

FINAL REPORT

**CODY FIELD OFFICE REVIEW OF
POTENTIAL WILD AND SCENIC RIVERS IN THE
CODY RESOURCE MANAGEMENT PLAN
PLANNING AREA**

Prepared for

**Bureau of Land Management
Cody Field Office
1002 Blackburn Street
Cody, Wyoming 82414**

Prepared by

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1002 Blackburn Street
Cody, Wyoming 82414**

**Jonas Consulting
and 785 North Canyon Terrace
Flagstaff, Arizona 86001**

January 23, 2003

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**The Bureau of Land Management, Cody Field Office, previously prepared most sections of this document in 1992 and 1993, with the exception of Attachment D: "Management of Bureau of Land Management-Administered Public Lands..." Jonas Consulting prepared Attachment D and compiled all other sections written previously by the Bureau of Land Management in order to make this document. Only the layout (e.g., headers, page numbering, Table of Contents, etc.) of the previously written sections has been altered; no changes have been made to the wording or actual contents of the earlier-prepared documents.*

TABLE OF CONTENTS

<u>Chapter</u>	<u>Page Number</u>
I. INTRODUCTION	1
A. Public Involvement and Coordination	1
II. PROCESS	2
A. Step I. Wild and Scenic River Eligibility Criteria Review and Tentative Classification	2
1. Eligibility Criteria	2
a. Free-flowing.	3
b. Outstandingly Remarkable Values.	3
c. Jurisdictional Considerations.	5
2. Tentative Classification	6
a. Wild Waterway Areas	6
b. Scenic Waterway Areas	6
c. Recreational Waterway Areas	7
3. Results of the Wild and Scenic Rivers Eligibility Review for the Cody RMP Planning Area	7
B. Step II. Wild and Scenic Rivers Suitability Factors Review	8
1. Suitability Factors	8
2. Results of the Wild and Scenic Rivers Suitability Review for the Cody RMP Planning Area	9
C. Step III. Management of BLM Administered Public Lands That Meet the Suitability Factors	9
 ATTACHMENT A - Cody Resource Area Wild and Scenic River Eligibility Review	A-1
 ATTACHMENT B - Identification and Classification of BLM-Administered Public Lands Determined to Meet The Wild and Scenic Rivers Eligibility Criteria, Cody Resource Area	B-1
 ATTACHMENT C - Results of the Wild and Scenic Rivers Suitability Review of BLM- Administered Public Lands Along the Clarks Fork of the Yellowstone River and Porcupine Creek and Related Tributaries	C-1
 ATTACHMENT D - Management of BLM-Administered Public Lands Within the Cody Resource Management Plan Planning Area That Meet the Wild and Scenic Rivers Suitability Factors	D-1

CODY RESOURCE AREA WILD MID SCENIC RIVER REVIEW OF WATERWAYS IN THE CODY RESOURCE MANAGEMENT PLAN PLANNING AREA

August 15, 1993

I. INTRODUCTION

To fulfill the requirement identified in the approved Cody Resource Management Plan (RMP- November 8, 1990), the Bureau of Land Management (BLM) has initiated the Wild and Scenic River Review for the Cody RMP planning area. The purpose of this review is to determine if any BLM-administered public lands, along waterways within the RMP planning area, meet the eligibility criteria and suitability factors as identified in the Wild and Scenic Rivers Act (WSRA).

A. Public Involvement and Coordination

Wyoming BLM staff met with representatives of various Wyoming State agencies, including the Governor's Office in January 1991 and June 1993. These meetings were specifically for the purpose of reaching a mutual understanding of the Wild and Scenic review process, and of the Wild and Scenic Rivers Eligibility Criteria and Suitability Factors to be used in the process. This included some agreement on any needed refinements of these criteria and factors, specific to Wyoming, and their statewide application on BLM-administered public lands. The Eligibility Criteria and Suitability Factors, including minor refinements agreed to at that time, are still consistent with the BLM Wild and Scenic Rivers Manual 8351 (May 19, 1992). Wyoming State government has disagreed with giving any consideration for reviewing waterways that do not contain water year-round (i.e., intermittent and nonperennial waterways). The Wyoming BLM recognizes that position but is obligated to follow the BLM Manual requirement to include intermittent and ephemeral waterways in the review. The State Director's policy and guidance for conducting the BLM Wild and Scenic Review process in Wyoming was issued December 31, 1992. Minor editorial refinements to this policy and guidance were made on June 29, 1993, to make the wording more consistent with BLM Manual 8351.

In July 1992, BLM personnel from the Cody Resource Area office briefed Wyoming State agencies on the preliminary eligibility findings of the review on the Cody RMP planning area. A letter describing the review process and the eligibility determinations that BLM has made was sent to the people, agencies and groups on the Cody RMP mailing list and other interested parties to solicit comments and public involvement. Similar public involvement opportunity will be provided for the suitability determinations.

Briefings on the eligibility and suitability determinations will also be given to the Wyoming congressional Delegation Representatives, the BLM Worland District Multiple Use Advisory Council, representatives from local government agencies and the Park and Bighorn County Commissioners.

Media involvement will include press releases in several Wyoming newspapers in conjunction with a public mailing and open houses for eligibility and suitability determinations. Local Radio stations and other media will be offered opportunities for interviews concerning the Cody Wild and Scenic Review process.

II. PROCESS

The following definitions apply to key terms used in the Wild and Scenic River Review process:

- X **Waterway.** A flowing body of water or estuary or a section, portion, or tributary thereof, including rivers, streams, creeks, runs, kills, rills, and small lakes. For purposes of this review, a waterway is not required to have water in it year-round and may be intermittent.

- C **Public lands.** The BLM-administered public land surface along waterways within an RMP planning area. Those “split estate lands,” where the land surface is State or privately-owned and the federal mineral estate is administered by the BLM, are not involved with these reviews. Other references to segments, parcels, corridors and waterways, all represent public lands, which is the basis for our review.

The BLM Wild and Scenic Rivers Review in the Cody RMP planning area will entail a three-step process of:

1. Determining if BLM-administered public lands along waterways meet the eligibility criteria to be tentatively classified as wild, scenic or recreational;
2. Determining if any of those public lands that meet the eligibility criteria also meet the Wild and Scenic River suitability factors; and
3. Determining how any of those public lands that meet the suitability factors will be managed to protect their outstandingly remarkable values and their tentative wild, scenic or recreational classification.

These steps are further defined as follows:

A. Step I. Wild and Scenic River Eligibility Criteria Review and Tentative Classification

1. Eligibility Criteria

To meet the eligibility criteria, a waterway must be “free-flowing” and, along with its adjacent land area, must possess one or more “outstandingly remarkable” values. As part of the eligibility review, BLM team members reviewed all waterways in the Cody RMP planning area to see if they contained any BLM-administered public lands that meet the eligibility criteria. Only those waterways flowing

through BLM-administered public lands were considered. The following are the guidelines used in applying the eligibility criteria on BLM-administered public land surface in the Cody RMP planning area.

- a. **Free-flowing.** Free-flowing is defined in the WSRA as “existing or flowing in natural condition without impoundment, diversion, straightening, rip-rapping, or other modification of the waterway.” The existence of small dams, diversion works, or other minor structures at the time the river segment is being considered shall not automatically disqualify it for possible addition to the WSRS. A river need not be “boatable or floatable” in order to be eligible; there is no “minimum flow” requirement.
- b. **Outstandingly Remarkable Values.** The BLM-administered public land surface along waterways must also possess one or more outstandingly remarkable values to be eligible for further consideration. Outstandingly remarkable values relate to scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar resource values.

The term “outstandingly remarkable value” is not precisely defined in the WSRA. However, it should be noted that these values must be directly waterway related. The criteria for outstandingly remarkable values, used for the review of BLM-administered public land surface in the Cody RMP planning area, are as follows:

- X **Scenic:** The landscape elements of landform, vegetation, water, color and related factors result in notable or exemplary visual features and/or attractions. Additional factors such as seasonal variations in vegetation, scale of cultural modifications, and length of time negative intrusions are viewed can also be considered when analyzing scenic values. Scenery and visual attractions may be highly diverse over the majority of the BLM-administered public land surface involved; are not common to other waterways in the geographic region; and must be of a quality to attract visitors from outside the area.
- X **Recreational:** Recreational opportunities on the BLM-administered public land surface are unique enough to attract visitors from outside the area. Visitors would be willing to travel long distances to use the waterway resources on the public lands for recreational purposes. Waterway related opportunities could include, but are not limited to, sightseeing, wildlife observation, camping, photography, hiking, fishing, hunting, and boating.

Interpretive opportunities may be exceptional and attract visitors from outside the area. the waterway may provide settings for national or regional commercial usage or competitive events.

X **Geologic:** The BLM-administered public land surface provides an example(s) of a geologic feature, process, or phenomenon that is rare, unusual, or unique to the area. The feature(s) may be in an unusually active stage of development, represent a “textbook” example and/or represent a unique or rare combination of geologic features (e.g., erosional, volcanic, glacial and other geologic structures).

X **Fisheries:** The fishery values on the BLM-administered public land surface may be judged on the relative merits of either fish populations or habitat, or a combination of these conditions. For example:

Populations: The waterway or waterway segment on BLM-administered public land surface is a contributor to one of the top producers of resident, indigenous, fish species, either nationally or regionally. Of particular significance may be the presence of wild or unique stocks, or populations of federally listed or candidate threatened or endangered species. Diversity of species is also important.

Habitat: The BLM-administered public land surface is contributing to exceptionally high quality habitat for fish species indigenous to the region. Of particular significance may be habitat for federally-listed or candidate threatened and endangered species.

X **Wildlife:** Wildlife values on the BLM-administered public land surface may be judged on the relative merits of either wildlife populations or habitat, or a combination of these conditions. For example:

Populations: The BLM-administered public land surface is contributing to populations of resident or indigenous wildlife species important in the area or nationally. Of particular significance are species considered to be unique or populations of federally listed or candidate threatened or endangered species. Diversity of species is also important.

Habitat: The BLM-administered public land surface is contributing to exceptionally high quality habitat for wildlife species important in the area or nationally, or may provide unique habitat or a critical link in habitat conditions for federally listed or candidate threatened or endangered species. Adjacent habitat conditions are such that the biological needs of the species are met.

X **Cultural:** The BLM-administered public land surface contains examples of outstanding cultural sites which have unusual characteristics relating to prehistoric or historic use. Sites may be important in the area or nationally for interpreting prehistory or history; may be rare and represent an area where a culture or cultural period was first identified and described; may have been used concurrently by two or more cultural groups; or may have been used by cultural groups for rare or sacred purposes.

- X ***Historical:*** The BLM-administered public land surface contains a site(s) or feature(s) associated with a significant event, an important person, or a cultural activity of the past that was rare, unusual, or unique in the area.

Note: Eligibility for inclusion in the National Register of Historic Places, by itself, is not sufficient justification for being considered outstandingly remarkable.

- X ***Similar Values:*** Other values may include significant hydrologic, paleontologic, botanic, scientific, or ecologic resources as long as they are waterway related,

Once the free flowing and outstandingly remarkable value determinations are made on the BLM-administered public lands involved, BLM manual 8351 provides for the following jurisdictional considerations to be made:

c. Jurisdictional Considerations.

BLM Manual 8351 (released May 19, 1992) states in part:

A . . . D. During the consideration of a river segment, jurisdictional considerations must be taken into account. If less than 40 percent of the shoreline and adjacent lands in a segment is public land managed by the BLM (public land is not predominant) it is difficult to ensure that outstandingly remarkable values [on the public land] can be maintained in the future. Accordingly, the priority shall be segments with 40 percent or more public land. Segments with less than 40 percent may be found eligible if recommended by the Area and District Managers, and approved by the State Director. That finding may only be made if the government agency with control, State or local government for private land, supports the finding, and commits to participating with the BLM in the classification, evaluation of suitability, and the day-to-day management. The better way to consider these segments is for State or local governments to complete planning, for the segment to be designated under Section 2(a) (ii) of the Act, or a joint study under section 5(c) [of the Act].”

