity to participate in the process and I look forward to feeling any further documentation that results from the DRAFT IAP/EA.

Sincerely,

Josefina Bianes Melendez

Signature of respondent

Address

City/State

Graham County Florist & China Shop

407 MAIN STREET
SAFFORD, ARIZONA 85546

JANUARY 25, 1995

MR. PHIL MORELAND, BRANCH CHIEF
PLANNING, ENVIRONMENT, LANDS & RECREATION
BLM ARIZONA STATE OFFICE
PO BOX 16563
PHOENIX, AZ. 85014

RE: WILD AND SCENIC RIVERS LEGISLATIVE ENVIRONMENTAL IMPACT
STATEMENT

AS A BUSINESS OWNER IN GRAHAM COUNTY, I AM DEPENDENT ON SUCCESS-
FUL FARMING, RANCHING, MINING AND TOURISM. LOSS OF THESE
INDUSTRIES WOULD DESTROY THE ECONOMY AND QUITE LOGICALLY, MY
BUSINESS AS WELL.

I FEEL STRONGLY THAT THE ECONOMIC IMPACT NEEDS TO BE STUDIED
FOR INDIVIDUAL AREAS. I SUPPORT **"NO ACTION"** AND NO CHANGE IN
THE PRESENT MANAGEMENT OF OUR LANDS.

I VOTE **NO** ON "WILD AND SCENIC" DESIGNATION FOR THE RIVERS AND
STREAMS IN GRAHAM AND GREENLEE COUNTIES BECAUSE I WANT TO CONTINUE
LIVING HERE AND TO BE ABLE TO SUPPORT MY FAMILY.

SINCERELY,



BARBARA L. HUSTIN
OWNER

cc: CONGRESSMAN JIM KOLBE
CONGRESSMAN J.D. HAYWORTH
SENATOR JOHN KYL
SENATOR JOHN MCCAIN
GOV. FIFE SYMINGTON
FRANK ROWLEY, SAFFORD BLM

617 Luna St.
Safford, AZ 85546
January 28, 1995

Mr. Phil Moreland, Branch Chief
BLM Arizona State Office
3703 N. 7th Street, P.O. Box 16563
Phoenix, AZ 85014

RE: Wild and Scenic Rivers

Dear Mr. Moreland,

I would like to make my feelings known on the proposed listing of several rivers and streams in the area near where I reside. I am opposed to listing Aravaipa Creek, Gila Box, Lower San Francisco, and Bonita Creek. The general reason for my feelings is that increased restrictions on these areas would decrease the likelihood of my visiting them. This is corroborated by your own survey reported in Table 4-AST1 (page 90 of your draft publication). I will be more specific in the following paragraphs.

Aravaipa creek. I have been to the top of Aravaipa canyon several times with my boys and groups of scouts. The reason I have not been in the canyon is because of the restrictions placed by its wilderness designation. It angers me that you have to plan many months in advance and pay fees to see an area as beautiful as this and to see from the lack of vehicles at the entrance that it is being under utilized. There are more people in Arizona every year and we need more not less places to recreate. We don't need more restrictions, we need more picnic tables. Also, in visiting with ranchers who used to drive up and down through Aravaipa canyon before it was closed, the canyon is in worse shape now than before. This is because the ranchers used to be able to control the brush in the meadow areas, which cannot now be done. I didn't list Turkey creek in the paragraph above, but it would be a bit silly to list it as a "wild and scenic river" when the only times when I have seen it, it was a dry wash!

Gila Box. Again, overregulation has already decreased the visitation to this area. Not allowing off road vehicles has limited access to the area. But, more importantly, this area is being listed to prevent the best use of the area from taking place. The battle has been long and heated for the 'soul' of the Gila Box. Endangered species have been planted there, little old ladies in kayaks have complained about man's intrusions and damage to the area, but the real culprit causing damage to this riparian habitat and the farm land down stream is the 100 year floods that have been coming every 3 to 4 years. The best use of the area is to place a dam there. It is a natural. With a dam judiciously placed, the razor backed sucker and its colleagues wouldn't be washed down to Yuma to eat lettuce, the native animals and the ranchers animals would have a constant water source, there would be locations for dozens of new picnic areas, boaters and fishermen would have new

places to explore and recreate in, the farmers lands would be saved the ravaging of mother nature, but alack, alas, the little old lady and her kayak would have to find another spot to paddle.

Lower San Francisco. I haven't personally spent any time up this stream, but have friends who regularly enjoy its beauties. Its regulation does not need to be changed.

Bonita creek. I have traveled up this beautiful stream in the past, but cannot now because of regulation. We have just had the second major flood in three years in this creek. This serves to emphasize that nature, not man is the destroyer of riparian habitat. We don't want more regulation, we want our stream back! Regulation of this stream is also threatening to source of water for our valley. It has been projected that the population of our valley will nearly double before the turn of the century. If this is true, we will need more water from this canyon. Otherwise, wells will be needed to supplement the city water and the salt content of the wells is hazardous to one's health.

Unfortunately, I cannot comment from first hand knowledge on the other streams or rivers. I hope that others, like me are telling you that they are sick and tired of the government coming into an area and telling them what is best for them. And eventually restricting the area until it is no longer useable. With more people inhabiting the planet, we need to take our stewardship more seriously, each of us do individually. I hate to pull into a recreation area and find that it has been trashed before I got there and littered with beer cans. BLM could improve this situation by having more service people and less ecologists looking for an exotic creature to protect and more forests to cut down for paper to write their reports on. Maybe these ecologists could work more on educating the public in their stewardship responsibilities and less time on research and regulation.

I must apologize for the length of the letter, but felt that I should share with you that I am not happy with how my tax monies are being spent to reduce my recreational possibilities and freedoms. I hope that this letter will help you realize that there are legions of us who too often sit silently by hoping that common sense will once again rein in our fair land.

Sincerely

Lee J. Clark

Lee J. Clark

XC: Rep. Jim Kolbe
Rep. JD Hayworth
Sen. John McCain
Pres. Clinton

Dear Mr. Moreland:

FEB 02 1996/95

Thank you for the opportunity to comment on the Wild and Scenic Rivers (FLEIS).

I feel that the upper section of the Santa Maria River, along with the Hassayampet River and Francis Creek should be included in the FLEIS.

I also feel that the Virgin River is facing various threats that demand immediate action by affected Agencies in Utah, Nevada and Arizona.

BLM should recommend to Congress that the Arizona segments be found eligible & suitable.

Also, I feel the BLM should engage the coordination of the BLM, NPS and ES offices in Utah and Nevada to expedite the Wild and Scenic Assessment process in those states, ensure consistent criteria for assessment, and ensure no impairment of the outstanding, remarkable values identified in the Arizona segments of the Virgin River.

Finally, I feel that the section of Bonita Creek from Lee Trail Road to the City of Safford parcel be included in the Bonita Creek segment recommended for designation in the proposed action.

Thank you.

Sincerely,
John Pomperin

January 28, 1995

P.O. Box 795
Fort Huachuca, AZ 85613

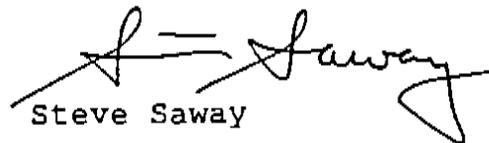
Bureau of Land Management
Arizona State Office
Planning, Environmental, Lands and Recreation (931)
ATTN: Phillip Moreland, Branch Chief
3707 North 7th Street
P.O. Box 16563
Phoenix, Arizona 85011

Dear Mr. Moreland,

This letter is to comment on the Arizona Wild and Scenic Rivers Legislative Environmental Impact Statement. I am an avid outdoors enthusiast and have enjoyed recreational activities (generally hiking or mountain biking) in or near river areas you have recommended for inclusion in the Wild and Scenic Rivers System, including Cienega Creek, San Pedro River, Bonita Creek, Gila River, Aravaipa Creek, and San Francisco River. After reviewing your assessment and public comments, I believe that the majority of Arizona citizens would be better served by the No Action alternative. It is not clear that all impacts have been thoroughly identified and analyzed for each proposed action. It appears that for the most part these river areas are already protected by other designations, and including them in the Wild and Scenic Rivers System could limit access for recreational uses while imposing greater administrative/management costs to BLM. I believe the public needs additional information and greater opportunity to review and better understand the potential impacts before legislative recommendations are forwarded to Congress.

Thank you for the opportunity to share these comments.

Sincerely,


Steve Saway

St. David Residents
Sec Addressess Below

27 Jan 95

JAN 30 1995

SD/ASD	_____
Law Ent.	_____
PUB AFF	_____
EEO	_____
RESOURCES	_____ / _____
MINERALS	_____
OPERATIONS	_____
ADMIN	_____
TRNG CNTR	_____
CENT FILES	_____
DMS	_____
	930 ACTION

Lester K. Rosenkrance
State Director
Bureau of Land Management
Arizona State Office
3707 N. 7th Street
P.O. Box 16563
Phoenix, Arizona 85011

Dear Director Rosenkrance:

We, the undersigned residents of St. David, Arizona, SEC 16, Township 18S, Range 21 E, are exceedingly concerned about the Bureau of Land Management's intents and purposes for including our private homes, residences and agricultural lands on maps depicting various alternative management schemes for portions of the San Pedro River included in the December 1994, FINAL, Arizona Statewide Wild and Scenic Rivers Legislative Environmental Impact Statement, BLM reply #: 1790/8351 (931). See attachments 1-2.

As you may recall, this is not the first time our private lands were included in one of your agency's management programs. It was inaccurately included on Map 27 in the August 1991, Safford District Resource Management Plan, Environmental Impact Statement, BLM reply #: 1615 (040). See attachment 3. We became aware of this inaccuracy through the Coordinated Resource Management (CRM), process on the San Pedro River Acquisition Plan, that began when you came to Benson, Arizona in June of 1992. During CRM meetings in the BLM's Tucson Area Office, Mr. Jess Juen explained that lands not included in the RNCA boundary could not be purchased by the BLM. He also explained that the BLM did not want our properties because they were developed and did not possess any desirable resources.

Since our properties are private lands, not within the boundary of the RNCA, and we have Mr. Juen's word that the BLM does not want our lands, would you please explain why once again, our private properties have been included on one of your agency's concept maps. Along with your explanation, we would like you to specifically answer the following questions:

1. Why weren't individual property owners who were included on maps in the Scenic River's documents notified individually through your consultation and coordination efforts? It was our understanding that a form to be used for such notification was developed during the San Pedro CRM process.

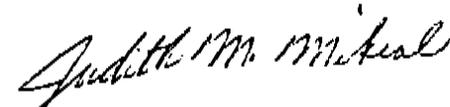
2. Do your plans include right-of-way restrictions or control of Judd Street, our only means of egress and access to Arizona State Highway 80?

3. Do you have plans to restrict our use and access to the St. David Irrigation Ditch?
4. Would your plans for recreation include allowing hunters to discharge firearms near our properties or near the county road we use for access to the river and areas west of the river?
5. Are you planning on acquiring lands north of the RNCA northern boundary as depicted in attachment 1?
6. Are you planning management strategies for lands north of the RNCA boundary that would involve other state, federal, environmental or private agencies or groups? If so, please list said entities in your reply, and describe how our lands and cultural practices would be impacted by such planning.
7. Do you have fire fighting equipment or plans for such equipment in the most northern portions of the RNCA?
8. Do you have plans for on site managers in recreation areas near our properties? If so, how will these areas be staffed and when?
9. Do you have plans for the consumptive use of water in our area? If so, where and how much water?

Our questions and concerns have been raised because to the best of our knowledge you have basically become an absentee land owner with most of your RNCA staff operating out of offices in Tucson, Safford, and Sierra Vista. We observe the northern portion of the RNCA that borders our lands on a daily basis and are intimately concerned about how it is managed. As faithful stewards of the land we want to sustain the beautiful area God has blessed us with in St. David, Arizona.

Your prompt reply, with copies to each of us as listed below will be greatly appreciated.

Sincerely,



Major Judith M. Mikeal USAF, RET
P.O. Box 305
St. David, Arizona 85630



Mr. Grant Judd
Rt. 1, Box 196
St. David, Arizona 85630

Tom Judd
Bethany C. Judd
Mr. and Mrs. Tom Judd
Rt. 1, Box 193A
St. David, Arizona 85630

Howard Husted
Melanie K. Judd
Mr. and Mrs. Howard Judd
Rt. 1, Box 196
St. David, Arizona 85630

Guillermo Acosta
Mrs. Acosta
Mr. and Mrs. Guillermo Acosta
Rt. 1, Box 195
St. David, Arizona 85630

Jimmy V. Judd
Mrs. Judd
Mr. and Mrs. Jimmy V. Judd
Rt. 1, Box 195
St. David, Arizona 85630

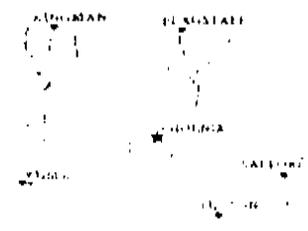
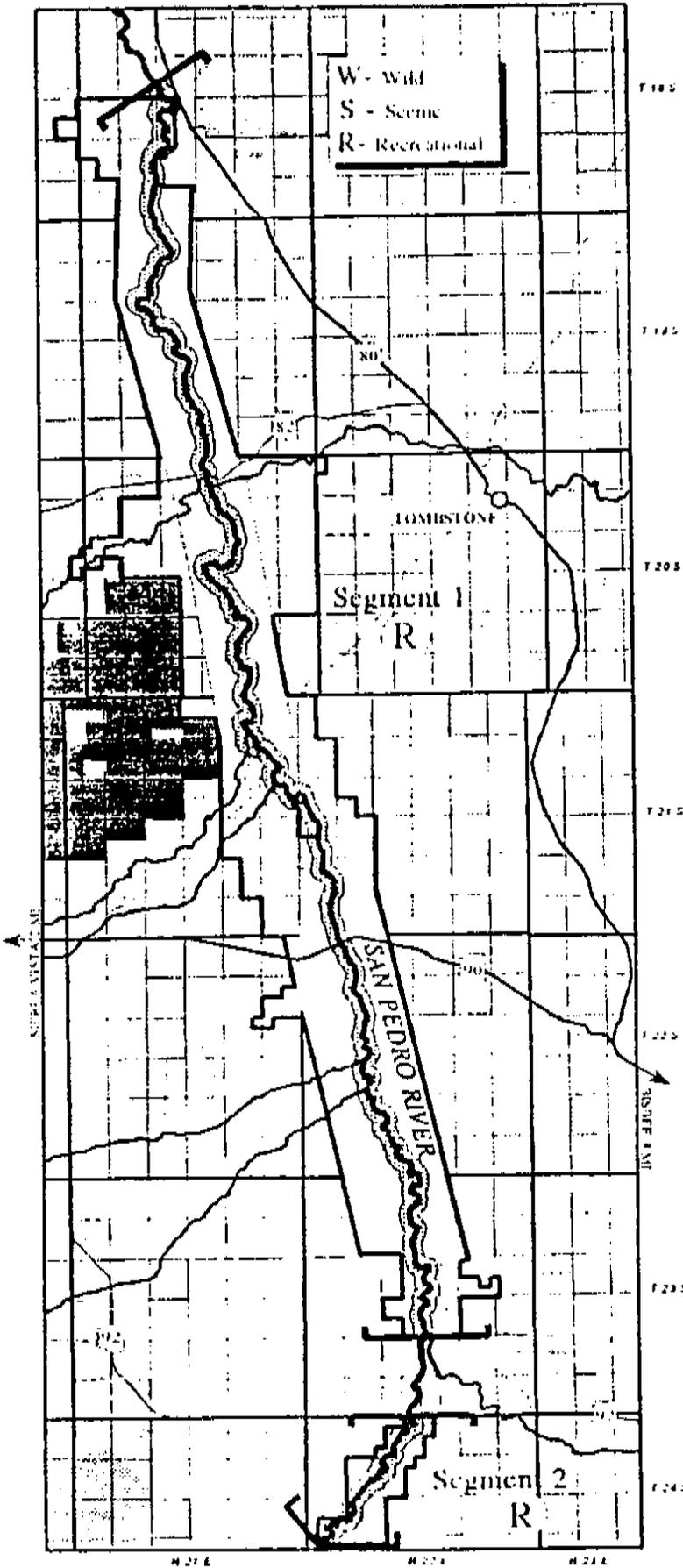
Wayne Gustafson
Mr. and Mrs. Wayne Gustafson
P.O. Box 129
St. David, Arizona 85630

Eugene Husted
Mr. and Mrs. Eugene Husted
Rt. 1, Box 193
St. David, Arizona 85630

SAN PEDRO RIVER (Recommended Alternative)

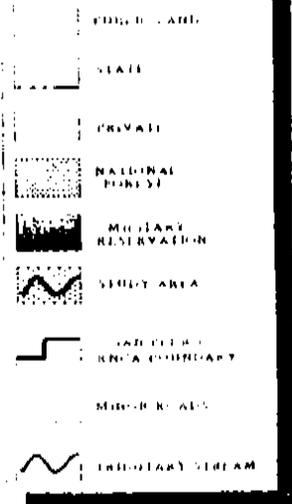
Atch 1

ARIZONA



LOCATION DIAGRAM

LEGEND



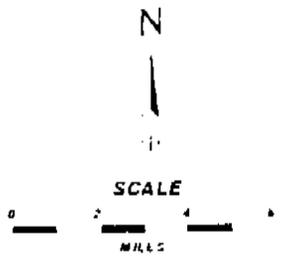
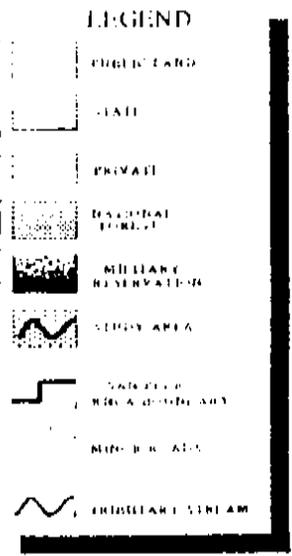
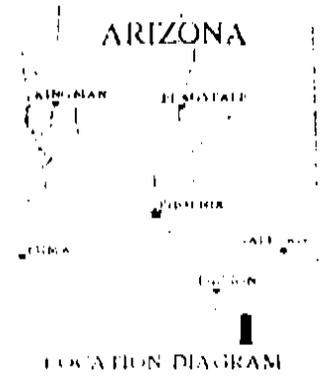
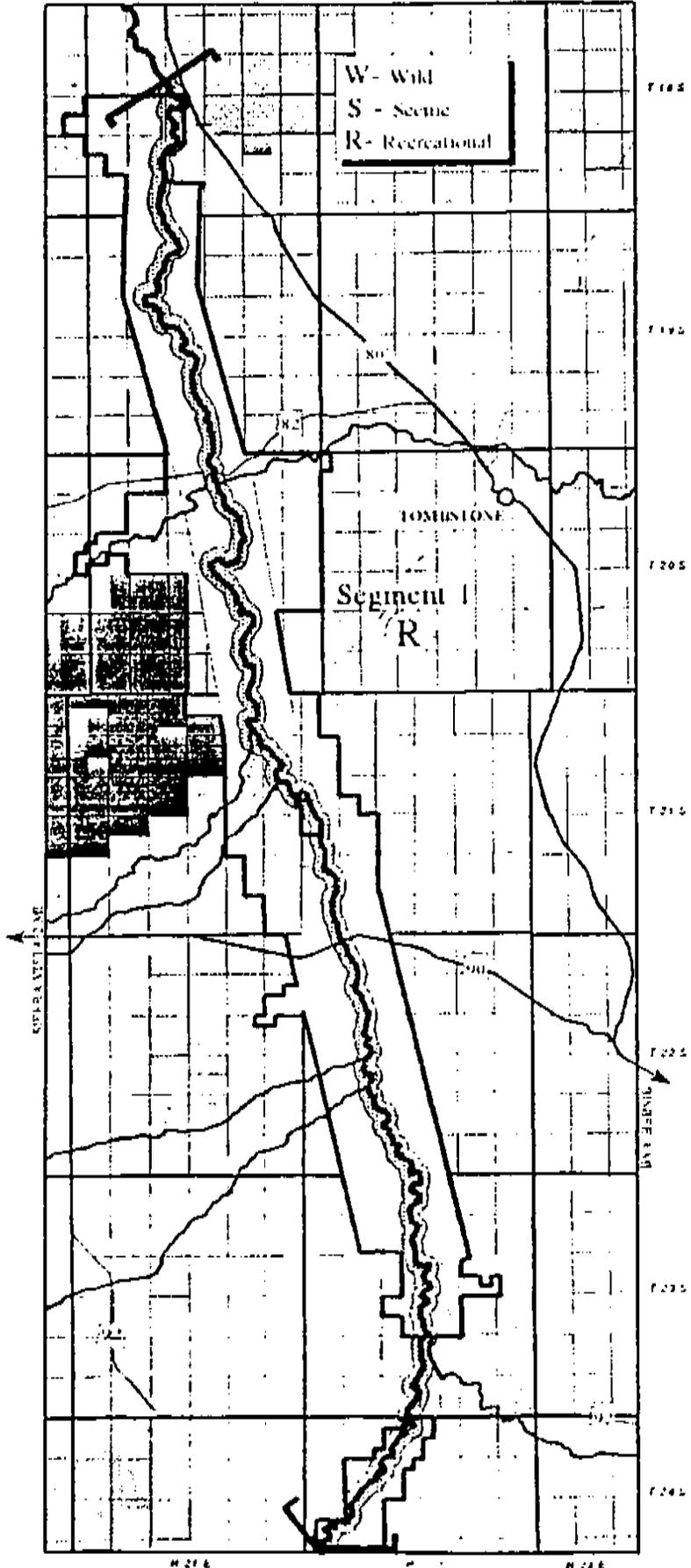
N

