

FINAL REPORT

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

Prepared for

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

December 2, 2002

I. INTRODUCTION

As part of the planning effort for developing the Washakie Resource Management Plan (RMP), the Bureau of Land Management (BLM) planning team members initiated a Wild and Scenic Rivers (WSR) review of all BLM-administered public land surfaces (public lands) along waterways within the Washakie RMP planning area. This review was to determine if any of these public lands meet the WSR eligibility criteria and suitability factors, as identified in the Wild and Scenic Rivers Act (WSRA) of 1968, as amended.

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 designed to produce a mutual understanding of the WSR review process, and of the WSR eligibility criteria and suitability factors BLM uses in the process. This included agreement on necessary refinements of these criteria and factors, specific to Wyoming, and their statewide application on public lands. The eligibility criteria and suitability factors, including minor refinements agreed to at that time, are still consistent with the later-released BLM Manual Section 8351, WSR Policy and Program Direction for Identification, Evaluation, and Management (May 19, 1992, as amended on December 22, 1993).

The State of Wyoming has disagreed with giving any consideration to reviewing waterways that do not contain water year-round (i.e., intermittent and ephemeral waterways). The Wyoming BLM recognizes that position but is obligated to follow the BLM Manual Section 8351 requirement to include intermittent and ephemeral waterways in the review.

The BLM State Director's policy and guidance for conducting the BLM WSR review process in Wyoming was issued December 31, 1992. Minor editorial refinements to this policy and guidance were made on June 2, 1993, making the wording more consistent with BLM Manual Section 8351. The policy and guidance were further refined on February 12, 1998. This latest refinement primarily dealt with the need to conduct WSR reviews in light of the current RMP planning process. The current BLM direction for land use planning is that there will no longer be a "plan life" or defined cycle period for revising RMPs, and new RMP starts are essentially a thing of the past. Rather, RMPs are to be kept current on a frequent basis through regular maintenance and amendment actions. In this light, the initial WSR review was conducted separate from the RMP planning

process to expedite the review process, resulting in a stand-alone WSR review report that will support the land use plan update efforts currently underway in the Worland Field Office.

The results of this WSR review will be part of the Management Situation Analysis activities for the Washakie RMP modification effort (i.e., maintenance, amendment, or revision). The public will be given the opportunity to comment on these WSR review results during the normal scoping process and throughout the environmental analysis and planning process for the RMP planning effort. Reports and recommendations to Congress for inclusion of BLM administered public lands in the WSR National System will be based on waterways meeting established eligibility criteria and suitability factors; professional judgment; and broad participation via public education, sentiment, and involvement. Public involvement is required by law, regulations, and as deemed necessary by the BLM, Wyoming State Office, Division of Resource Policy and Management.

II. PROCESS

The definitions of the key terms, "waterway/river" and "public lands," as used in this WSR review process are defined below:

- ***Waterway/River:*** A flowing body of water or estuary or a section, portion, or tributary thereof, including rivers, streams, creeks, runs, krills, rills, and small lakes. For purposes of this review, a waterway is not required to have water in it year-round and may be ephemeral or intermittent.
- ***Public lands:*** BLM-administered public land surfaces 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 included in these reviews. Other references to segments, parcels, corridors, and waterways all represent public lands, which are the basis for this review.

The BLM WSR review in the Washakie RMP planning area includes a three-step process:

1. Determining if public lands along waterways meet the WSR 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 WSR suitability factors.
3. Determining how public lands which are determined suitable for designation will be managed.

A. Step I. Wild and Scenic Rivers 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 at least one “outstandingly remarkable value.” As part of the eligibility review, BLM planning team members reviewed all waterways in the Washakie RMP planning area to see if they contained any public lands that meet the eligibility criteria. Only those portions of waterways flowing through public lands were considered. The following are the guidelines used in applying the eligibility criteria to public lands in the Washakie 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 waterway is being considered shall not automatically disqualify it for possible addition to the National Wild and Scenic Rivers System (NWSRS). A waterway need not be “boatable or floatable” in order to be eligible; there is no “minimum flow” requirement.
- b. Outstandingly Remarkable Values:** The public lands must also possess at least one outstandingly remarkable value 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, these values must be directly waterway related. The criteria for outstandingly remarkable values used for the review of public lands in the Washakie RMP planning area are as follows:

- **Scenic:** The landscape elements of landform, vegetation, water, color, and related factors result in notable or exemplary visual features and/or attraction. 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 public lands involved, are not common to other waterways in the geographic region, and must be of a quality to attract visitors from outside the area.
- **Recreational:** Recreational opportunities on the public lands 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.

