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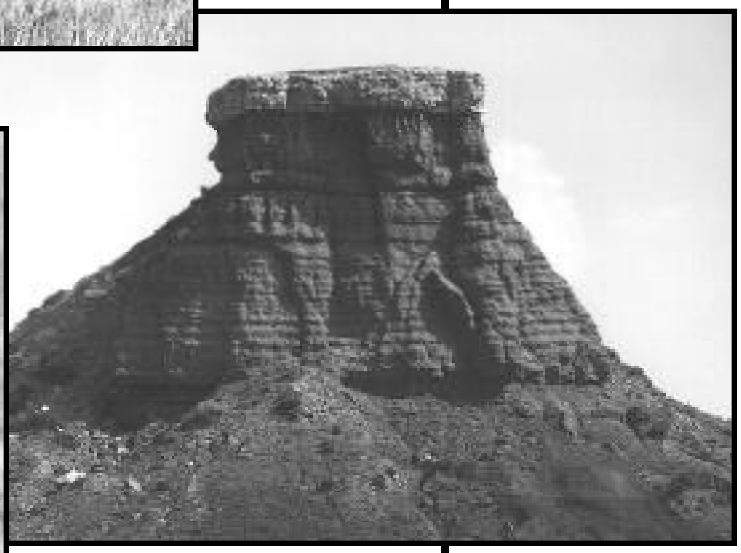
RECORD OF DECISION and APPROVED RESOURCE MANAGEMENT PLAN for Public Lands Administered by the Newcastle Field Office



MISSION STATEMENT

It is the mission of the Bureau of Land Management to sustain the health, diversity, and productivity of the public lands for the use and enjoyment of present and future generations.

BLM/WY/PL-00/027+1610

RECORD OF DECISION

AND

APPROVED RESOURCE MANAGEMENT PLAN

FOR THE

NEWCASTLE FIELD OFFICE ADMINISTRATIVE AREA

Prepared by:

United States Department of the Interior
Bureau of Land Management
Newcastle Field Office
Newcastle, Wyoming

August 2000

Alan R. Pierson
State Director

8-25-00
Date

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ABBREVIATIONS

ACEC	area of critical environmental concern
AUM	animal unit month
BLM	Bureau of Land Management, U.S. Department of the Interior
BOR	Bureau of Reclamation, U.S. Department of the Interior
CAA	Clean Air Act of 1955, as amended
CEQ	Council on Environmental Quality
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended
CFR	Code of Federal Regulations. Numbers refer to title and part; that is 40 CFR 1500 refers to Title 40, part 1500.
CWA	Clean Air Act
DEQ	Department of Environmental Quality, State of Wyoming
DOE	U.S. Department of Energy
E&P	exploration and production
EIS	environmental impact statement
EO	Executive Order
EPA	U.S. Environmental Protection Agency
ERMA	extensive recreation management area
ESA	Endangered Species Act of 1973
FLPMA	Federal Land Policy and Management Act of 1976
FOCRA	Federal Onshore Control and Reclamation Act of 1987
HA	Homestead Acts
IBLA	Interior Board of Land Appeals
IOGCC	Interstate Oil and Gas Compact Commission
MLA	Mineral Leasing Act of 1920
mmbf	million board feet
NEPA	National Environmental Policy Act of 1969
NHPA	National Historic Preservation Act
NNL	national natural landmark
NPDES	National Pollutant Discharge Elimination System
NRHP	National Register of Historic Places
NSO	no surface occupancy
PSD	prevention of significant deterioration
R&PP	Recreation and Public Purpose Act
RCRA	Resource Conservation and Recovery Act of 1976, amended
RMP	resource management plan
ROD	record of decision
ROW	right-of-way
SHPO	State Historic Preservation Officer, State of Wyoming
SRHA	Stockraising Homestead Act of December 29, 1916, as amended
SRMA	special recreation management area
TSDF	treatment, storage, and disposal facilities
UIC	underground injection control
USDI	U.S. Department of the Interior

RECORD OF DECISION
for the
NEWCASTLE RESOURCE MANAGEMENT PLAN
ENVIRONMENTAL IMPACT STATEMENT

DECISION

It is my decision to select and approve the accompanying Newcastle Resource Management Plan (RMP) as the future direction for management of the public lands and resources administered by the Newcastle, Wyoming Field Office of the Bureau of Land Management (BLM). The term "public lands" as used in this document, refers to all BLM-administered public land surface and/or federal mineral estate under the jurisdiction of the Newcastle Field Office.

In accordance with the Newcastle RMP, the Whoopup Canyon Area of Critical Environmental Concern (ACEC) is expanded to 1,439.39 acres (BLM-administered public land surface only).

Also in accordance with the Newcastle RMP, selected tracts of public land surface within T. 43-46 N., R. 60 W. (6th principle meridian), are designated the Stateline Special Recreation Management Area (SRMA). The remainder of the public lands in the planning area (except for the Whoopup Canyon ACEC) are designated an Extensive Recreation Management Area (ERMA).

The coal classifications that segregate 194,520 acres of federal coal from transfer to nonfederal ownership will be removed since they no longer serve the purpose for which they were intended.

The Newcastle RMP was prepared in conformance with the federal regulations (43 CFR 1600) for implementing the Federal Land Policy and Management Act of 1976 (FLPMA). An environmental impact statement (EIS) was prepared for the Newcastle RMP, in conformance with the Council on Environmental Quality (CEQ) regulations (CFR 40 1500) for implementing the National Environmental Policy Act of 1969 (NEPA). A copy of the EIS is on file in the Newcastle Field Office.

This record of decision (ROD) approves the decisions reached by the BLM for managing approximately 292,168 acres of BLM-administered public land surface and 1,698,866 acres of BLM-administered federal mineral estate within in the Newcastle RMP planning area. The selection and approval of the Newcastle RMP is based on the analysis of environmental impacts of four alternative management plans, public comments, and consultation with federal, state, and local governments and agencies, and on the consideration of the following four planning issues regarding public land surface and federal mineral estate.

1. Retention or Disposal of Public Lands
2. Surface Disturbance
3. Special Management Area Designations
4. Control of Prairie Dogs.

The Newcastle RMP is the same as the proposed RMP presented in the Final EIS for the Newcastle RMP, published in June 1999. Minor editorial modifications have been made to reflect agency policy changes and wording clarification. The Newcastle RMP provides a balance between resource production on public lands and protection of the environment. It represents BLM's preferred management plan alternative for the Newcastle planning area and one of the environmentally preferred alternatives in terms of minimizing environmental impacts and guiding the uses of the public lands in the planning area. This alternative best meets the BLM's statutory mission under the FLPMA to provide for multiple use of the public lands, and identifies actions to protect resources and avoid or minimize environmental harm.

THE SELECTED RMP

There were many considerations that pointed toward selection and approval of the Newcastle RMP. The selected Newcastle RMP considers the land use and resource management plans, programs, and policies of local and state governments, other federal agencies, Native American tribes, and the ideas and comments provided by the public. The RMP represents a mix of actions that best resolves the issues and management concerns that were raised during the planning process. The public land and resource uses will be managed under the multiple use concept by integrating ecological, economic, and social principles in a manner that safeguards long-

term sustained yield, diversity of use, and productivity of the public lands and resources.

ALTERNATIVES

To begin the planning process for the Newcastle RMP, the BLM and the public identified issues, concerns, and land and resource use conflicts on the public lands that needed to be addressed during preparation of the RMP. The matters of most concern revolved around management and protection of the public lands in the Lance Creek Fossil Area National Natural Landmark (NNL), administration of the federal mineral estate underlying private and state land surface ownership (split estate) (Appendix 3 of the approved resource management plan), federal oil and gas development, grazing administration on the public lands (implementing the Wyoming BLM Standards for Healthy Rangelands and Guidelines for Livestock Grazing (Appendix 2 of the approved resource management plan), prairie dog control on the public lands, and management and protection of threatened and endangered plant and animal species or their habitat.

These, and other issues were addressed in four alternatives that were analyzed and documented in the Draft EIS for the Newcastle RMP issued in March 1998. The alternatives were: The BLM's Preferred Alternative; Alternative A–Continuation of Existing Management (or the No Action Alternative); and Alternatives B and C which suggested different combinations of emphasis for management of the various public land and resource uses on the basis of needs, opportunities, and public demand. These alternatives and their analyses were presented for public review and comment in the Draft EIS for the Newcastle RMP issued in March, 1998. The Final EIS, containing the Proposed Newcastle Resource Management Plan (RMP), was published in June 1999.

Management Options Considered but Not Analyzed in Detail

Management options which were considered but not analyzed in detail were (a) eliminating livestock grazing; (b) eliminating timber harvesting; (c) closing the planning area to federal mineral leasing and sale of federal mineral materials; (d) eliminating restrictive or protective stipulations from development and surface-disturbing activities; (e) eliminating oil and gas leasing in areas with high hydrogen sulfide potential; (f) restricting development or activity in areas containing high amounts of selenium; and (g) maximum unconstrained alternatives that exclude other resource values.

Resources Not Addressed in the Newcastle RMP

Certain public resources administered by the BLM in other areas are not found within the boundaries of this planning area. Three of the more conspicuous of these resources include Wilderness, Wild Horses and Burros, and Wild and Scenic Rivers. Consequently, there are no management decisions developed for these resources.

An extensive review was conducted to determine if any of the public land surface along waterways in the planning area met the wild and scenic rivers eligibility criteria and suitability factors. There were no public lands along waterways that were found to meet the wild and scenic rivers suitability factors. Thus, no interim management decisions are developed for wild and scenic rivers. Documentation of the complete Wild and Scenic Rivers review process conducted for this planning effort is presented in Appendix 5 of the approved resource management plan.

PUBLIC PARTICIPATION AND CONSISTENCY

The views of the public were solicited and considered throughout development of the Newcastle RMP. Public participation in the process is summarized in Chapter 5 of the Final EIS for the RMP. The Final EIS also includes an accounting of the public comments received on the Draft EIS and the responses that were developed by the BLM in reply to those comments.

The Wyoming Governor's Office was supplied copies of the Final EIS for review by state agencies and to satisfy the Governor's consistency review required by the planning regulations (43 CFR 1610.3-2(e)). No inconsistency problems between the Proposed Newcastle RMP and State of Wyoming plans and programs were identified.

The public is invited to continue to participate in the management of public lands and resources through involvement in the activity and implementationplanning phase of the planning process. This next planning phase deals with site-specific, detailed implementation of the land and resource-use management objective and action decisions presented in the RMP.

PROTESTS

One protest was submitted to the Director of the Bureau of Land Management during the 30-day

protest period for the Proposed Newcastle RMP. The Sierra Club submitted a protest citing that BLM's failure to recommend designation of an Area of Critical Environmental Concern (ACEC) for the BLM-administered public land surface in the Lance Creek Fossil Area NNL would jeopardize the protection of the valuable paleontological resources within the boundaries of the NNL.

After a thorough review, the Director of the BLM responded to this protest and the issue was resolved without any change to the Proposed Newcastle RMP.

MONITORING AND EVALUATION

Management actions and decisions of the Newcastle RMP will be monitored and evaluated to determine their effectiveness and to determine if the objectives of the RMP are being met. If evaluation indicates that the RMP is not working as expected or needed, or if situations in the planning area change, it may become necessary to amend or revise the RMP. Intervals and standards for monitoring and evaluation will be established as necessary.

All mitigation measures identified directly or referenced in the Newcastle RMP are adopted. Additional or revised mitigation identified through activity or implementation planning or individual analysis will be considered a supporting part of the Newcastle RMP.

PUBLIC AVAILABILITY OF THE NEWCASTLE RESOURCE MANAGEMENT PLAN

Copies of the Newcastle RMP are available upon request from the Newcastle Field Office, 1101 Washington, Newcastle, Wyoming, 82701, telephone (307) 746-6600.

NEWCASTLE RESOURCE MANAGEMENT PLAN

INTRODUCTION

This Resource Management Plan (RMP) provides the management direction for approximately 292,168 acres of BLM-administered public land surface and 1,698,866 acres of federal mineral estate administered by the Newcastle Field Office of the Bureau of Land Management (BLM) in Crook, Niobrara, and Weston counties in northeast Wyoming (Map 1, "General Location Map" located at the end of the "Planning and Management Decisions" section.) This Newcastle RMP supersedes all previous land-use planning decision documents for the planning area.

The term "public lands" as used in this document, refers to all BLM-administered public land surface and/or federal mineral estate under the jurisdiction of the Newcastle Field Office.

There are also some public lands in Nebraska that are administered by the Newcastle Field Office. These public lands are covered under the Nebraska Resource Management Plan (USDI, BLM 1992).

As provided by the Federal Land Policy and Management Act of 1976 (FLPMA), the BLM has the responsibility to plan for and manage the public lands. As defined by the Act, public lands are those federally-owned lands, and any interest in lands (for example, federally-owned mineral estate), administered by the Secretary of the Interior, specifically through the BLM. Within the planning area, there are varied and intermingled land and mineral ownerships. The approved Newcastle RMP does not include planning and management decisions for privately-owned land surface or private minerals, state-owned land surface or state minerals, or for federally-owned lands administered by other federal agencies (including no decisions for the federal mineral estate in these federal lands). Table 1 provides a summary of the land surface ownership, mineral ownership. and the related administrative relationships for the planning area. (See the "Surface Ownership Map" located in the back pocket).

Table 1
Land and Mineral Ownership in the Newcastle RMP Planning Area[1]/

	Areas the Newcastle RMP Decisions Cover	Approximate
A.	Areas where both the land surface and mineral estate are federally owned and administered by the BLM (Crook County, 92,024 acres; Niobrara County, 124,085 acres; and Weston County, 75,059 acres).[2]/	291,168
B.	Areas where the land surface is federally owned and administered by the BLM and the mineral estate is owned and administered by private individuals, the state of Wyoming, or local governments.[3]/	1,000
C.	Areas where the land surface is owned and administered by private individuals, the state of Wyoming, or local governments and the mineral estate is federally owned and administered by the BLM (Crook County, 359,211; Niobrara County, 622,237; and Weston County, 426,250).[4]/	1,407,698
Total BLM-administered federal land surface covered by RMP decisions (A + B)		**292,168**
Total BLM-administered federal mineral estate covered by RMP decisions (A + C)		**1,698,866**

Table 1 (Continued) Land and Mineral Ownership in the Newcastle RMP Planning Area[1/]	
Areas the Newcastle RMP Decisions do NOT Cover	**Approximate acreage**
D. Areas where the federal land surface is administered by the Forest Service (Black Hills National Forest) and the federal mineral estate is administered by the BLM.[5/]	174,743
E. Areas where the federal land surface is administered by the Forest Service (Thunder Basin National Grassland) and the federal mineral estate is administered by the BLM.[5/]	228,627
F. Areas where the federal land surface is administered by the Bureau of Reclamation and the federal mineral estate is administered by the BLM.[5/]	16,863
Total BLM-administered federal mineral estate NOT covered by RMP decisions (D + E + F)	**420,233**
G. Areas where the land surface and minerals are both owned by private individuals, and the state of Wyoming or local governments and the BLM has no jurisdiction or administrative authority.	2,452,473
Total land surface in the Newcastle RMP planning area (all ownerships) (A + B + C + D + E + F + G)	**4,572,572**

[1] For the purposes of the Newcastle RMP planning effort, areas where one or more of the mineral resource categories are federally owned were addressed as if all minerals in the area were federally owned. Where mixed minerals ownership occurs (for example, privately owned oil and gas overlapping with federally owned coal), minerals planning and management decisions in the RMP pertain only to the federally owned minerals.