SCALE

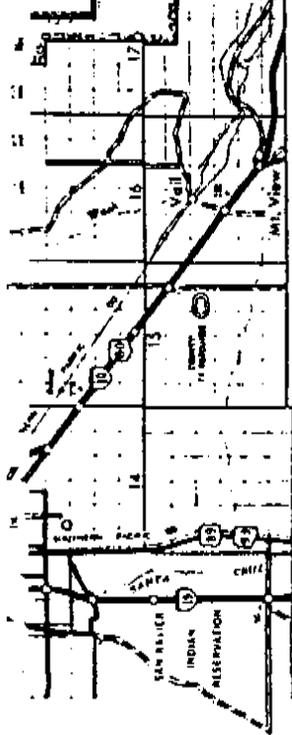
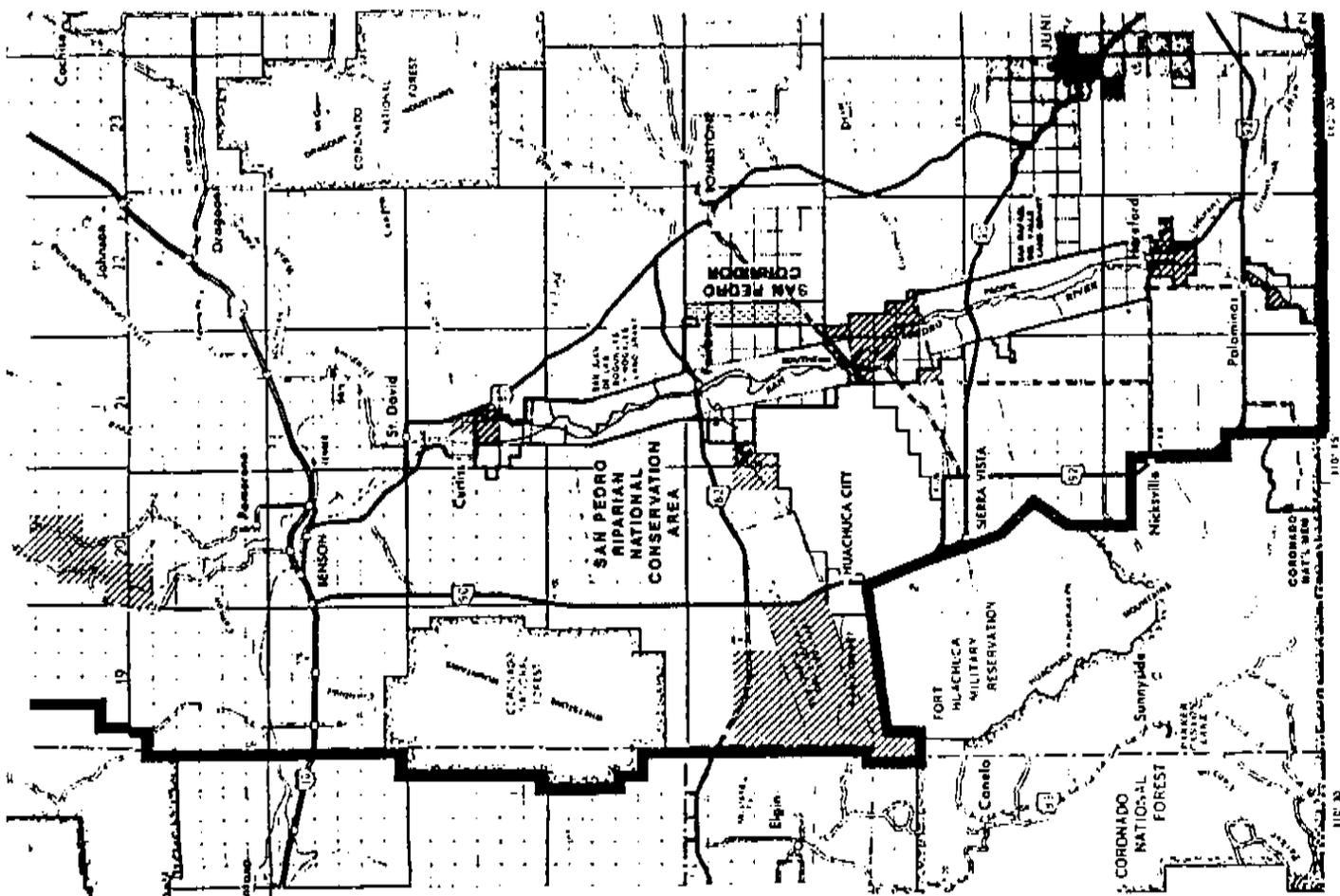


UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
SALT RIVER DISTRICT
TUSOIG RESOURCE AREA
October 1994

SAN PEDRO RIVER (All Suitable Alternative)



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
NATIONAL FOREST
TUCSON RESOURCE AREA
October 1971



SAFFORD DISTRICT RMP

MAP 27

Proposed Land Tenure Adjustment, Utility Corridors, and Communication Sites

LEGEND

- LONG-TERM MANAGEMENT AREAS**
Public lands in these areas are generally to be retained under the administration of the Bureau of Land Management and managed following the principles of multiple use and sustained yield.
- PROPOSED ACQUISITION AREAS**
State and private lands in these areas have been recommended for acquisition as they become available.
- PROPOSED DISPOSAL AREAS**
Public lands within this unshaded area may be disposed of following standard environmental assessment procedures.
- PROPOSED UTILITY CORRIDORS**
- PROPOSED COMMUNICATION SITES**
- DIVIDED HIGHWAY**
- SITUMOUS OR CONCRETE**
- BITUMINOUS SURFACE TREATED**
- GRAVEL**
- GRADED AND DRAINED**
- UNIMPROVED**
- CONNECTING ROADS**
- ROUTE MARKERS** INTERSTATE, U.S. STATE, INDIAN
- MILEPOST**
- NATIONAL FOREST**
- INDIAN OR MILITARY RESERVATION**
- NATIONAL MONUMENT AND PARK**
- LAND GRANT**
- COUNTY SEAT**
- INCORPORATED CITIES**
- OTHER TOWNS OR VILLAGES**
- AIRPORT FACILITIES**
- AIRPORT NO FACILITIES**

PLANNING AREA BOUNDARY

COUNTY BOUNDARY



RECOMMENDED TOPOGRAPHY

1	2	3	4	5	6	7	8	9	10
11	12	13	14	15	16	17	18	19	20
21	22	23	24	25	26	27	28	29	30
31	32	33	34	35	36	37	38	39	40
41	42	43	44	45	46	47	48	49	50



U.S. DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Safford District

June 1985

Source: Ar. Dept. of Trans.
B. J. Johnson

Revised by: Ar. Dept. of Trans.

The White Mountain Conservation League

P.O. Box 595
Pinetop, AZ 85935

January 25, 1995

Mr. Phillip Moreland, Branch Chief
Planning, Environmental, Lands and Recreation (931)
Arizona State Office
Bureau of Land Management
P.O. Box 16563
Phoenix, AZ 85011

We would like to comment on the final LEIS for Wild & Scenic Rivers designations on BLM lands in Arizona. The White Mountain Conservation League is an organization of rural people in northeastern Arizona who are concerned with the conservation of our natural resources. Several of our members have been involved with the Wild & Scenic Rivers effort for several years. After reviewing the LEIS and the comments on the draft LEIS, we feel that the BLM has successfully balanced the various interests in making their recommendation. While there are some additional segments we would have liked to see included and some segments that we would have liked to see a higher level of designation on, we support the BLM's recommended alternative.

We believe that the intent of the Wild & Scenic Rivers Act was to balance the competing uses of the resource while maintaining and enhancing the free flowing nature and outstandingly remarkable values of the river segments. This is not a preservationist or lockout program. It is a program that can be used to enhance the values of the river for the benefit of all the citizens of the state.

We hope that the delegation will see this as an opportunity to benefit the state of Arizona and will work to pass a Wild & Scenic Rivers bill for both BLM and Forest Service rivers.

Sincerely,



White Mountain Conservation League

cc: Representative J.D. Hayworth, Senator Jon Kyl, Senator John McCain



FRIENDS OF ARIZONA RIVERS

503 East Medlock Drive
Phoenix, Arizona 85012
(602)-265-4325

January 29, 1995

Phillip Moreland, Branch Chief
Planning, Environment, Lands and Recreation (931)
Arizona State Office
US Bureau of Land Management
Post Office Box 16563
Phoenix, AZ 85011

re: Final LEIS; Arizona statewide
Wild and Scenic Rivers

Dear Mr. Moreland:

Friends of Arizona Rivers (FAR) is generally pleased with the job that BLM has done in the Final LEIS for Wild and Scenic Rivers in Arizona. We support all 14 of the segments that BLM recommended as suitable in the final EIS:

Table 1. Streams Recommended as Suitable by the BLM.

Agua Fria	Gila Box
Aravaipa	Lower San Francisco
Big Sandy	Middle Gila
Bill Williams	Paria
Bonita Creek	San Pedro
Burro Creek	Santa Maria
Cienega Creek	Virgin

However, Friends of Arizona Rivers disagrees with BLM's exclusion of two streams that are clearly eligible and suitable for recommendation, namely, Hassayampa River and Wright Creek.

1. Hassayampa River

I refer you to the comments that FAR made in its letter commenting on the DEIS (see Final LEIS, page 397). There was essentially no response by the BLM to the specific comments made by FAR in the Final LEIS. Based on the BLM write-up, it is puzzling how BLM could decide not to recommend the Hassayampa River. The river is definitely threatened by the potential

placement of a dam. FAR believes that the construction of flood control facilities would not be a cost efficient method of achieving flood control downstream. Better, long term, flood attenuation can be achieved through management of the upstream watershed and designation of the stream corridor as a Wild and Scenic River.

Again, we urge that BLM reconsider their position regarding the Hassayampa River. It should be a Wild and Scenic River.

2. Wright Creek

Although designation would not significantly change the way the area is managed, we believe that the stream is a good candidate for addition to the national system. Now is a good time to recommend its suitability, before conflicts arise.

Other comments

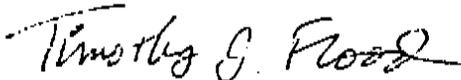
3. Cienega Creek

We support the BLM decision to include this creek among the list of suitable streams. However, it appears that BLM has forgotten to revise the supporting documentation on Chart 1-1, page 9, second and third column.

Finally, we ask that BLM transmit to Congress a statement of the overall ecological importance of designating these streams as Wild and Scenic Rivers.

Thank you for your work on Wild and Scenic Rivers for Arizona and the nation.

Sincerely,



Timothy J. Flood



SIERRA CLUB

JAN 31 1995

Grand Canyon Chapter · Arizona

Palo Verde Group
 2508 E. Heatherbrae
 Phx., Az. 85016

Post-It* Fax Note	7671	Date	1-31-95	# of pages	2-
To	Phillip Moreland	From	SIERRA CLUB		
Co./Dept	BLM	Co.			
Phone #	650-0528	Phone #	956-5057		
Fax #	650-0452	Fax #			

Jan. 30, 1995

Phillip Moreland, Branch Chief
 Planning, Environmental, Lands and Recreation (931)
 Arizona State Office
 Bureau of Land Management
 3707 North 7th Street
 P.O. Box 16563
 Phx., Az. 85011

Dear Mr. Moreland:

Thanks for the opportunity to comment on your Final Arizona Statewide Wild and Scenic Rivers Legislative Environmental Impact Statement. We also wish to convey our appreciation for all the work BLM put into scoping and document preparation so the public could more fully participate in the W&S River decision making process. We offer the following comments regarding your recommended alternative.

Three Cheers for reconsidering Cienega Creek and including it in your final list for W&S designation. This 10 mile segment in the Empire Ranch area will make a valuable addition to Arizona's W&S river system.

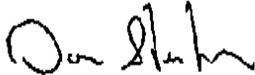
We were disappointed that all 20 rivers considered for designation in the draft document could not have been found suitable. The problem, according to the discussions in your Rivers Appendix, stemmed not so much from the fact that they lacked outstandingly remarkable values but that conflicts with other users existed, usually mining and dam building.

The Hassayampa river probably best illustrates this point. Your document admits to outstandingly remarkable scenic values, high ecological diversity and over 300 species of fish and wildlife. Parts of segment 2, however lie outside the Hassayampa River Canyon Wilderness and are unprotected. Most of segments 1 and 3 have no protection. At least 10 small mines currently exist along the Hassayampa, with another 20 mines projected to be built in the next 20 years, each needing about 2 new miles of roads. Over 250 active claims exist along this stretch of river. Additionally, the river is threatened with the occasionally

discussed Box Canyon dam which would inundate the river north to Fools Canyon. Like others dropped from the study, this is a river at risk; it is unfortunate more could not be done to protect them.

Thanks again for your efforts towards preservation of Arizona's rivers and streams. Here's hoping that Congress, like the BLM, is up to the challenge.

yours,



Don Steuter
conservation chair



January 30, 1994

Phillip Moreland, Branch Chief
 Planning, Environment, Lands and Recreation (931)
 Arizona State Office, Bureau of Land Management
 3707 North 7th Street
 P.O. Box 16563
 Phoenix, AZ 85011

Re: Final Statewide Wild and Scenic Rivers Legislative Environmental Impact Statement

Dear Mr. Moreland:

American Rivers appreciates the opportunity to comment on the Final Arizona Statewide Wild and Scenic Rivers Legislative Environmental Impact Statement (FLEIS).

Again, we commend the BLM for its work in preparation of the FLEIS. As we stated in our comments on the Draft LEIS, we feel that the BLM has demonstrated a thorough understanding of and commitment to both the section 5(d) process of assessing rivers for potential designation and the value of rivers and streams under BLM jurisdiction in Arizona. We are pleased that the BLM reassessed its recommendation for Cienega Creek, and has modified the proposed action to include the all suitable option for Cienega Creek in the recommended alternative.

However, American Rivers is disappointed that the BLM did not similarly reassess its recommendations for the Hassayampa River, Francis Creek, and the upper section of the Santa Maria River. We still believe that these three rivers and streams, upon a weighing of the relative public value of the river as a protected component of the national rivers system as against the public values associated with other possible uses of the river, are suitable for designation and should be included in the proposed action. In addition, American Rivers is disappointed that the BLM did not reassess its recommendation that Congress direct affected agencies in Utah, Arizona and Nevada to study the Virgin River as a study river under section 5(a) of the Wild and Scenic Rivers Act. We continue to believe that the threats facing the Virgin River are serious and imminent, and that immediate action to protect the Arizona segments which have been fully assessed for their eligibility and suitability should not be delayed. We

SOUTHWEST REGIONAL OFFICE
 3601 NORTH SEVENTH AVENUE
 SUITE D
 PHOENIX, ARIZONA 85013
 (602) 264-1823
 (602) 264-1775 (FAX)

35



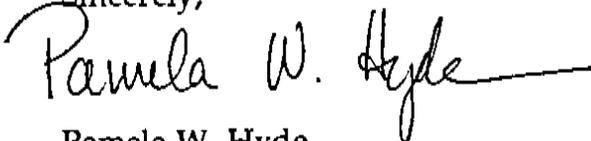
a member of Earth ShareSM

request that the BLM recommend that Congress designate the Arizona segments found eligible and suitable. In addition, we recommend that the BLM actively engage the coordination of BLM, National Park Service and Forest Service offices in Utah and Nevada to expedite the wild and scenic assessment process in those states, ensure consistent criteria for assessment, and ensure no impairment of the outstandingly remarkable values identified in the Arizona segments of the Virgin River.

American Rivers reiterates its belief, stated originally in our comments on the Draft LEIS, that the termination of the upper segment of Bonita Creek at Lee Trail Road is arbitrary, and excludes a portion of Bonita Creek from Lee Trail Road to the northern boundary of the parcel owned by the City of Safford that is suitable for designation into the national wild and scenic river system. We found the BLM's response to our original comment unenlightening and unresponsive to our concern. We are aware of the private land downstream of Lee Trail Road, and the presence of the infiltration gallery approximately 4 miles upstream from the mouth of the creek. However, based on maps published by the BLM in the Draft LEIS and in the Draft Gila Box Riparian National Conservation Area Interdisciplinary Activity Plan/Environmental Assessment, it appears that the private land and the infiltration gallery begin approximately three-quarters of a mile downstream of Lee Trail Road. Once again, we point out that in the Draft Gila Box Riparian National Conservation Area Management Plan, under the Preferred Alternative, the majority of that three-quarter mile section of the creek is recommended to be in a Management Zone A, which is the most restrictive management zone. We request that the portion of the river down to the City of Safford parcel be included in the Bonita Creek segment recommended for designation in the proposed action.

American Rivers reiterates its strong support for the BLM's efforts to recommend potential wild and scenic rivers in Arizona as suitable for designation into the national rivers system. We hope the comments set forth above will be carefully considered. We look forward to continuing our productive coordination with the Arizona State Office, the District Offices and the Resource Areas. Please do not hesitate to communicate with us if there are questions concerning any of these comments or other matters related to potential wild and scenic rivers on BLM administered lands in Arizona.

Sincerely,

A handwritten signature in cursive script that reads "Pamela W. Hyde". The signature is written in black ink and includes a horizontal line extending to the right from the end of the name.

Pamela W. Hyde
Conservation Associate
Southwest Regional Office

cc: Michael Dombeck, Director, Bureau of Land Management
Bruce Babbitt, Secretary, Department of the Interior

January 27 , 1995

Mr. Phillip Moreland
Branch Chief, Planning, Environment, Land, & Recreation (931)
B.L.M. Arizona State Office
3707 N. 7th Street
P.O. Box 16563
Phoenix, Arizona 85011

RE: Wild and Scenic Rivers Legislative Environmental Impact Statement

Dear Mr. Moreland,

The Arizona Off-Highway Vehicle Association (AOHVA) would like to thank the people responsible for this Legislative Environmental Impact Statement and your efforts to keep the public informed. It provides the information needed to make an important decision.

On careful review of the LEIS, the members of the AOHVA support the "NO ACTION" Alternative on all the proposed rivers contained in the statement.

Our organization is dedicated to responsible multiple use activities on public lands. Much of our efforts are directed to educating members and the general public in proper use of our natural heritage. Our members primary recreational activity on public lands is enjoying motorized recreation on existing backroads and trails with family camping and hiking as a secondary activity.

Although we're in favor of preserving our lands for future generations, we are also concerned that the present generation have continuing access to these lands. We strongly support the concept of access for all, not just for the select few. Motorized recreational activities and access to remote areas is an acceptable and necessary part of public land management. Often it is the only means for the elderly or the physically challenged persons to access these areas.

The Arizona Off Highway Vehicle Association feels strongly that denying access to preserve an area is not consistent with equable public land management. We feel utilization of our natural resources can best be served through education, responsible use, and effective management.

Sincerely,



Peter Pfeifer
Arizona Off-Highway Vehicle Association
1-800-796-6773 Voice Mail Box 373



P.O. BOX 28, HEBER, AZ 85928

Phillip Moreland, Branch Chief
Planning, Environmental, Lands and Recreation (931)
Arizona State Office
Bureau of Land Management
P.O. Box 16563
Phoenix, AZ. 85011

JANUARY 31, 1995

Dear Phillip,

In regards to the Wild and Scenic River designation: I am opposed to any designation of our rivers, streams, creeks, or washes. We are being locked out of our lands. With the T & E species, the Wilderness areas, and many other regulations we don't need anything else to keep us out.

The designation of Wild and Scenic Rivers will restrict the use of our lands. They were set aside to be used for the good of the local economies, to produce products for the whole country, and for the harvest and development of our natural resources. There is no reason the riparian areas cannot be enhanced and protected; as well as, being used in the manners that benefit all.

One of the biggest problems I see with the designations is the violation of Private Property. Our country was founded on the principle of private property being essential to our liberties. When we violate this right we loose a portion of our foundations that made this greatest country on earth.

The American Dream is becoming extinct in Rural Arizona. These designations will be one more act at abolishing many citizens way of life. That is not the function of the government, it is to protect the rights of citizens not take them away and not destroy their pursuit of happiness.

Sincerely,

Sylvia Allen
Field Coordinator
P.O. Box 28
Heber, AZ. 85928
602-535-3385

Upper San Pedro Watershed Management Association

1730 North Sanders Road
Huachuca City, Arizona
85616

February 3, 1995

Mr. Phil Moreland
Branch Chief for Planning, Environment,
Lands, and Recreation
370 North 7th Street
Post Office Box 16563
Phoenix, Arizona 85014

Dear Mr. Moreland:

The above organization is newly formed in Cochise County to represent the residents of the Upper San Pedro Watershed and reflect their interest and concerns about water matters. Upon our review of the Wild and Scenic River Study, there were several comments submitted for consideration. Per our telephone conversation on January 31, 1995, we had just received this information and would be forwarding comments within the next couple days, by FAX and by mail. As you noted, there would be time past the January 31st deadline in which we could submit our input.

Following is a listing of our comments concerning the San Pedro River Wild and Scenic River Study Area. It should be noted, input is being provided from the Final Legislative Environmental Statement, dated December, 1994.

- It was noted that meetings concerning this issue of the San Pedro being a Wild and Scenic River were held every place but in the area that is being affected, Upper San Pedro Watershed. This study was not presented to the public in the actual area to be affected; thus, the residents of the geographical area impacted upon have had no knowledge or input concerning this matter. Question is posed, implementation of legislation without representation, which we are sure is not the way things were meant to be decided.

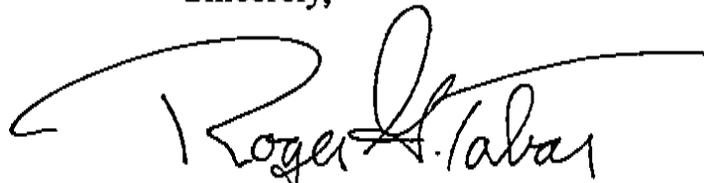
- It appears that much of what is trying to be accomplished by the designation of the San Pedro as a Wild and Scenic River is in essence being accomplished by the Bureau of Land Management. If not, they have within their structure, B.L.M., the authority to accomplish essentially all the desired outcomes and really need to implement them. By designating the San Pedro as a Wild and Scenic River, it is increasing the layering of bureaucracy for any type of interchange, favorable or unfavorable, with the local residents and/or communities.

- To implement this Study there will be a need to generate some form of financial support. This issue is not addressed in any great detail and leaves much concern as to the increase of taxes of some form to fund this project. Additional revenue for another layer of organization is not needed when B.L.M. is already involved in the management of the area.

- This designation would have a major adverse impact on the residents, landowners, and communities in the immediate area in regard to use of their property, land value, and future development; which in each case would be a negative impact. Again, all this is decided without information or public meetings in the "area" being affected.

As a public entity being established in the affected area of this proposed legislation, the Upper San Pedro Watershed Association fully supports the "no action alternative".

Sincerely,

A handwritten signature in black ink, appearing to read "Roger G. Tabar". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Roger G. Tabar
Committee Member

1/30/95

Mr. Phillip D. Moreland
 Branch Chief-PELR
 Bureau of Land Management-Arizona State Office
 3707 N. 7th St. PO Box 16563
 Phoenix, AZ 85011

Final Wild and Scenic Rivers LEIS

Dear Mr. Moreland:

These comments are submitted on behalf of Cyprus Climax Metals Co., which owns land and operates mines in areas potentially affected by recommendations in the Arizona Statewide Wild and Scenic Rivers Legislative Environmental Impact Statement. Cyprus has actively participated in the LEIS and Resource Area Management Planning processes.

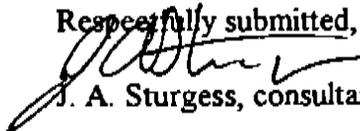
In part, this letter is to recognize and acknowledge BLM's well-thought-out decisions regarding the finding of NONSUITABLE for some of the segments of Burro Creek, Francis Creek, Big Sandy, Bill Williams, Gila, and Santa Maria Rivers. The technical and social and land ownership issues that have apparently been considered by the BLM in these six determinations are well documented in the public record. The written, oral, and technical comments submitted by interested parties from public and private backgrounds certainly support the BLM conclusions on these segments.

Cyprus is less satisfied with the Final LEIS recommendations of SUITABILITY for other segments on Burro Creek, and the placement of the upstream border on the Gila River Recreational segment. These segments are not properly classified as suitable, in Cyprus' view. This position has been stated before, in comments and in technical reports to the BLM. Rather than reiterate the reasons here, after the final LEIS has issued, we simply refer again to previous Cyprus submittals.

Cyprus requests that at future opportunities, the BLM acknowledge that there is strong local landowner opposition to the classification or recommendation as SUITABLE, for the Burro Creek and Gila River segments. Cyprus maintains that the public record, the public sentiment, and the social and economic consequences of the SUITABLE recommendation are understated in the Final LEIS.

These comments should come as no surprise to BLM, since these positions are consistent with input from the public throughout the process.

Respectfully submitted,


 J. A. Sturgess, consultant to Cyprus

cc. J. Danni
 J. Hartdegan
 B. Kirchhoff
 D. Ridinger

J. A. Sturgess 534 E. Mtn. Sky Ave. Phoenix, AZ 85048 (602) 460-7255

FEB 02 1995



Safford Branch, P.O. Box 151, Safford, Arizona 85546

January 31, 1995

Mr. Phil Moreland, Branch Chief
Planning, Environmental, Lands and Recreation
Bureau of Land Management Arizona State Office
3707 North 7th. Steet, P.O. Box 16563
Phoenix, AZ 85014

Dear Mr. Moreland:

After reading the final LEIS for the Wild and Scenic Rivers designations, I still feel that the study and responses were too generalized. Specifically, my concerns (Document 68) were for future impacts on mining. Your General Response No. 12 on Visual Impacts only deals with the present. That is precisely the problem with these designations.