A1. In many cases, there might be existing or future opportunities for the BLM to acquire river shoreline or where landowners are willing to donate, exchange, transfer, assign, sell, or sign an easement. Wherever appropriate, the BLM shall encourage the State, responsible Federal agency, or other entities to evaluate segments where the BLM lacks sufficient jurisdictional control and shall provide technical assistance concerning the Wild and Scenic River studies, as well as information concerning (BLM-administered) public lands within the study corridor. The BLM shall continue to protect and, wherever possible, enhance any outstandingly remarkable values identified in the RMP process which are associated with lands under the BLM jurisdiction.”

In accordance with this part of the BLM Manual, if any BLM-administered public land surface in Wyoming represent less than 40 percent of the shoreline in a waterway or waterway segment being reviewed, the BLM-administered public land surface involved will be considered to be ineligible for

further consideration. Should the other Federal agency(ies), or State or local government, with predominant jurisdiction (individually or collectively) over the lands along a waterway or waterway segment wish to plan for the management of the waterway or waterway segment for inclusion in the WSRS, or to conduct a joint study for that purpose, the BLM will participate in the study and will cooperate in managing the BLM-administered public lands involved to be compatible with the management of the interspersed State or privately owned lands. Otherwise, such BLM-administered public lands and their inherent resource values will be managed in accordance with the BLM land use plan (i.e., Resource Management Plan or Management Framework Plan) under which they are covered.

2. Tentative Classification

At the same time that eligibility determinations are made, eligible waterways or waterway segments are also given a tentative classification (i.e., either wild, scenic or recreational), as required by the Act. Tentative classification is based on the type and degree of human developments associated with the waterway and adjacent public lands at the time of the review. Actual classification is a congressional legislative determination.

The tentative classifications, as used by BLM in Wyoming, are further defined as follows:

- a. **Wild Waterway Areas:** Wild areas are those where the waterways or sections of waterways on the BLM-administered public land surface are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted. These represent vestiges of primitive America. Wild means undeveloped; roads, dams, or diversion works are generally absent from a quarter mile corridor on both sides of the waterway.
- b. **Scenic Waterway Areas:** Scenic areas are those where the waterways or sections of waterways on the BLM-administered public land surface are generally free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads. Scenic does not necessarily mean the waterway corridor has to have scenery as an outstandingly remarkable value; however, it means the waterway or waterway segment may contain more development (except for major dams or diversion works) than a wild segment and less development than a recreational segment. For example, roads may cross the waterway in places but generally do not run parallel to it. In certain cases, however, if a parallel road is unpaved and well screened from the waterway by vegetation, it could qualify for scenic classification.

- c. **Recreational Waterway Areas:** Recreational areas are those where the waterways or sections of waterways on the BLM-administered public land surface 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. Parallel roads or railroads, existence of small dams or diversions can be allowed in this classification. A recreational area classification does not imply that the waterway or section of waterway on the public land surface will be managed or have priority for recreational use or development.

3. Results of the Wild and Scenic Rivers Eligibility Review for the Cody RMP Planning Area

The Cody Wild and Scenic River Review Team met on July 22 and November 4, 1991, to conduct the eligibility review for the waterways in the Cody RMP planning area.

Because of the broad interpretation of the “free flowing” criterion, all waterways reviewed were assumed to be free-flowing. Utilizing an interdisciplinary approach, these waterways were further reviewed to determine whether any BLM-administered public lands along their courses contained any of the outstandingly remarkable values described in the Eligibility criteria. Of the 135 waterways reviewed in the RMP planning area, the BLM-administered lands along 128 of the waterways were found to not have outstandingly remarkable values and were dropped from further consideration.

Pursuant to BLM Manual 8351 (May 19, 1992), an additional eligibility criterion, the “Jurisdictional considerations” criterion quoted above, was established. In considering this new criterion, the BLM-administered public lands along the North and South Fork of the Shoshone River were found not eligible and are deferred to other federal or State agencies or local governments, individually or collectively, with primary jurisdiction. No other waterways or waterway segments in the planning area were affected by this third eligibility criterion.

This left a total of 5 waterways that flow through BLM-administered public lands in the Cody RMP planning area that meet the eligibility criteria. The BLM-administered public lands along the Clarks Fork of the Yellowstone River (from the mouth of the Canyon at the National Forest boundary to Paint Creek) and those along Porcupine Creek, and the Deer Creek, Oasis Spring, and Trout Creek tributaries to Porcupine Creek, were identified as meeting the Wild and Scenic Rivers eligibility criteria.

Attachment A (Wild and Scenic Rivers Eligibility Review) summarizes the waterways, containing BLM-administered public lands, that were reviewed and the eligibility determinations made for the public lands involved.

Attachment B (Segment Identification and Classification) shows the tentative classification (either wild, scenic, or recreational) given to each of the BLM-administered public land parcels that meet the eligibility criteria.

B. Step II. Wild and Scenic Rivers Suitability Factors Review

1. Suitability Factors

All of the BLM-administered public lands that were found to meet the eligibility criteria and that were classified (i.e., wild, scenic, or recreational) will be further reviewed to determine if they meet the Wild and Scenic Rivers suitability factors. The suitability determinations will be made after the general public, local, state and federal governments and agencies, and other interested parties have reviewed the eligibility and classification determinations.

Some factors to be considered in making the suitability determinations include, but are not limited to:

- Factor 1:** Characteristics which do or do not make the BLM-administered public lands a worthy addition to the National Wild and Scenic River System (WSRS).
- Factor 2:** Current status of landownership (including mineral ownership) and land and resource uses in the area, including the amount of private land involved, and any associated or incompatible land uses.
- Factor 3:** Reasonably foreseeable potential use of the BLM-administered public lands and related waters which would be enhanced, foreclosed, or curtailed if they were included in the WSRS, and the values which could be foreclosed or diminished if the BLM-administered public lands are not protected as part of the system.
- Factor 4:** Public, state, local, tribal, or federal interest in designation or nondesignation of any part or all of the waterway involved, including the extent to which the administration of any or all of the waterway, including costs thereof, may be shared by state, local, or other agencies and individuals.
- Factor 5:** Estimated cost of acquiring necessary lands and interests in lands and of administering the area if it is added to the WSRS. Section 6 of the WSRA outlines policies and limitations of acquiring lands or interests in land by donation, exchange, consent of owners, easement, transfer, assignment of rights, or condemnation within and outside established river boundaries.
- Factor 6:** Ability of the BLM to manage and/or protect the BLM-administered public lands involved as a WSR or other mechanisms (existing or potential) to protect identified values other than WSR designation.

Factor 7: Historical or existing rights which would be adversely affected. In the suitability review, adequate consideration will be given to rights held by other landowners and applicants, lessees, claimants or authorized users of the BLM-administered public lands involved.

Factor 8: Other issues and concerns if any.

2. Results of the Wild and Scenic Rivers Suitability Review for the Cody RMP Planning Area

The Cody WSR preliminary suitability determinations were made based on an internal BLM screening of the above eight factors. Both in house knowledge and comments received from the general public were utilized to make the determinations. Much of the public input received prior to initiation of the suitability phase involved discussion of suitability factors. This input proved very valuable in allowing the BLM to make the preliminary suitability determinations immediately following the eligibility phase.

Public lands along four waterways that were previously determined to be eligible, were also determined to meet the suitability criteria. This includes the BLM-administered public lands along Porcupine Creek; and the Deer Creek, Oasis Spring, and Trout Creek tributaries to Porcupine Creek. The BLM-administered public lands along the Clarks Fork of the Yellowstone River were identified as not meeting the Wild and Scenic Rivers suitability factors.

Attachment C (Wild and Scenic Rivers Suitability Review) summarizes the waterways, containing BLM-administered public lands, that were reviewed and the suitability determinations made for the public lands involved

C. Step III. Management of BLM Administered Public Lands That Meet the Suitability Factors

The approved Record of Decision for the Cody RMP (11-8-90) states the following:

“Examination of rivers pursuant to provisions of the Wild and Scenic Rivers Act has not been completed for the Cody Resource Area. The required reviews will be conducted as part of a separate study using the planning process and the Cody RMP will be amended as necessary to accommodate the results. Until those reviews are completed, no uses will be permitted which could impair the presence of any outstandingly remarkable values along river corridors or otherwise effect the eligibility of any river for possible inclusion in the National Wild and Scenic Rivers System.”

Accordingly, BLM land use planning decisions will be developed and implemented for any BLM-administered public lands that are determined to meet the suitability factors. These planning decisions will include management objectives, management actions, and appropriate allocations of land and resource uses that will maintain the outstandingly remarkable values and tentative wild and

scenic waterway classifications identified on the BLM-administered public lands involved. If necessary, the Cody RMP would be amended to incorporate these planning decisions. Further, pursuant to the WSRA, until the required WSR reviews or evaluations of BLM-administered public lands along waterways can be completed, and until planning decisions are developed and implemented for any BLM-administered public lands that are determined to meet the suitability factors, no uses of such lands will be authorized which could impair any outstandingly remarkable values they may contain, or that would otherwise reduce or destroy their potential eligibility, classification or suitability for consideration for inclusion in the WSRS.

BLM-administered public lands that are determined to meet the suitability factors would then be managed under the BLM's land use plan management decisions, indefinitely. At some time in the future, it is possible that the Secretary of the Interior may direct the BLM to participate in the development of Wild and Scenic River Study Reports or joint studies may be initiated with the Forest Service or another entity. The results and documentation of the BLM Wild and Scenic River reviews for the Cody RMP planning area would be utilized in developing any such reports.

***Addendum (January 23, 2003):** The Cody Wild and Scenic River Review Team met on October 29, 2002, to develop interim management prescriptions for the public lands along Porcupine Creek, and the Deer Creek, Oasis Spring, and Trout Creek tributaries to Porcupine Creek. These are presented in Attachment D (Management of Public Lands within the Cody RMP Planning Area that Meet the Wild and Scenic Rivers Suitability Factors). These prescriptions will be applied immediately as well as be presented in the Cody RMP for public review and include management objectives, management actions, and appropriate allocations of land and resource uses that will maintain or enhance the outstandingly remarkable values and tentative wild and scenic classification identified on the BLM-administered public lands involved.*

ATTACHMENT A

CODY RESOURCE AREA

WILD AND SCENIC RIVER ELIGIBILITY REVIEW

OCTOBER 23, 1992

TABLE A. CODY RESOURCE AREA WILD AND SCENIC RIVER ELIGIBILITY REVIEW (OCTOBER 23, 1992)

RIVER/STREAM (WATERWAY) REVIEWED	FREE FLOWIN G	OUTSTANDINGLY REMARKABLE VALUES ON BLM LANDS	AT LEAST 40% BLM JURISDICTION?	BLM LANDS ELIGIBLE?
ALKALI CK	YES	NONE		NO
BEAR CK	YES	NONE		NO
BEAR CK	YES	NONE		NO
BEAR CK TRIB	YES	NONE		NO
BEAVER CK	YES	NONE		NO
BELKNAP CK	YES	NONE		NO
BIG SAND COULEE	YES	NONE		NO
BIGHORN R	YES	NONE		NO
BLACK GULCH	YES	NONE		NO
BRETECHE CK	YES	NONE		NO
BRETECHE CK TRIB	YES	NONE		NO
BUCK CK	YES	NONE		NO
CASTLE ROCK CK	YES	NONE		NO
CHIMNEY ROCK CK	YES	NONE		NO
CLARKS FK TRIB	YES	NONE		NO
CLARKS FK YLLWSTN R	YES	NONE		NO
CLARKS FK YLLWSTN R	YES	SCENIC, GEOLOGIC	YES	YES
COON CK	YES	NONE		NO
COON CK TRIB	YES	NONE		NO
COTTONWOOD CK	YES	NONE		NO
COTTONWOOD CK	YES	NONE		NO
COTTONWOOD CK	YES	NONE		NO
COTTONWOOD CK TRIB	YES	NONE		NO
COW CK	YES	NONE		NO
CROOKED CK	YES	NONE		NO
CRYSTAL CK	YES	NONE		NO
DAVIS DRAW	YES	NONE		NO
DEER CK	YES	NONE		NO
DEER CK	YES	SCENIC, CULTURAL, RECREATION	YES	YES
DEER CK	YES	NONE		NO
DIAMOND CK	YES	NONE		NO
DRY BEAR CK	YES	NONE		NO
DRY CK (E of Lovell)	YES	NONE		NO
DRY CK (N of Cody)	YES	NONE		NO
DRY CK (nr Greybull)	YES	NONE		NO
DRY CK (nr Trotters)	YES	NONE		NO
DRY FK HORSE CK	YES	NONE		NO
DRY GULCH	YES	NONE		NO