- **Geologic:** The public lands provide 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, or other geologic structures).
- **Fisheries:** The fishery values of the waterway or waterway segment on public lands may be judged on the relative merits of either fish populations or habitat, or a combination of these conditions.

Populations: The waterway or waterway segment(s) on public lands is a contributor to one of the top producers of resident and/or 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 and endangered species. Diversity of species is also an important consideration.

Habitat: The waterway or waterway segment(s) on public lands is a contributor to exceptionally high quality habitat for fish species indigenous to the region. Of particular significance is habitat for federally listed or candidate threatened and endangered species.

- **Wildlife:** Wildlife values on public lands may be judged on the relative merits of either wildlife populations or habitat, or a combination of these conditions.

Populations. The public lands are 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 and endangered species. Diversity of species is also an important consideration.

Habitat. The public lands are contributing to exceptionally high quality habitat for wildlife species important to the area or nationally, or should provide unique habitat or a critical link in habitat conditions for federally listed or candidate threatened and endangered species. Contiguous habitat conditions should be such that the biological needs of the species are met. Adjacent habitat conditions should be such that the biological needs of the species are met.

- **Cultural:** The public lands contain examples of outstanding cultural sites which have unusual characteristics relating to prehistoric use. Sites may be important in the area or nationally for interpreting prehistory, may be rare and represent an area where 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.
- **Historical:** The public lands contain a site(s) or feature(s) associated with a significant event, an important person, or a cultural activity of the past that was rare, or unusual 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.

- **Similar Values:** Other values may include significant hydrological, paleontological, botanical, scientific, or ecological resources as long as they are waterway related.

2. Tentative Classification

At the same time eligibility determinations are made, public lands that meet the eligibility criteria are also given a tentative classification (wild, scenic, or recreational) as required by the WSRA. Tentative classification is based on the type and degree of human developments associated with the public lands and adjacent lands involved 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 waterway areas are those where the waterways or sections of waterways on public lands 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 waterway areas are those where the waterways or sections of waterways on public lands 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 public lands have scenery as an outstandingly remarkable value; however, it means the public lands may contain more development (except for major dams or diversion works) than a wild waterway segment and less development than a recreational waterway 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, a hill, or other obstruction, it could qualify for scenic waterway area classification.

- c. **Recreational Waterway Areas:** Recreational waterway areas are those where the waterways or sections of waterways on public lands are readily accessible by road or railroad, may have some development along their shorelines, and may have undergone some impoundment or diversion in the past. Parallel roads or railroads and the existence of small dams or diversions can be allowed in this classification. A recreational waterway area classification does not imply that the waterway or section of waterway on public lands will be managed or prioritized for recreational use or development.

3. **Results of the Wild and Scenic Rivers Eligibility Review for the Washakie RMP Planning Area:**

On November 28, 2001, BLM planning team members for the Washakie RMP met to conduct a WSR eligibility review for the Washakie RMP planning area. Because of the broad interpretation of the "free flowing" criteria, all the waterways that cross public lands within the review area were accepted as free-flowing. Using an interdisciplinary approach, these waterways were further reviewed to determine whether any of the public land parcels along their courses contained any outstandingly remarkable values as described in the eligibility criteria guidelines. Of the 143 waterways reviewed in the planning area, 134 were found to have no outstandingly remarkable values and were dropped from further consideration, while nine were determined to meet the WSR eligibility criteria. One of these nine waterway review segments, Paint Rock Creek, actually includes the main waterway segment and one tributary that together were reviewed as a "waterway unit," specifically, the Paint Rock Creek unit. The other eight waterways involving public lands determined to meet the eligibility criteria are Canyon Creek, Deep Creek, Dry Medicine Lodge Creek, Kirby Creek, Medicine Lodge Creek, Middle Fork of the Powder River, Trapper Creek, and White Creek.