This is not a true EIS, thus the in-depth study of socio-economic benefits questioned in my and others earlier comments were not adequately addressed. Because of this, I am writing at this time to say that I am opposed to the Proposed Alternative and wish to express my support for the No Action Alternative.

Sincerely yours,

A handwritten signature in cursive script that reads "Charles S. Eady".

Charles S. Eady

CSE:gjp

LAW OFFICES OF
APKER, APKER, HAGGARD & KURTZ, P.C.

A PROFESSIONAL CORPORATION

PARK ONE

2111 EAST HIGHLAND AVENUE, SUITE 230

PHOENIX, ARIZONA 85016

AREA CODE 602 TELEPHONE 381-0085

MAILING ADDRESS

P. O. BOX 10280

PHOENIX, ARIZONA 85064-0280

TELECOPIER

(602) 956-3457

BURTON M. APKER*
 JERRY L. HAGGARD**
 DAVID B. APKER***
 GERRIE APKER KURTZ
 CYNTHIA M. CHANDLEY
 KEVIN M. MORAN

*ALSO ADMITTED IN WISCONSIN
 **ALSO ADMITTED IN DISTRICT OF COLUMBIA
 AND KANSAS
 ***ALSO ADMITTED IN COLORADO

January 31, 1995

HAND-DELIVERED

Mr. Philip Moreland, Branch Chief
 Planning, Environmental and Lands and
 Recreation (931)
 Arizona State Office
 Bureau of Land Management
 3707 North Seventh Street
 Post Office Box 16563
 Phoenix, Arizona 85011

Re: Arizona Statewide Wild and Scenic Rivers
 Legislative Environmental Impact Statement
 1790/8351 (931)

Dear Mr. Moreland:

These comments are submitted on behalf of Phelps Dodge Corporation, The Morenci Water & Electric Company (MWEC), and Phelps Dodge Morenci, Inc. (PDMI) (hereinafter collectively referred to as "Phelps Dodge") on the Arizona Statewide Wild and Scenic Rivers Final Legislative Environmental Impact Statement (LEIS) dated December, 1994. Phelps Dodge appreciates the opportunity to present these comments and urges the BLM to supplement the EIS to correct the errors and omissions that are identified below.

Phelps Dodge joins those eastern Arizona counties, cities and civic groups which support the no action alternative for each of these river study areas for the reasons set forth below, and urges the BLM to reconsider its recommendations for Wild and Scenic River ("WSR") designations for those study areas. On the broader issue of increasing federal restrictions on private and public land use, of which these WSR proposals by the BLM are only a part, Phelps Dodge shares the position of those eastern Arizona entities that the inappropriate continuing expansion of those federal restrictions must stop.

Since 1979, Phelps Dodge has attempted to work with the BLM and other federal agencies on proposals that are repeatedly being made to place lands around the Morenci mine complex into special protective land management status. This has included proposals for wilderness areas, earlier wild and scenic river proposals, special

Mr. Philip Moreland
January 31, 1995
Page 2

management plans, national conservation area status and areas of critical environmental concern.

In 1989, Phelps Dodge agreed not to oppose the designation of a portion of the Gila River as a Riparian National Conservation Area ("RNCA") if operations at the Morenci complex would not be impacted by land management restrictions. Nevertheless, after the Gila River RNCA was created, the Final Safford District Resource Management Plan dated August, 1991, provided for further study of the San Francisco and Gila Rivers for inclusion in the WSR System as well as proposing the designation of the Gila Box Area of Critical Environmental Concern ("ACEC") and Coronado Mountain ACEC to the south and north of Morenci. After many meetings with Phelps Dodge, the Safford BLM District agreed that the Gila River and the San Francisco River should not, and would not, be considered for wild and scenic river designation.

But now, this LEIS prepared by the BLM recommends that Congress enact legislation to bring the Gila and San Francisco Rivers at Morenci (as well as Bonita Creek near Safford), into the WSR System. In addition to the RNCA designation and the WSR proposal, last year, the entire Gila River from the New Mexico border to the San Carlos Reservoir plus its 100 year flood plain were designated critical habitat for the razorback sucker. Phelps Dodge has become extremely frustrated with these actions and breach of good faith by agencies of the federal government.

General Comments on the LEIS

1. Chapter 2 of the LEIS appropriately catalogs some of the specific restrictions on land uses that would be applied under the various alternatives. However, in order to adequately inform the public and to remind Congress, of the overall legislative restrictions that must be applied within and outside of WSR areas, Phelps Dodge urges that the LEIS be supplemented to identify the following mandates of the WSR Act that must be enforced by federal agencies and may be enforced by citizen suits:

"Each component of the national wild and scenic rivers system shall be administered in such manner as to protect and enhance the values which caused it to be included in said system . . ."

16 U.S.C. § 1281(a) (emphasis added).

"[N]o department or agency of the United States shall assist by loan, grant, license or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such [wild and scenic] river was established . . ."

16 U.S.C. § 1278(a) (emphasis added).

"The . . . head of any other Federal department or agency having jurisdiction over any lands which include, border upon, or are adjacent to, any [wild and scenic rivers] . . . or under consideration for such inclusion . . . shall take such action respecting management policies, regulations, contracts, plans, affecting such lands, . . . as may be necessary to protect such rivers in accordance with the purpose of this Act [to preserve such areas in a free-flowing condition] . . ."

16 U.S.C. § 1283(a) (emphasis added).

"The head of any agency administering a component of the national wild and scenic river system shall cooperate with the Administrator, Environmental Protection Agency . . . for the purpose of eliminating or diminishing the pollution of waters of the river."

16 U.S.C. § 1283(c)

"'Free-flowing' . . . means existing or flowing in [sic] natural condition without impoundment, diversion, straightening, riprapping, or other modification of the waterway."

16 U.S.C. § 1286(b) (emphasis added).

Under these authorities, it will be argued that activities that require federal permits can be prohibited both within the river corridor, and outside of the river corridor, where those activities could affect the existing or natural conditions of water quality or quantity, sound levels, air quality or visual integrity (i.e. nondegradation standard).

It will be argued that 16 U.S.C. § 1283(c) of the WSR Act quoted above authorizes the Environmental Protection Agency ("EPA") to veto the issuance of any dredge or fill permit by the Corps of Engineers. These statutes have been used by EPA as a veto on many occasions to prohibit projects that may adversely affect downstream recreational or wildlife conditions. See, Lilly, "EPA's Emerging and Water Allocation Decisions", 36 Rocky Mt. Min. L. Inst. 22-1(1990).

2. The BLM indicates in the LEIS that there would be no significant economic impacts from implementing any of the alternatives based on a review of factors which were considered relevant by BLM personnel. LEIS at p. 251. However, in reaching that conclusion, the BLM must have failed to consider that WSR designation may limit federal permitting on nearby private land used for mining or other commercial purposes. The limited use of that land will have an impact on the local and state economy that must be considered.

The BLM General Response Number 2: Economic Impacts (LEIS page 251) stating that there would be no significant economic impacts from implementing any of the alternatives is particularly disturbing. Even a cursory review of the ten reasons given reveals that not one is valid. Without burdening these comments by addressing the invalidity of each of those reasons, the invalidity of one is illustrative of the others. The LEIS states:

"Since Bureau of Land Management already is managing the subject areas under one or more land use plans, Congressional designation would not involve any major changes; . . ."

It is inconceivable that this statement was made as a reason for there being no significant economic impacts when the BLM should be fully aware that the authority and

requirements for managing an area under a land use plan are far from the mandates of law that would be imposed on that area if it is designated under the WSR Act.

3. The LEIS indicates that private lands and water rights within the various study areas would be acquired (LEIS Rivers Appendix at p. 135, 291-292, 416), but does not analyze the socioeconomic effects that the reduction of private land base would have on the local communities. For example, Greenlee and Graham Counties have a small private land base for the generation of property taxes to provide services. The purchases of private lands in these counties by the federal government would further reduce the taxable land base and therefore reduce the ability to provide levels of services needed by county residents. Therefore it is necessary to consider in the LEIS the economic effect of the acquisition of those lands under WSR management.
4. The LEIS asserts at p. 65 that Greenlee County registered a loss in population from 1980 to 1990 "due to the reduction of mining operations in the county." The statement in the LEIS is incorrect because, from 1980 to the present, mining operations in the Morenci complex have expanded and are expected to continue expanding. In June of 1994, Phelps Dodge announced the start of a two hundred million dollar expansion at Morenci that would add 240 jobs within a year. The potential opening of a new mine near Safford was also announced at the same time. The new proposed Dos Pobres Mine is expected to employ about 600 people. (See attached newspaper article.) If a premise of the LEIS is that the effect of designating the Gila and San Francisco Rivers is minimized because of a decline in mining, the premise is false.
5. The protection and use of water rights are extremely sensitive and controversial issues when associated with new regulatory programs proposed by the federal government such as WSR designations. Any impact on Phelps Dodge's water rights by designation of the Gila Box, San Francisco River or Gila River area would significantly impact Phelps Dodge's business assets and activities.

Mr. Philip Moreland
January 31, 1995
Page 6

Although the LEIS states that water rights associated with existing valid water rights will not be affected by WSR designation (p. 21), it also states that minimum instream flows will be established for river study areas designated as part of the WSR system (General Response Number 5). The BLM has an application pending before the Arizona Department of Water Resources to appropriate 439 cubic feet per second ("cfs") of instream flow in the Gila River. This amounts to over 85% of the average Gila River flow experienced in this area over the past 79 years. Water Resource Data Arizona Water Year 1993, USGS Water Data Report AZ-93-1, at p. 144. The BLM instream flow claim is about four times greater than the 111 cfs lowest daily mean for 1993. Therefore, even if no further appropriations were necessary, it is unlikely that the instream flows claimed by the BLM would ever be achieved without affecting existing water rights.

The BLM's General Response Number 4: Federal and State Water Rights, at p. 252 fails to recognize that the exact nature of federal reserved rights has not been litigated in the State of Arizona. Therefore, it is misleading for the BLM to imply that, simply because the instream flow right will have a low priority, the BLM appropriation will not have any adverse effect on vested state appropriative water rights.

The LEIS fails to consider the impact that the creation of an instream flow right could have on the use of Central Arizona Project ("CAP") water in rural areas through water exchanges. The LEIS fails to consider the economic impact and limitations on population growth and economic expansion that the creation of an instream flow right could have on areas such as Clifton and Morenci if those areas are faced with downstream minimum instream flows that would have a priority right over exchange water. Moreover, the LEIS has failed to consider that the creation of an instream flow right as well as the WSR designation could lead to additional disputes regarding the alleged impact of groundwater pumping on surface water flows.

The LEIS states that a discussion of CAP water "is beyond the scope of this document" (Response 45-2, LEIS at p. 370). The BLM is mistaken. Because precluding the potential use of CAP water in rural areas such as Morenci

and Clifton will have economic impacts on those areas, it is necessary that the BLM consider those impacts.

6. Arizona's economy relies upon the use of private and public land by the mining, ranching, agricultural and utility industries, which in turn rely on the availability of reliable water supplies and the use of public lands in the state. Because of the far reaching effects the designation of WSR areas will have on private land, private water rights and public land use, and consequently on the economics of the State of Arizona, a Regulatory Impact Analysis required by Executive Order 12866 of October 4, 1993 must be prepared. The ultimate effects of the recommended alternative will clearly have economic impacts within the scope of that Executive Order. The BLM's unsupported assertions (e.g. LEIS Rivers Appendix p. 136, 293, and 412) that private property is not affected are insufficient to comply with its responsibility under Executive Order 12866.
7. The LEIS must include, or be accompanied by, a Takings Implication Analysis ("TIA") for impacts on private property rights created by the restricted uses resulting from WSR designation, pursuant to Executive Order 12630 of March 15, 1988 and the Department of Justice Guidelines issued pursuant to that Executive Order. The purpose of a TIA is to identify takings issues and estimate the costs to the federal government associated with the action. The TIA required by the Department of the Interior Regulatory Policy for Regulatory Actions such as the designation of wild and scenic rivers must include the following:
 1. A legal assessment of the likelihood that the proposed action will result in a government taking of private property.
 2. Identification of known alternatives to reduce the impact on private property.
 3. Evaluation (in dollars) of the degree of the government's financial exposure from the proposed action. This estimate must include all private property values (including rights to surface and groundwater, mineral interests beneath the property, and lost future opportunities to mine or remove minerals).

The LEIS must consider and analyze the serious economic implications described in Phelps Dodge's comments on the draft LEIS. See final LEIS at pp. 415-421. Because of the broad implications of effects on private property as a result of the recommended alternative for the Gila Box: Gila River, Gila Box: Lower San Francisco River, Bonita Creek and San Pedro River, the BLM should reconsider its recommendation.

8. The LEIS should also consider that future legislation and regulatory controls may have special impact on areas that have already been designated as wild and scenic rivers. For example, the Clean Air Act Amendments of 1977 imposed prevention of significant deterioration standards on wilderness areas that had been established many years before. Similarly, legislation considered by Congress last year would have prohibited the issuance of mining permits on lands "in close proximity" to wild and scenic river areas and other protected areas. The LEIS should consider that designation of WSR areas may impact off site areas through future legislation.

Specific Comments on River Segment Proposals

The following comments focus on the four river study areas of particular concern to Phelps Dodge: the Lower San Francisco River, Bonita Creek, Gila Box segment of the Gila River and the San Pedro River.

Gila Box: Gila River Segment

Phelps Dodge cooperated with Congress, the BLM and responsible environmentalists during the development of the Gila Box Riparian National Conservation Area ("RNCA") established by Congress in 1990 through P.L. 101-628, 104 Stat. 4469. In doing so Phelps Dodge maintained its opposition to potential multiple federal management regulations of this area. The resulting management plan and legislation designating the Gila Box RNCA were derived from carefully worked out compromises establishing that area, including an understanding with the BLM that further restrictions would not be imposed. The BLM's recommended alternative violates that understanding by imposing additional restrictions in the Gila Box area. Designation of the Gila Box RNCA as a WSR provides no real benefits in terms of management of the resource, but will have a serious adverse impact on operations of the Morenci mine complex as well as on the eastern Arizona economy.

Mr. Philip Moreland
January 31, 1995
Page 9

The BLM's response to Phelps Dodge's comments on the draft LEIS (Response 101-5, p. 417) states that "[D]iscussions of the draft management plan for the Gila Box Riparian National Conservation Area are beyond the scope of the [LEIS]." To disregard the effects of multiple management restrictions on an area is contrary to both the Council of Environmental Quality NEPA regulations (40 C.F.R. §§ 1508.7, 1508.25) and BLM National Environmental Policy Handbook H-1790-1 (Chapter V.C.3.h.(2)) which require that the cumulative effects of the proposed action be considered with the effects of other past, present and future actions that have occurred or are proposed. Furthermore, it is highly offensive to Phelps Dodge for the cooperative effort between Phelps Dodge and the BLM over the last fifteen years on management systems for the Gila Box to be completely disregarded in this LEIS.

The Gila River and Gila Box segments recommended for WSR designation are immediately adjacent to and below Phelps Dodge's Morenci mine complex, which is presently expanding and is expected to continue to expand in the future. Several utility lines, railways, roadways, and highway bridges are visible from much of the river corridor, as are the Morenci mine complex facilities and tailing dams. Designation of the Gila River and Gila Box segments may restrict the current use and planned expansions of the Morenci mining operations by impeding the acquisition of required state and federal permits and lands for those operations and by restricting or prohibiting water transfers. The designation may also increase restrictions on utility easements in the area. Those restrictions could interfere with the current mining operations as well as the planned expansions and therefore could pose serious economic consequences, adversely affecting the Morenci complex and surrounding communities. The LEIS is wholly inadequate in considering those effects.

The BLM's General Response Number 12: Visual Impacts (P.255) makes one incorrect statement and one misleading statement. The BLM response states: "The Wild and Scenic Rivers Act does not give federal agencies authority to regulate the use of nonfederal lands." The WSR Act not only provides such authority, but it requires federal agencies to disapprove any application for a federal permit for development or other activities on nonfederal lands that would have a direct and adverse effect on the values of a wild and scenic river. 16 U.S.C. § 1278(a).

The misleading statement made in General Response Number 12 is the partial quotation from BLM Manual Section 8351.31.A that "No other factors [visual quality on adjacent nonfederal lands] are considered in determining the eligibility of a river segment." But

Mr. Philip Moreland
January 31, 1995
Page 10

the General Response fails to include the next following statement in section 8351.31.A that "All other relevant factors are considered in determining suitability." Among those other factors is that scenic rivers must have shorelines and watersheds that are still largely primitive. Section 8351.32.B.2. Phelps Dodge's former comments accurately described the developments that are clearly visible from much of the river corridor.

In view of the fact that designating the Gila Box RNCA as a WSR may cause serious economic harm to the area, while providing no real benefits in terms of management of the resource, Phelps Dodge opposes the recommended alternative, the legislative protection alternative and the all suitable alternative for this river study area. For all of the reasons stated above, the LEIS should be amended to adopt the no action alternative for this river study area.

Lower San Francisco River

In its comments on the draft LEIS, Phelps Dodge stated that the BLM made an incorrect conclusion (Volume II, draft LEIS: Lower San Francisco River dated April, 1994, at p. 5) when it stated that operations and expansion of the Morenci mine complex will not be impacted. The BLM made this incorrect conclusion even though 24% of the study area consists of private lands owned by Phelps Dodge, almost two miles of the river segment occur on Phelps Dodge lands and Morenci mine complex operations are predominant in the area. The BLM's only response to that comment was a reference to BLM General Response Number 6 that BLM efforts to acquire private lands will continue. This is a totally inadequate treatment of this issue in the final LEIS.

The Lower San Francisco River study area is immediately adjacent to and below the Morenci mine complex. Phelps Dodge has repeatedly submitted comments to the BLM addressing concerns regarding restrictions on the continuing expansion of the tailing dam complex, utility easements, as well as other facilities, and on water transfer needs. Numerous facilities at the Morenci operation are visually predominant from the corridor that would be established under the WSR management system.

The final LEIS states that:

"Wild and scenic river designation does not affect nonfederal land or the uses that may occur on private lands."

Mr. Philip Moreland
January 31, 1995
Page 11

LEIS, Rivers Appendix at p. 431.

That statement is clearly incorrect in view of the provisions of the WSR Act that may be used to restrict or prohibit all licensing or permitting by any federal agency, and provide EPA with a veto, for actions on private or public lands that have an "adverse effect" on or do not "protect and enhance", the designated river segment. 16 U.S.C. §§ 1278(a). 1281(a). 1283(a), 1283(c).

Therefore, the WSR Act may be used to prohibit activities outside the river corridor that would affect the existing scenic values if federal permitting activities are required for future expansion of the Morenci operation.

In its conclusion the BLM acknowledges that the scenic values of the Lower San Francisco River would:

"...still be vulnerable to indirect adverse impacts from industrial development on private land."

LEIS, Rivers Appendix at p. 432.

The industrial development referred to by the BLM is the existing and future mining operations at the Morenci complex. Phelps Dodge has a large tailing impoundment complex that is immediately adjacent to the Lower San Francisco River proposed WSR segment. Acknowledging these facts, some persons and groups will certainly contend that the Morenci operation would have a direct impact on the scenic values of this river study area.

Phelps Dodge believes that the designation of the Gila Box: Lower San Francisco River, as defined in BLM's recommended, legislative protection and all suitable alternatives will have significant adverse impacts on the Morenci mining complex that are both ignored and denied in various parts of the LEIS. Therefore, the final LEIS should be supplemented to provide a correct account of those impacts of the recommended alternative. Furthermore, Phelps Dodge strongly protests the inclusion of these segments in BLM's recommended alternative and believes they should be found nonsuitable for designation as WSR's in all action alternatives.

Bonita Creek

The Bonita Creek segment recommended for a recreational WSR designation is located within two miles and downslope from Phelps Dodge's future mining operations near Safford, and in an area not

Mr. Philip Moreland
January 31, 1995
Page 12

yet fully tested for its mineral potential. WSR designation could seriously threaten Phelps Dodge's planned development of mining operations at the Lone Star copper deposit, as well as interfere with the acquisition of the necessary utility easements in that area. Moreover, the designation could impose non-degradation standards on operating permits for facilities that may have visual or water quantity or quality effects. The final LEIS states that under the recommended alternative new rights-of-way will be discouraged. (See LEIS Rivers Appendix p. 141.) In addition, the City of Safford water supply, which is drawn from a collection gallery in Bonita Creek, could be adversely impacted by WSR designation.

The BLM's General Response Number 12: Visual Impacts to Phelps Dodge's previous comments regarding these issues on Bonita Creek (LEIS at p. 410) is insufficient. See discussion under Gila Box: Gila River Segment, pp. 9, 10 above. Furthermore, the final LEIS fails to identify any significant advantage that would be created as a result of the proposed designation in this area.

Phelps Dodge's concerns regarding the WSR designation of the Lower San Francisco River apply equally to the Bonita Creek designation. Future development of the known mineral resources at the Lone Star mine could be severely impacted due to federal permitting constraints if Bonita Creek is managed for wild and scenic values. The designation of Bonita Creek, as defined in the BLM's recommended alternative, will have significant adverse impacts on the use of private land owned by Phelps Dodge. For these reasons Phelps Dodge opposes BLM's recommended and all suitable alternatives and supports the no action alternative for the Bonita Creek area.

San Pedro River

The two segments on the San Pedro River recommended for WSR designation as recreational are approximately 15 miles downstream from Phelps Dodge's Bisbee mining area. WSR designation, with the attendant non-degradation standards for water quality and quantity, could adversely impact future Bisbee operations by diminishing Phelps Dodge's ability to obtain additional necessary federal and state permits. Moreover, WSR designation could adversely impact other industrial development near the international border.

The BLM's response to Phelps Dodge's previous comments on this subject is inadequate. (Response 101-6.) The BLM's Response failed to address the cumulative impact of designating a WSR area in addition to the previously created San Pedro RNCA. The BLM has failed to take into account the resultant economic impact and

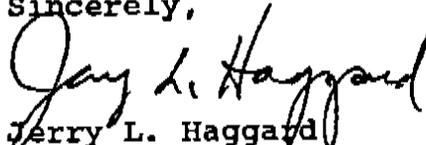
Mr. Philip Moreland
January 31, 1995
Page 13

potential takings implications created by the WSR designation. For these reasons Phelps Dodge opposes the recommended alternative and supports the no action alternative for the San Pedro River study area.

Conclusion

For the foregoing reasons, Phelps Dodge joins eastern Arizona counties, cities and civic groups in opposing the recommended alternatives, the legislative protection alternative and the all suitable alternative, and in supporting the no action alternatives for the Lower San Francisco River, Bonita Creek, Gila Box Segment of the Gila River, and the San Pedro River. Phelps Dodge respectfully requests that serious consideration be given to these comments and that the LEIS be supplemented to address those comments.

Sincerely,



Jerry L. Haggard
For APKER, APKER, HAGGARD & KURTZ, P.C.

JLH/jb

Phelps Dodge to expand Morenci mine

By Guy Webster
The Arizona Republic

Phelps Dodge Corp.'s copper mine at Morenci will start a \$200 million expansion this month that will add about 240 jobs within a year, the company said Thursday.

The expansion will boost production by about 150 million pounds of copper annually, all from the low-cost recovery methods of solvent extraction and electro-winning, rather than more-expensive milling and smelting.

Morenci already is the largest mine in Arizona. It currently has 2,150 employees. They produced 800 million pounds of copper last year. About 350 million of those pounds came from electro-winning, which uses electrolysis to pull acid-dissolved copper out of solution.