TABLE A. CODY RESOURCE AREA WILD AND SCENIC RIVER ELIGIBILITY REVIEW (OCTOBER 23, 1992)

RIVER/STREAM (WATERWAY) REVIEWED	FREE FLOWIN G	OUTSTANDINGLY REMARKABLE VALUES ON BLM LANDS	AT LEAST 40% BLM JURISDICTION?	BLM LANDS ELIGIBLE?
ELK SPRINGS CK	YES	NONE		NO
EMBLEM DRAW	YES	NONE		NO
FIVE SPRINGS CK	YES	NONE		NO
FOSTER GULCH	YES	NONE		NO
FOSTER GULCH TRIB	YES	NONE		NO
FOUR BEAR CK	YES	NONE		NO
FRANCS FK	YES	NONE		NO
GRASS CK	YES	NONE		NO
GREYBULL R	YES	NONE		NO
GYP SUM CR	YES	NONE		NO
HARDPAN CK	YES	NONE		NO
HARDPAN CK TRIB	YES	NONE		NO
HERREN GULCH	YES	NONE		NO
HOODOO CK	YES	NONE		NO
HORSE CK	YES	NONE		NO
HORSE CK	YES	NONE		NO
HOULIHAN CK	YES	NONE		NO
IDAHO CK	YES	NONE		NO
IRON CK	YES	NONE		NO
LAKE CK	YES	NONE		NO
LINE CK	YES	NONE		NO
LITTLE DRY CK	YES	NONE		NO
LITTLE POLECAT CK	YES	NONE		NO
LITTLE RAWHIDE CK	YES	NONE		NO
LITTLE ROSE CK	YES	NONE		NO
LITTLE SAND COULEE	YES	NONE		NO
LITTLE SAND COULEE TRIB	YES	NONE		NO
LOVELL DRAW	YES	NONE		NO
M FK CRYSTAL CK	YES	NONE		NO
MANTUA DRAW	YES	NONE		NO
MEETEETSE CK	YES	NONE		NO
MIDDLE CK	YES	NONE		NO
MURRAY CK	YES	NONE		NO
McKINNIE CK	YES	NONE		NO
N BR WHISTLE CK	YES	NONE		NO
N FK COTTONWOOD CK	YES	NONE		NO
N FK CRYSTAL CK	YES	NONE		NO
N FK DRY CK	YES	NONE		NO

TABLE A. CODY RESOURCE AREA WILD AND SCENIC RIVER ELIGIBILITY REVIEW (OCTOBER 23, 1992)

RIVER/STREAM (WATERWAY) REVIEWED	FREE FLOWIN G	OUTSTANDINGLY REMARKABLE VALUES ON BLM LANDS	AT LEAST 40% BLM JURISDICTION?	BLM LANDS ELIGIBLE?
N FK DRY CK TRIB	YES	NONE		NO
N FK SHOSHONE R	YES	SCENIC, RECREATION, GEOLOGY	NO	NO
N FK TROUT CK	YES	NONE		NO
N FK TROUT CK	YES	NONE		NO
NEWMAYER CK	YES	NONE		NO
NONAME TERA CK	YES	NONE		NO
OASIS SPRING CK	YES	SCENIC, CULTURAL, RECREATION	YES	YES
OREGON COULEE	YES	NONE		NO
PAINT CK	YES	NONE		NO
PARADISE CK	YES	NONE		NO
PAT O'HARA CK	YES	NONE		NO
PENNY GULCH	YES	NONE		NO
POLECAT CK	YES	NONE		NO
PORCUPINE CK	YES	SCENIC, CULTURAL RECREATIONAL	YES	YES
PORTER GULCH	YES	NONE		NO
POST CK	YES	NONE		NO
QUESTION CK	YES	NONE		NO
RAWHIDE CK	YES	NONE		NO
RED CANYON CK	YES	NONE		NO
RED POINT DRAW	YES	NONE		NO
ROAN WASH	YES	NONE		NO
ROCK CK	YES	NONE		NO
ROSE CK	YES	NONE		NO
ROUGH GULCH	YES	NONE		NO
RUSH CK	YES	NONE		NO
S BEAVER CK	YES	NONE		NO
S EAGLENEST CK	YES	NONE		NO
S FK COON CK	YES	NONE		NO
S FK DRY CK	YES	NONE		NO
S FK SHOSHONE R	YES	SCENIC, RECREATION, GEOLOGY	NO	NO
SAGE CK (nr Cody)	YES	NONE		NO
SAGE CK (nr Lovell)	YES	NONE		NO
SAND DRAW	YES	NONE		NO
SHEEP CK	YES	NONE		NO
SHEEP CK	YES	NONE		NO
SHELL CK	YES	NONE		NO
SHORT FK MEETEETSE	YES	NONE		NO
SHOSHONE R	YES	NONE		NO

TABLE A. CODY RESOURCE AREA WILD AND SCENIC RIVER ELIGIBILITY REVIEW (OCTOBER 23, 1992)

RIVER/STREAM (WATERWAY) REVIEWED	FREE FLOWIN G	OUTSTANDINGLY REMARKABLE VALUES ON BLM LANDS	AT LEAST 40% BLM JURISDICTION?	BLM LANDS ELIGIBLE?
SILVER TIP CK	YES	NONE		NO
SLACK CR	YES	NONE		NO
SPRING CK	YES	NONE		NO
SPRING CK	YES	NONE		NO
SULPHUR CK	YES	NONE		NO
SUNLIGHT GULCH	YES	NONE		NO
TRAIL CK	YES	NONE		NO
TROUT CK	YES	SCENIC, CULTURAL, RECREATION	YES	YES
TROUT CK	YES	NONE		NO
W BR WHISTLE CK	YES	NONE		NO
W FK ALKALI CK	YES	NONE		NO
W FK ALKALI CK TRIB	YES	NONE		NO
W FK BIG SAND COULEE	YES	NONE		NO
W FK COON CK	YES	NONE		NO
W. FK TIMBER CK	YES	NONE		NO
WHISTLE CK	YES	NONE		NO
WHISTLE CK TRIB	YES	NONE		NO
WILLOW CK	YES	NONE		NO
WILLOW CK TRIB	YES	NONE		NO
WILLWOOD DRAW	YES	NONE		NO

ATTACHMENT B

**IDENTIFICATION AND CLASSIFICATION OF
BLM-ADMINISTERED PUBLIC LANDS
DETERMINED TO MEET THE WILD AND SCENIC RIVERS
ELIGIBILITY CRITERIA, CODY RESOURCE AREA**

SEPTEMBER 18, 1992

IDENTIFICATION AND CLASSIFICATION OF BLM-ADMINISTERED PUBLIC LANDS DETERMINED TO MEET THE WILD AND SCENIC RIVERS ELIGIBILITY CRITERIA, CODY RESOURCE AREA

September 18, 1992

I. PUBLIC INVOLVEMENT DURING ELIGIBILITY DETERMINATIONS

Following completion of the preliminary eligibility review, all waterways reviewed and the preliminary eligibility determinations for the involved public lands were identified. This information is displayed in Attachment A. Public input for these preliminary determinations was obtained during a written comment period, and through two open houses. These open houses were held in Cody and Lovell, Wyoming on May 13th and 14th, 1993, respectively.

Twelve people attended the open house held in Cody, whereas nineteen people attended the Lovell open house. Participants were asked to provide comments on the preliminary eligibility determinations and specifically to respond to the analysis of outstandingly remarkable values. In addition, participants were asked to provide input on other BLM-administered lands along waterways, that may have been missed in the review and potentially met the eligibility criteria.

Comments received at the open houses tended to support the preliminary eligibility determinations. Nineteen written comments were received during this period. In general, the letters did not address eligibility factors, but tended to be letters of support or lack of support for the designation of either of the two waterways as a WSR.

Following review of the comments received, the classification on Deer Creek was changed from Wild to Scenic. This change was made because of the presence of a primitive road adjacent to the creek, detracting from the area's wild values. This change is reflected in the attached narrative for the eligibility determinations.

II. RESULTS OF THE WILD AND SCENIC ELIGIBILITY REVIEW OF BLM-ADMINISTERED PUBLIC LANDS ALONG WATERWAYS IN THE CODY RESOURCE MANAGEMENT PLAN PLANNING AREA

BLM-ADMINISTERED PUBLIC LANDS ALONG THE CLARKS FORK OF THE YELLOWSTONE RIVER DETERMINED TO MEET THE WILD AND SCENIC RIVERS ELIGIBILITY CRITERIA

Segment of the Waterway Reviewed

The segment of the Clarks Fork reviewed is 7.4 miles long. It begins at the canyon mouth of the Clarks Fork of the Yellowstone River (at the Shoshone National Forest Boundary) and ends in the NW¹/₄, Section 13, T. 56N., R. 103W. Within this segment, four BLM-administered public land

parcels (4.9 miles or 66% of the waterway segment reviewed) have been determined to meet the Wild and Scenic Rivers eligibility criteria. The distance the river flows through these parcels ranges from 0.3 miles through the smallest parcels to 3.8 miles through the largest parcel.

The 7.4 miles of waterway segment reviewed, including the BLM-administered public lands, is primarily utilized for dispersed recreation, float boating and sport fishing.

Below the eligible section to the Montana State Line, the character of the Clarks Fork of the Yellowstone River changes to an agriculture/ranching area. There are no outstandingly remarkable values associated with any BLM-administered public lands below this point.

See Table B1 for further details on each of the BLM-administered public land parcels along the Clarks Work of the Yellowstone River that meet the eligibility criteria.

BLM-ADMINISTERED PUBLIC LANDS ALONG PORCUPINE CREEK AND TRIBUTARIES OF PORCUPINE CREEK DETERMINED TO MEET THE WILD AND SCENIC RIVERS ELIGIBILITY CRITERIA

Segment(s) of the Waterway(s) Reviewed

The segment of Porcupine Creek reviewed is 10.2 miles long. It begins at the Bighorn Forest Boundary and ends at the Montana State Line. Within this waterway segment, the creek flows through three parcels of BLM-administered public land. The distance the creek flows through these parcels ranges from 0.6 miles through the smallest parcel to 7.9 miles through the largest parcel. The total length of waterway flowing through the four BLM land parcels is 9.7 miles (95% of the total waterway segment reviewed). Each of these BLM-administered public land parcels have been determined to meet the Wild and Scenic Rivers eligibility criteria.

Deer Creek, Oasis Spring Creek, and Trout Creek are tributaries to Porcupine Creek. The segments reviewed along these waterways are, respectively, 1.3 miles, 2.4 miles and 0.9 miles long. These waterway segments reviewed are 100% on BLM-administered public land. Each tributary segment reviewed initiates at its junction with the main stem of Porcupine Creek, and continues upstream until it reaches private land or, as in the case of Trout Creek, it reaches the Montana State line. Each of the BLM-administered public land parcels along these tributaries has been determined to meet the Wild and Scenic Rivers eligibility criteria.

See Table B1 for further details on each of the BLM-administered public land parcels along Porcupine Creek and the Deer, Oasis Spring, and Trout Creek Tributaries, that meet the eligibility criteria.