[2] In these areas, the RMP includes planning and management decisions for both the federal land surface and the federal mineral estate.

[3] In these areas, the RMP includes planning and management decisions for only the BLM-administered federal land surface. While the federal surface management decisions may have some effect on the ability to manage and develop the nonfederally owned minerals, the RMP planning and management decisions do not pertain to the non-federal mineral estate. At the same time, surface and minerals management actions and development activities anticipated in these areas were taken into account for purposes of cumulative impact analysis in the EIS for the Newcastle RMP.

[4] In these areas, the RMP includes planning and management decisions for only the BLM-administered federal mineral estate. While the land and resource uses and values on the nonfederal surface may have some effect on the ability to manage and develop the federally-owned minerals, the federal mineral decisions do not pertain to the state and privately owned land surface. At the same time, surface and minerals management actions and development activities anticipated in these areas were taken into account for purposes of cumulative impact analysis in the EIS for the Newcastle RMP.

[5] In these areas, the land surface planning and management decisions are the responsibility of these "other" federal surface management agencies. Any BLM-administrative responsibilities within these areas (for example, actions concerning the federal mineral estate) are handled case by case and are guided by the other surface management agencies' policies, procedures, and plans. Thus, the Newcastle RMP does not include planning and management decisions for the federal minerals in these areas. At the same time, surface and minerals management actions and development activities anticipated in these areas were taken into account for purposes of cumulative impact analysis in the EIS for the Newcastle RMP.

The following multiple-use planning decisions consist of management objectives and management actions. The objectives and actions are designed to maintain environmental quality while meeting the foreseeable needs of the people of the United States and the local communities within the planning area. Implementation of the RMP decisions and related projects will be done through detailed and site-specific activity planning and any necessary environmental analysis that will be completed prior to implementation. The authorization of specific uses of the public lands will be based on the RMP decisions and completion of site-specific environmental analysis.

PLANNING AND MANAGEMENT DECISIONS (BY RESOURCE)

The following RMP decisions are presented in alphabetical order of the specific resource or land use.

Air Quality Management Decisions

Management Objectives

Maintain or enhance air quality, protect public health and safety and sensitive natural resources, and minimize emissions that could result in acid rain, violations of air quality standards, or reduced visibility.

Management Actions

All BLM-administered public lands will be managed to maintain the air quality at the current prevention of significant deterioration (PSD) Class II standard. All BLM-initiated or authorized actions, such as the use of prescribed fire, will avoid violation of Wyoming and national air quality standards.

Mitigation or conditional requirements will be applied to authorized actions and activities on a case-by-case basis to avoid air quality problems. These requirements could include, but are not limited to, limiting emissions, restricted spacing of project locations, and controlling dust from surface-disturbing activities.

The BLM will coordinate with the Wyoming Department of Environmental Quality and the Environmental Protection Agency (EPA) on air quality standards and regulations as needed.

The BLM will coordinate and cooperate with other federal and state agencies in monitoring and collecting air quality data.

See the other sections in this document for other land and resource use decisions and guidance that may apply to air quality management activities.

Cultural Resources Management Decisions

Management Objective

Protect, preserve, interpret, and manage significant cultural resources; manage cultural resources for information potential, public and educational values, and conservation.

Management Actions

The previous designation of Whoopup Canyon as an area of critical environmental concern (ACEC) is retained. (See "Planning and Management Decisions for Special Management Areas, Whoopup Canyon Area of Critical Environmental Concern.)

Site-specific inventories for cultural resources will be required before the start of surface-disturbing activities. Adverse effects on significant resources will be mitigated, or the resources themselves will be avoided by surface-disturbing activities.

Data will be collected on the nature and condition of significant cultural sites on public lands. Site protection measures will be initiated for significant sites as needed. Cultural resource mitigation plans will be developed for the more sensitive sites.

Sites listed on the National Register of Historic Places (NRHP) will be protected. Suspected violations of the Archaeological Resources Protection Act will be investigated.

The BLM will cooperate with other agencies and private landowners to identify and interpret historic trails.

Areas within 0.25 mile, or the visual horizon, whichever is closer, of significant segments of historic trails that are listed on the NRHP, or that are eligible for listing on the NRHP, are avoidance areas for surface-disturbing activities.

As appropriate, specific sites on public lands will be managed for their traditional Native American cultural values.

Surface-disturbing and disruptive activities associated with permitted collection of cultural resources or stabilization of cultural sites or with constructing and using interpretive sites and facilities will be subject to appropriate mitigation measures determined through, but not limited to, use of the Wyoming BLM Mitigation Guidelines (Appendix 1).

See the other sections in this document for other land and resource use decisions and guidance that may apply to cultural resources management activities.

Fire Management Decisions

Management Objective

To cost effectively protect life, property, and resource values from wildfire and to use prescribed fire to achieve multiple use management goals (Also see Appendices 1 and 2).

Management Actions

Suppression activities for wildfires will be conducted as described in the Eastern Wyoming Zone Fire Management Plan.

Full suppression will be used on fires endangering human life or that spread to within 0.25 mile of state or private lands, structures and facilities, oil and gas fields, important riparian habitat, or other sensitive resources.

Some methods of suppression will be restricted in sensitive areas. This may include, but is not limited to, restricting heavy equipment on cultural or historic sites.

Fires in limited-suppression areas will be monitored to ensure they do not threaten human life, structures and facilities, state or private lands, oil and gas fields, important riparian habitat, or other sensitive resources.

All wildfires will be evaluated to determine the need for rehabilitation or restoration measures. Restoration of burned areas will be by natural succession unless a special need is identified to prevent further resource damage.

Using bulldozers in riparian and wetland areas, areas of significant cultural resources or historic trails, and in important wildlife birthing areas generally will be prohibited.

Aerial fire retardant drops and fire retardants containing dyes or chemicals are prohibited within the Whoopup Canyon ACEC.

Fire retardants containing dyes or chemicals are prohibited within 200 feet of flowing water, lakes and ponds.

Prescribed burning will be used as a resource management tool on BLM-administered public land surface. Activity plans and environmental analyses will be prepared for prescribed burning proposals to address site-specific applications and to develop burning prescriptions under which the fires could be contained.

Prescribed burning will be conducted in accordance with, and to enhance, multiple use resource management objectives. A Wyoming DEQ permit will be secured before initiating a prescribed fire project. Smoke and pollution will be minimized as described in the *Smoke Management Guidebook* (USDI, BLM 1985)**.**

Use of fire for disposal of slash and residue from timber sales and thinning activities will be allowed when necessary to reduce the danger of wildfire and to reduce the volume of slash and debris or hazardous fuel levels in an area.

Fire line construction will be avoided if natural fire breaks can be used.

Surface-disturbing and disruptive activities associated with all types of fire management will be subject to appropriate mitigation measures determined through, but not limited to, use of the Wyoming BLM Mitigation Guidelines (Appendix 1).

See the other sections in this document for other land and resource use decisions and guidance that may apply to fire management activities.

Forest Resources Management Decisions

Management Objectives

Maintain and enhance the health, productivity, and biological diversity of forest and woodland ecosystems. Provide a balance of natural

resource benefits and uses, including opportunities for commercial forest production (also see Appendix 1).

Management Actions

The public lands available for management of forest products (11,935 acres) will be managed by implementing sound silvicultural activities that include two- or three-cut shelterwood harvest, and commercial and precommercial thinnings.

The maximum allowable harvest level is 4.7 million board feet (mmbf) per decade. Timber will be harvested on an evenflow basis.

Road construction for harvesting timber or for conducting forest management practices will not be allowed on slopes greater than 25 percent, unless site-specific environmental analyses demonstrate that adverse effects can be mitigated or avoided.

Skidder-type yarding will not be allowed on slopes greater than 45 percent. Other logging operations on slopes steeper than 45 percent will be limited to technically and environmentally acceptable methods such as cable yarding.

Management of forest products on approximately 3,864 acres will be limited because of slope restrictions or inaccessibility for mechanical harvest methods.

About 9,084 acres will be made available for forest products harvesting only when tailored specifically to benefit other identified resource values.

About 417 acres of forest lands will not be available for management of forest products to protect unique riparian areas.

Roads and landings developed for forest products removal will be rehabilitated unless it is determined that they would be useful for other management purposes.

About 600 acres of timber stand improvement and precommercial thinning will be conducted per decade.

To maintain biodiversity and the old growth component of the forest ecosystem, forested areas on public lands will be managed to maintain approximately 5 percent old growth.

Minor forest products (firewood, posts, poles, Christmas trees) will be made available on a demand basis.

Surface-disturbing and disruptive activities associated with all types of forest management practices will be subject to appropriate mitigation measures determined through, but not limited to, use of the Wyoming BLM Mitigation Guidelines (Appendix 1).

See the other sections in this document for other land and resource use decisions and guidance that may apply to forest resources management activities.

Hazardous Materials Management Decisions

Management Objective

Protect public and environmental health and safety on BLM-administered public lands, comply with applicable federal and state laws, prevent waste contamination due to any BLM-authorized actions, minimize federal exposure to the liabilities associated with waste management on public lands, and integrate hazardous materials and waste management policies and controls into all BLM programs (also see Appendix 2).

Management Actions

For BLM-authorized activities that involve hazardous materials or their use, precautionary measures will be used to guard against releases or spills into the environment.

When discovered, BLM-administered public land sites contaminated with hazardous wastes will be reported, secured, and cleaned up according to applicable federal and state regulations and contingency plans. Parties responsible for contamination will be liable for cleanup and resource damage costs, as prescribed in federal and state regulations.

The BLM will provide appropriate warnings and establish precautions for safety hazards associated with the use of any areas on BLM-administered public lands where safety hazards are identified.

Surface-disturbing and disruptive activities associated with all types of hazardous materials and waste management will be subject to, but not limited to, appropriate mitigation measures

determined through use of the Wyoming BLM Mitigation Guidelines (Appendix 1).

See the other sections in this document for other land and resource use decisions and guidance that may apply to hazardous materials management activities.

Lands And Realty Management Decisions

Management Objective

Support the multiple-use management goals of the various BLM resource programs; respond to public requests for land use authorizations, sales, and exchanges; and, acquire access to serve administrative and public needs (also see Appendix 2).

Management Actions

Utility/transportation systems will be located adjacent to existing utility/transportation systems whenever practical. Areas to be avoided for new facility placement and routes will be identified on a case-by-case basis, rather than attempting to establish utility corridors.

Areas within 0.25 mile of developed or semideveloped recreation sites are avoidance areas for development activities such as roads, power lines, pipelines, and well pads. However, these areas will be open to development activities specifically for the purpose of recreation site facilities.

Projects will be designed to meet the objectives of established visual resource management (VRM) classifications and will include appropriate mitigation. Facilities, including those related to existing or new wells, structures, power lines, and linear rights-of-way, may require screening, painting, or design that blends with the surrounding landscape. Other mitigation requirements will be determined through, but not limited to, use of the Wyoming BLM Mitigation Guidelines (Appendix 1).

There will be no requirement to avoid reduction of public land acreage in the planning area.

Areas within 500 feet of 100-year floodplains, wetlands, or perennial streams on BLM-administered public lands are avoidance areas for surface-disturbing activities unless modified by the authorized officer.

Landownership adjustment actions involving BLM-administered public lands (exchanges or sales, recreation and public purpose [R&PP] leases and patents, withdrawals and transfers of administrative jurisdiction of public lands) will be considered on a case-by-case basis.

The preferred method of landownership adjustment will be through land exchanges. Appendix 4 outlines the landownership adjustment strategy to be followed.

The BLM-administered public lands in the planning area are open to operation of the public land laws, except for the 1,152 acres closed to mineral location, sale, or entry under the land laws (437 acres power site classification; 715 acres Forest Service withdrawal (see Map 3 "Classifications and Withdrawals.").

The coal classifications that segregate 194,520 acres of federal coal from transfer to nonfederal ownership will be removed since they no longer serve the purpose for which they were intended.

As determined on a case-by-case basis, easements will be pursued to provide access to public lands to support the objectives of other resource programs.

The BLM-administered public lands in the planning area are open to consideration of rights-of-way location. Proposals will be addressed on a case-by-case basis with emphasis on avoiding land use or resource conflicts and sensitive areas.

Surface-disturbing and disruptive activities associated with all types of right-of-way construction and maintenance will be subject to appropriate mitigation measures determined through, but not limited to, use of the Wyoming BLM Mitigation Guidelines (Appendix 1).

See the other sections in this document for other land and resource use decisions and guidance that may apply to land and realty management activities.

Livestock Grazing Management Decisions

Management Objective

Maintain or improve forage production and range condition to provide a sustainable resource

base for livestock grazing on the public lands while improving wildlife habitat and watershed conditions (see Appendix 2).

Management Actions

Livestock grazing on BLM-administered public lands will be authorized in a manner consistent with sound range management principles and to be consistent with other resource values.

The authorized grazing use on the BLM-administered public lands will not exceed recognized active preference (48,818 animal unit months [AUMs]).

Implementation of grazing management plans, monitoring studies, and the construction of range improvements, based on identified need, will continue unless documented damage to other resource values is shown.

Prescribed fire and mechanical or biological vegetative treatments will be given preference over chemical treatments to help meet vegetation management goals.

The BLM will coordinate efforts with other federal authorities and with state and local authoritiesto implement safe and effective prairie dog control measures on public lands when prairie dogs are determined to be a threat to human health and safety or are causing resource damage. Resource damage will be documented by BLM personnel when reported by the grazing lessee, adjacent landowners, or other interests. This could include resource damage occurring on private or state lands from prairie dog towns located on BLM-administered public lands.

Animal damage control activities will be subject to established procedures and policies as outlined in the national and state level memoranda of understanding between BLM and the Animal and Plant Health Inspection Service (APHIS) and the animal damage control plan for the planning area. Human health and safety determinations will be made by the State of Wyoming, Department of Health or by officers of the US Center for Disease Control.

Unless one of the above situations were to occur, prairie dog control on BLM-administered public lands in the planning area will not be allowed. Prairie dogs and their towns are an important component of the prairie ecosystem and are valuable in providing habitat and a food source for a number of wildlife species, some of which are species of special management concern.

There will be no control of the size of prairie dog towns on BLM-administered public lands unless resource damage were to occur or human health and safety were to be threatened.

New prairie dog towns will be allowed to become established on public lands.

Permitting livestock grazing use up to recognized active preference will continue until a change in resource conditions indicates that an adjustment is needed. The numbers of grazing allotments in the Improve (I), Maintain (M), or Custodial (C) categories are also subject to change as ecological range conditions change.

Any adjustments in livestock grazing use will be made as a result of monitoring and consultation with grazing permittees. Monitoring studies will be conducted using the current BLM-approved methodology.

Monitoring will be continued following adjustments in grazing use to assure that grazing and other management objectives are being met.

Interdisciplinary rangeland monitoring studies will be established and conducted on BLM-administered public lands, including riparian areas, on a grazing allotment priority basis. The priority order, respectively, is "I", "M", and "C" category allotments. Studies on riparian areas in category "M" and "C" allotments will be established as workload allows or as needs are identified. These monitoring studies will be used to detect changes in range condition and trend, and to determine if vegetation management objectives are being met for all resource uses (livestock grazing, watershed, riparian, and wildlife).