A rebound in world copper prices in the past month was not a factor in the decision to expand the mine, said

— See **PHELPS DODGE**, page E3

owns 85 percent of the Morenci mine, and runs the operation. Sumitomo Corp. of Japan owns the other 15 percent and will have that fraction of the costs and benefits of the expansion.

The expansion will increase Phelps Dodge's worldwide copper output by about 10 percent.

It is one of three projects that Chairman Douglas Yearley predicted last month will boost Phelps Dodge copper production a combined 30 percent by the end of the decade.

The other two are a mine planned near Safford and a mine under development in Chile, each of which would produce about 200 tons of copper annually. The proposed Dob Pobres mine on private land near

Safford would employ about 600 people. Construction could begin within five years, contingent on getting environmental approvals, according to the company.

Major capital expenses of the Morenci Southside project will be for an added electro-winning facility, and expanded solvent-extraction facilities. Additional expenses will include new ore-moving equipment and enhancements to electrical and water systems.

Phelps Dodge is in the process of applying for the environmental permits it will need for the project, Foster said. The expansion site is on private land, so it will not be affected by reforms of the Federal Mining Law that have been passed in different forms by the U.S. Senate and House.

— **PHELPS DODGE**, from page E1

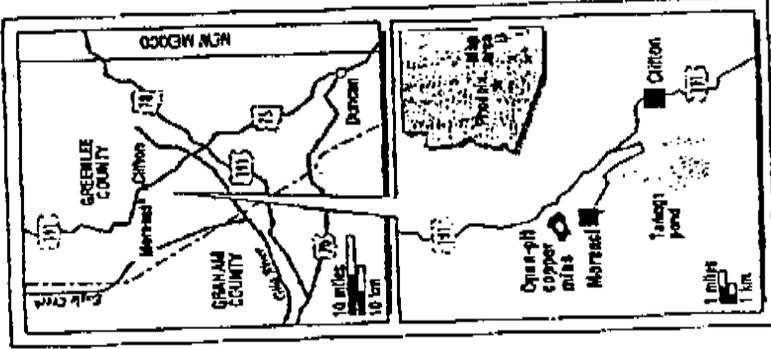
Tom Foster, Phelps Dodge controller and vice president.

"There was no one particular trigger," he said.

Plans for the project have been under development since exploratory testing identified additional ore reserves to the south of the existing mine last year, he said.

Phelps Dodge expects production costs for copper from the "Southside" expansion to be less than 30 cents a pound, Foster said. That's less than half of the current selling price of copper, and well below even the depressed copper prices of the mid-1980s.

Phelps Dodge, based in Phoenix,



Guy Webster/The Arizona Republic

JAN 31 1995



Town of Clifton

P.O. BOX 1415

PHONE (602) 865-4146
TDD (602) 865-9109

CLIFTON, ARIZONA 85533

January 31, 1995

Mr. Philip Moreland, Branch Chief
Planning, Environmental, Lands and Recreation
Arizona State Office, BLM
3707 N. 7th St. P.O. Box 16563
Phoenix, Arizona 85011

RE: Final AZ Wild & Scenic Rivers Environmental Impact Statement

Dear Mr. Moreland:

I have enclosed the past two resolutions the Town of Clifton, Arizona Town Council adopted concerning the Arizona Wild and Scenic Rivers Legislative Environmental Impact Statement.

Since your agency has disregarded our comments to date, I don't suppose this letter will have much impact either however, the importance of what small rural mining towns have to say to survive will be heard by someone, someday!

Your proposed new policies destroy our way of life, and thats not right! You have not provided to our satisfaction what the specific economic impacts will be on mining development and related jobs, ranching, farming, tourism, and the concomitant retail trades and sales that reverberate from our industries. The Bureau failed to include or consider private water rights under the Globe Equity Decree of 1935 and the San Carlos Apache Tribe Water Rights Settlement Act of 1992; The Bureau failed to analyze the visual impact where adjacent private properties must be protected by bank stabilization dikes, existing mining and other possible development which may affect scenic value; the Bureau failed to analyze and provide federal agency cost including citizen awareness of multiple designation restrictions and limitations.

The proposed segments within the Greenlee/Graham County area are already afforded enhanced federal protection. Consequently, we continue to oppose the inclusion of the lower San Francisco Gila River (Gila Box), Bonita Creek, and Aravaipa Canyon as wild and Scenic Rivers.

Respectfully,

David McCullar
Mayor

RESOLUTION NO. 93-11

A RESOLUTION OF THE CLIFTON TOWN COUNCIL GREENLEE COUNTY
ARIZONA RELATING TO THE WILD AND SCENIC RIVERS ACT

WHEREAS, the Congress through Public Law 90-542 created the National Wild and Scenic Rivers System and,

WHEREAS, provisions of that Public Law requires Federal Agencies to examine the suitability of rivers and streams located on Public Lands under their management jurisdiction and,

WHEREAS, the Bureau of Land Management, Safford District and the Safford Ranger District, in the Coronado National Forest are currently evaluating the suitability of such rivers and streams within Greenlee County and,

WHEREAS, Congress will ultimately decide which river segments and streams should be included in the system and their designation as either Wild, Scenic or Recreational and,

WHEREAS, water resources in Greenlee County are the life blood of our economic well being and designation could also affect traditional and social uses of such rivers and streams.

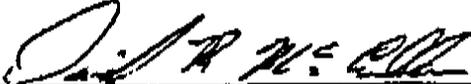
NOW THEREFORE BE IT RESOLVED, that the Clifton Town Council through adoption of this resolution unanimously urges the Congress to allow Federal Agencies to complete their evaluation and recommendation process which is scheduled for completion by the end of 1994.

BE IT FURTHER RESOLVED, that the Congress not designate river segments or streams within Greenlee County which may impact water resource uses for economic purposes or those that impact traditional uses.

BE IT FURTHER RESOLVED, that the Congress prior to enactment of legislation hold Public Hearings in affected areas in order to insure the opportunity for citizens, who may be affected by the act, to comment.

PASSED AND ADOPTED this 9th day of September, 1993.

APPROVED:



David R. McCullar

ATTEST:



Esperanza Castaneda, Town Clerk

JAN 31 1995

RESOLUTION NO. 94-07

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF CLIFTON, GREENLEE COUNTY, ARIZONA SUPPORTING THE "NO ACTION ALTERNATIVE" AS STATED ON THE BUREAU OF LAND MANAGEMENT'S WILD AND SCENIC RIVERS LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.

WHEREAS, the Bureau of Land Management has extended an opportunity for comment on the Bureau's Wild and Scenic Rivers Legislative Environmental Impact Statement; and

WHEREAS, Surface water is crucial to Mining, Agriculture, and Ranching Industries in rural Arizona; and

WHEREAS, the San Francisco and Gila river waters including their tributaries are inadequate to meet the existing allocation of entitlements and attempts by federal agencies to acquire additional water rights which will result in further negative impacts; and

NOW, THEREFORE BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF CLIFTON, ARIZONA that the Council does hereby support a "NO ACTION ALTERNATIVE" for river segments including the lower San Francisco River, the Gila River (Gila Box), Bonita Creek, Aravaipa Creek, and Turkey Creek.

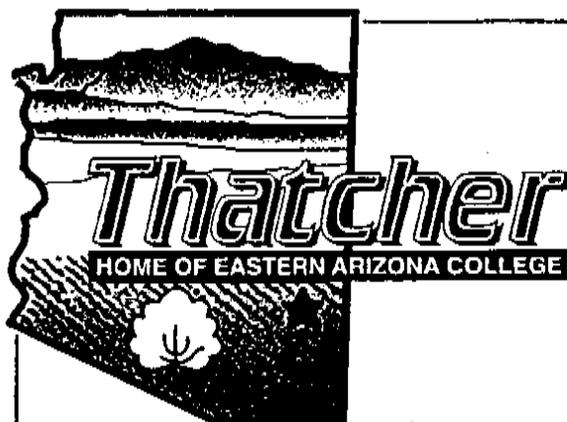
PASSED AND ADOPTED by the Mayor and Council of the Town of Clifton, Greenlee County, Arizona this 9th day of June 1994.

David R. McCullar
David R. McCullar, Mayor

ATTEST:

Esperanza Castaneda
Esperanza Castaneda, Town Clerk

Post-It™ brand fax transmittal memo 7571		# of pages > 3
To Mr Phil Moreland	From David McCullar	
Co BLM- Az office	Co Town of Clifton	
Dept.	Phone # 602-865-4146	
Fax # 602-650-0452	Fax # 602-865-4472	



January 30, 1995

MR. PHILLIP MORELAND, Branch Chief
 Planning, Environmental, Lands and Recreation
 Arizona State Office
 Bureau of Land Management
 3707 North 7th Street
 P.O. Box 16563
 Phoenix, Arizona 85011

Dear Mr. Moreland:

The Thatcher Town Council and I want to thank you for keeping us apprised of the progress on designating the section of the Gila River, as well as, other adjacent rivers in this region of the State by sending us a copy of the Final Arizona Statewide Wild and Scenic Rivers Legislative Environmental Impact Statement. We have been actively involved with this process for over a year and a half now, having discussed this issue in several public Town Council meetings, as well as in meetings held at the County level about the dramatic effects that this designation could have on this area's livelihood and lifestyle.

The Town Council passed Resolution 282-1993 in August of 1993 (see attached), also wrote a letter in August, 1993 and joined with a lot of other citizens from the communities of this area to voice concerns and opinions in the public scoping meetings held in this area to determine what this designation would do the economic viability of this region of Arizona. We learned recently that this designation would be another set of rules and regulations which we'd have to work through in the event of an emergency flood that would further slow our ability to effectively respond to the immediate needs of our citizens.

We, along with these other residents of this region, have been asking for clarification of what this designation would do to the existing/future agriculture and mining uses, domestic water supply for our community and surrounding communities, various recreational uses and any improvements that would be beneficial for these existing activities that are so vital to our area. However, we feel that these questions were NOT answered in this Final Report, but rather the responses from the federal government to these concerns and others brought out in these meetings and additional communications were so generalized as to cause further confusion about the potential negative impact of this designation on the economic viability of this region of the state.

TOWN OF THATCHER

P.O. BOX 670 • 3700 W. MAIN STREET • THATCHER, AZ 85552 • (602) 428-2290 • FAX (602) 428-7061

The Thatcher Town Council and I therefore, want to go on record as duly elected representatives of the town's citizens in opposing the designation of the Gila River and the other proposed waterway segments within both Graham and Greenlee Counties, which are, in our opinion, already over-regulated with normal Agency management rules, the Gila Box Riparian National Conservation Area, Critical Habitat Designation, etc. It is vital to our longterm vitality to be able to improve the management of the Gila River and like it or not those management tools should include the construction of a dam on the upper Gila River to control the flows and upgrading the channel of this and other regional rivers.

It is a well-known fact that you may or may not be aware, the flood damage caused by the Gila River alone over the past two decades is in the three hundred million dollar range (\$300,000,000) and a dam to rectify and properly manage these vast seasonal flows would cost less than one-tenth that amount. We believe that sensible solutions to this ongoing problem are more than justified by the loss of property and even lives and know from experience that any federal designation, such as Wild and Scenic River would only impede these practical efforts. We would respectfully request that you include our united and strong opposition to this designation in any documents to be reviewed by those evaluating this designation.

Sincerely,

Larry Innes, Mayor

Larry Innes

and Bob Rivera, Vice-Mayor

Bob Rivera

Council Members:

Verdell Howard,

Verdell Howard

Lyle Grant,

Lyle Grant

Charles Morris,

Charles Morris

Ed Shamey,

Ed Shamey

and Steve Johnson

Steve Johnson


GRAHAM COUNTY BOARD OF SUPERVISORS

GRAHAM COUNTY COURTHOUSE - 800 MAIN STREET - PHONE 428-3250
SAFFORD, ARIZONA 85546

SUPERVISORS

DELBERT HOUSEHOLDER, CHAIRMAN
TERRY J. BINGHAM, MEMBER
HAYNES MOORE, MEMBER

January 25, 1995

JOE CARTER, COUNTY MANAGER
BARBARA FELIX, CLERK

Mr. Philip Moreland, Branch Chief
Planning, Environmental, Lands and Recreation
Arizona State Office
Bureau of Land Management
3707 North 7th Street
P.O. Box 16563
Phoenix, AZ 85011

RE: Final Arizona Wild and Scenic Rivers Environmental Impact Statement

Dear Mr. Moreland:

Thank you for providing to us a copy of the Final Arizona Statewide Wild and Scenic Rivers Legislative Environmental Impact Statement. We, in 1993, became aware of a Wild and Scenic rivers proposal by the Arizona Chapter of the American Rivers Group to bypass Federal law requiring the Bureau of Land Management and the United States Forest Service to conduct an analysis and recommend certain rivers for inclusion in the National Wild and Scenic Rivers Designation. Graham/Greenlee area local governments, our Chambers of Commerce, and over 2,000 individual citizens opposed this effort to bypass Federal law. See attached Resolution 1993-13. Many of us then participated in the Bureau of Land Managements Public Scoping meetings and submitted formal comments to you on the Draft Wild and Scenic Rivers Legislative and Environmental Impact Statement. Our concerns focused on those segments within Graham and Greenlee Counties. In a letter to you dated June 29, 1994 we raised a number of issues and asked for clarification in terms of negative impacts. Those issues included mining development and employment, removal of private property from the tax rolls, economic losses, geothermal development for multiple uses including power generation, water rights and resources if designation required minimal instream flows, ranching and related impacts, transportation and utility corridors, and finally the cumulative impact by adding Wild and Scenic Rivers designation to the existing Gila Box Riparian National Conservation Area, Bonita Creek Unique Water Supply Designation, and Critical Habitat Designation of the entire Upper Gila River.

Staff has completed a review of the Final Legislative Environmental Impact Statement document and briefed the Board of Supervisors in terms of your responses to our questions and concerns. In short your responses contained within the final document were only brief general statements to each of our concerns making it impossible to determine the effect. Examples include:

Economic Impacts - The conclusion that there would be no significant impacts from implementing any of the alternatives and based on a review of factors considered relevant by Bureau of Land Management Personnel. **The Bureau failed to provide specifics in terms of those factors they considered relevant.** In other words, what is the impact on future mining development and related jobs, ranching, and retail trades and sales.

Water Rights - Two types of water rights were addressed in the document; State Rights and Federal Reserve Rights. **The Bureau failed to include and consider private rights under the Globe Equity Decree of 1935 and the San Carlos Apache Tribe Water Rights Settlement Act of 1992.** Diversion of Gila River surface waters for irrigation purposes in Southern Greenlee County and throughout Graham County are the lifeblood of our agricultural communities. Agriculture represents 80% of the southern Greenlee County economic base and 30% of the total Graham County economic base. In short, how are the above water rights affected as it relates to the Federal Reserve in terms of priority, etc?

Visual Impacts - The Wild and Scenic Rivers Act does not give Federal agencies authority to regulate the use of Non-Federal lands. **The Bureau failed to analyze the visual impact where adjacent private properties must be protected by bank stabilization dikes, existing mining and other possible development which may affect scenic value.**

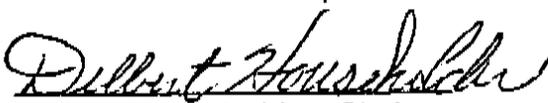
Multiple Designations - Designation determinations are not limited or enhanced by the management status of a river-----has nothing to do with whether the segment is in some other multiple designated area. **The Bureau failed to analyze and provide Federal Agency cost including citizen awareness of multiple designation restrictions and limitations.** Historically the management cost including public education and understanding has resulted in higher Agency budgets.

The proposed segments within the Graham/Greenlee County area consist of fifty-one (51) river miles consuming some 16,000 acres of public and private lands. Each of the proposed segments are already afforded enhanced Federal protection including but not limited to normal Agency management responsibilities, Gila Box Riparian National Conservation Area, Unique Water Supply Designation, and Critical Habitat Designation.

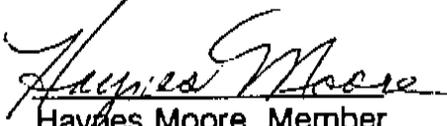
Accordingly, we must oppose the inclusion of the lower San Francisco Gila River (Gila Box), Bonita Creek, and Aravaipa Canyon as Wild and Scenic Rivers. The basis for our opposition includes the Bureau's failure to provide factual responses to each concern outlined in our June 29, 1994 comments, and the existence of more than adequate designations to protect the proposed segments. We are also concerned with statements in the final document which affect existing motorized uses and prohibit new roads which will certainly be needed as development occurs.

Respectfully,

GRAHAM COUNTY BOARD OF SUPERVISORS



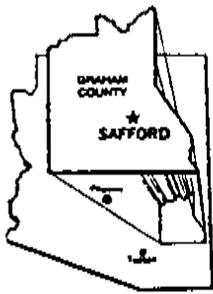
Delbert Householder, Chairman



Haynes Moore, Member



Terry J. Bingham, Member



Graham County
CHAMBER OF COMMERCE

10011 6 1001
1111 Thatcher Boulevard • Safford, Arizona 85546 • Phone (602) 428-2511

January, 20, 1995

Mr. Phil Moreland, Branch Chief
Planning, Environment, Lands & Recreation
BLM Arizona State Office
P O Box 16563
Phoenix, Arizona 85014

Re: Wild and Scenic Rivers Legislative Environmental Impact Statement

Thank you for the opportunity to respond to the Wild and Scenic Rivers Legislative Environmental Impact Statement.

We have followed the Wild and Scenic Rivers issue over the past year and have studied the final BLM recommendations. Because we feel strongly that the economic impact needs to be studied for individual areas, we continue to support "No Action" for the following areas:

Lower San Francisco River:

Gila River (Gila Box):

Bonita Creek:

Aravaipa Creek.

The economic base for Graham and Greenlee counties are completely dependent on agriculture, mining, ranching and tourism.

LOWER SAN FRANCISCO RIVER: The proposed 6.4 miles, which lies south of the Morenci Mining District in Greenlee County, was studied jointly by the Forest Service and BLM in the early 1980's. At that time it was determined unsuitable due to impacts on opportunities for flood control, water storage, mineral and geothermal development and lack of public support. Those conditions still exist and are more important today than they were in 1982.

Mining is very important to the economic base in Graham County. Phelps Dodge mine located in Greenlee County, employs 2,400 workers - one third of the miners live in Graham County and the other two thirds use the retail and service facilities available in Graham County. Additional mine development is being considered in Graham County.

THE LONG TERM IMPACT ON EMPLOYMENT LEVELS OF MINING AND RETAIL SALES AND SERVICES MUST BE TAKEN UNDER CONSIDERATION.

The proposal calls for acquisition of 590 acres of adjacent private lands. Over 93% of Graham County is already controlled by the public sector, the EIS fails to identify current economic contribution to area economy and the long term impact of additional public lands to that economy.

THE LONG TERM ECONOMIC IMPACT CREATED THROUGH THE LOSS OF ADDITIONAL PRIVATE LANDS MUST BE TAKEN UNDER CONSIDERATION.

45

GILA RIVER (GILA BOX): The proposed 26.6 miles lies directly between the Morenci Mining District in Greenlee County and the Safford Mining District in Graham County. The Sanchez mine is scheduled to open in 1995 and expected to create 210 jobs for the next twenty years with an average annual income of over \$30,000 per employee. Phelps Dodge, in Morenci, presently employs 2,400 people and is planning to expand that site. They also intend to open a mine in Graham County which is projected to employ an additional 600 new people with an average annual income of \$35,000 per employee. Designations for "Wild and Scenic" also include visual impacts. Mining obviously has a visual impact. If these planned mines are not allowed to open or operate because of a visual impact on the "rivers", what will be the economic impact on the communities involved?

THE BUREAU MUST ASSURE GRAHAM AND GREENLEE COUNTY RESIDENTS THAT THE DESIGNATION WILL NOT IMPACT THE SCHEDULED DEVELOPMENT OF MINING IN FUTURE YEARS.

Information concerning additional permanent congressional protection for free flowing water in the Gila River is unclear. The waters are now managed by a Federally appointed commissioner and the entitlement of various users was determined under the 1935 Globe Equity Decree. Agriculture is an important component to our economic base and represents 30% of our economy and holds significant water rights.

THE BUREAU NEEDS TO ANALYZE THE ECONOMIC IMPACT IF THE DESIGNATION IMPACTS THE PRESENT AGRICULTURAL ALLOTMENT AND GUARANTEE THE WATER RIGHTS AS ALLOTTED UNDER THE 1935 GLOBE EQUITY DECREE.

This section of the Gila River serves as a popular recreation area. It has traditionally been a popular area for Graham and Greenlee residents and more recently has attracted people from around the state and nation.

THE IMPACT OF THE TRADITIONAL USE OF THE AREA AND CONSIDER THE ECONOMIC LOSSES IN RETAIL AND SERVICE BUSINESS THROUGH THE LOSS OF THE RECREATION INDUSTRY MUST BE TAKEN INTO CONSIDERATION.

The proposal recommends acquiring additional acres of private land. With only about 7% private land in Graham County, loss of acres places an even larger role on private sector to carry the burden of supporting state and local government and education. PILT is received in lieu of property taxes from public lands but that payment formula has not been adjusted since 1976.

THE LONG TERM ECONOMIC IMPACT SHOULD DESIGNATION OCCUR AND ADDITIONAL PRIVATE LANDS BE REMOVED FROM THE PROPERTY TAX ROLLS MUST BE ADDRESSED.

BONITA CREEK: The proposed 8.1 miles lies between the mining deposits identified earlier in our comments. The proposal also acquires 970 acres of private land. Threats of the proposal include mining, grazing, and recreation uses. Designations for "wild and scenic" also include visual impacts. Mining obviously has a visual impact. If these planned mines are not allowed to open or operate because of a visual impact on the "Rivers", what will be the economic impact on the communities involved?

AGAIN THE LONG TERM ECONOMIC IMPACT MUST BE ADDRESSED - INCLUDING MINING, RANCHING, AGRICULTURE, RECREATION, RETAIL AND SERVICE BUSINESSES.

Bonita Creek is also the major source of domestic water for Graham County. The water source facility owned by the City of Safford provides 65% of the total 27,000 population.

THE BUREAU MUST GUARANTEE ADEQUATE WATER FOR DOMESTIC USE TODAY AND FOR FUTURE EXPANSION.

ARAVAIPA CREEK: The proposal, which includes ten miles of Aravaipa Creek will impact grazing allotments, recreation and a small community called Klondyke.

THE BUREAU NEEDS TO ASSESS THE LONG TERM ECONOMIC IMPACT INCLUDING RANCHING, RECREATION AND RETAIL BUSINESS.

We do not feel that the economic impact has been adequately assessed. "NO ACTION" for the Lower San Francisco River, the Gila River (Gila Box), Bonita Creek and Aravaipa Creek has no direct adverse impact in any of the areas identified in the Draft.

It is clear that they can be properly managed under present BLM management without the additional federal expense and with no impact on our economy and traditional land and water uses.