TABLE B. IDENTIFICATION AND TENTATIVE CLASSIFICATION OF BLM-ADMINISTERED PUBLIC LAND PARCELS THAT MEET THE WILD AND SCENIC RIVERS ELIGIBILITY CRITERIA					
<i>Public Land Parcel No.</i>	<i>Mileage of Waterway Segment Across Public Land</i>	<i>Name of Waterway, or Waterway segment, and Location of Public Land Parcel</i>	<i>Distance to Next Public Land Parcel (in Miles)</i>	<i>Notes/Description/Outstandingly Remarkable Values of Public Land Parcel</i>	<i>Preliminary Classification of Public Land Parcel</i>
CLARKS FOR OF THE YELLOWSTONE RIVER					
1	0.3	This BLM parcel is at the edge of the Shoshone National Forest boundary and is in the SW ¹ / ₄ , Section 7, T. 56 N., R. 103 W.	1.7	Outstandingly Remarkable Values include scenic and geologic. Parcel is adjacent to the Shoshone National Forest Boundary. Wyoming Game and Fish Class 1 Fishery. Riparian width approximately 80 foot.	Scenic
2	0.3	This BLM parcel is in the NE ¹ / ₄ , Section 8, 12. 56 N., R. 103 W.	0.3	Outstandingly Remarkable Values include scenic and geologic. Wyoming Game and Fish Class 3 Fishery. Riparian width approximately 90 foot.	Scenic
3	0.5	This BLM parcel starts in the NE ¹ / ₄ , Section 8, T. 56 N., R. 103 W., and ends in the SW ¹ / ₄ , Section 9, T. 56 N., R. 103 W.	0.5	Outstandingly Remarkable Values include scenic and geologic. Wyoming Game and Fish Class 3 Fishery. Riparian width approximately 90 foot.	Scenic
4	3.8	This BLM parcel starts in the NW ¹ / ₄ , Section 16, T. 56 N., R., 103 W., and ends in the NW ¹ / ₄ , Section 13, T. 56 N., R 103 W.	End of Segment Reviewed	Outstandingly Remarkable Values include scenic and geologic. Wyoming Game and Fish Class 3 Fishery. Riparian width approximately 90 foot.	
		TOTAL LENGTH OF WATERWAY/SEGMENT REVIEWED	7.4		
		% BLM JURISDICTION OF WATERWAYISEGMENT REVIEWED	66%		
PORCUPINE CREEK					
1	0.6	This BLM parcel is in the S2, Section 18, T. 57 N., R. 92 W.	0.1	Outstandingly Remarkable Values include scenic, recreation and cultural. Riparian width is approximately 25 foot. Wyoming Game and Fish Class 3 Fishery. Adjacent to National Forest boundary	Wild
2	1.2	This BLM parcel is in the NE ¹ / ₄ , Section 8, 12. 56 N., R. 103 W.	0.4	Outstandingly Remarkable Values include scenic, recreation and cultural. Riparian width is approximately 25 foot. Wyoming Game and Fish Class 3 Fishery.	Wild
3	7.9	This BLM parcel starts in the NW ¹ / ₄ , Section 16, T. 56 N., R., 103 W., and ends in the NW ¹ / ₄ , Section 13, T. 56 N., R 103 W.	End of Segment Reviewed	Outstandingly Remarkable Values include scenic, recreation and cultural. Riparian width is approximately 25 foot. Access road parallels 3.3 miles of this parcel. Wyoming Game and Fish Class 3 Fishery.	Wild/ Scenic/Wild
		TOTAL LENGTH OF WATERWAY/SEGMENT REVIEWED	10.2		
		% BLM JURISDICTION OF WATERWAYISEGMENT REVIEWED	95%		

DEER CREEK (Tributary of Porcupine Creek)					
1	1.3	This BLM parcel is in the SW ¹ / ₄ , Section 21, T. 58N., R. 93 W., and ends in the SW ¹ / ₄ , Section 20, T. 58 W., R. 93 W.	Adjacent to eligible BLM parcel on mainstem of Porcupine Creek	Outstandingly Remarkable Values include scenic, recreation and cultural. Wyoming Game and Fish Class 3 Fishery.	Scenic
		TOTAL LENGTH OF WATERWAY/SEGMENT REVIEWED	1.3		
		% BLM JURISDICTION OF WATERWAY/SEGMENT REVIEWED	100%		
OASIS SPRING CREEK (Tributary of Porcupine Creek)					
1	2.4	This BLM parcel is in the SW ¹ / ₄ , Section 30, T. 58N., R. 93 W., and ends in the NE ¹ / ₄ , Section 19, T. 58 W., R. 93 W.	Adjacent to eligible BLM parcel on mainstem of Porcupine Creek	Outstandingly Remarkable Values include scenic, recreation and cultural. Wyoming Game and Fish Class 4 Fishery.	Wild
		TOTAL LENGTH OF WATERWAY/SEGMENT REVIEWED	2.4		
		% BLM JURISDICTION OF WATERWAY/SEGMENT REVIEWED	100%		
TROUT CREEK (Tributary of Porcupine Creek)					
1	1.3	This BLM parcel is in the NE ¹ / ₄ , Section 20, T. 58N., R. 93 W., and ends in the NE ¹ / ₄ , Section 19, T. 58 W., R. 93 W.	Adjacent to eligible BLM parcel on mainstem of Porcupine Creek	Outstandingly Remarkable Values include scenic, recreation and cultural. Riparian width is approximately 12 foot. Wyoming Game and Fish Class 3 Fishery.	Wild
		TOTAL LENGTH OF WATERWAY/SEGMENT REVIEWED	1.3		
		% BLM JURISDICTION OF WATERWAY/SEGMENT REVIEWED	100%		

ATTACHMENT C

**RESULTS OF THE WILD AND SCENIC RIVERS SUITABILITY REVIEW
OF BLM-ADMINISTERED PUBLIC LANDS ALONG THE
CLARKS FORK OF THE YELLOWSTONE RIVER
AND
PORCUPINE CREEK AND RELATED TRIBUTARIES**

AUGUST 15, 1993

RESULTS OF THE WILD AND SCENIC RIVERS SUITABILITY REVIEW OF BLM-ADMINISTERED PUBLIC LANDS ALONG THE CLARKS FORK OF THE YELLOWSTONE RIVER AND PORCUPINE CREEK AND RELATED TRIBUTARIES

August 15, 1993

The preliminary non-suitable determination for the Clarks Fork of the Yellowstone public land parcels is based primarily on the potential conflict with development of historical and existing water rights, opposition by the State of Wyoming to including more of the Clarks Fork of the Yellowstone in the VISRS, and the conflict with State of Wyoming contingencies in concurring with the Wild and Scenic designation of the upper reach of the Clarks Fork of the Yellowstone within the Shoshone National Forest. The State of Wyoming is strongly opposed to designation of any more of the Clarks Fork of the Yellowstone as a Wild and Scenic River, and feels designation would diminish or jeopardize Wyoming's ability to develop its share of water under the Yellowstone Compact. The State of Wyoming further indicates it has no interest in, sharing in any administration or costs if designation were to occur.

The preliminary suitable determination for the BLM-administered lands along Porcupine Creek and its associated tributaries is based on the uniqueness of the resource and its significance to the region, resulting in a worthy addition to the Wild and Scenic system; limited land ownership conflicts; and the absence of potential use conflicts. The suitable BLM-administered public lands along Porcupine Creek, Deer Creek, Trout Creek and oasis Spring Creek are the identical public lands determined eligible in this process.

Further description of the preliminary non-suitable and suitable parcels of public land are described in Table C1.

Table C1. Wild and Scenic Rivers Suitability Review, Cody Resource Area, August 15, 1993		
RIVER/STREAM (WATERWAY) REVIEWED	DETERMINATION	RATIONALE
Clarks Fork of the Yellowstone River	Not Suitable	Potential Use Conflicts, Adverse affect to historical and existing water rights and diminished values of State's water rights and ability to control them under WSR designation. Conflict with State of Wyoming contingency for concurrence in designation of the upper reach of the Clarks Fork within the Shoshone National Forest
Porcupine Creek	Suitable	Worthy addition to WSRS, Limited Land Ownership Conflict, No Potential Use Conflicts
Trout Creek	Suitable	Worthy addition to WSRS, No Land Ownership Conflict, No Potential Use Conflicts
Oasis Spring Creek	Suitable	Worthy addition to WSRS. No Land Ownership Conflict, No Potential Use Conflicts
Deer Creek	Suitable	Worthy addition to WSRS, No Land Ownership Conflict, No Potential Use Conflicts

CLARKS FORK OF THE YELLOWSTONE RIVER

August 18, 1993

Free Flowing Characteristics

The reviewed section of the Clarks Fork of the Yellowstone River is free flowing.

Length

The reviewed segment is 7.4 miles long including 4.9 miles of public land. The longest public land parcel is about 3.8 miles and the shortest is about 0.3 miles.

Segment Identification

The reviewed segment starts at the Shoshone National Forest boundary and stops approximately 3/4 mile upstream of Paint Creek. This segment is utilized for recreational float boating and along with the numerous public land parcels; presents fishing and other recreational opportunities. The BLM-administered public lands within this section of the river are determined to meet the wild and scenic rivers eligibility criteria.

Below the reviewed segment the character of the Clarks Fork of the Yellowstone River changes to an agriculture/ranching area and the BLM-administered parcels below that point do not have the outstandingly remarkable values associated with the other public land parcels.

Classification

Within this reach, the public lands are undeveloped, and road access is limited. These lands are classified as scenic under the Wild and Scenic River Act (WSRA).

Outstandingly Remarkable Values on BLM-administered Public Lands

SCENIC VALUES: Scenery along the upper reach of the Clarks Fork is dramatic as the river exits the Clarks Fork Canyon. Here, the river is in an area of steep uplifted rocks highlighted by unusual “flatiron” ridges, with vegetation in various shapes and densities. The colors of red, tan and gray rocks contrast with the light green or tan grasses and dark green conifers. Gradually, the dramatic topographic relief lessens and the river becomes characterized by open spaces and low tan colored terraces and bluffs. These lands are classified as Class II in the BLM visual resource management (VRM) system.

Under the BLM’s Visual Resource Inventory Handbook - 8410-1 the area is rated Scenic Quality A, using the foreground-middleground zone. This zone/viewshed is the area that can be seen from the river for a distance of 3 to 5 miles. High vertical relief is expressed in

prominent cliffs, and massive rock outcrops. The vegetation offers a variety of types. Of particular interest is the form and texture of the riparian vegetation, especially the juniper krummholz along the river. The water is clear and clean, offering flat and cascading white water. Along the river and within the viewshed, rich color combinations offer pleasing contrasts provided by rocks, vegetation and water. The influence of adjacent scenery, especially Bald Ridge and the Beartooth Plateau, greatly enhances the visual experience. The Clarks Fork of the Yellowstone River is distinctive to the area, however it is not rare within the region. Evidence of man (cultural modification) adds little or no visual variety and it is secondary to the overall viewshed. **Scenic values are determined to be outstandingly remarkable.**

GEOLOGIC VALUES: In the upper reach of the segment (on the BLM-administered public land downstream from the forest boundary) spectacular rock formations border the river. To the north and south, the walls of the Clarks Fork Canyon rise more than 4,000 feet above the river. At several roadside stops along the river, and at other intervals throughout the river segment, “drape folding,” glacial geology, and geomorphic processes are impressively arrayed.

Drape Folds: According to Rohrer and others (1975) the plunging fold at the mouth of the canyon is a drape or forced fold. A core of Precambrian granite, visible from the river, was uplifted and rotated in the center of the canyon, causing a thick sequence of younger Paleozoic rocks to fold or “drape” over these granites. The effect of the drape folding is that Paleozoic age sedimentary rocks have been pushed upward and are gently dipping or flat-lying above the granite block. However, east of this granite block, the sedimentary rocks plunge downward at the mouth of the canyon in layers that are vertical or slightly overturned (i.e., upside down and dipping back toward the canyon). At other locations, in and near the Bighorn Basin, drape folds can be observed, especially west of Cody at Buffalo Bill Reservoir, at Sheep Canyon in the Bighorn Mountains, and at the southern end of the Wind River Canyon. However, the folds of the Clarks Fork canyon surpass these other examples.

In beginning an article that reinterprets the structural geology of the Clarks Fork Canyon area, Donald U. Wise (1983) describes how most geologists react to this area”

“The great anticlinal fold at the mouth of the Clarks Fork Canyon in the eastern Beartooth Range is a prize stop for most geologic field trips through the region. The quality of the exposure is attested by its allocation of a full page photo in Marland Billings’ well known textbook on structural geology (1972, 3rd edition, p. 59).”