Based on monitoring, the effectiveness of on-the-ground management toward meeting RMP and various resource activity and implementation plan objectives will be evaluated. Any rangeland studies will be carried out in accordance with approved standards and guidelines. Kind of livestock and seasons of livestock use may be modified to meet established multiple use objectives or to prevent resource damage.

In conjunction with the wildlife habitat management and water resources management programs, specific riparian management

guidelines will be developed and implemented in all grazing allotments, with priority given to category "I" grazing allotments. These guidelines could apply to such things as protective fencing, changes in livestock seasons of use, and project work to enhance and improve riparian zones.

Developed and semideveloped recreation sites are closed to livestock grazing.

Surface-disturbing and disruptive activities associated with all types of range improvement project construction and maintenance will be subject to appropriate mitigation measures determined through, but not limited to, use of the Wyoming BLM Mitigation Guidelines (Appendix 1).

See the other sections in this document for other land and resource use decisions and guidance that may apply to livestock grazing management activities.

Mineral and Geology Resources Management Decisions

Management Objective

Maintain or enhance opportunities for mineral exploration and development while maintaining other resource values (Also see Appendix 2).

Management Actions

Surface-disturbing and disruptive activities associated with all types of minerals exploration and development and with geophysical exploration will be subject to appropriate mitigation measures determined through, but not limited to, use of the Wyoming BLM Mitigation Guidelines (Appendix 1).

A plan of operations will be required for any mineral related surface-disturbing activities, regardless of size, in designated ACECs, and in areas closed to off-road vehicular travel.

See the other sections in this document for other land and resource use decisions and guidance that may apply to geology and mineral resources management activities.

Leasable Minerals

Management Objective

Maintain or enhance opportunities for mineral exploration and development while maintaining other resource values (also see Appendix 2).

Coal

Management Actions: Coal classifications on about 194,500 acres of federal coal lands will be terminated. These land classifications were intended for the protection of the federal coal and are no longer needed to serve that purpose.

As coal lease applications are received, the coal screening process, including application of the coal unsuitability criteria and determination of mitigation needs, will be conducted on a case-by-case basis. The Newcastle RMP will be amended, if necessary.

Oil and Gas

Management Actions: Federal oil and gas leases will be issued with appropriate stipulations for protection of other resource values.

Other Leasable Minerals

Management Actions: Leasing of other leasable federal minerals will be considered on a case-by-case basis and will be subject to the same or similar resource protection and mitigation requirements as those applied to oil and gas leases and rights-of-way.

Locatable Minerals

Management Objective

Maintain or enhance opportunities for mineral exploration and development while maintaining other resource values (also see Appendix 1).

Management Actions

Other than lands withdrawn from mineral location, the planning area will be open to mineral location, exploration, and development.

A plan of operations will be required for any surface-disturbing activities, regardless of size, in designated ACECs and in areas closed to off-road vehicular travel.

Salable Minerals

Management Objective

Maintain or enhance opportunities for mineral exploration and development while maintaining other resource values (also see Appendix 2).

Management Actions

Other than areas that are closed, the BLM-administered federal mineral estate in the planning area will be open to mineral materials sales and development subject to appropriate conditional requirements.

Whenever possible, preference will be given to the extraction of mineral materials from BLM-administered public land surface to avoid use of private lands where the mineral materials are federally-owned (split estate) (see Appendix 3).

Free use of mineral materials from split-estate lands (non-federal surface over federal mineral) will be discouraged whenever possible and will be allowed only when BLM-administered public land surface sites are not available.

Mineral material sale areas, free use areas, community pits, and common use areas will be established as needed, in accordance with other resource uses and values.

Reclamation plans will be required for all mineral material extraction sites. Reclamation of private land surface (split estate) will be developed in agreement with the private surface owner.

See the other sections in this document for other land and resource use decisions and guidance that may apply to visual resource management activities.

Geologic Hazards

Management Objective

Maintain or enhance opportunities for mineral exploration and development while maintaining other resource values (also see Appendix 2).

Management Actions

All requests for a permitted activity on public land surface in a landslide or land slump area will be evaluated to determine if there is a threat to public health or safety (see Map 2 “Generalized Geologic Hazards Map“ located at the end of the "Planning and Management Decisions" section.). **A “no surface occupancy” stipulation or construction specifications may be required in these areas.**

See the other sections in this document for other land and resource use decisions and guidance that may apply to geologic hazards management activities.

Geophysical Exploration

Management Objective

Provide opportunity for exploration of mineral resources and geologic data while protecting other resource values on BLM-administered public land surface (also see Appendices 1 and 2).

Management Actions

All parts of the planning area that are open to oil and gas leasing, exploration, and development will be open to geophysical exploration subject to appropriate mitigation requirements. Mitigation may include, but is not limited to, seasonal use restrictions, restrictions during wet or muddy periods, explosive charge restrictions, and other restrictions where disturbance in an area is determined to be undesirable.

Explosive charges will not be allowed if environmental analysis shows that unacceptable adverse impacts could occur.

On lands where surface-disturbing activities will be prohibited or on public lands closed to off-road vehicular (ORV) travel, casual use geophysical exploration will be allowed. (Casual use for geophysical exploration is described in 43 CFR 3150.05(b).)

See the other sections in this document for other land and resource use decisions and guidance that may apply to geophysical exploration management activities.

Paleontological Resources

Management Objective

Manage BLM-administered paleontological resources to enhance their informational, educational, scientific, and recreational uses.

Management Actions

Vertebrate fossils will only be collected from public lands under a Paleontological Resources Use Permit issued by the BLM.

A Paleontological Resources Use Permit, issued by the BLM, is required for the collection of note-worthy plant and invertebrate fossils from public lands.

Individuals may collect up to 25 pounds of petrified wood, plus one piece, per day from public land surface. Individuals may collect a total of 250 pounds of petrified wood per year without a permit. However, this material is for personal use only and may not be sold, bartered, or traded.

Individuals may collect common invertebrate fossils and plant fossils (such as leaves) from BLM-administered public land surface for personal use. This material may not be used for commercial purposes.

Assessment and mitigation of impacts to paleontological resources will be required on federal mineral leases in accordance with BLM policy. If suspected fossil materials are uncovered during construction, the operator will be required to stop work immediately and contact the BLM authorized officer. Activities will be brought to a halt until the authorized officer can assess the situation and advise whether any mitigating measures need to be undertaken before the operations can continue. If fossils are found and operations are adversely affected, a suspension of operations will be granted.

Mitigation measures for surface-disturbing activities associated with the collection of fossils from the BLM-administered public land surface will be determined through, but not limited to, use of the Wyoming BLM Mitigation Guidelines (Appendix 1).

Recreation Resources Management Decisions

Management Objective

Provide outdoor recreational opportunities on BLM-administered public land while providing for resource protection, visitor services, and the health and safety of public land visitors (see Appendix 2).

Management Actions

The BLM-administered public lands in the planning area are available for recreation uses, subject to appropriate restrictions for the protection of other resource values.

Response to public requests, including dispersed recreation opportunities (such as hunting, rock-hounding, and sightseeing), information, permitting of guide and outfitter activities on public land, limited field patrols of public land during hunting seasons, and boundary marking of areas where problems or conflicts occur, will be provided.

Acquisition of lands with public recreation potential will be pursued. (Map 4 "Recreation Development Areas Map").

Access to BLM-administered public land surface in selected areas will be provided through purchase of access, exchange of use agreements, or exchange of lands, based on a willing buyer/willing seller philosophy (Map 4).

A recreation project plan, livestock water development, and wildlife habitat management plan will be completed for the development of the proposed Meadow Draw Reservoir Recreation Site (T. 45 N., R. 63 W., section 8).

Additional, developed recreation sites on public lands will be pursued as needs are identified.

Primitive camping sites will be established on BLM-administered public land surface in Crook County (T. 56 N., R. 66 W., sections 5, 8, and T. 56 N., R. 67 W., section 1) to provide better control of camping use, fire, and trash collection. Establishment of additional primitive camping sites will be pursued as needs are identified (Map 4).

Areas within 0.25 mile of developed or semideveloped recreation sites on public land are avoidance areas for other development and surface-disturbing activities (such as roads, power lines, pipelines, and well pads). This requirement can be modified by the authorized officer. However, these areas are open to development activities specifically for the purpose of recreation site facilities.

Camping will be allowed in developed recreation sites or on undeveloped BLM-administered public land surface for a period of not more than 14 days within a 28 consecutive day period. After this time, the camp must be moved to a site at least 5 miles away.

Cutting trees and firewood for recreational purposes is restricted to dead and down trees.

The BLM will cooperate with other agencies and private landowners to explore opportunities

to interpret a portion of the Cheyenne to Deadwood Trail.

Selected tracts of BLM-administered public land surface within T. 43-46 N., R. 60 W., will be designated as the Stateline SRMA to emphasize recreation-related opportunities (see the Special Management Areas section, Stateline SRMA, for more details). BLM-administered lands in the remainder of the planning area (except for the Whoopup Canyon ACEC) are designated an Extensive Recreation Management Area (ERMA).

Surface-disturbing and disruptive activities associated with constructing and using roads, campgrounds, interpretive sites, and other recreational facilities and activities will be subject to appropriate mitigation measures determined through, but not limited to, use of the Wyoming BLM Mitigation Guidelines (Appendix 1).

See the other sections in this document for other land and resource use decisions and guidance that may apply to recreation management activities.

Off-Highway (or Off-Road) Vehicle Management (OHV or ORV)

Management Objective

Provide opportunities for OHV use in conformance with other resource management objectives. (Also see Appendix 2).

Management Actions

Unless otherwise specified, motorized vehicle use (including over-the-snow vehicles) on BLM-administered public land surface in the planning area is limited to *existing* roads and trails. Seasonal restrictions may be applied in crucial wildlife habitats (for example, sage grouse strutting grounds/nesting areas, fish spawning beds, crucial big game winter ranges/parturition areas) as needed.

On areas designated as limited to *existing* roads and trails, the performance of necessary tasks requiring off-road use of a motorized vehicle will be allowed, provided resource damage does not occur. An example of a necessary task is constructing or repairing authorized range improvements.

Motorized vehicle travel is prohibited on wet soils and on slopes greater than 25 percent if damage to vegetation, soils, or water quality will result.

The BLM-administered public lands within the Whoopup Canyon ACEC are *closed* to both motorized and nonmotorized vehicle use, except for authorized administrative purposes.

Soil Resources Management Decisions

Management Objective

Maintain soil cover and productivity and provide for improvement in areas where soil productivity may be below potential on BLM-administered public land surface. (See Appendix 2).

Management Actions

Protecting and enhancing soil resources on public land surface will be accomplished through site-specific mitigation of individual surface-disturbing actions. Mitigation measures, such as special construction and reclamation techniques, will be required on highly erosive or fragile soils.

Land uses and surface-disturbing activities on BLM-administered public land surface will be designed to promote reduction of channel erosion, where it would result in severe losses of riparian habitat, and reduction of accelerated surface erosion problems or susceptibility. To the extent practical, damaged wetland and riparian areas will be restored.

Vegetation Resources Management Decisions

Management Objective

Maintain or improve the diversity of plant communities to support livestock grazing, wildlife habitat, timber production, watershed protection visual resources and to reduce the spread of noxious weeds (also see Appendix 2).

Maintain or enhance essential and important habitats for special status plant species (for example, sensitive or threatened and endangered plants) **on BLM-administered public land surface and prevent the need for any special status plant species being listed as threatened and endangered species.**

Management Actions—General

The vegetation resources on BLM-administered public land surface will be protected and enhanced through site-specific mitigation of surface-disturbing activities.

Surface-disturbing and disruptive activities associated with all types of vegetation management will be subject to appropriate mitigation measures, determined through, but not limited to, use of the Wyoming BLM Mitigation Guidelines (Appendix 1).

Management Actions—Noxious Weeds

Noxious weeds and other undesirable vegetation on BLM-administered public lands will be controlled in cooperation with counties, APHIS, and other agencies and affected interests, consistent with the *Wyoming Record of Decision for the Final EIS Addressing Vegetation Treatment on BLM Lands in the 13 Western States* (USDI, BLM 1991a).

Control of noxious weeds, in priority order, may include the use of species-specific insects, livestock grazing, mechanical methods, or chemical methods. If herbicides are proposed for use, those with minimum toxicity to wildlife and fish will be selected. As appropriate, buffer zones will be provided along streams, rivers, lakes and riparian areas, including riparian areas along ephemeral and intermittent streams.

Vegetation treatments will avoid bird nesting seasons and other times of the year when loss of cover or disturbance by equipment will be detrimental to wildlife. Projects that may affect threatened or endangered plants or animals will be postponed or modified to protect the presence of these species. In such cases, the BLM will consult with the US Fish and Wildlife Service (FWS) as required by the Endangered Species Act.

Management Actions—Special Status Plant Species

Threatened, endangered, and sensitive plant species surveys and general floristic surveys will be conducted on BLM-administered public land surface to note locations and to obtain recommendations for management.

Special status plant species surveys will be required before allowing surface-disturbing activities in potential habitat locations. Terms and conditional requirements will be developed to protect or enhance discovered populations.

Sensitive species designation for species identified as being present or potentially present in the planning area will be requested.

The BLM will work with the FWS to identify sensitive plant species that may be present in the planning area.

Table 2 identifies the three species of plants in the planning area that have been proposed for special status designation. Known populations of these plants will be avoided by use authorizations involving surface-disturbing activities.

Table 2
Proposed Special Status Plant Species

Scientific Name/Common Name	Federal Status	BLM Status	*TNC Status	County
Spiranthes diluvialis Utes Ladies' Tresses	Federally Threatened	Sensitive	G2/S1	Niobrara
Lesquerella arenosa var. argillosa Sidesaddle Bladderpod	– – – – – –	Sensitive	G5T3/S1	Niobrara
Parthenium alpinum Alpine fever-few	– – – – – –	"Watch"	G3/S3	Niobrara

* The Nature Conservancy

Surface-disturbing and disruptive activities associated with all types of vegetation management will be subject to appropriate mitigation measures, determined through, but not limited to, use of the Wyoming BLM Mitigation Guidelines (Appendix 1).

See the other sections in this document for other land and resource use decisions and guidance that may apply to vegetation management activities.

Visual Resources Management Decisions

Management Objective

Maintain or improve scenic values, visual quality, and establish visual resource management (VRM) priorities in conjunction with other resource values. (Also see Appendix 2).

Management Actions

Visual resources will be managed in accordance with objectives for VRM classes that have been assigned to the planning area (see Glossary). Map 5 "Visual Resource Management Map" shows the VRM management areas.

The VRM requirements apply to activities conducted on public lands or to BLM-authorized mineral exploration and development activities on split-estate lands.

Visual resources will be considered before authorizing land uses that may affect them. Mitigation to protect visual resources will be determined through, but not limited to, use of the Wyoming BLM Mitigation Guidelines (Appendix 1) and could require that facilities or structures such as power lines, oil wells, and storage tanks be screened from view, painted, or otherwise designed to blend with the surrounding landscape.

See the other sections in this document for other land and resource use decisions and guidance that may apply to visual resource management activities.