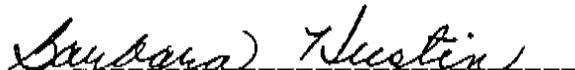
**Respectfully,
Graham County Chamber of Commerce Board of Directors**



Tim Walters, President



Steve Eady, Vice President



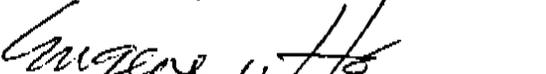
Barbara Hustin, Member



Tim Graham, Member



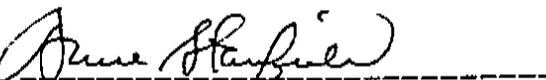
Tom Biggs, Member



Eugene Ho, Member



Janet Curtis, Member



Bruce Stanfield, Member



Janet Stephens, Member

**Copy to: Congressman Jim Kolbe; Senator John McCain
Congressman J.D. Hayworth; Senator John Kyl;
Arizona Governor Fife Symington;
Bureau of Land Management, Safford District**

RESOLUTION
AUGUST 16, 1993
1993-13

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF GRAHAM RELATING TO
THE WILD AND SCENIC RIVERS ACT

WHEREAS, the Congress through Public Law 90-542 created the National Wild and Scenic Rivers System and,

WHEREAS, provisions of that Public Law requires Federal Agencies to examine the suitability of rivers and streams located on Public Lands under their management jurisdiction and,

WHEREAS, the Bureau of Land Management, Safford District and the Safford Ranger District, in the Coronado National Forest are currently evaluating the suitability of such rivers and streams within Graham County and,

WHEREAS, Congress will ultimately decide which river segments and streams should be included in the system and their designation as either Wild, Scenic or Recreational and,

WHEREAS, water resources in Graham County are the life blood of our economic well being and designation could also affect traditional and social uses of such rivers and streams

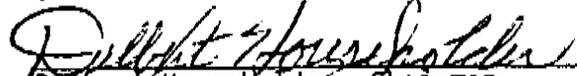
NOW THEREFORE BE IT RESOLVED, that the Graham County Board of Supervisors through adoption of this resolution unanimously urges the Congress to allow Federal Agencies to complete their evaluation and recommendation process which is scheduled for completion by the end of 1994.

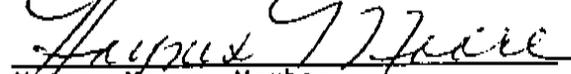
BE IT FURTHER RESOLVED, that the Congress not designate river segments or streams within Graham County which may impact water resource uses for economic purposes or those that impact traditional uses.

BE IT FURTHER RESOLVED, that the Congress prior to enactment of legislation hold Public Hearings in affected areas in order to insure the opportunity for citizens, who may be affected by the act, to comment.

PASSED AND ADOPTED this 16th day of August, 1993.

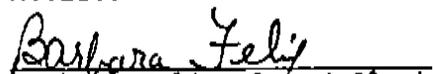
GRAHAM COUNTY BOARD OF SUPERVISORS


Delbert Householder, Chairman


Haynes Moore, Member


Terry Joe Bingham, Member

ATTEST:


Barbara Felix, Board Clerk



Yavapai County Attorney

CHARLES R. HASTINGS
YAVAPAI COUNTY ATTORNEY

Yavapai County Courthouse
Prescott, Arizona 86301
Criminal (602) 771-3344
Civil (602) 771-3338
Fax: (602) 445-5953

January 30, 1995

Phillip Moreland, Branch Chief
Planning, Environmental, Lands and Recreation (931)
Arizona State Office
Bureau of Land Management
3707 North 7th Street
P.O. Box 16563
Phoenix, Az. 85011

Re: Wild and Scenic River FLEIS

Dear Mr. Moreland:

This letter is written as Yavapai County's response to the final Arizona Wild and Scenic Rivers Legislative Environmental Impact Statement. Yavapai County concurs with the BLM recommendation of nonsuitable for those rivers within Yavapai County. Because of the short review period, Yavapai County takes no position on the recommendation of suitability for rivers within Yavapai County.

Yavapai County questions whether submittal of the FLEIS to Congress is appropriate at this time. It is not clear from the report what the additional management cost will be if these rivers are designated wild or scenic. Yavapai County understands that Congress may review and limit future BLM management practices. Additional management responsibilities should not be considered until the mission of the BLM has been clarified by Congress.

Sincerely,

M. Randolph Schurr
Deputy County Attorney

JAN 20 1995

Wickenburg Natural Resource Conservation District
P.O. Box 662 - Wickenburg, AZ 85358

January 18, 1995

Mr. Phil Moreland, Branch Chief
Planning, Environment, Lands & Recreation
BLM Arizona State Office
3707 North 7th Street
Phoenix, Arizona 85014

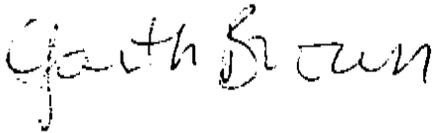
Dear Mr. Moreland,

At their regular meeting of January 11, 1995, the Wickenburg Natural Resource Conservation District discussed the final LEIS on its Arizona Wild and Scenic River evaluation of December 1994.

The Wickenburg NRCD unanimously elected to forward its concurrence with the conclusions found in the study.

Sincerely,

WICKENBURG N.R.C.D.



Garth Brown
Chairman

GB:dv

JAN 31

SAN PEDRO NATURAL RESOURCE CONSERVATION DISTRICT

880 W. 4th St., Suite 2, Benson, Arizona 85602 - Fax/Ph (602)586-3467

January 28, 1995

Mr. Phil Moreland, Branch Chief
Planning Environment, Lands & Recreation
BLM Arizona State Office
3707 North 7th Street
Phoenix, Arizona 85014

Dear Mr. Moreland:

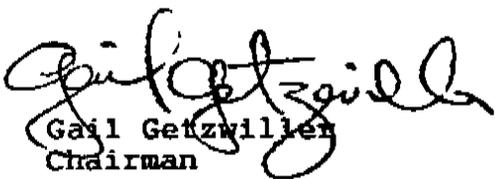
The San Pedro Natural Resource Conservation District cannot support any of the alternatives that have been suggested by the Bureau of Land Management Staff.

The recommendations are redundant in nature, specifically when addressing the San Pedro River which is not only referred to a public land but has the special designation of a national riparian area.

Besides the duplicity of the suggested designation of any rivers in Arizona, the narrow focus of such a designation will not assure the health of that segment of the river proposed, wherever it may be. The lack of viewing resource health from a holistic view cannot be supported by this Natural Resource Conservation District Board.

Please continue to keep us informed as to the progress of the wild and scenic designations.

Respectfully submitted,


Gail Getzwiller
Chairman

THE STATE OF ARIZONA

GAME & FISH DEPARTMENT

2221 West Greenway Road, Phoenix, Arizona 85023-4399 (602) 942-3000

Governor
Fife Symington*Commissioners:*
Chairman Elizabeth T. Woodin, Tucson
Arthur Porter, Phoenix
Nonie Johnson, Snowflake
Michael M. Golightly, Flagstaff
Herb Guenther, Tucsna*Director*
Duane L. Shroufe*Deputy Director*
Thomas W. Spalding

January 31, 1995

Mr. Phillip Moreland, Branch Chief
 Planning, Environmental, Lands and Recreation (931)
 Arizona State Office
 Bureau of Land Management
 3707 North 7th Street
 Phoenix, Arizona 85011

Re: Arizona Statewide Wild and Scenic Rivers; Final Legislative
 Environmental Impact Statement

Dear Mr. Moreland:

The Arizona Game and Fish Department (Department) has reviewed the above-referenced Final Legislative Environmental Impact Statement (LEIS). We appreciate the efforts of the Bureau of Land Management (BLM) in addressing the comments in our letter of July 8, 1994, regarding the Draft LEIS. In reference to the Final LEIS, the following comments are provided for your consideration.

General Comments

During its January 27, 1995 public meeting, the Arizona Game and Fish Commission (Commission) concluded that the current piece-meal approach toward the assessment and designation of Wild and Scenic Rivers in Arizona does not adequately address the potential cumulative effects of recommendations made at different times by different federal land management agencies. Without the opportunity to review a comprehensive, statewide Wild and Scenic Rivers package, the Commission believes it is very difficult, if not impossible, to judge the full nature and scope of impacts resulting from designation of Wild and Scenic status upon aquatic resources.

The Commission encourages the Department of Interior to work with the Department of Agriculture to take a cumulative look at what designations are appropriate for reaches of free-flowing rivers in the State of Arizona. Upon that determination, alternatives could be prepared for consideration by affected publics and other agencies.

Mr. Phillip Moreland

January 31, 1995

2

The Department believes that some aspects of designating a stream segment as Wild, such as withdrawal from mineral entry, restricting livestock grazing use to current levels, discouraging new rights-of-way, and prohibiting new dams or major diversions, can benefit wildlife resources. However, other aspects of designation, such as restrictions on motorized access and potential restrictions on some wildlife management techniques, can make use and management of fish and wildlife resources more difficult.

In addition, activities occurring upstream or downstream of a designated segment, as well as activities occurring in the watershed outside a designated corridor, can affect the structure and function of designated portions of riparian systems and their associated fish and wildlife values. If Congress designates Wild and Scenic Rivers in Arizona, the Department anticipates that concerns regarding use and management of fish and wildlife resources can be addressed in specific management plans that will be developed for designated stream segments.

The Department is also concerned over whether it would be redundant to apply Wild and Scenic designations in areas already protected by Wilderness or National Riparian Conservation Area status. Quantification of instream flows and restrictions on increases in livestock grazing use are examples of management actions described for Wild and Scenic designation that are not provided by Wilderness designation. However, existing law and federal land management requirements may limit the significance of these types of differences between legislative designations.

Specific Comments

Two ongoing management actions identified in the Final LEIS could directly impact current or future Department management actions, responsibilities and opportunities. The first is the prohibition of helicopter flights on the basis of management requirements in areas of critical environmental concern (pages 30, 35, 40, 42). The second includes actions to eliminate exotic fish in specific river study areas (pages 31, 36, 43).

As stated in the Department's letter of July 8, 1994, we do not believe that the BLM has the authority to restrict helicopter overflights. The BLM response provided to address our concerns (Page 284) states that the particular restriction being discussed had been derived from the Kingman Resource Area final Resource Management Plan. The Department does not believe that any of the alternatives presented would result in the restriction of aircraft overflights of the river study areas at altitudes otherwise in compliance with Federal Aviation Administration regulations. The Department respectfully requests that the BLM provide our agency with further clarification regarding any BLM authority to restrict airspace over river study areas.

Mr. Phillip Moreland

January 31, 1995

3

Actions to eliminate exotic fish could affect one or more of the Department's fish management plans and programs, including the nongame, sport fish and fish stocking programs. The Department has the authority and responsibility for managing fish and will continue to do so in cooperation with the appropriate land and water management agencies.

The Commission and the Department thank you for the opportunity to review and comment on this Final LEIS. We look forward to continued participation in the administrative and legislative process related to designation of Wild and Scenic Rivers in Arizona. If you have any questions regarding these comments, please contact Mr. James Burton at 789-3602.

Sincerely,


Duane L. Shroufe
Director

DLS:SS:ss

cc: Arizona Game and Fish Commission

AGFD# 12-19-94(02)



State of Utah
DEPARTMENT OF NATURAL RESOURCES

JAN 30 1995

Michael O. Leavitt
Governor
Ted Stewart
Executive Director

1636 West North Temple, Suite 315
Salt Lake City, UT 84118-3193
801-538-7200
801-538-7315 (Fax)
801-538-7458 (TDD)

January 26, 1995

M E M O R A N D U M

TO: Phil Morland
Bureau of Land Management
Arizona State Office

FROM: Ted Stewart, Executive Director *TJS*

SUBJECT: Comments from the State of Utah Regarding Wild and
Scenic River Legislative Environmental Impact Statement

Attached for your information and review are the comments from the State of Utah regarding the Virgin River. Please feel free to call me if you have any questions.

attachment
ep



COMMENTS ON BLM'S ARIZONA STATEWIDE WILD AND SCENIC RIVER
LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT

The Virgin River is one of several Arizona rivers that BLM evaluated to determine if it would merit congressional protection as a "Wild and Scenic River System" possessing outstandingly remarkable environmental, free-flowing characteristics. Accordingly, BLM examined Arizona's 34.5 mile portion of the Virgin along criteria set forth in the 1968 Wild and Scenic Rivers Act. This evaluation culminated in the creation of the "Arizona Statewide Wild and Scenic River Legislative Environmental Impact Statement." However, we believe that BLM's evaluation is inadequate since it lacks an in-depth appraisal of potential impacts that designation may have Utah's upstream communities.

Designation under the recommended or all suitable alternative would almost certainly have an impact upon upstream socio-economic activity. For example, the recommended alternative calls for instream flow studies to assess minimum flow amounts necessary for the river's "outstandingly remarkable values." Assuming that this alternative were to be implemented, the report provides no information on how the recommended "minimum flow amounts" will be reached within the proposed area. River flows in the area would have to be regulated to meet such a requirement. Consequently, it follows that there must be an impact on upstream water users if such a policy were implemented. Furthermore, the all suitable alternative explicitly recommends that instream flows be quantified and protected. Implementation of the latter alternative clearly implies that the instream flows would be regulated.

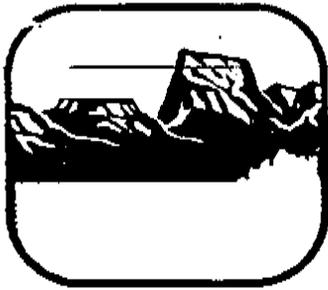
The majority of the Virgin's instream flow originates in and flows through Utah's Washington County. Moreover, the County's socio-economic stability is closely linked to its ability to utilize the river's water resources. Therefore, one must conclude that this region would certainly be impacted by potential regulation of Virgin River water. However, the report makes no attempt to analyze potential impact on Utah's upstream water users. Neither does it attempt to assess the potential socio-economic impacts that would correspond to down-stream regulation of river flow. Instead, the report appears to focus only on the Arizona river segments and virtually disregards the more global regional impact that would result from implementation of the recommended or all suitable alternatives.

Lack of an in-depth analysis regarding external impact is a serious omission since, as was noted above, Utah contributes the vast majority of the Virgin's water flow. Ironically, in light of this omission, BLM itself acknowledges that "Competition for water in the [adjacent] three state area (Utah, Arizona, Nevada) is rapidly increasing" (see Appendix, p.676,). BLM notes that in terms of regional water resources "...the existing and future

demands far exceed the river's supply" (see Appendix, p.677).

BLM's proposal to designate the study area for inclusion as a Wild and Scenic River System is founded on a narrow, incomplete analysis that fails to account for potential regional impacts beyond Arizona's borders. Clearly, Utah's upstream communities would be seriously affected by any change in downstream river flow since such communities are highly dependent on the river's water resources.

Inclusion of a more broad-based regional analysis would make the report more precise, objective and would help to more accurately capture the dynamics of the entire Virgin River drainage area. However, we believe that designation of the area on the basis of the present analysis would be erroneous. Furthermore, such action would set a bad precedent whereby the thoroughness and objectivity of subsequent BLM analyses would be called into question. Consequently, we believe that BLM's "no alternative" scenario is the only suitable option at this time.



WASHINGTON COUNTY
197 East Tabernacle • St. George, Utah 84770

GAYLE M. ALDRED
Chairman

JERRY B. LEWIS
RUSSELL J. GALLIAN

FAX (801) 634-5753

CLINTON D. PERKINS
County Assessor

ERIC A. LUDLOW
County Attorney

CALVIN R. ROBISON
County Clerk/Auditor

RUSSELL SHIRTS
County Recorder

GLENWOOD HUMPHRIES
County Sheriff

ALIS M. RITZ
County Treasurer

January 31, 1995

Phillip Morland, Branch Chief
Planning, Environmental, Lands and Recreation (931)
Arizona State Office Bureau of Land Management
3707 N. 7th Street
PO Box 16563
Phoenix, AZ 85011

Dear Mr. Morland:

Washington County, Utah, submits the following comments on the final Arizona Statewide Wild and Scenic Rivers Legislative Environmental Impact Statement and Rivers Appendix ("final LEIS"). We understand that these comments will be submitted to Congress with the final LEIS and hope that Congress will attend to the significant concerns of Washington County, since the Bureau has apparently chosen to ignore them.

We object to the document because it has not fairly or properly addressed the impacts which might arise from designation of the Virgin River in Arizona under the Wild and Scenic Rivers Act (WSRA). Furthermore, it relies upon an improper interpretation of Congress' intent in passing the WSRA.

Our concerns have been addressed in more detail in our comments to the draft LEIS. We note, however, with objection that the Bureau failed to address these written comments which were submitted by the County at the public meeting held in St. George, Utah, on May 19, 1994. Although the comments were printed, no response was made, reflecting a continuing lack of attention on the part of the Bureau throughout the entire process to questions and concerns raised on behalf of the citizens of Washington County as well as the County governing body. This failure on the part of the Bureau to adequately address the real impacts of designation of the Virgin River in the state of Utah

Page 2
January 31, 1995

constitutes a fatal flaw in the analysis. Other concerns have been raised by the Washington County Water Conservancy District and we share all of those concerns as well.

The recommendation of the Virgin River for designation as a study river is flawed for other reasons, as well. It is not consistent with the record of decision for the Arizona Strip District Resource Management Plan. The record of decision for the Arizona Strip District, Resource Management Plan, Shivwitz Resource Area, states that the Virgin River will be studied "in conjunction with Utah and Nevada" for suitability. To our knowledge, no joint study was ever done. Given the complete failure to address impacts in Utah, this apparent failure to follow the procedure originally intended is significant.

The final LEIS also concluded that no significant economic impacts were identified in any of the Bureau of Land Management suitability assessments prepared in 1993. This assertion overlooks economic studies by the Washington County Water Conservancy District that did find significant economic impacts. It is our understanding that the results of this study were submitted and available to the Bureau prior to preparation of the final LEIS. Also Washington County was not included in the population and local economy portions of Chapter 3. Congress is entitled to be informed regarding these significant economic impacts. The final LEIS is inadequate in this regard.

We are also concerned that the final LEIS fails to adequately evaluate and disclose the impacts of this designation on water rights in Washington County, particularly in view of its assertion that federally reserved water rights would be created if the Virgin River were to be designated by Congress. Congress, and the citizens of this County, are entitled to a fair analysis of the real implications of this plan.

Finally, since the final LEIS did not include Appendix 2, we were unable to fairly evaluate the real significance of this proposal.

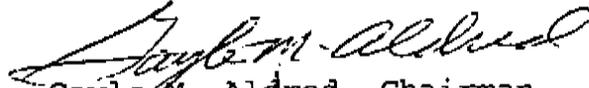
In short, the final LEIS does not fairly address the significant issues and conflicts which arise from the designation

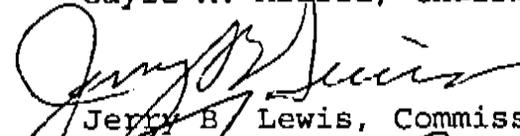
Page 3
January 31, 1995

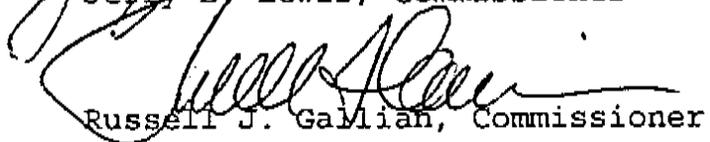
of the Virgin River. As a result, the document is unacceptable and should not be relied upon by Congress as a basis for any decision it may make.

Sincerely,

WASHINGTON COUNTY COMMISSION


Gayle M. Aldred, Chairman


Jerry B. Lewis, Commissioner


Russell J. Gallian, Commissioner

BGH:cg



WASHINGTON COUNTY
Water Conservancy District

Ronald W. Thompson
District Manager

Roberta McMullin
Secretary-Treasurer

136 North 100 East
Suite 1
St. George, Utah 84770
Office: (801) 673-3617
Fax: (801) 673-4971

BOARD OF DIRECTORS

C. Jack Lemmon, *Chairman*
Ivin E. Barlow
Dale Gubler
Dennis Iverson
Wayne B. Nuttall
Ray S. Schmutz
John H. Wadsworth

January 27, 1995

Phillip Morland, Branch Chief
Planning, Environmental, Lands and Recreation (931)
Arizona State Office Bureau of Land Management
3707 N. 7th Street
PO Box 16563
Phoenix, AZ 85011

Dear Mr. Morland:

The Washington County Water Conservancy District (WCWCD) submits the following comments on the final Arizona Statewide Wild and Scenic Rivers Legislative Environmental Impact Statement and Rivers Appendix (December, 1994).

We were dismayed and wish to protest the failure to address any and all of the written comments submitted by the WCWCD at the public meeting held in St. George, Utah on May 19, 1994. The WCWCD written comments were printed, but no response was made to the questions and/or comments directed to the suitability of the draft Environmental Impact Statement and/or eligibility of the Virgin River for inclusion in the National Wild and Scenic River System. Failure to address our written questions in the final environmental impact statement is typical of the response that has been made by the Bureau throughout the entire process to questions and concerns raised by the citizens and governmental agencies of the State of Utah and Washington County.

Response to public comment T3-34 on page 248 of the LEIS states: "the recommended alternative recommends the Virgin River for designation as a study river. This is consistent with the record of decision for the Arizona Strip District Resource Management Plan." The recommended alternative is not consistent with the record of decision for the Arizona Strip District, Resource Management Plan and this is an incorrect statement. The record of decision for the Arizona Strip District, Resource Management Plan Shivwitz Resource Area contains the following decision: "SRO1 Study the Virgin River in conjunction with Utah and Nevada to determine suitability under the Wild and Scenic

River Act." No joint study was ever done and yet the legislative LEIS determined the river to be suitable. On what basis does the LEIS claim that this is consistent with the record of decision?

Washington County, Utah was not included in the population and local economy portions of Chapter 3 Affected Environment making the entire LEIS invalid. The LEIS in general response #2 Economic Impacts (p. 251) concluded that "no significant economic impacts from Wild and Scenic river eligibility determinations were identified in any of the Bureau of Land Management suitability assessments prepared between 1985 and 1994. It may be true that the Bureau of Land Management by not considering Washington County could not identify any significant Economic Impacts but economic studies by the WCWCD found significant Economic Impacts and the results of this study was submitted and available to the Bureau prior to preparation of the final LEIS but were ignored. Under this same heading, item #4 states "none of the alternatives provide for Bureau of Land Management action to acquire or disposed of existing water rights." This statement is consistent with the Bureau's claim of no affect on existing water rights, but is inconsistent with other statements in the documents such as those on pages 647 and 648 of the final LEIS Rivers Appendix which say ". . . the Wild and Scenic Act creates a federal reserved water right for a quantity of water sufficient to meet the purpose of the act on designated river segments. The Bureau of Land Management would have the responsibility to preserve each designated segment in free-flowing condition to protect its outstandingly remarkable near marketable values. The quantity of water necessary to fulfill that responsibility would be determined through assessments of instream flow needs." How would this claimed responsibility be accomplished if the Bureau has no intent to acquire additional water.

On page 649 of the final LEIS, it states: "A draft of the proposed legislation developed by the Bureau of Land Management to amend the act is contained in the Appendix 2 of this document." No Appendix 2 was included in the document.

The statements and comment on page 145 of the Final LEIS and page 679 of the Final LEIS Rivers Appendix regarding the unresolved conflict is typical of the treatment of Washington County's concerns throughout this entire study process--totally unsatisfactory. It is not just the WCWCD that sees an unresolved conflict but also Washington County and the State of Utah. The unresolved conflict is not just over development, but also the potential infringement upon long established water rights. The failure of those responsible to address this issue up front and forthrightly will undoubtedly result in unneeded litigation.

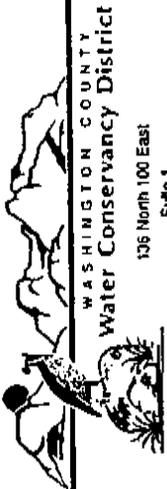
January 27, 1995
Page 3 of 3

Since the previous WCWCD written comments were not responded too, properly in either the draft or the final LEIS we are resubmitting them in their entirety and desire that they be transmitted to the Congress in the form submitted.

Respectfully,


Ronald W. Thompson

Enclosure: Arizona Wild & Scenic River Comments
July 20, 1993, May 19, 1994 and May 25, 1994.