Glacial Geology: Starting at the downstream end of the river segment at the Clarks Fork bridge, an extensive boulder field occupies the river valley and adjacent lands to within a short distance of the canyon mouth. The boulder field is thought to have resulted from the bursting of a morainal or glacial dam either at the mouth of the canyon or somewhere upstream. A breached terminal moraine just beyond the mouth of the canyon (on private

land) marks the furthest downstream advance of a late Bull Lake age glacier on the Clarks Fork River. At a roadside stop near the river, a patch of morainal debris is plastered on the hillside north of the road. Rohrer and others (1975) speculate that if the morainal remnants represent the breached dam that disengorged the boulders seen downstream, then the lake could have been as much as 500 feet deep and extended 8 miles upstream.

Geomorphic History of the Bighorn Basin: The Beartooth Plateau is a prominent high mountain area immediately north of the river. As viewed from BLM-administered public lands downstream from the mouth of the canyon, the plateau is characterized by the relative flatness of its summit. The summit was gently planed by erosion beginning at a time when the Rocky Mountains were buried by sediments. Starting about 7 million years ago, this erosional period is known as the exhumation of the Rockies. At elevations greater than 10,000 feet, these surfaces represent an erosional remnant of the “floor” of the Bighorn Basin. As such, the plateau is a spectacular reminder of the great volumes of sediments that were removed from the Rockies during a relatively short period of time. In alluding to the Miocene and Pliocene exhumation, John McPhee titled his popular book about Wyoming geology, Rising from the Plains. The reference is to the “Gangplank” west of Cheyenne on which a remnant of Miocene-age sediments, characteristic of the Great Plains, climbs to the top of the Laramie Range. The erosional remnant at the top of the Beartooth Plateau is, equally, a visual reminder of the Rocky Mountain exhumation

References Cited:

- Rohrer, Bullock, Cooper, and Schowalter, 1975, Road Log - Cody to Clarks Fork Canyon: Wyoming Geol. Assoc. 27th Ann. Field Conf.
- Wise, D. U., 1983, Overprinting of Laramide Structural Grains in the Clarks Fork Canyon Area and Eastern Beartooth Mountains of Wyoming: Wyoming Geol. Assoc. 34th Ann. Field Conf.

Geologic Values are determined to be outstandingly remarkable.

HISTORIC VALUES: The public lands in the middle segment of the river may be bisected by the Chief Joseph/Nez Perce (Nee-Me-Poo), National Historic Trail. Some evidence suggests that the trail may have entered the river corridor at Paint Creek (T.56N., R.103W. section 12) and continued along the river through this segment.

The significance of this portion of the trail is detailed in The Nez Perce (Nee-Me-Poo) National Historic Trail, Comprehensive Plan, USDA Forest Service, Northern Region, Approved: October 5, 1990.

“General Howard did not immediately follow the Nez Perce through Yellowstone Park but ordered Captain S.G. Fisher and his Bannock Indian scouts to follow them . . . The strategy was for Colonel Samuel Sturgis and Major Hart to block escape route into the plains while Howard’s force

pushed in from the Park. The Seventh Cavalry under Sturgis was anxious to regain its reputation which suffered during Custer's defeat. In his haste, Sturgis misjudged the Nez Perce's intention and ordered his troops to leave their position on the Clarks Fork and proceed toward the Shoshone. His decision allowed the Indians to escape the "Absaroka Blockade."...As the Nez Perce exited the rugged Absaroka Range, their thoughts and efforts focused on the long ride across the central Montana prairies to Canada. They knew the Crows would not claim them as friends and the Army would do anything in its power to stop their final flight toward Canada. When Sturgis realized the Indians had started down the Clarks Fork, he hurried to join Howard's forces who had just crossed Yellowstone National Park, hoping to find the Nez Perce stalled ahead of them. Both commanders, marveling at the escape of the "blockade," realized their shrinking opportunities to catch the Indians before they crossed into Canada."

Historic values are determined not to be outstandingly remarkable, because the location of the trail cannot be confirmed, or is there any physical evidence of the trail remaining.

CULTURAL VALUES: On public lands throughout the reviewed segment, there are important cultural resource sites adjacent to the river, including stone rings, that may be eligible for listing on the National Register of Historic Places. Because of the geographic location of the river and the Chinook winds which kept the area free of snow, this area was important to Native Americans during winter occupancy. **Cultural values are determined not to be outstandingly remarkable, because of the presence of similar attributes throughout the Bighorn Basin.**

RECREATIONAL VALUES: The public land parcels in this segment of the Clarks Fork of the Yellowstone River contain recreation opportunities for fishing, hunting, floating, picnicking, historical/geologic investigations, camping and scenic viewing. This segment of the river receives the majority of dispersed recreational/motorized use, as compared to the Shoshone National Forest administered portion of the river. The regional recreating public visit from the communities of Cody, Powell, Red Lodge and Billings. The Cody RMP has designated the Clarks of the Yellowstone as part of the Rivers Special Recreation Management Area. **Recreational values are determined not to be outstandingly remarkable, because of the presence of similar attributes throughout the Bighorn Basin**

FISH AND WILDLIFE VALUES: Wildlife habitat on the upper reaches of public land within the segment include a significant peregrine falcon recovery area, riverine habitat for waterfowl and shorebirds, and crucial winter range for Rocky Mountain goats, mule deer, and elk. The Wyoming Game and Fish Department trout stream classification is Class 1 on the first BLM parcel downstream from the Forest Service boundary. Downstream from the upper parcel, the stream provides riverine habitat for waterfowl and shorebirds. According to the Wyoming Game and Fish Department, this downstream reach is a Class 3 trout stream.

Fish and Wildlife values are determined not to be outstandingly remarkable, because of the presence of similar attributes throughout the Bighorn Basin.

Determination of Suitability

General

This section contains a discussion of the eight suitability factors in relationship to the 4.9 miles of BLM-administered public land occurring within the 7.4 miles of river identified in the segment identification section.

Suitability Factors

The section provides the basis to determine the suitability of the river for designation as a Wild and Scenic River (WSR). If a river segment flowing through public lands would be a suitable addition to the national system without the remainder of the river, appropriate protective management prescriptions would be developed to preserve the outstandingly remarkable values and classification identified for the river. This would probably be accomplished through amendment of the RMP. At the point in time that a river stretch is determined to be suitable, a public land order will be initiated providing interim protection for a specified period of years.

A synopsis of the eight suitability factors and the evaluation and analysis of suitability for potential designation as a WSR follow:

CHARACTERISTICS THAT DO OR DO NOT MAKE THE BLM-ADMINISTERED PUBLIC LANDS A WORTHY ADDITION TO THE NATIONAL WILD AND SCENIC RIVERS SYSTEM.

As discussed in the outstandingly remarkable analysis section, this section of the river possesses outstanding scenic attributes and is unique geologically. The presence of several small rock placements for fish habitat along this stretch does distract from the scenic quality of the area immediately adjacent to the river, although the main scenic attraction is associated with upstream topographic relief adjacent to upstream sections of the river.

CURRENT STATUS OF LANDOWNERSHIP, (INCLUDING MINERAL OWNERSHIP) AND LAND AND RESOURCE USES IN THE AREA, INCLUDING THE AMOUNT OF PRIVATE LAND INVOLVED AND ANY ASSOCIATED OR INCOMPATIBLE LAND USES.

The reviewed portion of the Clarks Fork of the Yellowstone River is comprised of four distinct parcels of public land within a 7.4 mile long segment. This 4.9 miles of public land parcels ranges in length from 0.3 miles to 3.8 miles. The first parcel immediately below the Forest Service boundary is 0.3 miles in length, followed by 1.7 miles of private land.

Following this section, and prior to entering the main 3.8 mile long public land parcel, there are parcels of public land 0.3 and 0.5 miles in length, as well as non-federal land parcels of 0.3 and 0.5 miles in length. The upper reach prior to entering the main 3.2 mile long block of public land is approximately 30% public land and 70% private land.

REASONABLY FORESEEABLE POTENTIAL USE OF THE BLM-ADMINISTERED PUBLIC LANDS AND RELATED WATERS WHICH WOULD BE ENHANCED, FORECLOSED, OR CURTAILED IF THE AREA WERE INCLUDED IN THE NATIONAL WILD AND SCENIC RIVERS SYSTEM, AND THE VALUES WHICH COULD BE FORECLOSED OR DIMINISHED IF THE BLM-ADMINISTERED PUBLIC LANDS ARE NOT PROTECTED AS PART OF THE SYSTEM.

An interstate compact between Wyoming and Montana currently allocates 60% of the water within the Clarks Fork of the Yellowstone to the State of Wyoming. During negotiations resulting in designation of the portion of the river on USFS-administered lands as a Wild and Scenic River, the state of Wyoming supported the upstream designation with the understanding the section of river below the Forest would remain available for development of water resources. The State of Wyoming considers a dam near the terminal end of the section of the Clarks Fork being reviewed in this document as the most viable method of developing and utilizing this water allocation.

The Act designating the upper stretch as a Wild and Scenic River contains language indicating “Designation of a segment of the Clarks Fork . . . shall not be utilized . . . as a basis to prohibit the development . . . of any water impoundment . . . located entirely downstream from the segment of the river . . . “ The State feels that the above language in the Act specifically accommodates development of a reservoir and further notes that the lower limit of the existing Clarks Fork Wild and Scenic River was adjusted to facilitate a potential impoundment.

The public lands within this section of river are considered eligible because of scenic and geologic attributes. As previously indicated, the scenic quality of the area is associated with upland topographic relief outside the immediate environs of the river. Neither this scenic quality or geologic significance would be diminished as a result of not designating this section of river as Wild and Scenic. Construction of a dam and the associated reservoir would change the area in immediate proximity to the river.

PUBLIC, STATE, LOCAL, TRIBAL, OR FEDERAL INTEREST IN DESIGNATION OR THE NONDESIGNATION OF ANY PART OR ALL OF THE WATERWAY INVOLVED, INCLUDING THE EXTENT TO WHICH THE ADMINISTRATION OF THE WATERWAY, INCLUDING THE COSTS THEREOF, MAY BE SHARED BY STATE, LOCAL, OR OTHER AGENCIES AND INDIVIDUALS.

The United States Department of Interior, Bureau of Mines, indicates the areas adjacent to the Clarks Fork of the Yellowstone have occurrences of numerous mineral resources, and further indicate depending on the configuration of any associated withdrawal, may impact mineral development.

Because of the loss of the opportunity to develop water associated with the Yellowstone Compact, the State of Wyoming “strongly opposes” any further Wild and Scenic designation downstream of the Shoshone National Forest.

Correspondence has also been received from the Wyoming Water Development Commission opposing the designation of this river as a WSR, because it would preclude any opportunity for future development of water resources.

The Wyoming Game and Fish Department has voiced concerns about maintaining ability to do riparian habitat management adjacent to the river, but has not indicated opposition or support for designation.

There is no known interest, by any entity, in sharing the cost of administering the river as a WSR. The State of Wyoming has specifically indicated it has “no interest in seeing the Clarks Fork River on BLM land designated, nor will Wyoming share in any administration or costs if designation occurs.”

ESTIMATED COST OF ACQUIRING NECESSARY LANDS AND INTEREST IN LANDS AND OF ADMINISTERING THE AREA IF IT IS ADDED TO THE SYSTEM. SECTION 6 OF THE WSRA OUTLINES POLICIES AND LIMITATIONS OF ACQUIRING LANDS OR INTERESTS IN LAND BY DONATION, EXCHANGE, CONSENT OF OWNERS, EASEMENT, TRANSFER, ASSIGNMENT OF RIGHTS, OR CONDEMNATION WITHIN AND OUTSIDE ESTABLISHED RIVER BOUNDARIES.

As previously indicated, approximately 70% of the upper section of the analyzed portion of the river is private land. Under existing ownership, it is assumed cooperative management in concert with the WSRA would be possible. Consequently, acquisition of this property is not deemed necessary to effectively manage the area as a WSR. Because of this large degree of private land, and no interest in acquiring the property, estimates have not been prepared indicating the cost of federal acquisition of the involved private property. This area does include a residence and several associated ranch buildings which could present a management problem for the Bureau if the property were ever acquired.