Watershed And Water Resources Management Decisions

Management Objective

Maintain or improve surface and groundwater quality consistent with existing and anticipated uses and applicable state and federal water quality standards; provide for the availability of water to facilitate authorized uses; and to minimize harmful consequences of erosion and surface runoff from BLM-administered public land surface. (Also see Appendix 2).

Management Actions

Water resources will be protected or enhanced through site-specific mitigation of use authorizations.

When authorizing proposals for use of herbicides or pesticides on BLM-administered public lands, those chemicals with minimum toxicity to wildlife and fish will be selected. "No chemical use" buffer zones, to be delineated on a case-by-case basis, will be required along streams, rivers, lakes and riparian areas, including riparian areas along ephemeral and intermittent streams.

Areas within 500 feet of 100-year floodplains, wetlands, or perennial streams, are avoidance areas for surface-disturbing activities.

Areas within 100-year floodplains, wetlands, or riparian areas are closed to the placement or construction of structures (fuel or chemical storage tanks, well pads, buildings, or other types of structures), where there is potential for property, ecological, and general resource damage and human health and safety hazards from a flooding event.

Land use and surface-disturbing activities on BLM-administered public lands will be designed to promote reduction of channel erosion where it would result in severe reduction of riparian habitat, and to promote reduction of accelerated surface erosion in areas having severe erosion problems or fragile or erodible soils. To the extent practical, damaged wetland or riparian areas on public lands will be restored (Appendix 1).

Protecting watershed resources will be considered in the analysis of industry and BLM initiated projects. Watershed conservation practices and *State of Wyoming Best Management Practices* will be applied as necessary.

Surface-disturbing and disruptive activities associated with watershed management will be subject to appropriate mitigation measures determined through, but not limited to, use of the Wyoming BLM Mitigation Guidelines (Appendix 1).

See the other sections in this document for other land and resource use decisions and guidance that may apply to watershed management activities.

Wildlife Habitat Management Decisions

Management Objectives

- **Maintain biological diversity of plant and animal species.**
- **Support the Wyoming Game and Fish Department (WGFD) strategic plan population objective levels to the extent practical and to the extent consistent with BLM multiple-use management requirements.**
- **Maintain, and where possible improve, forage production and quality of rangelands, fisheries, and wildlife habitat.**
- **To the extent possible, provide habitat for threatened, endangered, and special status animal and plant species on BLM-administered public land surface in compliance with the Endangered Species Act (ESA) and approved recovery plans (also see Appendix 2).**

Management Actions

The BLM will coordinate efforts with other federal authorities and with state and local authoritiesto implement safe and effective prairie dog control measures on public lands when prairie dogs are determined to be a threat to human health and safety or are causing resource damage. Resource damage will be documented by BLM personnel when reported by the grazing lessee, adjacent landowners, or other interests. Damage could include resource damage occurring on private or state lands from prairie dog towns located on BLM-administered public lands**. Animal damage control activities will be subject to established procedures and policies as outlined in the national and state level memoranda of understanding between BLM and APHIS and the animal damage control plan for the planning area. Human health and safety determinations will be made by the State of Wyoming, Department of Health or by officers of the US Center for Disease Control.**

The size of prairie dog towns on BLM-administered public lands will not be controlled unless resource damage is occurring or human health and safety are threatened as stated above. Unless one of the above situations were occurring, prairie dog control on BLM-administered public land in the planning area will not be allowed. Prairie dogs and their towns are an important component of the prairie ecosystem and are valuable in providing habitat and a food source for a number of wildlife species, some of which are species of special management concern.

New prairie dog towns will be allowed to become established on public lands.

No BLM-authorized actions will be allowed that will disrupt animals on identified crucial winter range, generally from November 1 through March 30, unless approved by the authorized officer (see Map 6, “Deer Critical Winter Range Map”).

To protect raptors and sage and sharp-tailed grouse during their nesting seasons, disruptive activity generally will not be allowed from February 1 through July 31. This limitation does not apply to maintenance and operations of existing facilities. Modification of this limitation in any year may be approved in writing by the authorized officer. (See Map 7 “Grouse Nesting and Raptor Concentration Areas Map.”)

Timber harvesting on BLM-administered public land surface in crucial winter range areas will not be allowed unless the timber harvest is designed to improve winter habitat for wildlife species.

Riparian habitat management guidelines will be developed and implemented in all grazing allotments, with priority given to category “I” allotments. These guidelines could apply to such things as protective fencing, livestock season of use designations, and project work to enhance and improve riparian zones to achieve a healthy and productive condition in wetland/riparian areas, and to apply the “no net loss of wetlands” policy.

Fence construction will be required to meet current BLM fence standards.

Fences on BLM-administered public land surface that cause documented wildlife conflicts will be removed, reconstructed, or modified, as appropriate or necessary, to eliminate or reduce the conflict.

Construction of fences that interfere with movements of big game species in crucial big game winter range will not be allowed on BLM-administered public land surface.

Animal damage control activities will be considered on a case-by-case basis. These activities will be subject to established procedures and policies as outlined in the national and state level memoranda of

understanding between BLM and APHIS and the animal damage control plan for the planning area. Situations where the proposed animal damage control activities (all or specific methods) are not compatible with BLM planning and management objectives or with prescriptions for other resource activities and uses the APHIS/WS will be requested to amend the proposed animal damage control activities accordingly. Human health and safety determinations will be made by the State of Wyoming, Department of Health or by officers of the US Center for Disease Control.

The BLM will work in cooperation with the WGFD to provide adequate habitat for wildlife population objectives in the state's approved strategic plan for wildlife populations.

Surface-disturbing and disruptive activities associated with wildlife habitat management will be subject to appropriate mitigation measures , determined through, but not limited to, use of the Wyoming BLM Mitigation Guidelines (Appendix 1).

See the other sections in this document for other land and resource use decisions and guidance that may apply to wildlife habitat management activities.

Planning And Management Decisions For Special Management Areas

Unless otherwise stated, the management action decisions for the general Newcastle RMP planning area will apply.

Stateline Special Recreation Management Area

Management Objective

Ensure continued public use and enjoyment of recreation activities, while protecting and enhancing natural and cultural values; improving opportunities for high quality outdoor recreation; and, improving visitor services related to safety, information, interpretation, and facility development and maintenance.

Management Actions

Selected tracts of BLM-administered public land surface in T. 43-46 N., R. 60 W. are designated the "Stateline Special Recreation Management Area" (SRMA) due to their high potential for recreational activities (Map 4)**.** The following additional management actions will be implemented in the SRMA:

— **Recreational trails in the SRMA will be developed on BLM-administered public land surface for use by hikers, skiers, and mountain bike riders**. The trails could also be nature walk trails or used by schools, volksmarches, and competitive and noncompetitive events for walking, horseback riding, mountain bike events, and cross-country skiing.

Whoopup Canyon Area of Critical Environmental Concern

Management Objective

Protect and study rock art in the Whoopup Canyon area; expand public education and interpretation in the area; protect cultural resource values from degradation; and provide for wildlife and scenic values, and Native American concerns.

Management Actions

The Whoopup Canyon ACEC area is expanded to 1,439.39 acres (BLM-administered public land surface only). The legal description for the ACEC is:

6th Principal Meridian

	Acres
T. 43 N., R. 60 W.	
sec 5: W1/2SW1/4	80.00
sec 6: SE1/4NW1/4	40.00
sec 7: Lot 4, SE1/4SW1/4	80.19
sec 8: W1/2SW1/4	80.00
T. 44 N., R. 60 W.	
sec 19: SE1/4SW1/4, S1/2SE1/4	120.00
sec 20: S1/2SW1/4	80.00
sec 29: NW1/4NW1/4, SW1/4SE1/4	80.00
sec 30: Lots 3 and 4, N1/2NE1/4, NE1/4NW1/4, SE1/4SE1/4	239.80
sec 31: Lots 1 through 4 inclusive, NE1/4, E1/2NW1/4, E1/2SW1/4	479.40
sec 32: NE1/4NE1/4, S1/2NW1/4	120.00
sec 33: NW1/4NW1/4	40.00
TOTAL ACRES	1,439.39

Site-specific management activities within the ACEC will be developed through further activity or implementation planning that will incorporate the following actions.

—**The public lands within the ACEC are closed to:**
- **public access and unsupervised general public use;**

- **surface-disturbing activities, including rights-of-way actions. The only exception to this will be those surface-disturbing activities necessary for meeting the research, education, interpretive and preservation management objectives for the area;**
- **mineral material sales;**
- **mineral location (a withdrawal from staking of mining claims and mining under the Mining Laws, will be pursued);**
- **motorized or nonmotorized mechanical transport. Exceptions for physically handicapped persons will be explored on a case-by-case basis and may be allowed where possible, safe and practical. Vehicle use for administrative purposes will be allowed on a case-by-case basis;**
- **the use of explosives or blasting;**
- **use of fire retardant chemicals or those retardants containing dyes to prevent adverse effects to the petroglyphs and to protect the integrity of sociocultural values;**
- **geophysical exploration activity; and**
- **commercial timber harvesting and harvesting of other forest products.**

— **The public lands within the ACEC are open to consideration for mineral leasing with a no surface occupancy stipulation** (see Glossary).

— **The public lands within the ACEC will be managed consistent with the Class II visual resource management (VRM) classification.**

— **The requirements identified above for no surface occupancy stipulations on federal oil and gas or other federal mineral leases, will be applied, as appropriate, to split-estate lands (private surface over federal minerals), intermingled among or adjacent to the public lands in the ACEC, in relation to federal mineral exploration and development activities only. These include surface-disturbing activities, the use of explosives or blasting, geophysical exploration, mineral material sales, and mineral location.**

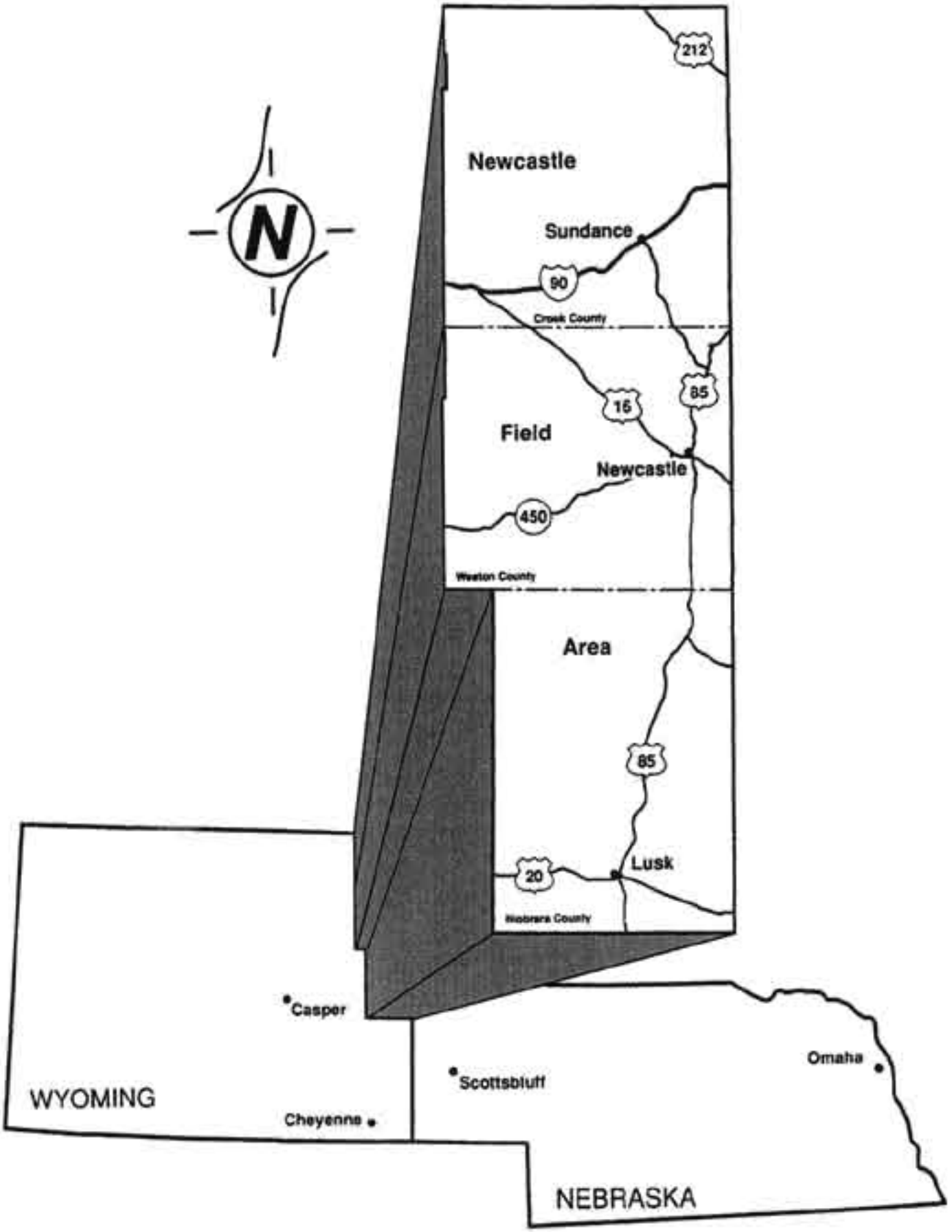
— **Livestock grazing objectives will be evaluated and, as needed, modified to be consistent with the management objectives for this area.**

— **Legal access across private lands for administrative and management purposes will be pursued.**

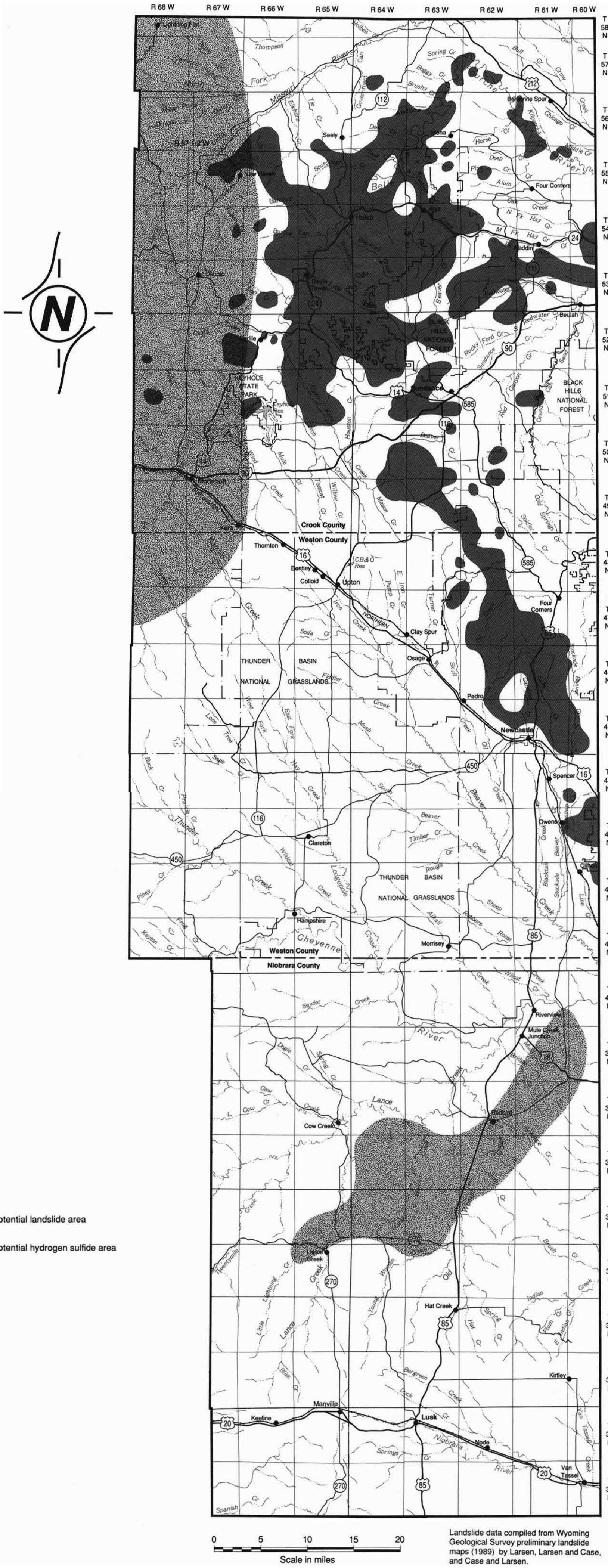
— **Visitation to and use of the area will be limited to (1) research under a cultural resources research permit; (2) traditional religious use by Native Americans; and, (3) supervised tours guided by BLM personnel.**