WASHINGTON COUNTY
Water Conservancy District

Thomas W. Thompson
District Manager

Shirone Helen
Secretary-Treasurer

BOARD OF DIRECTORS

Wayne B. Mullall, Chairman
Iain E. Barlow
Dennis Iverson
C. Jack Lemmon
Ray S. Schmutz
John H. Washworth
Kernell N. Wallace

106 North 100 East
Suite 1

St. George, Utah 84770
Office: (801) 673-3617
Fax: (801) 673-4871

July 20, 1993

Roger G. Taylor, District Manager and
George W. Cropper, Area Manager
Bureau of Land Management, Arizona Strip
390 North 3050 East
St. George, Utah 84770

Gentlemen:

In response to letters we received from Roger G. Taylor, dated July 2, 1993, and George W. Cropper, dated July 14, 1993, we have enclosed information regarding the suitability determination of the Virgin River within Arizona borders.

Mr. Taylor requested information on the potential socio-economic impacts a suitability determination would have on Washington County and the Water District. Mr. Cropper requested that we supply data that would help prepare a complete and accurate suitability report. Since the issues overlap we have enclosed our comments and observations as a response to both requests.

We appreciate the opportunity to provide you with information on the suitability determination and look forward to continued participation in the BLM's Wild and Scenic decisions.

Respectfully,

Ronald W. Thompson
Ronald W. Thompson

RWT/mw

COMMENTS FOR THE ARIZONA STRIP SUITABILITY REPORT

July 20, 1993

- 1- The basis for classification of a river segment is evidence of man's activity in the river area. The river segment though divided into different classifications must be evaluated as a unit, 47 Fed. Reg. 19458 (September 7, 1982) and as such the Virgin River falls to meet suitability requirements. The undeniable presence of the I-15 highway and the noise and air pollution created by the traffic are characteristics which do not make the area a worthy addition to the NWSRS. Id.
- 2- Segmenting the Virgin River into four different classifications is "excessive," and inconsistent with the directive given in the joint guidelines of the Departments of Interior and Agriculture. 47 Fed. Reg. 39458 (September 7, 1982).
- 3- The Virgin River flowing into Arizona, especially during the summer months, is primarily the effluence of a sewer treatment facility near the Arizona-Utah border. Though a significant source of water into the Virgin River, it is not an example of the "vestiges of primitive America" required for a "wild" classification or even a condition essentially free of evidence of human activity required for suitability at any classification level. 16 U.S.C.A. §1273(b)(1990).
- 4- Adjacent wilderness, special designations such as ACEC, scenic withdrawals, special recreation areas and the existence of an endangered and threatened species already on the Virgin River, sufficiently protect the river corridor making inclusion into the NWSRS unnecessary, duplicative, and possibly disruptive.
- 5- The BLM is required to evaluate the foreseeable potential use of the land and water which would be enhanced, foreclosed, or curtailed if the area were included in the NWSRS (Wild and Scenic Rivers Act of 1968, §4 (a)). The impacts a suitability determination would have on Washington County and the Water Conservancy District are potentially enormous. Though our questions to the BLM on the effects of a river designation remain unanswered, the following is a summary of the potential effects on the Water District and Washington County:
 - The water reservation obtained in the WSPA will restrict reduction of instream flow and will foreclose and curtail the Water District's ability to perfect presently unperfected water rights upstream, costing the Water District and Washington County residents millions of dollars in lost water rights.

-A suitability determination would restrict construction of water resource projects upstream from the river segment.

-A designation would jeopardize the ability of the responsible officials of Washington County to provide sufficient water for a population which is projected to nearly triple by the year 2010.

-Water conservation projects for municipal, industrial and agricultural use would be jeopardized if they reduce or change the timing of return flows available to maintain instream flows.

-A designation would prohibit or severely limit the maintenance and improvement of existing water resource projects.

-The options available for managing and treating sewage water would be limited, if it affects instream flow in the river or water quality.

- A suitability determination would make any water utilization, development, conservation, storage, and flood control projects extremely costly by adding a new element to the required studies to determine the potential effect on downstream wild and scenic river segments. The potential costs could be enormous if there are MSR segments in Utah, Arizona, and Nevada on the Virgin River.

-Could impede the rehabilitation of habitat and therefore the delisting of threatened and endangered fish in the segment by limiting the options available to improve management and control of the water and habitat including the construction of necessary structures and other control devices.

-Would reduce and/or limit the recreational experiences available to the elderly or handicapped by preventing access by motorized vehicles and/or aircraft.

WASHINGTON COUNTY WATER CONSERVANCY DISTRICT

COMMENTS ON DRAFT ENVIRONMENTAL IMPACT STATEMENT
WILD AND SCENIC RIVERS FOR ARIZONA

May 19, 1994

The following comments are in response to the BLM's Draft Arizona Statewide Wild and Scenic Rivers Legislative Environmental Impact Statement dated April, 1994 (hereinafter, "Draft LEIS"). The Washington County Water Conservancy District is deeply concerned with the suitability determination of river segments that do not meet the requirements for eligibility. On eleven occasions we directed comments and questions to either the local, state, or Washington Office BLM, regarding the Virgin River Wild and Scenic River proposal in the Arizona Strip. Most of our comments and questions have been ignored or responded to inadequately.

We are perplexed by the failure to address upstream water issues and the hasty dismissal of our concerns in the Draft. In addressing potential impacts on water rights, the Draft briefly states that a designation will not affect existing valid water rights. Department of Interior, BLM, Draft Arizona Statewide Wild and Scenic Rivers Legislative Environmental Impact Statement, p. 20 (April 1994). Such statements demonstrate the ignorance of the magnitude of the effects a wild and scenic river designation could have on present and future water use, water rights and water dependent users. Despite requests for analysis of impacts on upstream water use and for information regarding BLM's ongoing instream flow evaluations, the Draft, without

addressing the issue, simply states, "this issue will not be discussed further." Id.

The eligibility and suitability of a river segment directly affects whether a river segment can be considered for inclusion into the National Wild and Scenic Rivers System. Pursuant to Arizona State Director Rosenkrance's recommendation, we again raise our concerns with the analysis in the Draft LEIS, including the eligibility evaluation of the Virgin River-Arizona Strip segment (See: Letter from Lester K. Rosenkrance, BLM Arizona State Director, to Ron Thompson, Washington County Water District Manager, dated April 20, 1994, attached herein).

ELIGIBILITY

There are two requirements in the WSPA a river segment must meet to determine eligibility for inclusion in the WMSRS: first, the river segment must be "free-flowing" and second, the river segment must have at least one "outstandingly remarkable value". The Virgin River-Arizona Strip segments do not meet the "free flowing" or "outstandingly remarkable value" criteria for eligibility.

Free-flowing Requirement

The Wild & Scenic Rivers Act (WSPA) Sec. 16(b) defines free-flowing as follows:

"Free-flowing", as applied to any river or a section of a river, means existing or flowing in natural condition without impoundment, diversion, straightening, rip-rapping, or other modification of the waterway. The existence, however, of low dams, diversion works, and other minor structures at the time any river is proposed for inclusion in the

national wild and scenic rivers system shall not automatically bar its consideration for such inclusion: Provided, that this shall not be construed to authorize, intend, or encourage future construction of such structures within components of the national wild and scenic river system.

The Act defines "free-flowing" in two parts. First, there are those modifications which cannot be on a river for it to be characterized as "free-flowing" (prohibited traits). Second, there are those modifications which may be on a river, and still be characterized as "free-flowing" (discretionary traits).

Prohibited traits, are absolute and bar a river from meeting the "free-flowing" requirement. The prohibited traits listed in the WSR are: impoundments, diversions, straightening, rip-rapping, or other modification of the waterway.

Discretionary traits may exist on a river found to be free-flowing and they include: low dams, minor diversion works and other minor structures. The Act explicitly excludes impoundments, rip-rapping, straightening, and modification of the waterway from the list of discretionary traits. Furthermore, the discretionary traits are limited only to minor structures such as low dams and minor diversion works. The plain language of the WSR automatically eliminates any river segment with impoundments, rip-rapping, straightening, or modification of the waterway from "eligibility" status.

The Virgin River does not meet the free-flowing requirement in proposed segments 2, 3, and 4. There are six major I-15 bridges crossing the Virgin River segments (For examples Seg:

Appendix A at 4, 8, 10, 12 & 19). These are large bridges, some with pillars extending into the river floor. The Interstate highway within and crossing the corridor of the river, ultimately lead the National Park Service to de-list the Virgin River in the Arizona Strip from its National Rivers Inventory. "The Western Region felt that construction of Interstate 15 modified the river enough to remove it from the inventory." BLM, Arizona Potential Wild and Scenic River Suitability Assessment, p.11 (September, 1993). Additionally, these river segments have extensive rip-rapping, straightening, and a major diversion.

Segment 1

This 2.9 mile segment, from the Utah State line to the first I-15 bridge, is the only segment which can reasonably meet the definition of "free-flowing."

Segment 2

This 7.3 mile segment runs from the first I-15 bridge to the Virgin River Recreation Area. There are four rip-rapped and concrete grouted river banks, and a large I-15 bridge (Seg: Appendix A at 4, 5, & 6). Interstate 15 parallels most of the river corridor. This segment has been proposed as a scenic river, but does not meet the free-flowing requirement for eligibility.

Segment 3

This 7.4 mile segment, runs from the Virgin River Recreation Area to the mouth of the Virgin River Gorge. Segment 3, exemplifies the gross misapplication of the "free-flowing"

criteria. Four major I-15 bridges cross this river segment (See: Appendix A at 8 & 10). One of the bridges is built over and follows the river, with its pillars extending into the river bed (See: Appendix A at 9). It has an estimated three miles of rip-rap from the rivers edge to the top of the fills adjacent to I-15 (See, Appendix A at 10, 11 & 12). The river segment has been moved and the channel straightened extensively, evidenced by massive cuts up the rock face of more than a hundred feet (See: Appendix A at 13, 14 & 15).

Segment 4

Segment 4 is the longest Virgin River segment at 16.9 miles. It runs from the mouth of the Virgin River Gorge to the Nevada-Arizona stateline near Mesquite, Nevada. The Mesquite Diversion completely crosses the river channel in segment 4 (See: Appendix A at 22 & 23). This is not a minor structure, rather it is a large concrete structure with headgates and a canal to its side. The diversion raises the river level several feet and diverts 12.6 cfs of water. Furthermore, there is a major I-15 bridge that extends across the river channel, with its pillars embedded in the river banks (See: Appendix A at 19).

With a major diversion, considerable channel changes, straightening, extensive rip-rapping, and six major freeway bridges, four of the five prohibited traits, exist on segments 2, 3, and 4. It is impossible to dismiss these as minor structures and alterations to the river. Any one of these prohibited traits would disqualify the river segment from consideration.

Since river segments 2, 3, and 4 do not meet the "free-flowing" requirement for eligibility, they therefore cannot be considered further as to suitability for designation. To find, Virgin River segments 2, 3, and 4 "free-flowing" would render the WSRA's definition meaningless. A determination of "free-flowing" based on some criteria other than stated in the WSRA, would be arbitrary and capricious and not be in compliance with the law. Administrative Procedure Act, 5 U.S.C.A. §706.

Outstanding Remarkable Value Requirement

The second eligibility requirement for inclusion in the National Wild and Scenic River System is that the land adjacent to the river possess at least one outstandingly remarkable scenic, recreational, geological, fish and wildlife, historic or other similar value. The Act itself does not define what scenic, recreational, geological, fish and wildlife, historic, or other similar values are, however the regulations found in the BLH Manual and Joint Department of Agriculture and Department of Interior Regulations establish the guidelines.

The outstandingly remarkable values, described in the Draft LEIS, are: scenic, fish and wildlife habitat, aquatic, and riparian values. No documentation is available in reports or the Draft LEIS as to how the required outstandingly remarkable values rank on a comparative basis with similar features within the physiographic province or region. Without such a ranking it is impossible to determine such values. Furthermore, all the values described in the Draft LEIS fail to provide an objective analysis

or standard by which any of the "outstanding remarkable" values may be determined.

Scenic - "Scenic value must be ranked on a comparative basis with similar features within the physiographic province." BLM Visual Resource Inventory Manual H-8401-1. Furthermore, to meet the outstandingly remarkable requirement, "the landscape elements of landform, vegetation, water, color, and related factors must result in notable or exemplary visual features and/or attractions within the geographic region... [the scenic values found on the river segments must] not be common to other rivers in the geographic region." BLM Manual, §9351(.31)(C)(1).

The scenic values in segments 1, 2 and 3 are described in the Draft LEIS, as outstandingly remarkable. However, there is no objective data presented to show that the scenery is outstandingly remarkable. There is no analysis or documentation comparing the Virgin River to other rivers in the geographic region. What is the criteria used to determine this value? The scenery in all segments is not primitive or natural. The I-15 highway runs completely through and is adjacent to the river segments. There is considerable alteration of the canyon walls and river corridor throughout these segments and yet they are classified as scenic.

Fish and Wildlife Habitat - The BLM Manual requires that for the habitat to be outstandingly remarkable the river must provide "exceptionally high quality habitat for fish species indigenous to the region."

The river contains the Woundfin Minnow and Virgin River Chub, which are respectively listed as endangered and threatened species. However, all river segments are poor habitat for them. The river segments contain the red shiner and other non-native fish species, which compete for food and space with the natural species. Because of the poor habitat quality, it was deemed advisable to build a fish barrier upstream in Utah to prevent the migration and re-introduction of non-native fish from Arizona and Nevada (See: Appendix A at 3).

The river is dewatered in portions of the Arizona Virgin River Gorge in the summer months. It is unreasonable to classify fish habitat as outstandingly remarkable in an intermittent stream.

The Draft LEIS is inadequate in that it fails to provide what the river was compared to in order to conclude that the fish and wildlife habitat are outstandingly remarkable. It is clear that the procedure used to determine outstandingly remarkable is undocumented, and inadequate, rendering the decision arbitrary and capricious. Administrative Procedure Act 5 U.S.C.A. §706.

The Virgin River segments in Arizona do not meet either the free-flowing or the outstandingly remarkable requirement for eligibility. The Virgin River should be deleted from evaluation/EIS process and not considered further.

Aquatic - The WSPA does not specifically mention aquatic values as an outstandingly remarkable characteristic, however it may fall under the category of "other similar values." According to

the BLM Manual, while no specific evaluation guidelines have been developed for the "other similar values" category, additional values deemed relevant to the eligibility of the river segment should be considered in a manner consistent with the guidance given for those characteristics specifically mentioned. Examples of guidance given for the enumerated values include: documenting the values in comparison to those within the geographic region, finding the values to be a phenomenon, rare, unique and not common to other rivers in the region, and finding that visitors are willing to travel long distances to appreciate these values. Incredibly, the Draft LEIS fails to mention what aquatic values exist in the Virgin River segments, or why those values are outstandingly remarkable. Such an omission violates the procedural requirements of eligibility prescribed in the BLM Manual.

Riparian - The WSRA does not mention riparian as a value to be considered, however if it falls under the category of "other similar values," there are guidelines which the Draft LEIS must meet. According to the BLM Manual, while no specific evaluation guidelines have been developed for the "other similar values" category, additional values deemed relevant to the eligibility of the river segment should be considered in a manner consistent with the guidance given for the enumerated values. Examples of guidance given for the enumerated values include: documenting the values in comparison to those within the geographic region, finding the values to be a phenomenon, rare, unique and not

common to other rivers in the region, and finding that visitors are willing to travel long distances to appreciate these values. Nowhere in the Draft LEIS are riparian values analyzed in such terms, rather even by the Draft and the Suitability Assessment's own findings, the riparian values are common to all river segments in the region, the values described are not even remotely stated in outstandingly remarkable terms.

The river corridor riparian vegetation in all segments are in a disclimax unnatural successional stage. They are composed mainly of tamarisk (Salt Cedar) dominated stands. Tamarisk is a non-native plant which dominates the shoreline riparian vegetation. It greatly reduces stands of native willows, ash, bulrushes, cattails with its understorey of grasses, sedges, and rushes. There is nothing outstandingly remarkable about the riparian vegetation. This type of riparian vegetation dominated by tamarisk occurs throughout the Southwest. There are no vegetative types within the corridor which would qualify as outstandingly remarkable.

Riparian areas in the West all have more wildlife around them than surrounding desert areas. Riparian areas are valuable in all desert areas. For an outstandingly remarkable classification, it must be shown that the riparian values are outstandingly remarkable in comparison to other riparian areas in the region. Merely stating that it is different than upland vegetation types does not make it outstandingly remarkable. If it is outstandingly remarkable, the Draft LEIS fails to disclose

- 1) The area included within the report.
- 2) The characteristics which do or do not make the area a worthy addition to the system.
- 3) The current status of land ownership and use in the area.
- 4) The foreseeable potential uses of the land and water which would be enhanced, foreclosed, or curtailed if the area were included in the national wild and scenic rivers system.
- 5) The federal agency by which it is proposed the area, should be added to the system, be administered; and the degree to which the State or its political subdivisions might participate in the preservation and administration of the river should it be proposed for inclusion in the NWSRS.
- 6) The Federal, public, state, tribal, local, or other interests in designation or non-designation of the river, including the costs thereof, may be shared by State, local, or other agencies and individuals.
- 7) The estimated cost to the United States of acquiring necessary lands and interest in land and of administering the area, should it be added to the system.
- 8) Ability of the agency to manage and/or protect the river area or segment as a MSR river, or other mechanisms (existing and potential) to protect identified values other than MSR designation.
- 9) To provide for decision making and to satisfy the requirement of NEPA, study reports will include an analysis of alternatives.
- 10) Historical or existing rights which could be adversely affected.

The Draft LEIS inadequately addresses, if at all, these ten issues. For example, rather than explore the characteristics which do or do not make an area worthy for addition, the Draft recognizes only those characteristics which do make an area worthy for addition to the NWSRS. See: Draft LEIS, p. 11 (April, 1994). Restating the requirements to be so blatantly one-sided is a violation of BLM's own regulations, as well as arbitrary and capricious by the standards set forth in the Administrative Procedure Act 5 U.S.C.A. §706. This type of narrow vision is manifest throughout the suitability determination with statements

the criteria used to permit a reasonable evaluation by those interested and involved in the process. The Arizona Game and Fish Department, in the Arizona River Assessment, classified the habitat on the Virgin River segments as "common." BLM, Arizona Strip, Virgin River, Arizona Potential Wild and Scenic River Suitability Assessment, p. 6 (September, 1993). The riparian vegetation in all of the segments is common and not outstandingly remarkable. Furthermore, the procedure used to determine outstandingly remarkable is inadequate, and undocumented rendering the decision arbitrary and capricious.

SUITABILITY

In September, 1993 the BLM issued a Suitability Assessment report stating, that it "[did] not constitute the final suitability determination of the agency." BLM Arizona Strip District, Shivwits Resource Area, Arizona Potential Wild and Scenic River Suitability Assessment, p. 1 (September 1993). This statement implied that an opportunity to provide additional comments would be made prior to a final suitability determination. However, this was not the case, and as a result the Virgin River was found suitable for further studies, without further input.

The Wild and Scenic Rivers Act, Joint Regulations, and the BLM Manual all require extensive documentation. According to the WSPA, BLM Manual and Joint Regulations the suitability reports are required to document and show:

such as "These issues are noted, but will not be addressed" and "This issue will not be discussed further." Such statements frustrate the process and destroy the spirit of cooperation and coordination.

Since the Virgin River segments do not meet eligibility requirements, determining the suitability of these segments is a moot point. The Draft LEIS is clearly deficient in its suitability analysis and documentation however, to show the inadequacy of the Virgin River Segment the following is an analysis of the suitability criteria used in the Draft LEIS (River Appendix, Volume 2):

General Description of the Study Area

The segment descriptions in this section of the Draft are inaccurate and leave out information not favorable for designation.

Segment 1

Segment 1, is an isolated primitive area as shown by its inclusion in the Beaver Dam Wilderness Area, and is already protected by other mechanisms other than a WSR designation. This segment is proposed as a wild river. The WSPA describes "wild river areas" as follows:

Those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds and shorelines essentially primitive and waters unpolluted. These represent the vestiges of primitive America.

Wild & Scenic Rivers Act, 16 U.S.C.A. §1273(b)(1).

The reasons cited in the Draft for designating segment 1 as "wild" are: the area is free of impoundments, inaccessible except

by trail, and has essentially primitive shorelines. Curiously, the requirement for "waters unpolluted" was omitted. The Virgin River flowing into Arizona, especially during the summer months, is primarily the effluence of the St. George Regional Sewer Treatment Facility (See: Appendix A at 1 & 2). Though a significant source of water into the Virgin River, it is not an example of the "vestiges of primitive America" required for a "wild" classification or even a condition essentially free of human activity, required for suitability at any classification level. 16 U.S.C.A §1273(b) (1990). The BLM Suitability Assessment regarding water quality of the Virgin River Segment states:

The Virgin generally contains poor water quality as a result of high turbidity and salinity. The water appears muddy for most of the year, to the degree that the substrate is not visible...There is heavy algal growth in pools during periods of low water. Some tests on river water samples have indicated a high level of fecal coliform bacteria. BLM Arizona Strip District, Shivwits Resource Area, Arizona Potential Wild and Scenic River Suitability Assessment, p. 7 (September 1993).

Segment 1 is ineligible for inclusion into the MWSRS, because the river segment fails to meet eligibility and suitability requirements. Furthermore, the procedural discrepancies, inadequate analysis and documentation along with a blatant disregard for the plain requirements of the WSPA, result in a defective Draft LEIS.

Segment 2

Segment 2 fails to meet a "condition essentially free from human activity" regarding water quality, as cited above.

Additionally, segment 2 fails to meet the requirements established by the Joint Department of Interior and Department of Agriculture, Final Revised Guidelines for Eligibility and Classification, 47 Fed. Reg. 39454, Sept. 7, 1982. A scenic river must have the following:

1. The river corridor must be largely primitive and must not show substantial evidence of human activity. Based on the description provided in the Draft LEIS, segment 2 obviously does not meet this standard. Segment 2 contains an I-15 bridge, four areas of rip-rapped banks, and highway I-15 parallels the river along most of the corridor. Additionally, within the corridor there is an unscreened highway rest area, recreational facilities including a home, campground, and picnic area, all clearly visible from the river.

2. "Accessible in places by road." This segment is not only accessible by roads, but from exits off the I-15 highway. The traffic on the highway is visible from the river on much of this segment and traffic noise is loud and constant.

The WSPA describes scenic river areas as: "those rivers or sections of rivers that are free from impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by road." 16 U.S.C.A. §1273(b)(2). The only characteristic segment 2 does meet, is that it is accessible by road. This segment does not meet the definition of a scenic river found in the WSPA or the Joint Guidelines.

Segment 3

Segment 3, also fails to meet the "condition essentially free from human activity" regarding water quality as described above. This segment has been classified as "recreational." The WSPA describes recreational river areas as those rivers that are readily accessible by road and may have undergone minor diversions or structures in the past. 16 U.S.C. §1273(b)(3). As already discussed in the eligibility section of these comments, this segment does not meet requirements for "recreational."

Segment 4

Segment 4 fails to meet a "condition essentially free from human activity" regarding water quality as stated above. This segment is also classified as "recreational" however it fails to meet any requirements for study or designation.

Interrelationships

This section does not mention interrelationships with Utah or Washington County. The major portion of the watershed and therefore water flows in the Virgin River comes from Washington County. Since the Virgin River is not covered in the Colorado River Compact, Utah laws control the water and water rights on the Virgin River in Utah. BLM's proposal for designation as a MSR to be followed by a claim to instream water flow (BLM Manual §8151(.33)(8)(4)) when there is no legal basis to assert control over the stream flow or water use, has all the appearances of a bid to control upstream water. This interrelationship should be recognized and fully discussed in this section.