ABILITY OF THE BLM TO MANAGE AND/OR PROTECT THE BLM-ADMINISTERED PUBLIC LANDS AS A WSR OR OTHER MECHANISMS (EXISTING OR POTENTIAL) TO PROTECT IDENTIFIED VALUES OTHER THAN WSR DESIGNATION.

A cooperative management plan would be needed among private landowners and the BLM to appropriately manage the upper segment which is 70% private land. The lower 3.8 miles of river is all BLM-administered public land and could be managed without need for cooperative management. The river, if designated could be managed by the BLM, or by the USFS as an extension of the existing Clarks Fork of the Yellowstone WSR.

HISTORICAL OR EXISTING RIGHTS WHICH WOULD BE ADVERSELY AFFECTED. IN THE SUITABILITY ANALYSIS, ADEQUATE CONSIDERATION WILL BE GIVEN TO RIGHTS HELD BY OTHER LANDOWNERS AND APPLICANTS, LESSEES, CLAIMANTS OR AUTHORIZED USERS OF THE BLM-ADMINISTERED PUBLIC LANDS INVOLVED.

Designation of this section of the Clarks Fork of the Yellowstone could possibly infringe upon the ability of the state of Wyoming to exercise the Wyoming/Montana water compact which allocates 60% of the water in the river to Wyoming. The State of Wyoming views a proposed dam site within the section of river being analyzed, as the most viable option allowing development of this water. Infringement of other potential future land uses in the corridor; i.e., grazing privileges, mining claims (oil & gas), and rights-of-way, may occur to some degree. Wild and scenic characteristics, now present in the river corridor, would be protected from alteration resulting from future land uses and development.

OTHER ISSUES AND CONCERNS IF ANY.

No other issues or concerns have been identified.

SUMMARY

The Clarks Fork of the Yellowstone is unsuitable for designation as a WSR under authority of the WSRA. This determination is based primarily on the potential conflict with development of water resources, and a conflict with previous understandings between the Governor of the State of Wyoming and the Federal Government concerning designation of the existing Clarks Fork of the Yellowstone WSR.

PORCUPINE CREEK AND TRIBUTARIES OF PORCUPINE CREEK

August 18, 1993

Free Flowing Characteristics

The reviewed segment of Porcupine Creek and associated tributaries are free flowing.

Segment Identification

The reviewed segment of Porcupine Creek is 10.2 miles long. It begins at the Bighorn National Forest Boundary and ends at the Montana State Line. Within this waterway

segment, the creek flows through three parcels of BLM-administered public land. The distance the creek flows through these parcels ranges from 0.6 miles through the smallest parcel to 7.9 miles through the largest parcel. The total length of waterway flowing through the four BLM land parcels is 9.7 miles (95% of the total waterway segment reviewed). Each of these BLM-administered public land parcels have been determined to meet the wild and scenic rivers eligibility criteria.

Deer Creek, Oasis Spring Creek, and Trout Creek are tributaries to Porcupine Creek. The segments reviewed along these waterways are, respectively, 1.3 miles, 2.4 miles and 0.9 miles long. 100% of these waterway segments are on BLM-administered public land. Each tributary segment reviewed initiates at its junction with the main stem of Porcupine Creek and continues until it reaches private land or, as in the case of Trout Creek, it reaches the Montana State line. Each of the BLM-administered public land parcels along these tributaries has been determined to meet the wild and scenic rivers eligibility criteria.

Classification

The public lands within the reviewed segment of Porcupine Creek, from the Bighorn National Forest to T. 57 N., R. 93 W., Section 4, SW¹/₄ are classified as wild under the Wild and Scenic River Act (WSRA). The lands are undeveloped, and road access is non-existent. From the above point, a road enters the canyon and parallels Porcupine Creek until the road leaves the creek/canyon at the mouth of Deer Creek. This portion of the segment is classified as scenic under the WSRA. From the mouth of Deer Creek to the Montana state line, the public lands along the remainder of Porcupine Creek are undeveloped and road access is non-existent. This portion of the Porcupine Creek segment is classified as wild under WSRA.

The eligible segment of Deer Creek is classified as scenic, starts in T. 58 N., R. 93 N. Section 21, SW¹/₄, and ends at Porcupine Creek. These public lands are undeveloped, but a primitive road parallels the creek the entire segment. The eligible segment of Oasis Spring Creek is classified as wild, and starts in T. 58 N., R. 93 W., Section 30, SW¹/₄, and ends at its intersection with Porcupine Creek. These public lands are undeveloped and no road access exists. The Trout Creek eligible segment is classified as wild, starts in T. 58 N., R. 93 W., Section 20, NE¹/₄, and ends at its intersection with porcupine Creek. These public lands are undeveloped and road access is non-existent.

Outstandingly Remarkable Values on BLM-administered Public Lands

SCENIC VALUES: Porcupine Creek flows for almost its entire length through the highly scenic Devil Canyon. The public lands within the canyon are characterized by massive rock walls, dropping vertically several hundred feet from the canyon rim to the creek. The stream has dense stands of riparian vegetation. Devil Canyon is one of a kind, as few canyons in the region have walls as high or as vertical, and few canyons are as undisturbed by the evidence of man. The BLM-administered lands containing the Porcupine Creek/Devil Canyon

segment are rated as Visual Resource Management (VRM) Class II. The canyons of Deer, Oasis Spring, and Trout Creeks are also rated as VRM Class II. A small area on the bench above the canyons of both Porcupine and Oasis Spring Creeks is rated as VRM Class III between Oasis Spring Creek canyon rim and the Montana State line.

Scenery along the BLM portion of Porcupine Creek is dramatic as the river cuts through Devil Canyon on its way to the Yellowtail Reservoir/Bighorn River. The red, tan and gray rocks contrast with the light green or tan grasses and with light to dark green riparian vegetation. Dramatic topographic relief is present throughout the segment and tributaries.

Under the BLM's Visual Resource Inventory Handbook - 8410- 1 the area is rated Scenic Quality A, using the foreground-middleground zone. This zone/viewshed is the area that can be seen from the river for a distance of 3 to 5 miles. The landform of the area is expressed through high vertical relief expressed in prominent cliffs, and massive rock outcrops. Because of the steepness of the canyon walls, the primary vegetative community is associated with the riparian area adjacent to Porcupine Creek. Of particular interest is the form and texture associated with the diversity of ages classes exhibited by the cottonwood trees and other woody vegetation along the river. The water is clear and clean, providing both flat and cascading white water. Along the river and within the viewshed, rich color combinations and contrasts are provided by the rocks, vegetation and water. The influence of adjacent scenery, especially the Bighorn Mountains, greatly enhances the visual experience. Evidence of man (cultural modification) adds little or no visual variety and is secondary to the overall viewshed. **Scenic values are determined to be outstandingly remarkable.**

RECREATIONAL VALUES: Fishing, hiking, nature study, photography, historical/geological investigations, camping, scenic viewing, and other primitive recreation opportunities are excellent. Because of the remoteness of the area, very little visitation of the canyon currently occurs; and the area remains as a pristine area providing exceptional primitive opportunities. A primitive "jeep road" parallels the creek in the canyon for about 3.3 miles. Because access is controlled on this road by a private land owner, the road has minimal use and limited impact on the primitive recreation use of the canyon. Continued visitation management in combination with preserving the unspoiled nature of Porcupine Creek and its tributaries, will ensure a continuing excellent semi-primitive, non-motorized recreation experience. **Recreation values are determined to be outstandingly remarkable.**

CULTURAL VALUES: There are several cultural resource sites located on public lands within Porcupine Creek and its tributary canyons, including open sites and rock shelters, that are listed on the National Register of Historic Places. Porcupine Creek and its tributaries are of interest to Native American groups, particularly because of the geographic relationship with the Medicine Wheel and Spirit Mountain. Physical evidence is available to show that this area and Porcupine Creek have been frequented by man and human occupation for close to 11,000 years. Several local Native Americans have expressed an ongoing interest in the

spiritual values of Porcupine Creek and surrounding environs. Cultural Values are determined to be outstandingly remarkable.

GEOLOGIC VALUES: Public lands within this segment of Devil Canyon possess opportunities to view and study three distinct zones in the Mississippian age Madison Limestone, including a zone that is characterized by cave formations. Similar opportunities exist along the west slope of the Bighorn Mountains and nearby Yellowtail Reservoir. **Geologic values are determined not to be outstandingly remarkable, because of the presence of similar attributes throughout the Bighorn Basin.**

FISH AND WILDLIFE VALUES: Public lands within this segment contain crucial winter range habitat for bighorn sheep and numerous raptor nests. The Wyoming Game and Fish Department classifies the segment as a Class 3 trout stream. The protected riparian area offers unique habitat for a variety of wildlife, without man-caused disturbance. The cliff habitat throughout the Porcupine Creek drainage offers excellent opportunity for birds of prey. **Fish and Wildlife values are determined not to be outstandingly remarkable, because of the presence of similar attributes throughout the Bighorn Basin.**

Determination of Suitability

General

This section contains a discussion of the eight suitability factors in relationship to the 9.7 miles of BLM-administered public land occurring within the 10.2 miles of river identified in the segment identification section.

Suitability Factors

This section provides the basis to determine the suitability of the river for designation as a Wild and Scenic River (WSR). If a river segment flowing through public lands would be a suitable addition to the national system without the remainder of the river, appropriate protective management prescriptions would be developed to preserve the outstandingly remarkable values and classification identified for the river. This would probably be accomplished through amendment of the RMP. At the point in time that a river stretch is determined to be suitable, a public land order will be initiated providing interim protection for a specified period of years.

A synopsis of the eight suitability factors and the evaluation and analysis of suitability for potential designation as a WSR follow:

CHARACTERISTICS THAT DO OR DO NOT MAKE THE BLM-ADMINISTERED PUBLIC LANDS A WORTHY ADDITION TO THE NATIONAL WILD AND SCENIC RIVERS SYSTEM.

As determined during the outstandingly remarkable value analysis for Porcupine Creek and its eligible tributaries, the scenic and recreational value of this river is very unique, particularly when compared to other rivers of this type in the region. The addition of the Porcupine Creek and its tributaries into the WSR system would provide a creditable addition.

The scenic qualities are extremely unique when viewed from a regional perspective, since few canyons in the region have walls as high or as vertical, and remain in such an undisturbed pristine condition.

CURRENT STATUS OF LANDOWNERSHIP, (INCLUDING MINERAL OWNERSHIP) AND LAND AND RESOURCE USES IN THE AREA, INCLUDING THE AMOUNT OF PRIVATE LAND INVOLVED AND ANY ASSOCIATED OR INCOMPATIBLE LAND USES.

With the exception of two small tracts of private land on Porcupine Creek encompassing a total of 0.5 miles, the remainder of Porcupine Creek and its eligible tributaries are public land administered by the BLM. This includes 9.7 miles on Porcupine Creek, 1.3 miles on Deer Creek, 2.4 miles on Oasis Spring Creek and 0.9 miles on Trout Creek, for a total of 14.3 miles. This abundance of public lands presents minimal land ownership conflict and would ensure effective manageability if the river is designated as a WSR. No known conflicts have been identified on the section of river under analysis in this document. Potential conflicts may exist upstream on lands administered by the Forest Service, or downstream on Crow Tribal Lands, but that is outside the scope of this document. The Bureau of Indian Affairs, representing the Crow Tribe, has indicated concern with potential conflict with Crow Tribal Lands in Montana as a result of this analysis.

REASONABLY FORESEEABLE POTENTIAL USE OF THE BLM-ADMINISTERED PUBLIC LANDS AND RELATED WATERS WHICH WOULD BE ENHANCED, FORECLOSED, OR CURTAILED IF THE AREA WERE INCLUDED IN THE NATIONAL WILD AND SCENIC RIVERS SYSTEM, AND THE VALUES WHICH COULD BE FORECLOSED OR DIMINISHED IF THE BLM-ADMINISTERED PUBLIC LANDS ARE NOT PROTECTED AS PART OF THE SYSTEM.

There are no known potential conflicts which would result from inclusion of Porcupine Creek and its associated tributaries in the WSR system. There are also no known projects or proposals which would be foreclosed or diminished if the area were not protected under the WSR system. Of course, the designation would provide congressional protection to the area.