— **Active research and preservation activities will be conducted. To the extent possible, petroglyphs, artifacts, and cultural deposits will be preserved and protected from weathering and vandalism.**

— **A land exchange will be pursued to acquire private lands in the area determined to have significant cultural resource values.**



Map 1
General Location

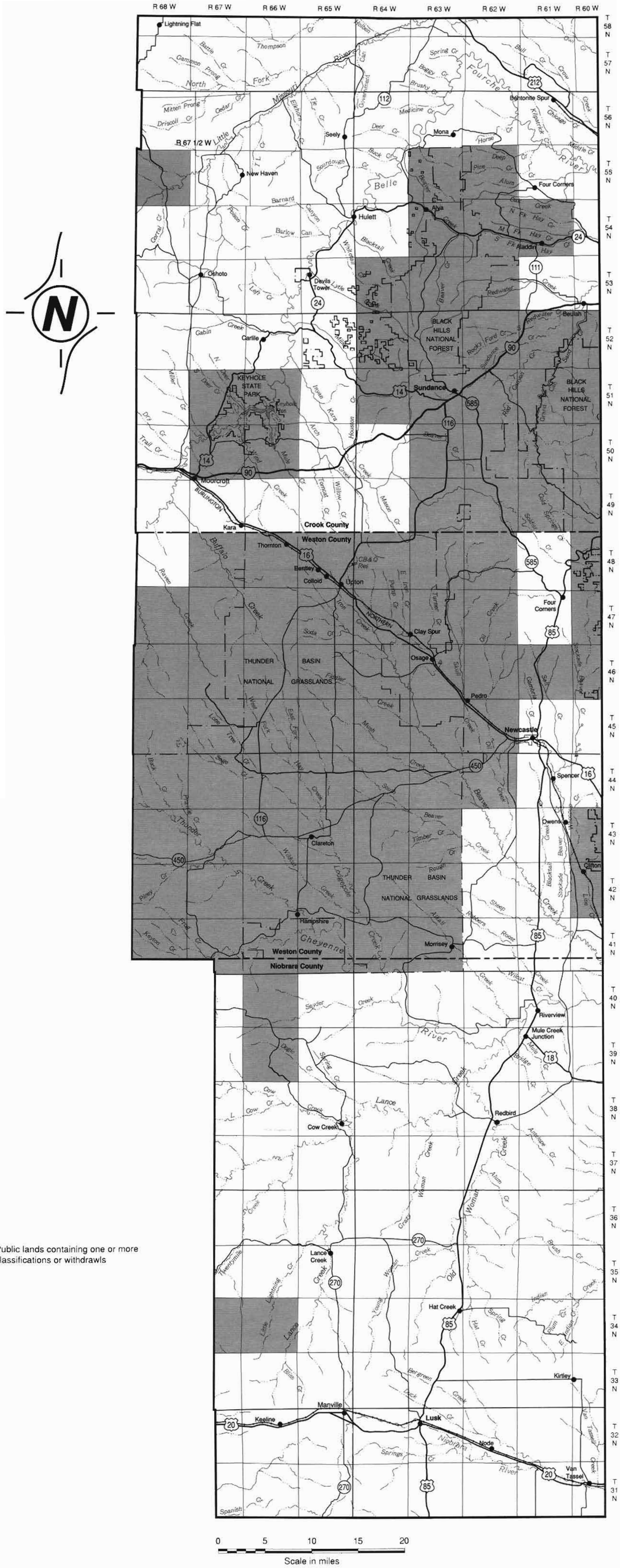


Landslide data compiled from Wyoming Geological Survey preliminary landslide maps (1989) by Larsen, Larsen and Case, and Case and Larsen.

Map 2

Generalized Geologic Hazards

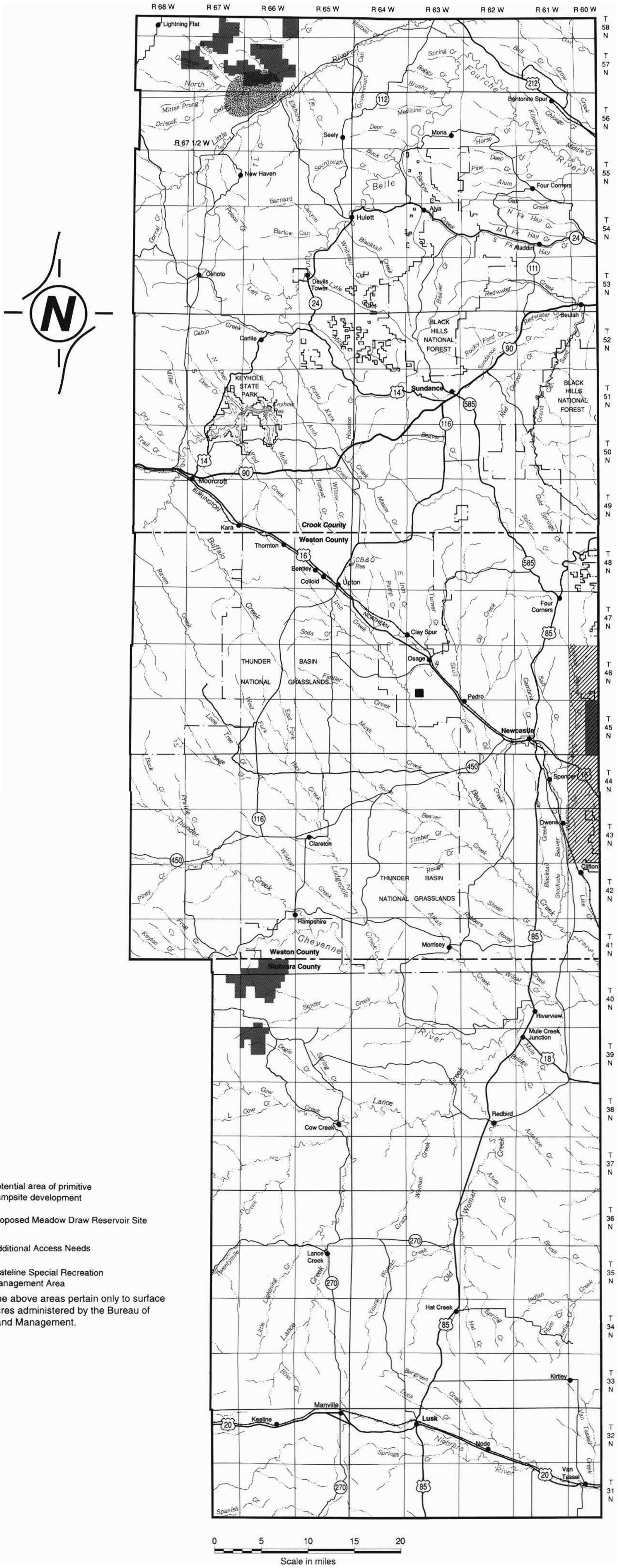
Newcastle Field Office



Map 3

Existing Classifications and Withdrawals

Newcastle Field Office



Potential area of primitive campsite development

Proposed Meadow Draw Reservoir Site

Additional Access Needs

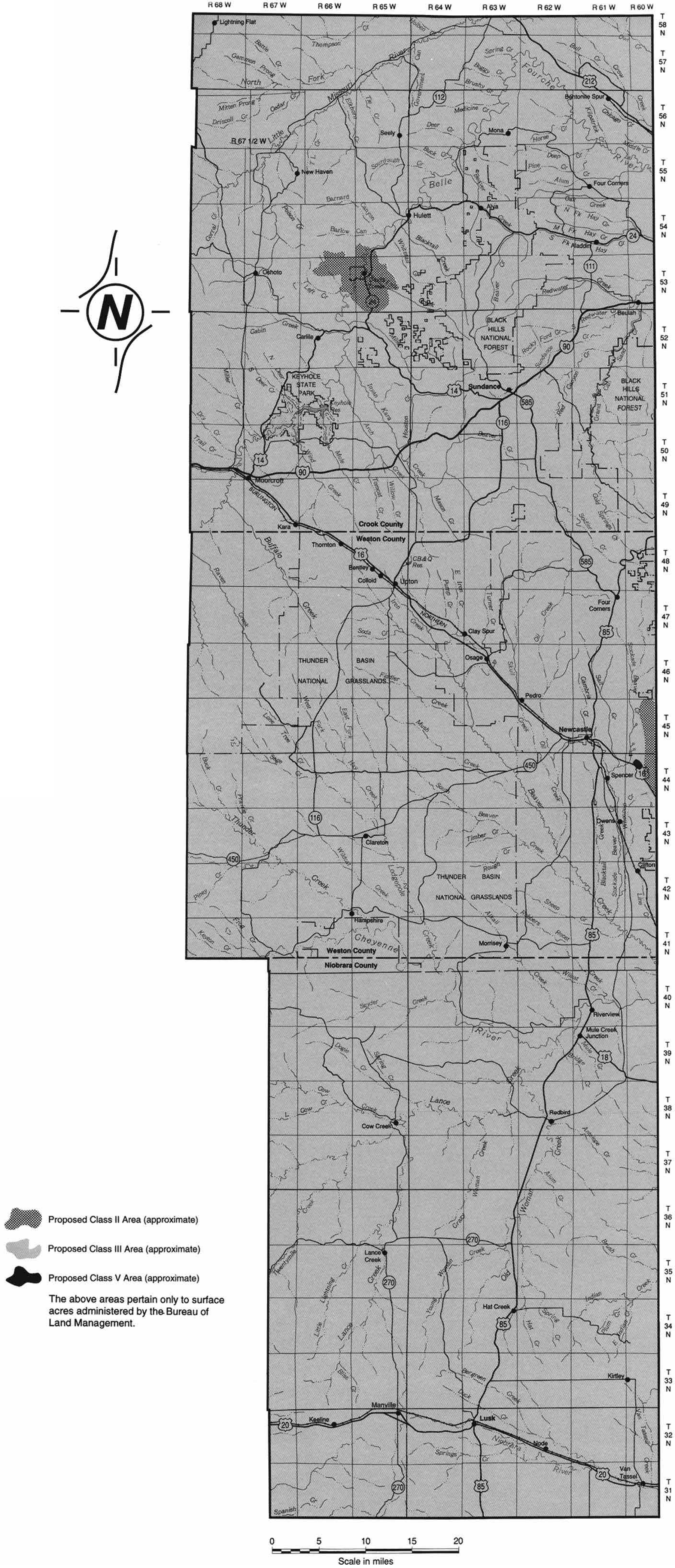
Stateline Special Recreation Management Area

The above areas pertain only to surface acres administered by the Bureau of Land Management.

Map 4

Recreation Development Areas

Newcastle Field Office



Proposed Class II Area (approximate)

Proposed Class III Area (approximate)

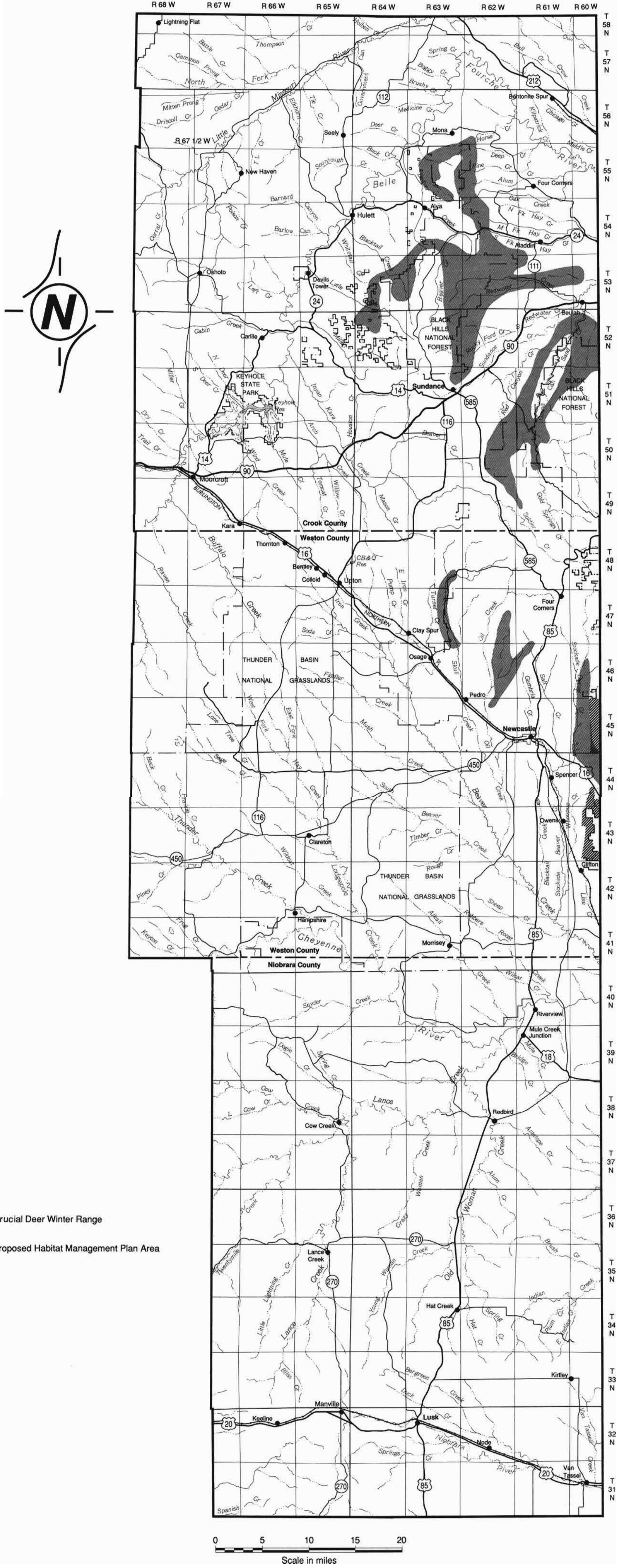
Proposed Class V Area (approximate)

The above areas pertain only to surface acres administered by the Bureau of Land Management.