Scoping

Scoping meetings were held to identify issues. Any negative information obtained at those meetings appears to have been largely ignored in this document. A review of comments made at those meetings show there was considerable concern about impacts to commercial, agricultural, or residential development. There was also considerable concern expressed about the effects on existing perfected and unperfected, as well as future water rights. These major issues are considered, but not addressed.

Impacts on Commercial, Agricultural, and Residential Development in Towns and Cities

The EIS concludes that there will be no effect on development, because the effect of designation will not apply to private, state lands or upstream water users rights. This is without basis and inaccurate. Since the flow of the river in most segments comes from Utah and not Arizona, reservation of water for instream flows will limit if not prohibit additional diversions and perfecting of unperfected water rights and would impact the ability of towns and cities upstream in Utah to meet the needs of a growing population.

The cities in Washington County are growing rapidly. Washington County grew from 29,900 people in 1980 to 47,825 in 1990. It is projected to be 147,438 by the year 2020. Utah Board of Water Resources, Utah State Water Plan, p. 2-2 (August, 1993). Growth in the past and in the future is dependant on water from the Virgin River. Anything which restricts and limits the

ability to manage and use water from the river will have major impacts on economic development and local customs, practices and policies.

Because of the large federal ownership of land in the Virgin River Drainage, proposed water management actions almost always involve public lands. Since permits for dam sites, rights of way for ditches, canals, and pipelines usually require federal permits, any action even though miles away from a Wild and Scenic River could be denied or delayed through the federal government's discretionary authority to approve or deny permits. As a result the net effect would be that dams and rights-of-way involving water either surface or underground could be denied.

A recent report, "The Economic Impact of Reducing New Diversions from the Virgin River System in Washington County, Utah", by John D. Grosbeck, PhD, Department of Business and Richard A. Dotson, M.S. Chairman, Department of Physical Science at Southern Utah University, indicates major economic impacts would result from restricted water management and conservation options in the Virgin River (See: Report attached herein). The economic impact of reducing total new water diversions in Washington County by one percent of current diversions (1,500 Acre-Feet) follows as stated in terms of the number of jobs lost, percentage of industry jobs lost, and the real (1991 base year) dollar value of industry output lost:

Jobs Lost	1 Jobs Lost	Output Lost (\$)
4309	18%	254 million

POPULATION LOSS: 10,708

A designation and assertion of instream flow requirements in Arizona would have major impacts on the upstream communities in Washington County, Utah.

Impacts On Water Rights

This section of the Draft LEIS asserts that there are no impacts on water rights:

Designation as a Wild, Scenic, or Recreational river would not affect existing, valid water rights. The Wild and Scenic Rivers Act creates a federal reserved water right for a quantity of water sufficient to meet the purposes of the act on designated river segments.
BLM, Draft LEIS, p. 23 (April, 1994)

One of these statements cannot be true. How can the Wild and Scenic Rivers Act create a federal reserved water right and not affect valid water rights when all of the water in the river is presently claimed under valid perfected and unperfected water rights or applications? Where will the federally reserved water come from to meet the purposes of the Act if it does not come from valid, current water rights?

Another area the Draft fails to discuss, despite the Water District's numerous requests for more information, is whether there is a distinction made between perfected and unperfected water rights. For example, will designation bar holders of valid unperfected water rights from perfecting that right (i.e. putting the water to beneficial use)? This issue must be addressed in the Draft LEIS.

A suitability report, in this case the Draft LEIS, is required to contain an analysis of the foreseeable potential uses

of the land and water which would be enhanced, foreclosed, or curtailed if the area were included in the WRSRS. The Draft states, "An ongoing instream flow study would be completed to determine minimum amounts to protect outstandingly remarkable values." BLM, Draft LEIS, Virgin Wild and Scenic Area Study, p. 9, River Appendix Volume 2 (April, 1994). The Draft goes on to state "this issue will not be discussed further." Ironically the impacts on the potential uses of water, without a determination of necessary instream flows, is impossible. This is one example, where the Draft not only fails to comply with the requirements of the Act procedurally, but also fails to comply substantively in the decision-making process. Thus, rendering the suitability determinations arbitrary and capricious and not in accordance with the law as prescribed by the Administrative Procedure Act, 5 U.S.C.A. §706.

One of the major issues raised during the scoping process for this LEIS is the effect on upstream water rights. These impacts must be recognized, quantified, and carried forward and analyzed in the document. To state that this proposal has no effect on valid water rights and that it will not be discussed further is inadequate and arbitrary.

Impacts On Federally Listed Fish And Wildlife Species

This proposal will have a detrimental effect on listed species. It will make it impossible, or at best much more difficult and costly, to construct needed management facilities and carry out other actions necessary for recovery of these

species. The proposed action would reduce the ability to regulate water flow in the river and will do nothing to protect these species above what is provided under the Endangered Species Act.

Federal agencies are required to consult with the Fish & Wildlife Service on any action which may affect a listed species. There is no indication or documentation that this has been done. Alternatives

The No Action Alternative is clearly the only viable alternative since the river does not meet the eligibility requirements in any segment. Also, the alternatives are much too narrow. We recommend the No Action Alternative.

On-Going Management Actions

These are basically the same in all alternatives. There is no advantage under the preferred alternatives. Clearly, the No Action alternative is superior and would resolve the controversy and uncertainty now existing.

Table VR-3. Comparison Of Impacts By Alternative

This table shows the proposed outstandingly remarkable values are not impacted under any of the alternatives. An attempt is made to show the proposed action is better for water quality, and aquatic and riparian values. However, there is no documentation to support this claim. There are no actions proposed which would improve water quality above what is already being done under ongoing management actions. This table is not accurate and is an attempt to make the proposed action look

superior. The proposed action will in fact have an adverse effect on minerals and future water development and diversion, where the No Action Alternative does not.

This table should be redone to accurately document the impacts of the alternatives.

Affected Environment

Outstandingly Remarkable Values

As shown under Resource Values above, there is no documented basis for the determination that the described values are outstandingly remarkable. This section is clearly an attempt to claim values which are not outstandingly remarkable.

Environmental Consequences

A comparison of the impacts of implementing the proposed action, versus the no action alternative, shows all values would be protected under the No Action alternative without the negative effects of the proposed action on existing upstream water rights.

The attempt to show the No Action Alternative does not protect the described values by writing the conclusion in a different way, does not have merit. In all cases except aquatic and riparian values, the conclusion of the EIS is that ongoing management actions would protect the values. Under aquatic and riparian it states, "due to a continuing decline in water levels or quantity, ongoing management actions would not provide adequate protection for these values." BLM, Draft EIS, Virgin River, at 28 (River Appendix, Volume 2). There is no documented basis for this conclusion. No actions are listed or proposed in

the proposed action which would increase or even maintain water flows. No evidence was presented that water flows are declining in the river. Ironically, the construction of Quail Creek Reservoir and outflow from the St. George Sewage Treatment Facility, two things the WSR would specifically exclude, have provided water flows in the river during periods when it was historically dry. Construction of additional water storage facilities upstream would result in release of controlled flows to the river and increase flows during low flow periods. Stable or increased flows would be more likely to occur under the No Action Alternative than the proposed action.

This should be rewritten to show there are no negative environmental consequences from the No Action Alternative. The Suitability Assessment states, "There are no known threats to the Virgin River within Arizona." BLM, Arizona Strip Suitability Assessment, p. 12 (September, 1993). If there are no threats to the river, what is the intended purpose of the proposal? The inescapable conclusion is it the BLM intends to include the Virgin River into the WSR to prevent use, conservation management, and other economic development, regardless as to whether or not the Virgin River meets the requirements of the WSR.

Consultation and Coordination

This entire section lists the meetings held, newspaper advertisements, paid announcements, etc. On paper an attempt is made to show the requirements for coordination and consultation

were met. The Water District has submitted comments or requested information on eleven occasions, regarding the effects of a Wild & Scenic River designation on upstream communities. There is no section or indication that the proposal was modified in any way to reflect these comments. A review of the comments received at the scoping meetings show the majority were opposed to the proposals or requested modifications. The purpose for which consultation and coordination is required has not been met.

Preparers

It is noted that all preparers and reviewers are Bureau personnel. The Joint Department of Interior and Department of Agriculture, Final Revised Guidelines for Eligibility and Classification, 47 Fed. Reg. 39454, Sept 7, 1982, defines a study team as, "a team of professional from interested local, state and federal agencies invited by the study agency." There are no local professionals on the team as prescribed by the regulations during preparation of planning documents, suitability assessments, and the Draft LEIS.

Apparently, the joint regulations which govern the WSR evaluation process, were not considered since they were not listed as a reference to the Draft LEIS. The Washington County Water Conservancy District has requested to be represented on the study team and our request was ignored. To ignore our request, public comments, and the regulations is not in keeping with either the spirit or the letter of the law.

References

The Joint Department of Interior and Department of Agriculture, Final Revised Guidelines for Eligibility and Guidelines for Eligibility and Classification, 47 Fed. Reg. 39454, Sept 7, 1982, is not listed as a reference. Since the regulations take precedence over agency guidelines and manuals, they should have been used to guide the entire process. Failure to comply with the guidelines result in a procedurally flawed decision-making and Draft LEIS process.

Agencies and Organizations to Whom Copies of The Document Will Be Sent

Neither, Washington County or the Washington County Water Conservancy District is listed among the agencies to whom a copy would be sent. The Water District is quoted in the Draft LEIS and has provided information throughout the process, yet was never not considered an affected party. The Draft LEIS completely fails to analyze the impacts on Washington County, even though the major impacts from the proposed action are in Washington County.

CONCLUSION

The entire process is arbitrary and capricious. The criteria given in the WSRA regarding free-flowing was not followed. There was no criteria or documentation given as to how outstandingly remarkable values were determined. The eligibility and suitability evaluations did not comply with the intent or requirements of the Act.

The Draft LEIS is inadequate; it fails to analyze either the economic, social, or environmental impacts on communities upstream in Utah. There is no real determination of the economic impacts of the proposed section on the local customs and culture in Utah or Arizona, yet the impact in Utah alone would be tremendous.

The document states that the BLM is working on, or will work on in-stream flow studies to determine the amount of water needed to meet the intent of the Act. This information, if it is to be used, should have been developed before this document was prepared, since issues surrounding water and its allocation is critical for meaningful analysis of the impacts. This document is deficient and inadequate without this documentation. An adequate evaluation of environmental and economic impacts of the alternatives is impossible without quantifying the amount of water required to meet the purpose of designation.

In comparing the Environmental Consequences, the proposed action does not improve the values above the present management. The Suitability Assessment, dated September 1993 states, "There are no known threats to the Virgin River within Arizona." It is protected by the current BLM Land Use Plan, by inclusion as an area of critical environmental concern, and wilderness designations. The Woundfin Minnow and Virgin Chub are fully protected under the Threatened and Endangered Species Act. Since there is no need for additional protection of the stated values

APPENDIX A

it is apparent that water flow is the major issue, yet it is dismissed as not requiring analysis.

BLM has no water rights even though an application has been filed. There is no river compact to assure the flow of water into Arizona, making a designation meaningless. Attempting to control water flows and development of the river in Utah is an inappropriate and an arbitrary use of the Wild and Scenic River Act.

We recommend the No Action Alternative be adopted, because the Virgin River fails to meet eligibility requirements and the Draft LEIS failed to comply procedurally and substantively with suitability requirements.

We have not completed a detailed review of those sections of the Draft LEIS not related to the Virgin River. However, a cursory review indicates the same problems and inadequacies exist in every stream segment covered by the Draft LEIS. We recommend the entire MSR evaluation and documentation process in Arizona be re-evaluated and redone to comply with the requirements of the regulations, WSRA, and NEPA.

River Upstream in Utah

1

St. George Regional Sewer Plant Water Discharge-- notes: six million gallons per day are released into the river.



2

Water entering Virgin River from St. George Regional Sewer Treatment Plant



3

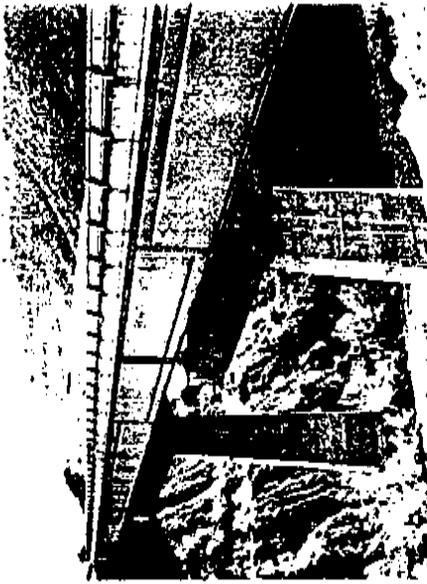
Fish Barrier to keep non-native fish from coming up stream



SEGMENT 2

4

Black Rock I-15 Bridge



5

Home, Rip-Rap and I-15



6

Rip Rap and I-15
There are 4 of these areas in this segment



SEGMENT 3



7
Cedar Pockets Recreation Area



8
I-15 Bridge



9
Rip Rap and I-15 Highway

SEGMENT 3



10
I-15 Bridge and channel change-- note: bridge pillars in the river channel



11
Rip Rap and Rock Cuts



12
Rip Rap, Channel Change, and Channel Straightening

SEGMENT 3



13 Channel Straightening, Rip Rap, rock cuts, and 1-15



14 Rip rap, channel straightening, and 1-15



15 Rip Rap, channel straightening, rock cut

SEGMENT 4



16 Virgin River at beginning of Segment 4 - note: tamarisk (salt cedar) stands and disclimax riparian, and upland vegetation



17 Development along river above Beaver Dam



18 Homes and farms in river bottom.

SEGMENT 4



22

Mesquite Diversion-- note: this major structure raises the river several feet

23

Mesquite Canal
note: 12.6 cfs is diverted and carried by this canal



SEGMENT 4



19

Littlefield Beaver Dam
1-15 Bridge-- note: disclimax vegetation

20

Littlefield
Homes and
Farms



21

Home and Well along river
above Mesquite Diversion--
note: common modified
vegetation





United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Arizona State Office
1707 N. 7th Street
P.O. Box 16541
Phoenix, Arizona 85011



8351 (931)

APPENDIX B

April 20, 1994

Mr. Ronald V. Thompson
Washington County Water
Conservancy District
Suite 1
136 North 100 East
St. George, UT 84770

Dear Mr. Thompson:

This is in response to your letter of March 24, 1994, regarding the Bureau of Land Management's (BLM) evaluation of the Virgin River as a potential wild and scenic river.

Eligibility Determination

The eligibility determination was conducted in conjunction with the Arizona Strip Resource Management Plan, approved January 1992, not part of the suitability assessment. The plan and Environmental Impact Statement were finalized in December 1990. The Virgin River in Arizona was found to be eligible for inclusion in the National Wild and Scenic River System. Enclosed is a copy of Appendix 18 which discussed the eligibility and classification criteria.

The eligibility of the Virgin River was subject to full public involvement and review. In addition, Washington County Commission was sent a copy of the Draft Resource Management Plan/Environmental Impact Statement. Comments regarding eligibility would have been appropriate during public meetings and review of the draft documents between October 1987 and December 1990.

Upon approval of the Arizona Strip Resource Management Plan, the Virgin River was formally found to be eligible for inclusion. The federal lands associated with the Virgin River also became subject to protective management of the wild and scenic river values by virtue of language in the Resource Management Plan.

Suitability Assessment

The suitability assessment report on the Virgin River, dated September 1993, was a result of a request from the Arizona Congressional Delegation to accelerate the evaluation process for all eligible rivers. As you have noted, the report recommends that the Arizona portion of the Virgin River be considered suitable. Because of the complexity of the entire watershed, BLM felt that no recommendation for designation could be made until the entire river area in three states was studied, under the provisions of Section 5(a) of the National Wild and Scenic Rivers System Act.

5/11/94

WASHINGTON COUNTY WATER CONSERVANCY DISTRICT
COMMENTS ON DRAFT ENVIRONMENTAL IMPACT STATEMENT
WILD AND SCENIC RIVERS FOR ARIZONA

May 25, 1994

The following are comments in addition to those submitted on May 19, 1994 by the Washington County Water Conservancy District, and in response to the BLM's Draft Arizona Statewide Wild and Scenic Rivers Legislative Environmental Impact Statement dated April, 1994 (hereinafter, "Draft LEIS").

I. INTERIM MANAGEMENT

The Wild Scenic Rivers Act limits its protective powers to river segments only once they have been ... "included within the National Wild and Scenic Rivers System" or those included as "study rivers". 16 U.S.C.A. §1283(a) (1990).

However, recently we received a letter stating that, "In compliance with the Wild Scenic Rivers Act, and the BLM Manual Section §351, ... an eligibility determination means that 1) these segments are placed in protective management status, which protects the identified wild and scenic river values." (See: Letter from Lester K. Rosenkrance, BLM Arizona State Director, to Ron Thompson, Washington County Water District Manager, dated May 18, 1994, attached herein). We strongly disagree with this conclusion.

The Water District recently received a copy of a memorandum written by the Regional Solicitor's Office, addressing this issue. Because of its nationwide implications, this memo was

reviewed and approved by the Department of Interior headquarters office. The pertinent sections of the Solicitor's Memo are as follows:

We conclude that BLM Manual section §351 erroneously mandates interim protection of all streams found eligible and given a tentative classification.

Particularly noteworthy in the Act... is that no protection whatsoever is afforded by the Wild and Scenic Rivers Act to streams on the lowest rung of the designation ladder, i.e. those having no congressional designation at all, but identified by federal agencies as potential wild, scenic or recreational river areas.

The BLM Manual thus affords greater protection on an interim basis, with no time limits, to streams identified in land use planning than Congress itself provided to designated "potential additions" to the RMSR System. This unnecessarily restricts BLM's land use planning flexibility under FLPMA section 202 by mandating the decision to be made. This might also be read to violate both NEPA, as constituting a decision in advance of NEPA study, and the specific withdrawal provisions of section 204 of FLPMA. We recommend that the Manual be revised in accordance with this advice.

Memorandum, from Regional Solicitor, Intermountain Region to Utah State Director, BLM, entitled: Wild and Scenic Rivers Act and BLM Manual Section §351 (March 1, 1994), attached herein.

We strongly urge that the LEIS and other documents issued by the Arizona BLM be rewritten to reflect the Solicitor's opinion.

II. IMPACTS ON THE PERFECTED AND IMPERFECTED WATER RIGHTS

The Draft LEIS states that there will be no impacts on existing water rights, without drawing a distinction between perfected and unperfected rights. This statement implies, that the following summary of the water rights belonging to the Washington County Water Conservancy District and the Board of

Water Resource, will not be affected as to its present or future use by designating the Virgin River into the MWSRS:

SUMMARY OF MWSRS WATER RIGHTS

<u>Water Right</u>	<u>Source</u>	<u>Quantity/Use</u>	<u>Status</u>
1. WR 81-51 Portion of Cert. 1698	Ash Creek	8 cfs	Certificated Extension to resume use to 3/31/97
2. WR 81-110 Cert. 81668	Virgin River	35 cfs power generation	Certificated
3. WR 81-124 Cert. 81641	Virgin River	65 cfs power generation	Certificated
4. WR 81-143 A12572 814642	Virgin River	4,000 ac. ft. Quail Creek Project	Proof submitted
5. WR 81-1381 91278 812602	Virgin River/ Quail Creek	37.50 cfs Quail Creek Project	Approved/Unperfected
6. WR 81-1382 34030a 814596	North Creek	12,820 ac. ft. North Creek Project	Approved/Unperfected
7. WR 81-2273 34030aa 812603	Virgin River/ Quail Creek	34,000 ac. ft Quail Creek Project	Approved/Unperfected
8. WR 81-2318 A59012	Virgin River	250 cfs power generation	Filed
9. WR 81-2476 Portion of Award 86-VRD 813529	Virgin River	1 cfs Quail Creek Project	Virgin River Decree/Change approved Extension to 11/30/95
10. WR 81-2478 Portion of Award 86-VRD 813531	Quail Creek	.275 cfs Quail Creek Project	Virgin River Decree/Change approved Extension to 11/30/95
11. WR 81-2547 34030ac 813705	East Fork of Virgin River	40,000 ac. ft. East Fork Project	Approved/Unperfected

12. WR 81-2548 34030ad 813706	North Fork of Virgin River	10,000 ac. ft. Bullock Project	Approved/Unperfected
13. WR 81-2952 Portion of Cert. 8762	North Fork of Virgin River	1.5 cfs Irrigation	Certificated
14. WR 81-3107 Portion of Award 86-VRD 814441	Virgin River	2 cfs Quail Creek Project	Virgin River Decree/Change Approved Extension to 11/30/95

BOARD OF WATER RESOURCE WATER RIGHTS

<u>Water Right</u>	<u>Source</u>	<u>Quantity/Use</u>	<u>Status</u>
1. WR 81-93 A9127	Virgin River	37.5 cfs	Approved/Unperfected
2. WR 81-507 A34030	Virgin River	147,600 ac. ft.	Approved/Unperfected
3. WR 81-133	Santa Clara River	43,544.2 ac. ft.	Approved/ Extension to 11/30/2000

If the above mentioned water rights are impacted by designation of the Virgin River in the Arizona Strip, the Water District expects a full analysis of the impacts with supporting documentation and authority to be included in the LEIS.

III. RESERVATION OF INSTREAM FLOWS

The WSRA and other regulatory guidelines require a full analysis of the impacts designation could have on historical or existing rights. Such an analysis is impossible without the proper determination of instream flows required to meet the WSRA. However, the Draft LEIS failed to include data regarding necessary flows in the Arizona Strip, and indicated that those determinations are on-going. A analysis of the

potential impacts cannot be made without a determination of necessary instream flows, and an attempt to do so is a failure to comply procedurally with the WSR, rendering the decision arbitrary and capricious and not in accordance with the law. Administrative Procedure Act, 5 U.S.C.A. §706. Publishing a Draft LEIS without determining instream flows indicates that regardless of any information received, the BLM is determined to recommend designation without carefully weighing the implications of the information obtained. Such an approach also violates the Administrative Procedure Act in that it fails to comply substantively with the WSR.

We recommend the entire WSR evaluation and documentation process in Arizona be re-evaluated to comply with the requirements of the regulations, WSR, and NEPA.

APPENDIX



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Arizona State Office
3701 N. 7th Street
P.O. Box 10563
Phoenix, Arizona 85011



PHOENIX OFFICE
8351 (931)

MAY 23 1994

Environmental Policy Act, a range of reasonable alternatives has been defined for Congress to consider. One of these is the BLM proposed action. This alternative is based on the information and evaluations included in the Arizona Strip District Resource Management Plan and the "Arizona Potential Wild and Scenic River Suitability Assessment."

The alternatives in the final LEIS will contain the BLM preferred alternative. The preferred alternative will be formulated after the comments on the draft have been evaluated. In the proposed action alternative analyzed in the draft document, BLM determined the Arizona segments of the Virgin River to be suitable and recommended that Congress designate the segments as a "study river." Study river status, in effect, will protect the wild and scenic river values of the Virgin River in Arizona, and give the states of Utah and Nevada, the affected counties, and all interested publics a chance to consider the entire river as a potential wild and scenic river concurrently.

This course of action responds to concerns such as those expressed by Washington County Water Conservancy District, even though the Arizona portion of the Virgin River could stand alone as a component of the National Wild and Scenic River System.

Travel commitments until early June prevent me from attending the hearing in St. George, or meeting with you at that time. We suggest that you talk with District Manager, Roger Taylor, at (801) 673-3545, if you have further questions. He and his staff will fully respond to any questions and concerns you may have. If, after you discuss these issues with the District Manager, you still feel a meeting would be beneficial, please convey this to the District Manager, and we will arrange a time to get together.