Attachment A (WSR Eligibility Review) reflects the results of the review and eligibility determination for the public lands considered and includes maps of public lands involved. Attachment B/Table B1 (Identification and Tentative Classification of Public Lands that Meet the WSR Eligibility Criteria) is a detailed summary of the WSR eligibility review. Attachment B/Table B1 also shows the tentative classification (either wild, scenic, or recreational) given to each of the public land parcels that meet the eligibility criteria.

B. Step II: Wild and Scenic Rivers Suitability Review

1. Suitability Factors

All of the public lands in the Washakie RMP planning area found to meet the eligibility criteria and tentatively classified (i.e., wild, scenic, or recreational) were further reviewed to determine if they meet the WSR suitability factors. Some factors considered in the suitability determinations included, but were not limited to:

- Factor 1:** Characteristics which do or do not make the public lands involved a worthy addition to the NWSRS.
- 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:** Reasonable foreseeable potential uses of the public lands involved and related waters which would be enhanced, foreclosed, or curtailed if the area were included in the NWSRS, and the values which may be foreclosed or diminished if the public lands are not protected as part of the NWSRS.
- Factor 4:** Public, state, local, tribal, or federal interests in designation or non-designation of any part of all of the waterway involved, including the extent to which the administration of any or all of the waterway, including the costs thereof, may be shared by state, local, or other agencies and individuals.
- Factor 5:** Estimated cost of acquiring necessary lands, interests in lands, and administering the area if it is added to the NWSRS. Section 6 of the WSRA outlines policies and limitations for 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 public lands involved as part of the NWSRS, or by other mechanism (existing and potential) to protect identified values other than WSR designation.
- Factor 7:** Historical or existing rights which could 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 public lands involved.
- Factor 8:** Other issues and concerns if any.

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

The WSR suitability determinations for the Washakie RMP planning area were derived by screening the public lands determined to meet the WSR eligibility criteria against the above eight suitability factors. This screening was conducted by BLM planning team members for the Washakie RMP on March 25, 2002.

The public lands along the reviewed segments of Deep Creek, Dry Medicine Lodge Creek, Medicine Lodge Creek, Middle Fork of the Powder River, and Trapper Creek previously determined to meet the eligibility criteria were also determined to meet the suitability factors. Most of the reviewed segments along the Paint Rock Creek unit and the downstream-most segment of White Creek also met the suitability factors.

All other public land parcels determined to meet the eligibility criteria did not meet the suitability factors and were dropped from further consideration. The primary suitability factors involved in the non-suitability determination are factors 2, and 6, which indicated (1) the public lands involved are land-locked by private lands and are inaccessible to the public, and obtaining public access to the public lands via private property would not be likely; (2) the public lands cannot be managed as part of the NWSRS if designation were to occur because of potential management conflicts with the interspersed (up and downstream) and adjacent private lands; and/or (3) a WSR designation is deemed unnecessary or inappropriate as existing mechanisms sufficiently protect identified scenic and historical values (i.e., a WSR designation would provide no foreseeable additional protection).

Attachment C (Wild and Scenic Suitability Review) is a detailed summary of the suitability review of the waterway segments containing public lands determined to meet the eligibility criteria and the suitability determinations made for the public lands involved.

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

Under the requirements of the WSRA, any need to provide temporary or interim protection of the WSR values on suitable areas before the Washakie RMP is completed must be addressed. Proposed interim management prescriptions have thus been developed by the BLM for the public lands determined to meet both the WSR eligibility criteria and suitability factors (i.e., for public lands along Deep, Dry Medicine Lodge, Medicine Lodge, Trapper, and White Creeks; Middle Fork of the Powder River; and the Paint Rock Creek unit) and are presented in Attachment D (Management of Public Lands within the Washakie RMP Planning Area that Meet the WSR Suitability Factors). These prescriptions will be applied immediately as well as be presented in the Washakie 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 WSR classification identified on the public lands involved.

After public review of the interim management prescriptions presented in the Washakie RMP, public lands determined to meet the suitability factors will then be managed under the BLM's land use plan management decisions indefinitely. At some time in the future, it is possible the Secretary of the Interior may direct the BLM to participate in the development of WSR Study Reports. The results and documentation of the BLM WSR reviews for the Washakie RMP planning area would be used in developing any such reports.