Map 5

Visual Resource Management

Newcastle Field Office



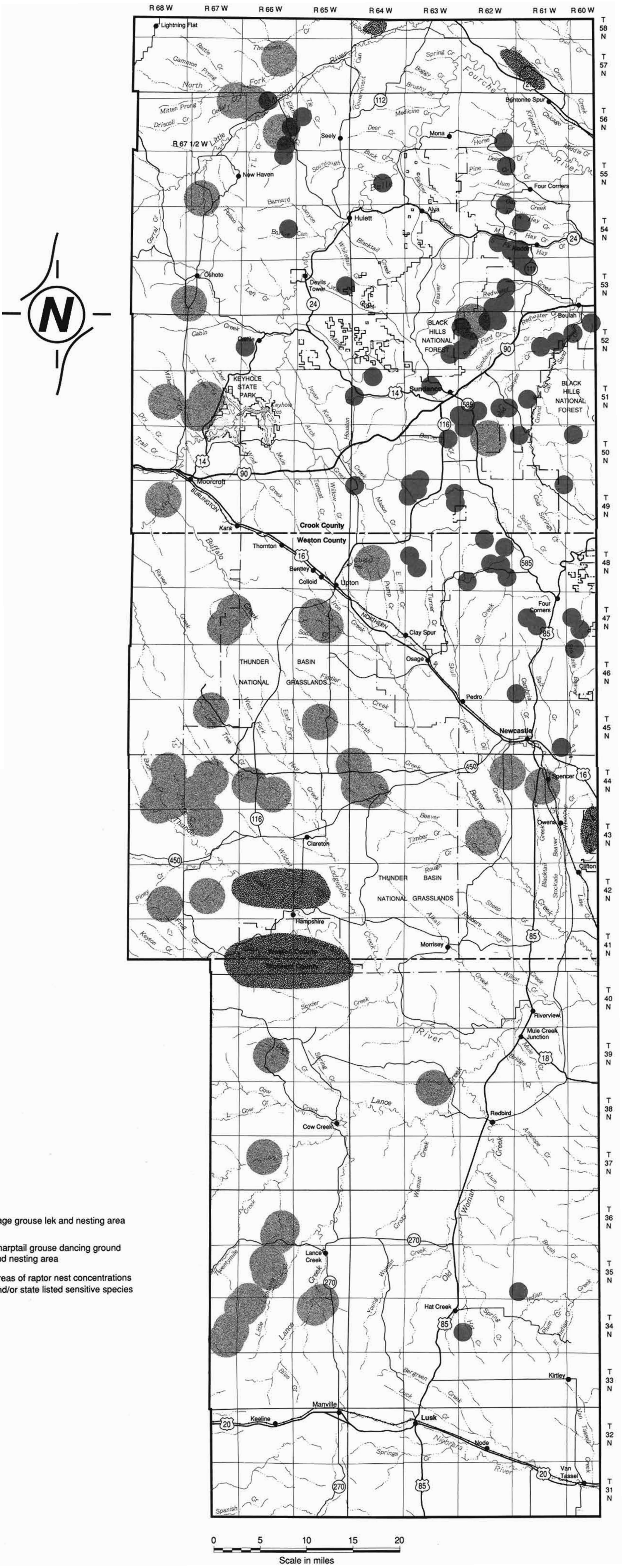
Crucial Deer Winter Range

Proposed Habitat Management Plan Area

Map 6

Deer Critical Winter Range

Newcastle Field Office



Map 7

Grouse Nesting and Raptor Concentration Areas

Newcastle Field Office

GLOSSARY OF TERMS

Active preference: The currently authorized livestock grazing use on public lands in an allotment, measured in animal unit months (AUMs) of forage.

Allotment: An area of land designated and managed for livestock grazing. An allotment may include intermingled private, state, public, and other federally administered lands that are administered for grazing. The number of livestock and period of use are stipulated for each allotment. An allotment may consist of several pastures or may be only one pasture.

Allotment categorization: The grouping of livestock allotments into the categories "M" (maintain current condition), "I" (improve current condition), or "C" (manage custodially while protecting existing resource values). The criteria that determine the allotment categorization are described in Appendix G in the first draft document.

Animal unit month (AUM): The amount of forage needed to sustain one cow and calf pair, five sheep, or one horse for one month.

Authorized Officer: Any employee of the Bureau of Land Management to whom has been delegated the authority to make final, binding decision or take specific action, or both, as an official representing the United States Government. Such authority has legal base in statute or regulation.

Avoidance area: An area designated to be avoided due to some resource value that may become damaged or detracted from if development activities were allowed. Examples of an avoidance area may be a recreation site or known cultural site. An area may also be an avoidance area if some hazard exists such as a landslide area. The area may not be totally unavailable but should be avoided if possible.

Biological diversity: Biological diversity is the variety of life and its processes. Although vastly complex, it includes some measurable distinctions like genetic differences within and among species, species variations, associations of species with each other and their environment, and the patterns and linkages of these biological communities across geographical areas (Keystone Center 1991).

Inventory, monitoring, research, data management, and information sharing are needed for understanding the elements of biological diversity that exists in the Newcastle planning area.

There is a need to identify biologically diverse areas and conserve their richness of plan and animal species. The Federal Land Policy and Management Act mandates inventory of the public lands and the use of inventories in management. According to the Keystone Center, BLM's multiple-use management of public lands promotes biological diversity because, under this management, a variety of ecological stages of habitat are developed and maintained, each with its particular plant and animal communities. Also, the variety of landscapes and habitat types making up the public lands provides naturally for biological diversity.

The BLM policy requires that habitats be managed with emphasis on biological communities and natural systems to ensure self-sustaining populations and an abundance and diversity of wildlife, fish, and plant resources on the public lands; and that rare, vulnerable, and representative habitats, plant and animal communities, and natural systems be conserved. The Newcastle RMP EIS considered the effects of the alternatives on biological diversity by using the evaluation of habitat as a starting point.

Crucial winter range: Winter habitat on which a wildlife species depends for survival. Because of severe weather conditions or other limiting factors, no alternative habitat would be available.

Diversity: The relative abundance of wildlife species, plant species, plant communities, and habitats in an area.

Ecosystems and Ecosystem Management: An ecosystem is an intricate group of organisms within their environmental communities, working as an ecological unit or natural system. Plants and animals, including humans, are a part of this dynamic process of living and nonliving interaction. The BLM's mission is to efficiently manage these ecosystems.

Ecosystem management is a process that considers the total environment. It requires the skillful use of ecological, economic, social, and managerial principles in managing ecosystems to produce, restore, or sustain ecosystem integrity and desired conditions, uses, products, values, and services over the long term. Management of individual components of ecological systems for immediate needs is tempered or expanded to responsible management centered on long-term

goals and objectives targeted to the entire ecological system. The principles of ecosystem management, used in BLM's day-to-day management of the public lands and resources, include recognition that people and their social and economic needs are an integral part of ecological systems. it is consistent with the BLM's mission and direction under the FLPMA and it is supported by other laws guiding the BLM's mission.

Effective ecosystem management will be incorporated into implementation of the Grass Creek RMP, into site-specific implementation plans, and into daily management decisions.

Forage: All browse and herbaceous foods that are available to grazing animals.

Full suppression: A strategy for extinguishing fires that requires immediate and continuous aggressive attack in the most cost-effective manner, with the least amount of property damage or resources lost. Full suppression may include control, containment, or confinement of a wildfire to meet land management objectives.

Interdisciplinary: Characterized by participation or cooperation among two or more disciplines or fields of study.

Monitoring: The orderly collection, analysis, and interpretation of resource data to evaluate progress toward meeting resource management objectives.

No surface occupancy (NSO): This term is used to define a no surface occupancy area where no surface-disturbing activities *of any nature or for any purpose* would be allowed. For example, construction or the permanent or long-term placement of structures or other facilities for any purpose would be prohibited in an NSO area. It is also used as a stipulation or mitigation requirement for controlling or prohibiting selected land uses or activities that would conflict with other activities, uses, or values in a given area. When used in this way, the NSO stipulation or mitigation requirement is applied to prohibit one or more specific types of land and resource development activities or surface uses in an area, while other—perhaps even similar— types of activities or uses (for other purposes) would be allowed. For example, protecting important rock art relics from destruction may require closing the area to the staking of mining claims and surface mining, off-road vehicle travel, construction or long-term placement of structures or pipelines, power lines, general purpose roads, and livestock grazing. Conversely, the construction of fences to protect rock art from vandalism or from trampling or breakage by livestock, an access road or trail, and other visitor facilities to provide interpretation and opportunity for public enjoyment of the rock art would be allowed. Further, if there were potential and interest for leasing and development of leasable minerals in the area, leases for gas and oil, coal, and so forth, could be issued with a "no surface occupancy" stipulation or mitigation requirement for the rock art site, which would still allow access to the leasable minerals from adjacent lands and underground.

The term "no surface occupancy" has no relationship or relevance to the presence of people in an area.

Nonmotorized mechanical transport: Any device for moving people or material in or over land, water, snow or air that has moving parts, and that is powered by a living or nonliving power source. This includes, but is not limited to, sailboats, hang gliders, parachutes, bicycles, game carriers, carts and wagons. The term does not include wheelchairs when used as necessary medical appliances, nor does it include skis, snowshoes, nonmotorized river craft, sleds, travois, or similar primitive devices without moving parts.

Off-road vehicle (ORV)/off-highway vehicle (OHV) - these terms are synonymous : Any motorized vehicle capable of, or designated for, travel on or immediately over land, water, or other natural terrain, excluding: (1) any nonamphibious registered motorboat; (2) any military, fire, emergency, or law enforcement vehicle while being used for emergency purposes; (3) any vehicle whose use is expressly authorized by the authorized officer, or otherwise officially approved; (4) vehicles in official use; and, (5) any combat or combat support vehicle when used in times of national defense emergencies (43 CFR 8340.0-5).

Off-road vehicle/Off-highway (ORV/OHV) management designations: Designations apply to all off-road vehicles regardless of the purposes for which they are being used. Emergency vehicles are excluded. The ORV designation definitions have been developed in cooperation with representatives from the US Forest Service, US Park Service, and BLM state and district personnel. BLM recognizes the differences between off-road vehicles and over-the-snow vehicles in terms of use and impact. Therefore, travel by over-the-snow vehicles will be permitted off existing routes and in all open or limited areas (unless otherwise specifically limited or closed to over-the-snow vehicles) if they are operated in a responsible manner without damaging the vegetation or harming wildlife.

Closed. Vehicle travel is prohibited in the area. Access by means other than motorized vehicle is permitted.

Open. Vehicle travel is permitted in the area (both on and off roads) if the vehicle is operated responsibly in a manner not causing, or unlikely to cause, significant undue damage to or disturbance of the soil, wildlife, wildlife habitat, improvements, cultural, or vegetative resources or other authorized uses of the public lands.

Limited

a. Vehicle travel is permitted only on existing roads and vehicles routes which were in existence prior to the date of designation in the *Federal Register.* Vehicle travel off of existing vehicle routes is permitted only to accomplish necessary tasks and only if such travel does not result in resource damage. Random travel from existing vehicle routes is not allowed. Creation of new routes or extensions and/or widening of existing routes is not allowed without prior written agency approval.

b. Vehicle travel is permitted only on roads and vehicles routes designated by BLM. In areas where final designation has not been completed, vehicle travel is limited to existing roads and vehicle routes as described above. Designations are posted as follows:

1. Vehicle route is open to vehicular travel.
2. Vehicle route is closed to vehicular travel.

c. Vehicle travel is limited by number or type of vehicle. Designations are posted as follows:

1. Vehicle route is limited to four-wheel drive vehicles only.
2. Vehicle route is limited to motorbikes only.
3. Area is closed to over-the-snow vehicles.

d. Vehicle travel is limited to licensed or permitted use.

e. Vehicle travel is limited to time or season of use. Posted:

"Seasonal closure to all motor vehicles[*the approximately dates of closure are indicated*]."

f. Where specialized restrictions are necessary to meet resource management objectives, other limitations also may be developed. Posted:

"Recreational ORV play area"

Prescribed fire: The skillful application of fire (by planned or unplanned ignition) to wildland fuels in either their natural or modified state under specified conditions to allow the fire to burn in a predetermined area while producing the fire behavior required to achieve certain management objectives.

Prevention of significant deterioration (PSD): The process incorporated in the Clean Air Act which places emission limitations on specified new or modified sources. PSD regulations are intended to limit deterioration of air quality that is currently cleaner than national ambient air quality standards.

Public land: Any land or interest in lands owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management, except lands located on the outer Continental Shelf and lands held for the benefit of Indians, Aleuts, and Eskimos (43 CFR 1601.0-5). The term "public lands" as used in this document, refers to all BLM-administered public land surface and/or federal mineral estate under the jurisdiction of the Newcastle Field Office.

Public use: This category is applied to any cultural property found to be appropriate for consideration as an interpretive exhibit in place, a subject of supervised participation in scientific or historical study, or related educational and recreational uses by members of the general public.

Range condition: The existing state of range vegetation in an area described in comparison to the climax (natural potential) plant community for that area. It is an expression of the relative degree to which the kinds, proportions, and amounts of plants in a plant community resemble that of the climax plant community. Range condition is rated as: potential natural—more than 75 percent of the vegetation is in a climax state; later seral—51 percent to 75 percent of the vegetation is climax; mid seral—26 percent to 50 percent is climax; and, early seral—less than 26 percent of the vegetation is climax.

Range improvement: Any activity or program on or relating to rangelands designed to improve production of forage, change vegetation composition, control patterns of use, provide water, stabilized soil and water conditions, or provide habitat for livestock or wildlife. Range improvement projects may be fences, reservoirs, brush control, or spring and well developments.

Riparian habitat: Common usage refers to the green zones along the banks of streams and ponds and such wetlands as springs or wet meadows. Other usage defines it as any area characterized by vegetation dependent on more water than is available to normal upland vegetation. The BLM's usage is "an area of land directly influenced by permanent water. It has visible vegetation or physical characteristics reflective of permanent

water influence. Lakeshores and streambanks are typical riparian areas. Excluded are such sites as ephemeral streams or washes that do not exhibit the presence of vegetation dependent on free water in the soil." See also Wetlands Jurisdictional Wetlands."

Season of use: The part of the year in which livestock grazing is authorized on a given range area, as specified in the grazing lease.

Surface Disturbance (or surface-disturbing activities): The physical disturbance and movement or removal of the land surface and vegetation, it ranges from the very minimal to the maximum types of surface disturbance associated with such things as off-road vehicle travel or use of mechanized, rubberized, or tracked equipment and vehicles; some timber cutting and forest silvicultural practices; excavation and development activities associated with use of heave equipment for road, pipeline, power line and other types of construction; blasting; strip, pit and underground mining and related activities, including ancillary facility construction; gas and oil well drilling and field construction of development and related activities; range improvement project construction; and recreation site construction.

Mitigation of surface-disturbing activities centers around surface reclamation and the control and prohibition of surface uses. Mitigation is associated with concerns for such things as movement of disturbed or denuded soil (by water, air, or gravity); erosion, water quality (sedimentation, salinity pollution); wildlife habitat (vegetative and special, aquatic or terrestrial); vegetative composition, cover of productive capacity (quality, quantity) for consumptive and nonconsumptive uses (grazing, scenic values, watershed stability); surface and subsurface cultural and paleontological values; and other subsurface values (cave or karst systems, aquifers).

Trend: The direction of change in the condition of health of the range, usually gauged in relation to its natural potential and determined by observation over a period of time.