Finally, we wholeheartedly encourage the Washington County Water Conservancy District to identify concerns over the designation or nondesignation of the Virgin River either verbally at the scheduled hearings, or in writing to Mr. Phil Moreland, Chief, Planning Environment, Lands and Recreation (931), Arizona State Office, 3707 North 7th Street, P.O. Box 16563, Phoenix, Arizona, 85011, so that the material will be included in the final LEIS document that will be transmitted to the Secretary of the Interior.

Sincerely,

Chester K. Rosenkrance
State Director

May 18, 1994

Mr. Ronald W. Thompson
Washington County Water
Conservancy District
136 North 100 East, Suite 1
St. George, UT 84770

Dear Mr. Thompson:

This is in response to your letter of May 6, 1994, regarding various aspects of the Bureau of Land Management's (BLM) evaluation of the Virgin River as a potential wild and scenic river. We regret any confusion the wording may have created.

You asked for clarification over "the determination that there would be no effect on upstream water rights and the decision not to address the issue any further" in the Legislative Environmental Impact Statement (LEIS) for the Arizona portion of the Virgin River.

Based on the suitability assessment report and analysis of impacts of designation and nondesignation, the Bureau's position is that designation would have no significant effect on valid and existing upstream water rights. Please refer to page 14 of the Virgin River, Arizona Potential Wild and Scenic River Suitability Assessment (September 1993). Although the issue is not addressed any further in the legislative environmental impact statement, we invite you to present specific and substantive information in the LEIS process during the comment period ending July 8, 1994. Your information and our response would be made part of the LEIS record.

You also asked for clarification of "the exact status of the Virgin River segments." Through our land use management planning process all four segments of the Virgin River in Arizona were determined to be eligible, as stated in the Arizona Strip District Resource Management Plan (January 1992). In compliance with the Wild and Scenic Rivers Act, and the BLM Manual Section 8351, Wild and Scenic Rivers - Policy and Program Direction for Identification, Evaluation, and Management, an eligibility determination means that 1) these segments are placed in protective management status which protects the identified wild and scenic river values, and 2) the BLM is required to proceed with the suitability assessment of the river area.

While BLM determines the suitability of river study areas, BLM cannot make final decisions on Wild and Scenic River designations. This is a Congressional authority. Therefore, in compliance with the National



United States Department of the Interior

OFFICE OF THE SOLICITOR

SUITE 5501, FEDERAL BUILDING
135 SOUTH PLATE STREET
SALT LAKE CITY, UTAH 84148

March 1, 1994

MEMORANDUM

To: Utah State Director, BLM
From: Regional Solicitor, Intermountain Region
Subject: Wild and Scenic Rivers Act and
BLM Manual Section 8351

You have asked us for guidance as to the legal standing and sufficiency of BLM Manual section 8351, particularly as it regards BLM's management protection for eligible and suitable river segments, and the types of management protection BLM can provide upon the determination of eligibility and tentative classification at the time a draft RMP/EIS is made public but prior to Congressional designation thereof. You also ask what kind of management protection BLM can apply upon the determination of suitability made in the Record of Decision for the RMP/EIS. Due to the nationwide implications of the following legal advice, it has been reviewed and approved in our headquarters offices.

For the reasons set forth below, we conclude that BLM Manual section 8351 erroneously mandates interim protection of all streams found eligible and given a tentative classification. In fact, any such protection so given is entirely a discretionary planning decision arising from the land use planning process. The Wild and Scenic Rivers Act does not require such protection. Any interim protection provided by the BLM must therefore comply with the requirements of section 202 and, depending on the extent of protection to be afforded, the withdrawal provisions of section 204 of the Federal Land Policy and Management Act of 1976 (FLPMA).

BACKGROUND

The BLM is developing a resource management plan (RMP) for the Dixie Resource Area, i.e. Washington County, Utah. As part of the planning process, rivers in the county are being examined to determine which streams and stream segments the BLM would designate as eligible for protection under the Wild and Scenic Rivers Act.

The BLM Manual (Manual) section 8351.32C provides as follows:

When a river segment is determined eligible and given a tentative classification (wild, scenic, and/or recreational), its identified outstandingly remarkable values shall be afforded adequate protection, subject to valid existing rights, and until the eligibility determination is superseded. Management activities and authorized uses shall not be allowed to adversely affect either eligibility or the tentative classification. i.e., actions that would change the tentative classification from a wild river area to a scenic river area or a scenic river area to a recreational river area. . . . (P)rotective management shall be initiated by the authorized officer (Area/District Manager) as soon as eligibility is determined.

Your questions arise from this language, which has the effect of mandating interim protection for rivers found to be eligible and given tentative classifications, pending possible future action by Congress. In order to be able to convey clear answers to your questions, we will first describe the provisions of the Wild and Scenic Rivers Act and then compare the requirements thereof to the related standards and procedures contained in the BLM Manual.

The Wild and Scenic Rivers Act

The Wild and Scenic Rivers Act (the Act), Pub. L. 90-542, 16 U.S.C. §§ 1271-1287, was passed on October 2, 1968. In an effort to "complement" the previously established national policy of dam construction and water development on appropriate streams, by protecting others, together with their immediate environments, in their "free-flowing condition, to protect the water quality of such rivers and to fulfill other vital national conservation purposes." 16 U.S.C. § 1271. The rivers to be so protected were those which "possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values." 16 U.S.C. § 1271. Congress implemented this policy by establishing a "national wild and scenic rivers system" (NWSR System), and by designating the initial rivers to be included in this system.

Congress also prescribed the methods by which and standards according to which additional streams were to be added to the system. 16 U.S.C. § 1272. Rivers could only be included in the system if they were either (1) authorized by an Act of Congress or (2) designated as wild, scenic or recreational rivers by an act of the legislature of a state through which they flow, and then approved for inclusion in the NWSR System by the Secretary of the Interior. 16 U.S.C. 1273(a)(1). Rivers included in the

WMSR System were to be classified in one of the following categories:

Wild river areas - those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted, representing "vestiges of primitive America."

Scenic river areas - those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads,

Recreational river areas - those rivers or sections of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past.

16 U.S.C. § 1273 (Emphasis added).

Please note that the Act specifies that "wild" and "scenic" areas are "free of impoundments." Recreational river areas are likewise free-flowing, but previously may have contained impoundments or diversions which have since ceased operation or have been removed. With this sole exception, the distinctions among these categories are based on accessibility and degree of shorelines and adjacent development. This point is emphasized in 16 U.S.C. § 1273(b). Therein it is stated that "if a river, scenic or recreational river in its free-flowing condition, or upon restoration to this condition, shall be considered eligible for inclusion in the national wild and scenic rivers system and, if included, shall be classified, designated, and administered as [wild, scenic or recreational]." This section also illustrates that the terms "wild," "scenic," and "recreational" are used in two senses in the Act: one, descriptively, as in the first portion of the above-quoted language, and two, as terms of art connoting specific legal categories of congressionally designated WMSR system components.

Section 1275 provides the procedures by which other rivers are to be studied and either recommended or not recommended to the Congress for inclusion in the WMSR System. This section of the Act requires the Secretary of the Interior and the Secretary of Agriculture, as appropriate, for the streams in question, to study and submit to the President "reports on the suitability or nonsuitability" of certain, specified rivers "which are designated in the Act or hereafter by the Congress as potential additions to such system." These "potential additions" to the WMSR System, designated as such by Congress, and already

"eligible" (in their free-flowing condition) were then to be further studied for their "suitability."

Section 1276 then lists specific rivers as "potential additions" to be so studied. Section 1276(d) goes on to require all Federal agencies to give consideration to the potential for wild and scenic designations in their planning activities on additional river areas, but is noticeably silent on the subject of protection for these agency-identified streams.

In all planning for the use and development of water and related land resources, consideration shall be given by all Federal agencies involved to potential national wild, scenic and recreational river areas, and all river basin and project plan reports submitted to the Congress shall consider and discuss any such potential. The Secretary of the Interior and the Secretary of Agriculture shall make specific studies and investigations to determine which additional wild, scenic and recreational river areas within the United States shall be evaluated in planning reports by all Federal agencies as potential alternative uses of the water and related land resources involved.

16 U.S.C. § 1276(d).

Thus, in addition to requiring Congressional action to place a river into the WMSR System, and establishing three categories of streams within that system, i.e. wild, scenic and recreational, the Act also established three levels of consideration and treatment by the Interior and Agriculture departments: (1) - those streams which Congress placed in the system in the original Act (some of which had to be studied further in order to determine appropriate categories), (2) - streams which were specifically "designated for potential addition" by Congress in section 1276, on which the respective Secretaries were directed to conduct studies and submit reports on suitability for possible action by the Congress, and (3) - streams identified during land use planning, and in studies conducted for this purpose by the Secretary of the Interior or the Secretary of Agriculture, as appropriate, to determine which additional wild, scenic and recreational river areas (used descriptively) within the United States shall be evaluated in planning reports . . . as potential

For convenience, hereinafter, the terms "wild, scenic and recreational" will be referred to as designation "categories" of WMSR System rivers, whereas the distinction between streams congressionally designated as WMSR system rivers (with an appropriate designation "category") and those congressionally designated as "potential additions" for study as to suitability will be denoted by referring to "types" of designations.

alternative uses of the water and related land resources involved (in the area covered by the plan). 16 U.S.C. § 1276(d).

Congress thus established a system of ascending levels, whereby a given stream, in order to be included in the NWSR System, had to, in essence, "climb the ladder." Streams congressionally designated for potential addition were to be studied for suitability, with reports thereon submitted to the President for recommendations on NWSR System designation by subsequent act of Congress. A decision by the agency, the Secretary or the President not to recommend a stream to the next higher level has the effect of removing the stream from further consideration. 16 U.S.C. § 1278(b). Other streams, identified either by the agency studies mandated in section 1276(d) as qualifying as "potential alternative uses" of the water or by federal agencies in their land use planning efforts, and related land resources can be designated by Congress for "potential addition," specifically studied for suitability by the appropriate agency, with a report submitted to the President, recommended by the President for designation, and then possibly designated by Congress as components of the NWSR System. 16 U.S.C. § 1275.

The questions you have raised for our consideration involve streams in the latter class, namely streams which were not designated by Congress either as part of the NWSR System or as "potential additions" to that system, but rather involve streams identified as comprising "potential wild, scenic and recreational river areas" or as "potential alternative uses" during the land use planning process by federal agencies, in this case the BLM. More specifically, your questions involve the extent to which protection may be afforded to streams so identified by federal agencies but not yet given the lowest type of congressional designation as "potential additions" to the NWSR System.

Statutory Protection Scheme

The scheme of protection established in the Act is clearly aimed at streams congressionally designated either as system components or as "potential additions," sometimes referred to as "study rivers." The specific protections for these two categories of streams are found at 16 U.S.C. § 1278. For designated NWSR system component streams, regardless of category, section 1278

¹ On streams designated for inclusion in the system by a state legislature, the Secretary must submit the proposal to the Secretaries of Agriculture, Army, and Energy as well as any other affected federal department or agency and consider their comments and recommendations before approving or disapproving the state's proposal. If the Secretary approves the proposal, he must publish notice thereof in the Federal Register. 16 U.S.C. § 1275(c).

specifies that the Federal Energy Regulatory Commission (FERC) shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act, 16 U.S.C. § 791a et seq., on or directly affecting any river which is a designated component of the NWSR System. Similarly, all other federal departments and agencies are prohibited from assisting, by loan, license, grant or otherwise, in the construction of any water resource project which would have a direct and adverse effect on the values for which the river was designated. In other words, FERC is not to build water development projects, and no other federal agency is to do anything that would otherwise adversely affect the resource values which the NWSR designation was intended to protect. Future water resource developments above and below designated stream segments, however, are permitted, provided that the development will not "invade the area of unreasonably diminish the scenic, recreational, and fish and wildlife values present in the area" at the time it was designated by Congress as a NWSR System component.

Subsection 1278(b) provides the protection to be provided on rivers designated for "potential addition," i.e. those streams that have not been designated as NWSR System components but which have been congressionally designated for study and possible inclusion. FERC and all other federal agencies are subject to the same restrictions on these streams, i.e. those listed in section 1276(a) or by later act of Congress for "potential addition," as they are on streams already designated, except that these are time limits on this protection. Streams listed in section 1276(a) were to be so protected for 10 years following October 2, 1968, and streams later designated by Congress to be studied for potential addition were to be protected for only 3 full fiscal years, unless Congress specified a longer period in making the designation. These 10 and 3 year periods of protection were to terminate earlier, however, if the Secretary concerned were to determine after study that such river should not be included in the NWSR System. 16 U.S.C. § 1278(b).

Additional periods of protection of 3 years and 1 year are provided for congressional consideration of departmental recommendations on "potential additions" (study rivers) passed through the President, and for Secretarial consideration of streams recommended by a state legislature for designation by the Secretary, respectively. 16 U.S.C. § 1278(b)(1). On congressionally designated "potential additions," this has the effect of giving the Secretary and the President 3 years to complete a study and make a recommendation on suitability for inclusion after such congressional designation, and subsection (1) thereof then extends the protection an additional 3 years for congressional consideration if the Secretary does recommend such a "potential addition" for permanent protection in the NWSR System. If these periods expire, or if a congressionally

designated "potential addition" river is not recommended for the next higher level of review, all protection ceases under the statutory scheme, and the river and surrounding lands are again available for FERC applications and the like.

DISCUSSION

What is particularly noteworthy in the Act, for purposes of the present questions, is that no protection whatsoever is afforded by the Wild and Scenic Rivers Act to streams on the lowest rung of the designation ladder, i.e. those having no congressional designation at all, but identified by federal agencies as potential wild, scenic or recreational river areas representing potential alternative uses of the water and related land resources during the land use planning process. Any protection given to these streams must be accomplished by positive action of the administering agency either as a land use planning decision under FLPMA section 202 or by way of a withdrawal under FLPMA section 204, or both.³ In any event, such protection is discretionary with the agency; Congress did not mandate that every eligible stream identified in land use planning be protected on either a permanent or an interim basis, nor did it even dictate that eligible streams must be managed as such. It only directed that such uses be considered as "potential alternative uses." The administering agency (BLM in this case) is obligated only to consider this alternative use in its planning, such as the National Environmental Protection Act of 1969 (NEPA) mandates that federal agencies consider environmental impacts and alternatives to the proposed action before making decisions. It does not demand a particular result; only that this option be fairly considered. If other management needs for a given river corridor are felt to outweigh the possible NWSR benefits, the agency is free to make a planning decision in favor of the alternative use. The BLX has much more discretion under the Act to consider other potential land uses and public land user needs than the Manual, as presently drafted, allows.

³ FLPMA section 202(e)(3), 43 U.S.C. § 1702(e)(3), requires that if an area is to be removed from the operation of the Mining Law of 1872, this can only be accomplished by withdrawal under section 204.

⁴ If the Wild and Scenic Rivers Act had mandated this result our conclusion would be quite different, for Congress certainly has the plenary authority under the Constitution to either make withdrawals itself or to direct federal agencies to do so in such cases. The fact that it did not do so, however, especially when coupled with the fact that it provided only limited protection (3 years, for example) for streams that it designated for study as "potential additions" to the NWSR System, makes it clear that the

The Wild and Scenic Rivers Act thus varies considerably from section 603 of FLPMA, for example, which designates wilderness study areas (WSAs) for consideration for protection under the Wilderness Act, 16 U.S.C. §§1111 - 1136. In section 603(d) Congress mandated that while under study, the WSAs were to be managed "in a manner so as not to impair the suitability of such areas for preservation as wilderness," with specified, limited exceptions. A WSA, in order to revert to normal public land status, had to be explicitly released by Congress. A "potential addition" to the NWSR System, in contrast, is released from its time-limited protection if the Secretary determines after study that it should not be recommended to the President and the Congress for formal designation as a NWSR System component.

The Wild and Scenic Rivers Act has been implemented by the Departments of the Interior and Agriculture through the publication of Joint "Guidelines for Eligibility, Classification and Management of River Areas" found at 47 Fed. Reg. 39454 (1982). These guidelines were promulgated to provide a common set of standards for evaluating and classifying "potential additions" designated by Congress and establishing their suitability for potential designation by Congress as components of the NWSR System. Otherwise, they do not (and cannot) modify the essential structure of the Act, as described above. We emphasize that these guidelines were specifically drafted to facilitate and provide uniformity in studies performed by Interior and Agriculture on rivers designated as "potential additions" by Congress. Id., at 39455.

The public comments and responses accompanying the regulations do, however, contain an interpretation of the purpose of the Act which is useful for our purposes. One comment received on the draft regulations asserted that the "definition of the term 'outstandingly remarkable value is too vague and too liberal. Too many rivers will be eligible for designation, unreasonably constraining economic development of natural resources.'" The federal response was that

[b]alancing of the need for protection versus development of each river area will be considered by the Congress in deciding whether or not to designate the river area. A determination that a particular river is eligible for designation does not necessarily

protection afforded under this Manual provision is a voluntary action by BLX accomplished under its generic authority in FLPMA.

We would also note that these "guidelines" were intended for internal federal use only and were not published or codified as formal regulations.

imply that designation is the best use of the river in terms of the national interest."

Id., at 39454.

This interpretation is consistent with the Act's policy statement in 16 U.S.C. § 1271 that the NWSR policy is to "supplement the established national policy of dam construction and water development. The Act was intended as a means to ensure that river values associated with free-flowing streams would be considered by Congress together with hydroelectric power and other development values. If Congress places a stream into the NWSR System, then it is protected from development directly along the course of the designated portion, and from excessive or 'unreasonable' development upstream. 16 U.S.C. § 1278. However, if Congress perceives other values to be more in the national interest, it can decide to leave a stream undesignated and available for needed development. Furthermore, if Congress perceives obvious needs that outweigh potential protection, it can decide not to designate as "potential additions" eligible streams identified by federal agencies during the inventory or land use planning processes, thus releasing the stream from further consideration as a NWSR candidate as well as from any further temporary protection as such.

The BLM Manual thus affords greater protection on an interim basis, with no time limits, to streams identified in land use planning than Congress itself provided to designated "potential additions" to the NWSR System. In fact, this interim protection could become virtually permanent if no recommendation for legislative action is ever submitted to Congress; and, if it involves a withdrawal of the land, such protection possibly violates FLPMA section 204(j), which prohibits the Secretary from making a withdrawal that can be made only by an Act of Congress.

The Manual language in section 851.32C, specifically the portion stating that "its identified outstandingly remarkable values shall be afforded . . . protection . . . and until the eligibility determination is superseded, management activities and authorized uses shall not be allowed to adversely affect either eligibility or the tentative classification," sounds as though it was patterned after the wilderness requirements of section 603 of FLPMA, rather than the Wild and Scenic Rivers Act. It can be read, and has apparently been so interpreted within BLM, as having the effect of removing certain land uses from the area without first complying with the required steps for a land withdrawal as mandated by section 204 of the FLPMA, and of truncating BLM's planned flexibility under section 202. In addition, if challenged, this language would likely be found to be an unlawful "predecision," a violation of the National Environmental Policy Act (NEPA) by making a decision before considering other planning alternatives and their respective

environmental consequences.

We would suggest that segments of streams identified as eligible under the Act and which BLM elects to manage and propose for NWSR System designation in the form of legislation submitted to Congress for passage, be withdrawn for 3 years pursuant to section 204(d)(3) of FLPMA (5 years is the maximum, but 3 appears more in keeping with the statutory scheme of the Act) "to preserve such tract for a specific use then under consideration by the Congress." If Congress does not act within the term of the withdrawal to designate such streams as "potential additions" to the NWSR System, thereby gaining the additional 3 years of protection provided by section 1278 of the Act, the withdrawal would expire under its own terms, and the lands would be opened immediately to multiple use management, 43 C.F.R. §§ 2091.21-22, specifically § 2091.6. This approach is one, although others are certainly possible, that is consistent with both the Act and FLPMA.

CONCLUSIONS

Congress has provided for two types of designations under the Wild and Scenic Rivers Act which afford different types of protection: congressionally designated components of the NWSR System, which thereby receive permanent protection from conflicting uses of the land; and congressionally designated "potential additions" which receive a specified, limited term of protection while permanent protection is being considered, typically 3 years. The Congress also directed the Secretaries of the Interior and the Secretary of Agriculture "to make specific studies and investigations to determine which additional wild, scenic and recreational river areas within the United States shall be evaluated in planning reports by all Federal agencies as potential alternative uses of the water and related land resources involved." 16 U.S.C. § 1278(d). This requirement was fulfilled by the completion of the Nationwide Rivers Inventory by the National Park Service in 1982.

In addition, Federal agencies were directed in the same section of the Act to consider NWSR protection as one of the available alternative uses of land in conducting land use planning. Accordingly, that consideration should be given in the preparation of any land use plan where appropriate. The BLM Manual, however, requires protection for all streams found to be eligible. This unnecessarily restricts BLM's land use planning flexibility under FLPMA section 202 by mandating the decision to

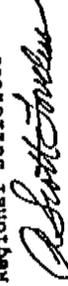
* This approach would also obviate the necessity of conducting a suitability study until Congress designates such streams as "potential additions" to the NWSR System.

be made. This might also be read to violate both NEPA, as constituting a decision in advance of NEPA study, and the specific withdrawal provisions of section 204 of FLPMA. We recommend that the Manual be revised in accordance with this advice.

We hope this information is of assistance to you. If you have any further questions or comments concerning these issues, please contact the undersigned at (801) 524-5677.

LYNN R. COLLINS
Regional Solicitor

By



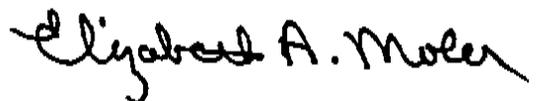
A. Scott Loveless
Attorney-Advisor

\\s1.1204.22atd\arc\op\inform\ref\id\ace.nhc

Under Section 7(a) of the Wild and Scenic Rivers Act, the Commission is prohibited from licensing hydroelectric projects that would be on or would directly affect rivers that have been designated or are being studied for possible designation as components of the national Wild and Scenic Rivers System. Under this section we also are prevented from licensing project works above or below a component of the system, if the project works would "invade" or "unreasonably diminish" the scenic, recreational, or fish and wildlife values present in the river area on October 2, 1968.

We have no other comments or recommendations. Thank you for the opportunity to review and comment on the final EIS.

Sincerely,

A handwritten signature in cursive script that reads "Elizabeth A. Moler". The signature is written in dark ink and is positioned above the typed name and title.

Elizabeth A. Moler
Chair



THE SECRETARY OF THE INTERIOR
WASHINGTON

MAR 6 1995

95 MAR -9 AM 3:39
RECEIVED
BUREAU OF LAND MANAGEMENT

Mrs. Elizabeth Ann Moler
Chair, Federal Energy Regulatory
Commission
Washington, D.C. 20426

Dear Chair Moler:

We are sending you a copy of the final Arizona Wild and Scenic Rivers legislative environmental impact statement recently completed by the Bureau of Land Management, Department of the Interior. This transmittal is in accordance with the Wild and Scenic Rivers Act (P.L. 90-542, Sec 4. (c)).

The document consists of 2 volumes: a Statewide Environmental Impact Statement and an appendix containing 20 separate environmental impact statements on individual river study areas. The recommended alternative proposes all or portions of 14 of the 20 river study areas for the National Wild and Scenic Rivers System. The remaining 6 river study areas are not proposed for inclusion.

In accordance with the Wild and Scenic Rivers Act, you have ninety days from the date of this letter to provide any comments or recommendations on this document. Please send any response you may have to Lester K. Rosenkrance, Arizona State Director, Bureau of Land Management, 3707 North 7th Street, P.O. Box 16563, Phoenix, Arizona 85011.

Sincerely,

Enclosure

95-50112