PUBLIC, STATE, LOCAL, TRIBAL, OR FEDERAL INTEREST IN DESIGNATION OR THE NONDESIGNATION OF ANY PART OR ALL OF THE WATERWAY INVOLVED, INCLUDING THE EXTENT TO WHICH THE ADMINISTRATION OF THE WATERWAY, INCLUDING THE COSTS THEREOF, MAY BE SHARED BY STATE, LOCAL, OR OTHER AGENCIES AND INDIVIDUALS.

The United States Department of Interior, Bureau of Mines, indicates the areas adjacent to Porcupine Creek and its associated tributaries have occurrences of numerous mineral resources, and further indicate depending on the configuration of any associated withdrawal, may impact mineral development.

The United States Department of Interior, Bureau of Indian Affairs, indicates they want to ensure continued involvement of the BIA and the Crow Tribe during any analysis of this section of river for Wild and Scenic values.

Correspondence has also been received from the Wyoming Water Development Commission opposing the designation of this river as a WSR, since it would mean more federal control of water resources.

The Wyoming Game and Fish Department has voiced concerns about maintaining the ability to do riparian habitat management adjacent to the river, but has not indicated opposition or support for designation.

There is no known interest, by any entity, in sharing the cost of administering the river as a WSR.

ESTIMATED COST OF ACQUIRING NECESSARY LANDS AND INTEREST IN LANDS AND OF ADMINISTERING THE AREA IF IT IS ADDED TO THE SYSTEM. SECTION 6 OF THE WSRA OUTLINES POLICIES AND LIMITATIONS OF ACQUIRING LANDS OR INTERESTS IN LAND BY DONATION, EXCHANGE, CONSENT OF OWNERS, EASEMENT, TRANSFER, ASSIGNMENT OF RIGHTS, OR CONDEMNATION WITHIN AND OUTSIDE ESTABLISHED RIVER BOUNDARIES.

As previously indicated, the majority of the analyzed portion of Porcupine Creek and its tributaries is public land. Acquisition of the existing 0.5 miles of private property is not deemed necessary to effectively manage the area as a WSR. Because of this large degree of public land, and no need to acquire the property to administer the river, estimates have not been prepared indicating the cost of federal acquisition of the involved private property.

ABILITY OF THE BLM TO MANAGE AND/OR PROTECT THE BLM-ADMINISTERED PUBLIC LANDS AS A WSR OR OTHER MECHANISMS (EXISTING OR POTENTIAL) TO PROTECT IDENTIFIED VALUES OTHER THAN WSR DESIGNATION.

Porcupine Creek and its associated tributaries, if designated a WSR could be effectively managed by the BLM. If ongoing studies would determine portions of the creek administered by the USFS, are also suitable, the entire river could be effectively managed by either agency or jointly by both.

HISTORICAL OR EXISTING RIGHTS WHICH WOULD BE ADVERSELY AFFECTED. IN THE SUITABILITY ANALYSIS, ADEQUATE CONSIDERATION WILL BE GIVEN TO RIGHTS HELD BY OTHER LANDOWNERS AND APPLICANTS, LESSEES, CLAIMANTS OR AUTHORIZED USERS OF THE BLM-ADMINISTERED PUBLIC LANDS INVOLVED.

There are no known historical or existing rights which would be adversely effected by designation of Porcupine Creek or its associated tributaries. There is existing livestock trailing and a primitive access road occurring in the scenic section of the river, and it is not anticipated that the designation would adversely impact either of these ongoing uses. Infringement of other potential future land uses in the corridor; i.e., grazing privileges, mining claims, and rights-of-way, may occur to some degree. Wild and scenic characteristics now present in the river corridor would be protected from alteration resulting from future land uses and development.

OTHER ISSUES AND CONCERNS IF ANY.

No other issues or concerns have been identified.

SUMMARY

The public lands along Porcupine Creek and its associated tributaries, determined eligible in this process, are also suitable for WSR designation under the WSRA. This determination is based on the uniqueness of the resource and its significance to the region, resulting in a worthy addition to the WSR system; limited land ownership conflicts; and the absence of potential use conflicts.

ATTACHMENT D

**MANAGEMENT OF BLM-ADMINISTERED PUBLIC LANDS
WITHIN THE CODY RESOURCE MANAGEMENT PLAN
PLANNING AREA THAT MEET THE WILD AND SCENIC RIVERS
SUITABILITY FACTORS**

JANUARY 23, 2003

MANAGEMENT OF BLM-ADMINISTERED PUBLIC LANDS WITHIN THE CODY RESOURCE MANAGEMENT PLAN PLANNING AREA THAT MEET THE WILD AND SCENIC RIVERS SUITABILITY FACTORS

January 23, 2003

The interim management prescriptions described in this document are meant to provide temporary or interim protection of the Wild and Scenic Rivers (WSR) values on suitable waterway areas prior to the completion of the Cody Resource Management Plan (RMP) Revision. Included are management objectives, management actions, and appropriate allocations of land and resource uses that will maintain the outstandingly remarkable values and tentative classifications identified for Porcupine Creek and the Deer Creek, Oasis Spring Creek, and Trout Creek tributaries to Porcupine Creek. Pursuant to the Wild and Scenic Rivers Act (WSRA) of 1968, as amended, until the public reviews are completed and final decisions are made on the WSR eligibility and suitability determinations, no uses of the reviewed Bureau of Land Management (BLM)-administered public land surfaces (public lands) will be authorized which could impair any outstandingly remarkable values they may contain, or would otherwise reduce or destroy their potential eligibility classification or suitability for consideration for inclusion in the National Wild and Scenic Rivers System (NWSRS).

I. WILD AND SCENIC RIVERS REVIEW PROCESS

In conducting the WSR review process, application of the WSR eligibility criteria, determining the tentative WSR classifications, and the application of the WSR suitability factors focused on the public lands within a one-half mile wide corridor along the reviewed waterway segment (i.e., approximately one quarter mile wide along each bank of the waterway along the length of the review segment). The public lands within and adjacent to this corridor will be considered in future site specific, activity or management implementation planning to fulfill the stated management objective. Following is a summary of the outcome of the WSR review for the waterway segments that were found to be eligible within the Cody RMP planning area.

The public lands along the reviewed segment of Porcupine Creek and the Deer Creek, Oasis Spring Creek, and Trout Creek tributaries to Porcupine Creek were found to meet the WSR suitability factors to be given further consideration for inclusion in the NWSRS. The public lands along the reviewed segments of the Clarks Fork of the Yellowstone River, although found to be eligible, do not meet the WSR suitability factors. This determination was based upon the potential conflict with development of historical and existing water rights, opposition by the State of Wyoming to including more of the Clarks Fork of the Yellowstone River in the NWSRS, and the conflict with State of Wyoming contingencies in concurring with the WSR designation of the upper reaches of the Clarks Fork of the Yellowstone River within the Shoshone National Forest.

II. MANAGEMENT OBJECTIVE

The management objective for the public lands that meet the WSR suitability factors is to maintain or enhance their outstandingly remarkable values and WSR classification, until Congress considers them for possible designation. The interim management prescriptions for the suitable waterways in the Cody RMP planning area apply only to the waterway corridor which extends the length of the identified waterway segment and includes the waterway area, its immediate environment, and an average of no more than one quarter mile (1,320 feet) from the ordinary high water mark on both sides of the waterway. This boundary is preliminary and, by Section 3(b) of the WSRA, may vary on either side of the waterway and be narrower or wider as long as the total corridor width averages no more than 320 acres (half of a mile or 2,640 feet wide) per river mile, and can be delineated by legally identifiable lines (e.g., survey or property lines) or some form of on-the-ground physical feature (e.g., canyon rims, roads, etc.) which provide the basis for protecting the waterway's outstandingly remarkable values. Since the suitable waterways within the Cody RMP planning area (Porcupine Creek and its related tributaries) are located within deep canyons, which are capable of both supporting and protecting the outstandingly remarkable values, the corridor boundary is delineated by the canyon rims, except in cases where "rim-to-rim" exceeds an average of half a mile. Final boundary delineation will be made if and when Congress decides to designate the waterway segments under review.

Porcupine Creek and Associated Tributaries (Trout Creek, Oasis Spring Creek, and Deer Creek)

Three public land parcels along Porcupine Creek (involving 9.7 miles of the creek), one public land parcel along Deer Creek (involving 1.3 miles of the creek), one public land parcel along Oasis Spring Creek (involving 2.4 miles of the creek), and one public land parcel along Trout Creek (involving 0.9 miles of the creek) were found to meet the WSR suitability factors to be given further consideration for inclusion in the NWSRS. Figure D1 is a map showing public lands involved while Figures D2 - D5 are pictures of certain sections of the suitable waterway segment. The public lands along 6.4 miles of Porcupine Creek, 2.4 miles of Oasis Spring Creek, and 0.9 miles of Trout Creek are tentatively classified as wild. The public lands along 3.3 miles of Porcupine Creek (upstream from the confluence with Deer Creek) and along 1.3 miles of Deer Creek are tentatively classified as scenic.

Interim Management for Wild Classification: Interim management practices for the three public land parcels along Porcupine Creek, one public land parcel along Oasis Spring Creek, and one public land parcel along Trout Creek meeting the wild classification will focus on maintaining or enhancing the outstandingly remarkable scenic, recreational, and cultural values and maintaining the relatively primitive, pristine, rugged, and unaltered character of the area. Allowable management practices might include construction of minor structures for such purposes as: improvement of fish and game habitat; grazing protection from fire, insects, or disease; and rehabilitation or stabilization of damaged resources, provided the area will remain natural appearing and the practices or structures are compatible and in harmony with the environment. Developments such as trail bridges, occasional fencing, natural-appearing water diversions, ditches, flow measurement or other water management devices, and similar facilities may be permitted if they are unobtrusive and do not have a significant direct and adverse effect on the natural character of the waterway area.

Historic and prehistoric resource sites will be identified, evaluated and protected in a manner compatible with the management objectives of the waterway and in accordance with applicable regulations and policies. Where appropriate, temporary cultural and paleontological activities (e.g., inventory, recordation, sampling, testing, stabilization, rehabilitation, and reconstruction) may be allowed on the public lands, if the outstandingly remarkable, waterway-related values are maintained.

The public lands will be closed to mineral leasing and related exploration and development activities. Existing mineral leases on these lands will be allowed to expire. The public lands will be closed to mineral location (e.g., filing of mining claims and related exploration and development) and the extraction of saleable minerals. A withdrawal from land disposal, mineral location, and entry under the land laws will be pursued. Valid existing rights (existing mining claims) will be recognized and subject to existing (e.g., 43 CFR 3809) regulations. Reasonable mining claim lease access will be permitted for valid existing claims and existing mineral leases. Any mineral activity will be conducted in a manner that minimizes surface disturbance, water sedimentation, pollution, and visual impairment. The public lands will be closed to recreational dredging for minerals, such as gold.

Hiking trails may be built, “by hand labor,” if there is a demand for them and they conform to the management objective for these lands. Some minor recreation developments (e.g., signs, kiosks) may be allowed on the public lands so long as there are no substantial adverse effects to the natural appearance of the lands within the waterway corridor and their immediate environment. Some larger-scale recreation developments (e.g., trail-head parking area) adjacent to but outside the waterway corridor may be allowed.

The public lands will be closed to land disposal actions. Exchanges of public lands “outside the corridor” could be considered for acquiring private or state lands within the corridor or between the public land parcels along the creek; however, public lands within the corridor will not be exchanged. If BLM obtains private lands along Porcupine Creek, those lands in the waterway corridor will be automatically subject to this interim management plan.

The public lands are within a right-of-way avoidance area where transmission lines, natural gas lines, water lines, etc., will be allowed only under certain circumstances. New transmission lines, natural gas lines, water lines, etc., are discouraged unless specifically authorized by other plans, orders, or laws. Where no reasonable alternate location exists, additional or new facilities should be restricted to existing rights-of-way. Where new rights-of-way are unavoidable, locations and construction techniques will be selected to minimize adverse effects on wild waterway area related values and fully evaluated during the site selection process.