Visual resource management (VRM): The planning, design, and implementation of management objectives for maintaining scenic values and visual quality. The system is based on research that has produced ways of assessing aesthetic qualities of the landscape in objective terms. After inventory and evaluation, lands are given relative visual ratings (management classes), which determine the amount of modification allowed to the basic elements of the landscape. Following are the five classes.

VRM Class I: This class applies to areas where the objective is to maintain a landscape setting that appears unaltered by man.

VRM Class II: This class applies to areas where the objective is to design proposed alterations so as to retain the existing character of the landscape.

VRM Class III: This class applies to areas where the objective is to design proposed alterations so as to partially retain the existing character of the landscape.

VRM Class IV: This class applies to areas where the objective is to provide for management activities which require major modification of the existing character of the landscape.

VRM Class V: This class applies to areas where the natural character has been drastically altered, and the area requires rehabilitation to upgrade it to one of the above classifications.

Wetland: Defined by the U.S. Fish and Wildlife Service as "areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support and which, under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions." The BLM's usage is virtually synonymous with riparian area, but included associated waters such as ponds or streams, and all other wet areas such as springs, wet meadows, bogs, swamps, and sloughs.

Appendix 1

WYOMING BLM MITIGATION GUIDELINES FOR SURFACE-DISTURBING AND DISRUPTIVE ACTIVITIES

INTRODUCTION

These guidelines are primarily for the purpose of attaining statewide consistency in how requirements are determined for avoiding and mitigating environmental impacts and resource and land use conflicts. Consistency in this sense does not mean that identical requirements would be applied for all similar types of land use activities that may cause similar types of impacts. Nor does it mean that the requirements or guidelines for a single land use activity would be identical in all areas.

There are two ways the mitigation guidelines are used in the RMP EIS process: (1) as part of the planning criteria in developing the RMP alternatives, and (2) in the analytical processes of both developing the alternatives and analyzing the impacts of the alternatives. In the first case, an assumption is made that any one or more of the mitigations will be appropriately included as conditions of relevant actions being proposed or considered in each alternative. In the second case, the mitigations are used (1) to develop a baseline for measuring and comparing impacts among the alternatives; (2) to identify other actions and alternatives that should be considered, and (3) to help determine whether more stringent or less stringent mitigations should be considered.

The EIS for the RMP does not decide or dictate the exact wording or inclusion of these guidelines. Rather, the guidelines are used in the RMP EIS process as a tool to help develop the RMP alternatives and to provide a baseline for comparative impact analysis in arriving at RMP decisions. These guidelines will be used in the same manner in analyzing activity plans and other site-specific proposals. These guidelines and their wording are matters of policy. As such, specific wording is subject to change primarily through administrative review, not through the RMP EIS process. Any further changes that may be made in the continuing refinement of these guidelines and any development of program-specific standard stipulations will be handled in another forum, including appropriate public involvement and input.

PURPOSE

The purpose of the "Wyoming BLM Mitigation Guidelines" are (1) to reserve, for the BLM, the right to modify the operations of all surface and other human presence disturbance activities as part of the statutory requirements for environmental protection, and (2) to inform a potential lessee, permittee, or operator of the requirements that must be met when using BLM-administered public lands. These guidelines have been written in a format that will allow for (1) their direct use as stipulations, and (2) the addition of specific or specialized mitigation following the submission of a detailed plan of development or other project proposal, and an environmental analysis.

Those resource activities or programs currently without a standardized set of permit or operation stipulations can use the mitigation guidelines as stipulations or as conditions of approval, or as a baseline for developing specific stipulations for a given activity or program.

Because use of the mitigation guidelines was integrated into the RMP EIS process and will be integrated into the site-specific environmental analysis process, the application of stipulations or mitigation requirements derived through the guidelines will provide more consistency with planning decisions and plan implementation than has occurred in the past. Application of the mitigation guidelines to all surface and other human presence disturbance activities concerning BLM-administered public lands and resources will provide more uniformity in mitigation than has occurred in the past.

MITIGATION GUIDELINES

1. Surface Disturbance Mitigation Guideline

Surface disturbance will be prohibited in any of the following areas or conditions. Exception, waiver, or modification of this limitation may be approved in

writing, including documented supporting analysis, by the authorized officer.

a. Slopes in excess of 25 percent.
b. Within important scenic areas (Class I and II Visual Resource Management Areas).
c. Within 500 feet of surface water and/or riparian areas.
d. Within either one-quarter mile or the visual horizon (whichever is closer) of historic trails.
e. Construction with frozen material or during periods when the soil material is saturated or when watershed damage is likely to occur.

Guidance

The intent of the SURFACE DISTURBANCE MITIGATION GUIDELINE is to inform interested parties (potential lessees, permittees, or operators) that when one or more of the five (1a through 1e) conditions exist, surface-disturbing activities will be prohibited unless or until a permittee or his designated representative and the surface management agency (SMA) arrive at an acceptable plan for mitigation of anticipated impacts. This negotiation will occur prior to development.

Specific criteria (e.g., 500 feet from water) have been established based upon the best information available. However, such items as geographical areas and seasons must be delineated at the field level.

Exception, waiver, or modification of requirements developed from this guideline must be based upon environmental analysis of proposals (e.g., activity plans, plans of development, plans of operation, applications for permit to drill) and, if necessary, must allow for other mitigation to be applied on a site-specific basis.

2. Wildlife Mitigation Guideline

a. To protect important big game winter habitat, activities or surface use will not be allowed from November 15 through April 30 within certain areas encompassed by the authorization. The same criteria apply to defined big game birthing areas from May 1 through June 30.

   Application of this limitation to operation and maintenance of a developed project must be based on environmental analysis of the operational or production aspects.

   Exception, waiver, or modification of this limitation in any year may be approved in writing, including documented supporting analysis, by the authorized officer.

b. To protect important raptor and/or sage and sharp-tailed grouse nesting habitat, activities or surface use will not be allowed from February 1 through July 31 within certain areas encompassed by the authorization. The same criteria apply to defined raptor and game bird winter concentration areas from November 15 through April 30.

   Application of this limitation to operation and maintenance of a developed project must be based on environmental analysis of the operational or production aspects.

   Exception, waiver, or modification of this limitation in any year may be approved in writing, including documented supporting analysis, by the authorized officer.

c. No activities or surface use will be allowed on that portion of the authorization area identified within (legal description) for the purpose of protecting (e.g., sage/sharp-tailed grouse breeding grounds, and/or other species/activities) habitat.

   Exception, waiver, or modification of this limitation in any year may be approved in writing, including documented supporting analysis, by the authorized officer.

d. Portions of the authorized use area legally described as (legal description), are known or suspected to be essential habitat for (name) which is a threatened or endangered species. Prior to conducting any onsite activities, the lessee/permittee will be required to conduct inventories or studies in accordance with BLM and U.S. Fish and Wildlife Service guidelines to verify the presence or absence of this species. In the event that (name) occurrence is identified, the lessee/permittee will be required to modify operational plans to include the protection requirements of this species and its habitat (e.g., seasonal use restrictions, occupancy limitations, facility design modifications).

Guidance

The WILDLIFE MITIGATION GUIDELINE is intended to provide two basic types of protection: seasonal restriction (2a and 2b) and prohibition of activities or surface use (2c). Item 2d is specific to situations involving threatened or endangered species. Legal descriptions will ultimately be required and should be measurable and legally definable. There are no minimum subdivision requirements at this time. The area delineated can and should be defined as necessary, based upon current biological data, prior to the time of processing

an application and issuing the use authorization. The legal description must eventually become a part of the condition for approval of the permit, plan of development, and/or other use authorization.

The seasonal restriction section identifies three example groups of species and delineates three similar time frame restrictions. The big game species bighorn sheep, all require protection of crucial winter range between November 15 and April 30. Elk and bighorn sheep also require protection from disturbance from May 1 through June 30, when they typically occupy distinct calving and lambing areas. Raptors include eagles, accipiters, falcons (peregrine, prairie, and merlin), buteos (ferruginous and Swainson's hawks), osprey, and burrowing owls. The raptors and sage and sharp-tailed grouse require nesting protection between February 1 and July 31. The same birds often require protection from disturbance from November 15 through April 30 while they occupy winter concentration areas.

Item 2c, the prohibition of activity or surface use, is intended for protection of specific wildlife habitat areas or values within the use area that cannot be protected by using seasonal restrictions. These areas or values must be factors that limit life-cycle activities (e.g., sage grouse strutting grounds, known threatened and endangered species habitat).

Exception, waiver, or modification of requirements developed from this guideline must be based upon environmental analysis of proposals (e.g., activity plans, plans of development, plans of operation, applications for permit to drill) and, if necessary, must allow for other mitigation to be applied on a site-specific basis.

3. Cultural Resource Mitigation Guideline

When a proposed discretionary land use has potential for affecting the characteristics which qualify a cultural property for the National Register of Historic Places (National Register), mitigation will be considered. In accordance with Section 106 of the Historic Preservation Act, procedures specified in 36 CFR 800 will be used in consultation with the Wyoming State Historic Preservation Officer and the Advisory Council on Historic Preservation in arriving at determinations regarding the need and type of mitigation to be required.

Guidance

The preferred strategy for treating potential adverse effects on cultural properties is "avoidance." If avoidance involves project relocation, the new project area may also require cultural resource inventory. If avoidance is imprudent or unfeasible, appropriate mitigation may include excavation (data recovery), stabilization, monitoring, protection barriers and signs, or other physical and administrative measures.

Reports documenting results of cultural resource inventory, evaluation, and the establishment of mitigation alternatives (if necessary) shall be written according to standards contained in BLM Manuals, the cultural resource permit stipulations, and in other policy issued by the BLM. These reports must provide sufficient information for Section 106 consultation. Reports shall be reviewed for adequacy by the appropriate BLM cultural resource specialist. If cultural properties on, or eligible for, the National Register are located within these areas of potential impact and cannot be avoided, the authorized officer shall begin the Section 106 consultation process in accordance with the procedures contained in 36 CFR 800.

Mitigation measures shall be implemented according to the mitigation plan approved by the BLM authorized officer. Such plans are usually prepared by the land use applicant according to BLM specifications. Mitigation plans will be reviewed as part of Section 106 consultation for National Register eligible or listed properties. The extent and nature of recommended mitigation shall be commensurate with the significance of the cultural resource involved and the anticipated extent of damage. Reasonable costs for mitigation will be borne by the land use applicant. Mitigation must be cost effective and realistic. It must consider project requirements and limitations, input from concerned parties, and be BLM approved or BLM formulated.

Mitigation of paleontological and natural history sites will be treated on a case-by-case basis. Factors such as site significance, economics, safety, and project urgency must be taken into account when making a decision to mitigate. Authority to protect (through mitigation) such values is provided for in FLPMA, Section 102(a)(8). When avoidance is not possible, appropriate mitigation may include excavation (data recovery), stabilization, monitoring, protection barriers and signs, or other physical and administrative protection measures.

4. Special Resource Mitigation Guideline

To protect (resource value), activities or surface use will not be allowed (i.e., within a specific distance

of the resource value or between date to date) in (legal description).

Application of this limitation to operation and maintenance of a developed project must be based on environmental analysis of the operational or production aspects.

Exception, waiver, or modification of this limitation in any year may be approved in writing, including documented supporting analysis, by the authorized officer.

Example Resource Categories (select or identify category and specific resource value):

a. Recreation areas.
b. Special natural history or paleontological features.
c. Special management areas.
d. Sections of major rivers.
e. Prior existing rights-of-way.
f. Occupied dwellings.
g. Other (specify).

Guidance

The SPECIAL RESOURCE MITIGATION GUIDELINE is intended for use only in site-specific situations where one of the first three general mitigation guidelines will not adequately address the concern. The resource value, location, and specific restrictions must be clearly identified. A detailed plan addressing specific mitigation and special restrictions will be required prior to disturbance or development and will become a condition for approval of the permit, plan of development, or other use authorization.

Exception, waiver, or modification of requirements developed from this guideline must be based upon environmental analysis of proposals (e.g., activity plans, plans of development, plans of operation, applications for permit to drill) and, if necessary, must allow for other mitigation to be applied on a site-specific basis.

5. No Surface Occupancy Guideline

No Surface Occupancy will be allowed on the following described lands (legal description) because of (resource value).

Example Resource Categories (select or identify category and specific resource value):

a. Recreation Areas (e.g., campgrounds, historic trails, national monuments).
b. Major reservoirs/dams.
c. Special management area (e.g., known threatened or endangered species habitat, areas suitable for consideration for wild and scenic rivers designation).
d. Other (specify).

Guidance

The NO SURFACE OCCUPANCY (NSO) MITIGATION GUIDELINE is intended for use only when other mitigation is determined insufficient to adequately protect the public interest and is the only alternative to "no development" or "no leasing." The legal description and resource value of concern must be identified and be tied to an NSO land use planning decision.

Waiver of, or exception(s) to, the NSO requirement will be subject to the same test used to initially justify its imposition. If, upon evaluation of a site-specific proposal, it is found that less restrictive mitigation would adequately protect the public interest or value of concern, then a waiver or exception to the NSO requirement is possible. The record must show that because conditions or uses have changed, less restrictive requirements will protect the public interest. An environmental analysis must be conducted and documented (e.g., environmental assessment, environmental impact statement, etc., as necessary) in order to provide the basis for a waiver or exception to an NSO planning decision. Modification of the NSO requirement will pertain only to refinement or correction of the location(s) to which it applied. If the waiver, exception, or modification is found to be consistent with the intent of the planning decision, it may be granted. If found inconsistent with the intent of the planning decision, a plan amendment would be required before the waiver, exception, or modification could be granted.

When considering the "no development" or "no leasing" option, a rigorous test must be met and fully documented in the record. This test must be based upon stringent standards described in the land use planning document. Since rejection of all development rights is more severe than the most restrictive mitigation requirement, the record must show that consideration was given to development subject to reasonable mitigation, including "no surface occupancy." The record must also show that other mitigation was determined to be insufficient to adequately protect the public interest. A "no development" or "no leasing" decision should not be made solely because it appears that conventional methods of development would be unfeasible, especially where an NSO restriction may be acceptable to a potential permittee. In such cases, the potential permittee should have the opportunity to decide whether or not to go ahead with the proposal (or accept the use authorization), recognizing that an NSO restriction is involved.

Appendix 2

STANDARDS FOR HEALTHY RANGELANDS AND GUIDELINES FOR LIVESTOCK GRAZING MANAGEMENT FOR PUBLIC LANDS ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT IN THE STATE OF WYOMING

INTRODUCTION

According to the Department of the Interior's final rule for grazing administration, effective August 21, 1995, the Wyoming Bureau of Land Management (BLM) State Director is responsible for the development of standards for healthy rangelands and guidelines for livestock grazing management on 18 million acres of Wyoming's public rangelands. The development and application of these standards and guidelines are to achieve the four fundamentals of rangeland health outlined in the grazing regulations (43 CFR 4180.1). Those four fundamentals are: (1) watersheds are functioning properly; (2) water, nutrients, and energy are cycling properly; (3) water quality meets State standards; and (4) habitat for special status species is protected.