No development of hydroelectric power facilities would be permitted. No new flood control dams, levees, or other works allowed in the channel or waterway corridor. All water supply dams and major diversions are prohibited. The natural appearance and essentially primitive character of the waterway area must be maintained. Federal agency groundwater development for range, wildlife, recreation or administrative facilities may be permitted if there are no adverse effects on outstandingly remarkable waterway-related values.

In general, the public lands will be closed to motorized and non-motorized vehicles. However, the Authorized Officer may allow motorized vehicle use on occasion for activities such as search and rescue; law enforcement; treatment of noxious weeds; fire suppression, presuppression, and prevention activities; or for other purposes as he deems appropriate. The existing planning decision in the Cody RMP is that vehicle use is limited to designated roads and trails. This decision has not been implemented on the ground. When the decision is implemented, consideration will be given to not designating two-track ways or single-track trails as open for use by motorized vehicles. Mountain bike use would be prohibited in those waterway corridors found suitable for wild classification. Recreationists will be required to "pack it out"; there will be no garbage collection facilities.

Management and suppression of fires within the waterway corridor will be carried out in a manner compatible with contiguous Federal lands. On wildfires, suppression methods will be used that minimize long-term impacts on the waterway and waterway area. Presuppression and prevention activities will be conducted in a manner that reflects management objectives for a wild waterway area. Prescribed fires may be used to maintain or restore ecological condition.

The public lands will be closed to commercial timber sales or harvesting. Cutting of trees may be allowed with written permission or in association with safety and environmental protection requirements (such as clearing trails, visitor safety, hazardous fuels reduction and fire suppression activities).

Agricultural use is restricted to a limited amount of domestic livestock grazing and trailing to the extent practiced prior to WSR eligibility/suitability determination. Range improvements will only be allowed if they are compatible with objectives for the wild waterway classification.

The public lands are open only to vegetation treatment or manipulation (other than prescribed fire) that will restore and/or enhance the outstandingly scenic, recreational, and/or cultural values and are compatible with a wild waterway area. Seeding would be limited only to native species that will restore natural systems. Undesirable and exotic species within the waterway corridor could be removed by hand or through backpack/hand application of appropriate herbicides. The Authorized Officer may allow motorized vehicle use for control of noxious weeds.

The public lands are managed under a Class II Visual Resource Management (VRM) classification except for a small area near Oasis Spring Creek that is Class III.

The control of forest and rangeland pests, diseases, and noxious weed infestations will be carried out in a manner compatible with the intent of the WSRA and management objectives of contiguous Federal lands.

The construction and maintenance of minor structures for the protection, conservation, rehabilitation or enhancement of fish and wildlife habitat are acceptable provided they do not affect the free-flowing characteristics of the waterway, are compatible with the waterway's classification, that the area remains natural in appearance, and the practices or structures harmonize with the surrounding environment.

Interim Management for Scenic Classification: Interim management practices for the one public land parcel along Porcupine Creek and the one public land parcel along Deer Creek meeting the scenic classification will focus on maintaining or enhancing the outstandingly remarkable scenic, recreational, and cultural values and the relatively unmodified character of the area in a near-natural setting. Some intrusions on the public lands involved may be allowed if they do not adversely affect maintaining the scenic classification.

Historic and prehistoric resource sites will be identified, evaluated and protected in a manner compatible with the management objectives of the waterway and in accordance with applicable regulations and policies. Where appropriate, temporary cultural and paleontological activities (e.g., inventory, recordation, sampling, testing, stabilization, rehabilitation, and reconstruction) may be allowed on the public lands, if the outstandingly remarkable, waterway-related values are maintained.

Subject to existing regulations (e.g., 43 CRF 3809) and any future regulations that the Secretary of the Interior may prescribe to protect the values of waterways included in the NWSRS, new mining claims, and mineral leases can be allowed. All mineral activity on federally administered land must be conducted in a manner that minimizes surface disturbance, water sedimentation and pollution, and visual impairment. Reasonable mining claim and mineral lease access will be permitted. Mining claims, subject to valid existing rights, within the scenic waterway area boundary can be patented only as to the mineral estate and not the surface estate (subject to proof of discovery prior to the effective date of designation).

Geophysical exploration will be limited to foot access and use of surface cables on the public lands unless the Authorized Officer allows use of motorized vehicles such as motorcycles, ATVs, trucks, or helicopters. Surface charges may be allowed if site-specific analyses determine no permanent adverse impacts would occur.

Recreation developments and wildlife and range improvements may be allowed on the public lands so long as there are no substantial adverse effects to the natural appearance of the lands within the waterway corridor and their immediate environment. Hiking trails may be built if there is a demand for them and they conform to the objective for the scenic classification.

The public lands will be closed to land disposal actions. Exchanges of public lands “outside the corridor” could be considered for acquiring private or state lands within the corridor or between the public land parcels along the creek; however, public lands within the corridor will not be exchanged.

The public lands are within a right-of-way avoidance area where transmission lines, natural gas lines, water lines, etc., will be allowed only under certain circumstances. New transmission lines, natural gas lines, water lines, etc., are discouraged unless specifically authorized by other plans, orders, or laws. Where no reasonable alternate location exists, additional or new facilities should be restricted to existing rights-of-way. Where new rights-of-way are unavoidable, locations and construction techniques will be selected to minimize adverse effects on scenic waterway area related values and fully evaluated during the site selection process.

No development of hydroelectric power facilities would be permitted. Flood control dams and levees would be prohibited. All water supply dams and major diversions are prohibited. Maintenance of existing facilities and construction of some new structures would be permitted provided that the area remains natural in appearance and the practices or structures harmonize with the surrounding environment.

Motorized and non-motorized vehicles are restricted to using designated roads and trails. However, the Authorized Officer may allow motorized vehicle use on other than designated roads and trails on occasion for activities such as search and rescue; law enforcement; treatment of noxious weeds; fire suppression, presuppression, and prevention activities; or for other purposes as is deemed appropriate. Mountain biking is allowed to the extent that no adverse effects occur.

Roads or trails may occasionally bridge the waterway area and short stretches of conspicuous or long stretches of inconspicuous and well-screened roads could be allowed. Maintenance of existing roads and trails, and any new roads or trails, will be based on the type of use for which the roads/trails are constructed and the type of use that will occur in the waterway area.

Management and suppression of fires within the waterway corridor will be carried out in a manner compatible with contiguous Federal lands. On wildfires, suppression methods will be used that minimize long-term impacts on the waterway and waterway area. Presuppression and prevention activities will be conducted in a manner that reflects management objectives for a scenic waterway area. Prescribed fires may be used to maintain or restore ecological condition.

The public lands will be closed to commercial timber sales or harvesting. Cutting of trees may be allowed with written permission or in association with safety and environmental protection requirements (such as clearing trails, visitor safety, hazardous fuels reduction and fire suppression activities).

Agricultural use is restricted to a limited amount of domestic livestock grazing and trailing to the extent practiced prior to WSR eligibility/suitability determination. Range improvements will only be allowed if they are compatible with objectives for the scenic waterway classification.

The public lands are open only to vegetation treatment or manipulation (other than prescribed fire) that will restore and/or enhance the outstandingly scenic, recreational, and/or cultural values and are compatible with a scenic waterway area. Seeding would be limited only to native species that will restore natural systems. Undesirable and exotic species within the waterway corridor could be removed by hand, through backpack/hand application of appropriate herbicides, or other means that remain compatible with the scenic classification. The Authorized Officer may allow motorized vehicle use for control of noxious weeds.

The public lands are managed under a Class II Visual Resource Management (VRM) classification.

The control of forest and rangeland pests, diseases, and noxious weed infestations will be carried out in a manner compatible with the intent of the WSRA and management objectives of contiguous Federal lands.

The construction and maintenance of minor structures for the protection, conservation, rehabilitation or enhancement of fish and wildlife habitat are acceptable provided they do not affect the free-flowing characteristics of the waterway, are compatible with the waterway's classification, that the area remains natural in appearance, and the practices or structures harmonize with the surrounding environment.



Figure D2. Overview of Porcupine Creek



Figure D3. Overview of Trout Creek



Figure D4. Porcupine Creek, looking upstream below confluence with Deer Creek



Figure D5. Porcupine Creek, looking downstream below confluence with Deer Creek

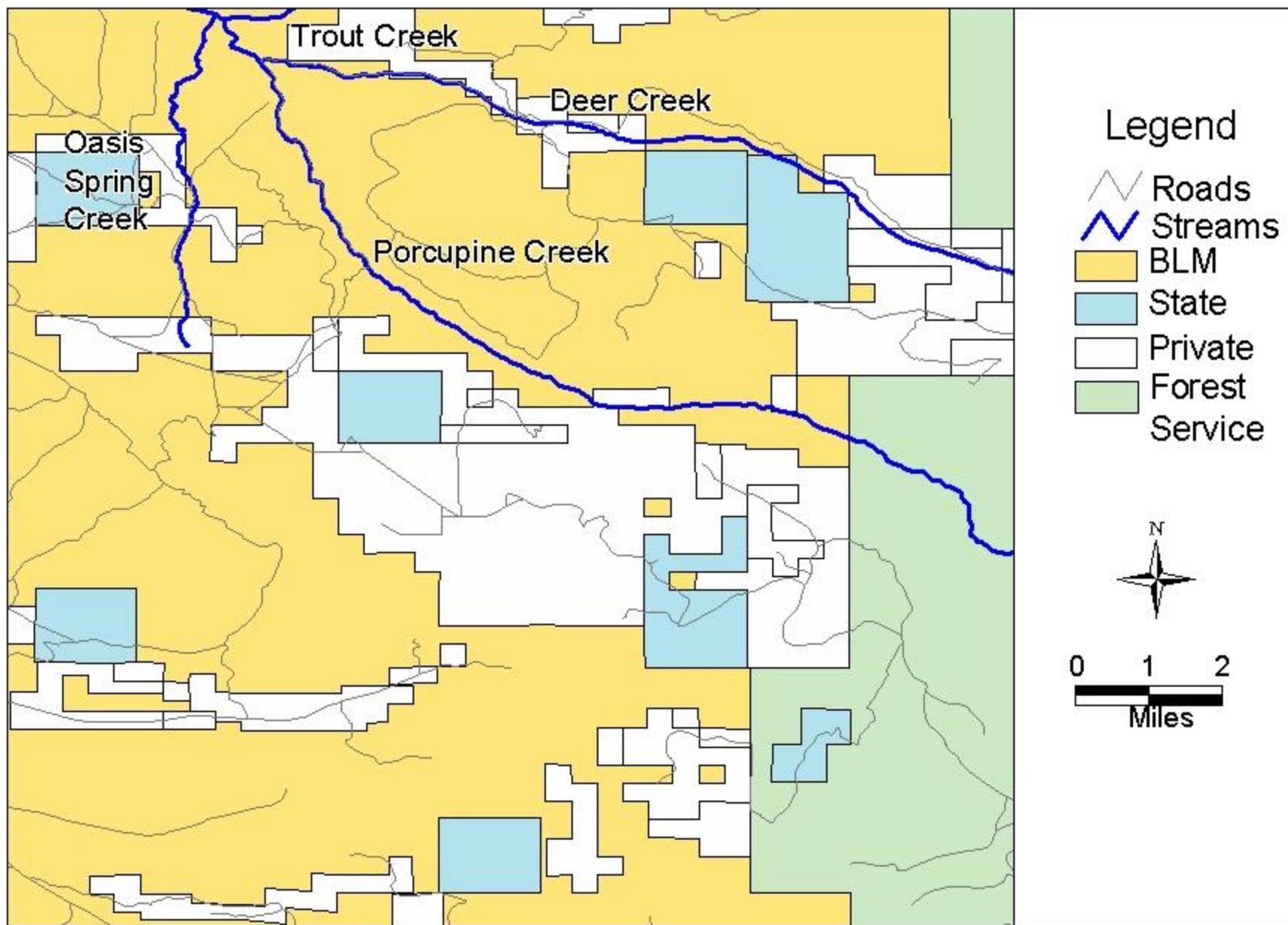


Figure D 1. Porcupine Creek and Associated Tributaries.