Standards address the health, productivity, and sustainability of the BLM-administered public rangelands and represent the minimum acceptable conditions for the public rangelands. The standards apply to all resource uses on public lands. Their application will be determined as use-specific guidelines are developed. Standards are synonymous with goals and are observed on a landscape scale. They describe healthy rangelands rather than important rangeland by-products. The achievement of a standard is determined by observing, measuring, and monitoring appropriate indicators. An indicator is a component of a system whose characteristics (e.g., presence, absence, quantity, and distribution) can be observed, measured, or monitored based on sound scientific principles.

Guidelines provide for, and guide the development and implementation of, reasonable, responsible, and cost-effective management practices at the grazing allotment and watershed level. The guidelines in this document apply specifically to livestock grazing management practices on the BLM-administered public lands. These management practices will either maintain existing desirable conditions or move rangelands toward statewide standards within reasonable timeframes. Appropriate guidelines will ensure that the resultant management practices reflect the potential for the watershed, consider other uses and natural influences, and balance resource goals with social, cultural/historic, and economic opportunities to sustain viable local communities. Guidelines, like standards, apply statewide.

Implementation of the Wyoming standards and guidelines will generally be done in the following manner. Grazing allotments or groups of allotments in a watershed will be reviewed based on the BLM's current allotment categorization and prioritization process. Allotments with existing management plans and high-priority allotments will be reviewed first. Lower priority allotments will be reviewed as time allows or when it becomes necessary for BLM to review the permit/lease for other reasons such as permit/lease transfers, permittee/lessee requests for change in use, etc. The permittees and interested publics will be notified when allotments are scheduled for review and encouraged to participate in the review. The review will first determine if an allotment meets each of the six standards. If it does, no further action will be necessary. If any of the standards aren't being met, then rationale explaining the contributing factors will be prepared. If livestock grazing practices are found to be among the contributing factors, corrective actions consistent with the guidelines will be developed and implemented before the next grazing season in accordance with 43 CFR 4180. If a lack of data prohibits the reviewers from determining if a standard is being met, then a strategy will be developed to acquire the data in a timely manner.

On a continuing basis, the Standards for Healthy Rangelands will direct on-the-ground management on the public lands. They will serve to focus the on-going development and implementation of activity plans toward the maintenance or the attainment of healthy rangelands.

Quantifiable resource objectives and specific management practices to maintain or achieve the standards will be developed at the local BLM District

and Resource Area levels and will consider all reasonable and practical options available to achieve desired results on a watershed or grazing allotment scale. The objectives shall be reflected in site-specific activity or implementation plans as well as in livestock grazing permits/leases for the public lands. These objectives and practices may be developed formally or informally through mechanisms available and suited to local needs (such as Coordinated Resource Management [CRM] efforts).

The development and implementation of standards and guidelines will enable on-the-ground management of the public rangelands to maintain a clear and responsible focus on both the health of the land and its dependent natural and human communities. This development and implementation will ensure that any mechanisms currently being employed or that may be developed in the future will maintain a consistent focus on these essential concerns. This development and implementation will also enable immediate attention to be brought to bear on existing resource concerns.

These standards and guidelines are compatible with BLM's three-tiered land use planning process. The first tier includes the laws, regulations, and policies governing BLM's administration and management of the public lands and their uses. The previously mentioned fundamentals of rangeland health specified in 43 CFR 4180.1, the requirement for BLM to develop these state (or regional) standards and guidelines, and the standards and guidelines themselves, are part of this first tier. Also part of this first tier are the specific requirements of various federal laws and the objectives of 43 CFR 4100.2 that require BLM to consider the social and economic well-being of the local communities in its management process.

These standards and guidelines will provide for statewide consistency and guidance in the preparation, amendment, and maintenance of BLM land use plans, which represent the second tier of the planning process. The BLM land use plans provide general allocation decisions concerning the kinds of resource and land uses that can occur on the BLM-administered public lands, where they can occur, and the types of conditional requirements under which they can occur. In general, the standards will be the basis for development of planning area-specific management objectives concerning rangeland health and productivity, and the guidelines will direct development of livestock grazing management actions to help accomplish those objectives.

The third tier of the BLM planning process, activity or implementation planning, is directed by the applicable land use plan and, therefore, by the standards and guidelines. The standards and guidelines, as BLM statewide policy, will also directly guide development of the site-specific objectives and the methods and practices used to implement the land use plan decisions. Activity or implementation plans contain objectives which describe the site-specific conditions desired. Grazing permits/leases for the public lands contain terms and conditions which describe specific actions required to attain or maintain the desired conditions. Through monitoring and evaluation, the BLM, grazing permittees, and other interested parties determine if progress is being made to achieve activity plan objectives.

Wyoming rangelands support a variety of uses which are of significant economic importance to the State and its communities. These uses include oil and gas production, mining, recreation and tourism, fishing, hunting, wildlife viewing, and livestock grazing. Rangelands also provide amenities which contribute to the quality of life in Wyoming such as open spaces, solitude, and opportunities for personal renewal. Wyoming's rangelands should be managed with consideration of the State's historical, cultural, and social development and in a manner which contributes to a diverse, balanced, competitive, and resilient economy in order to provide opportunity for economic development. Healthy rangelands can best sustain these uses.

To varying degrees, BLM management of the public lands and resources plays a role in the social and economic well-being of Wyoming communities. The National Environmental Policy Act (part of the above-mentioned first planning tier) and various other laws and regulations mandate the BLM to analyze the socioeconomic impacts of actions occurring on public rangelands. These analyses occur during the environmental analysis process of land use planning (second planning tier), where resource allocations are made, and during the environmental analysis process of activity or implementation planning (third planning tier). In many situations, factors that affect the social and economic well-being of local communities extend far beyond the scope of BLM management or individual public land users' responsibilities. In addition, since standards relate primarily to physical and biological features of the landscape, it is very difficult to provide measurable socioeconomic indicators that relate to the health of rangelands. It is important that standards be realistic and within the control of the land manager and users to achieve.

STANDARDS FOR HEALTHY PUBLIC RANGELANDS

STANDARD #1

Within the potential of the ecological site (soil type, landform, climate, and geology), soils are stable and allow for water infiltration to provide for optimal plant growth and minimal surface runoff.

THIS MEANS THAT:

The hydrologic cycle will be supported by providing for water capture, storage, and sustained release. Adequate energy flow and nutrient cycling through the system will be achieved as optimal plant growth occurs. Plant communities are highly varied within Wyoming.

INDICATORS MAY INCLUDE BUT ARE NOT LIMITED TO:

- Water infiltration rates
- Soil compaction
- Erosion (rills, gullies, pedestals, capping)
- Soil micro-organisms
- Vegetative cover (gully bottoms and slopes)
- Bare ground and litter

The above indicators are applied as appropriate to the potential of the ecological site.

STANDARD #2

Riparian and wetland vegetation has structural, age, and species diversity characteristic of the stage of channel succession and is resilient and capable of recovering from natural and human disturbance in order to provide forage and cover, capture sediment, dissipate energy, and provide for groundwater recharge.

THIS MEANS THAT:

Wyoming has highly varied riparian and wetland systems on public lands. These systems vary from large rivers to small streams and from springs to large wet meadows. These systems are in various stages of natural cycles and may also reflect other disturbance that is either localized or widespread throughout the watershed. Riparian vegetation captures sediments and associated materials, thus enhancing the nutrient cycle by capturing and utilizing nutrients that would otherwise move through a system unused.

INDICATORS MAY INCLUDE BUT ARE NOT LIMITED TO:

- Erosion and deposition rate
- Channel morphology and floodplain function
- Channel succession and erosion cycle
- Vegetative cover
- Plant composition and diversity (species, age class, structure, successional stages, desired plant community, etc.)
- Bank stability
- Woody debris and instream cover
- Bare ground and litter

The above indicators are applied as appropriate to the potential of the ecological site.

STANDARD #3

Upland vegetation on each ecological site consists of plant communities appropriate to the site which are resilient, diverse, and able to recover from natural and human disturbance.

THIS MEANS THAT:

In order to maintain desirable conditions and/or recover from disturbance within acceptable timeframes, plant communities must have the components present to support the nutrient cycle and adequate energy flow. Plants depend on nutrients in the soil and energy derived from sunlight. Nutrients stored in the soil are used over and over by plants, animals, and microorganisms. The amount of nutrients available and the speed with which they cycle among plants, animals, and the soil are fundamental components of rangeland health. The amount, timing, and distribution of energy captured through photosynthesis are fundamental to the function of rangeland ecosystems.

INDICATORS MAY INCLUDE BUT ARE NOT LIMITED TO:

- Vegetative cover
- Plant composition and diversity (species, age class, structure, successional stages, desired plant community, etc.)
- Bare ground and litter
- Erosion (rills, gullies, pedestals, capping)
- Water infiltration rates

The above indicators are applied as appropriate to the potential of the ecological site.

STANDARD #4

Rangelands are capable of sustaining viable populations and a diversity of native plant and animal species appropriate to the habitat. Habitats that support or could support threatened species, endangered species, species of special concern, or sensitive species will be maintained or enhanced.

THIS MEANS THAT:

The management of Wyoming rangelands will achieve or maintain adequate habitat conditions that support diverse plant and animal species. These may include listed threatened or endangered species (U.S. Fish and Wildlife-designated), species of special concern (BLM-designated), and other sensitive species (State of Wyoming-designated). The intent of this standard is to allow the listed species to recover and be delisted, and to avoid or prevent additional species becoming listed.

INDICATORS MAY INCLUDE BUT ARE NOT LIMITED TO:

- Noxious weeds
- Species diversity
- Age class distribution
- All indicators associated with the upland and riparian standards;
- Population trends
- Habitat fragmentation

The above indicators are applied as appropriate to the potential of the ecological site.

STANDARD #5

Water quality meets State standards.

THIS MEANS THAT:

The State of Wyoming is authorized to administer the Clean Water Act. BLM management actions or use authorizations will comply with all Federal and State water quality laws, rules and regulations to address water quality issues that originate on public lands. Provisions for the establishment of water quality standards are included in the Clean Water Act, as amended, and the Wyoming Environmental Quality Act, as amended. Regulations are found in Part 40 of the Code of Federal Regulations and in *Wyoming's Water Quality Rules and Regulations*. The latter regulations contain Quality Standards for Wyoming Surface Waters.

Natural processes and human actions influence the chemical, physical, and biological characteristics of water. Water quality varies from place to place with the seasons, the climate, and the kind substrate through which water moves. Therefore, the assessment of water quality takes these factors into account.

INDICATORS MAY INCLUDE BUT ARE NOT LIMITED TO:

- Chemical characteristics (e.g., pH, conductivity, dissolved oxygen)
- Physical characteristics (e.g., sediment, temperature, color)
- Biological characteristics (e.g., macro- and micro-invertebrates, fecal coliform, and plant and animal species)

STANDARD #6

Air quality meets State standards.

THIS MEANS THAT:

The State of Wyoming is authorized to administer the Clean Air Act. BLM management actions or use authorizations will comply with all Federal and State air quality laws, rules, regulations and standards. Provisions for the establishment of air quality standards are included in the Clean Air Act, as amended, and the Wyoming Environmental Quality Act, as amended. Regulations are found in Part 40 of the Code of Federal Regulations and in *Wyoming Air Quality Standards and Regulations.*

INDICATORS MAY INCLUDE BUT ARE NOT LIMITED TO:

- Particulate matter
- Sulfur dioxide
- Photochemical oxidants (ozone)
- Volatile organic compounds (hydrocarbons)
- Nitrogen oxides
- Carbon monoxide
- Odors
- Visibility

BLM WYOMING GUIDELINES FOR LIVESTOCK GRAZING MANAGEMENT

1. Timing, duration, and levels of authorized grazing will ensure that adequate amounts of vegetative ground cover, including standing plant material and litter, remain after authorized use to support infiltration, maintain soil moisture storage, stabilize soils, allow the release of sufficient water to maintain system function, and to maintain subsurface soil conditions that support permeability rates and other processes appropriate to the site.

2. Grazing management practices will restore, maintain, or improve riparian plant communities. Grazing management strategies consider hydrology, physical attributes, and potential for the watershed and the ecological site. Grazing management will maintain adequate residual plant cover to provide for plant recovery, residual forage, sediment capture, energy dissipation, and groundwater recharge.

3. Range improvement practices (instream structures, fences, water troughs, etc.) in and adjacent to riparian areas will ensure that stream channel morphology (e.g., gradient, width/depth ratio, channel roughness and sinuosity) and functions appropriate to climate and landform are maintained or enhanced. The development of springs, seeps, or other projects affecting water and associated resources shall be designed to protect the ecological and hydrological functions, wildlife habitat, and significant cultural, historical, and archaeological values associated with the water source. Range improvements will be located away from riparian areas if they conflict with achieving or maintaining riparian function.

4. Grazing practices that consider the biotic communities as more than just a forage base will be designed in order to ensure that the appropriate kinds and amounts of soil organisms, plants, and animals to support the hydrologic cycle, nutrient cycle, and energy flow are maintained or enhanced.

5. Continuous season-long or other grazing management practices that hinder the completion of plants' life-sustaining reproductive and/or nutrient cycling processes will be modified to ensure adequate periods of rest at the appropriate times. The rest periods will provide for seedling establishment or other necessary processes at levels sufficient to move the ecological site condition toward the resource objective and subsequent achievement of the standard.

6. Grazing management practices and range improvements will adequately protect vegetative cover and physical conditions and maintain, restore, or enhance water quality to meet resource objectives. The effects of new range improvements (water developments, fences, etc.) on the health and function of rangelands will be carefully considered prior to their implementation.

7. Grazing management practices will incorporate the kinds and amounts of use that will restore, maintain, or enhance habitats to assist in the recovery of Federal threatened and endangered species or the conservation of federally-listed species of concern and other State-designated special status species. Grazing management practices will maintain existing habitat or facilitate vegetation change toward desired habitats. Grazing management will consider threatened and endangered species and their habitats.

8. Grazing management practices and range improvements will be designed to maintain or promote the physical and biological conditions necessary to sustain native animal populations and plant communities. This will involve emphasizing native plant species in the support of ecological function and incorporating the use of non-native species only in those situations in which native plant species are not available in sufficient quantities or are incapable of maintaining or achieving properly functioning conditions and biological health.

9. Grazing management practices on uplands will maintain desired plant communities or facilitate change toward desired plant communities.

DEFINITIONS

Activity Plans: Allotment Management Plans (AMPs), Habitat Management Plans (HMPs), Watershed Management Plans (WMPs), and other plans developed at the local level to address specific concerns and accomplish specific objectives.

Coordinated Resource Management (CRM): A group of people working together to develop common resource goals and resolve natural resource concerns. CRM is a people process that strives for win-win situations through consensus-based decision making.

Desired Plant Community: A plant community which produces the kind, proportion, and amount of vegetation necessary for meeting or exceeding the land use plan/activity plan objectives established for an ecological site(s). The desired plant community must be consistent with the site's capability to produce the desired vegetation through management, land treatment, or a combination of the two.

Ecological Site: An area of land with specific physical characteristics that differs from other areas both in its ability to produce distinctive kinds and amounts of vegetation and in its response to management.

Erosion: (v.) Detachment and movement of soil or rock fragments by water, wind, ice, or gravity. (n.) The land surface worn away by running water, wind, ice, or other geological agents, including such processes as gravitational creep.

Grazing Management Practices: Grazing management practices include such things as grazing systems (rest-rotation, deferred rotation, etc.), timing and duration of grazing, herding, salting, etc. They do not include physical range improvements.

Guidelines (For Grazing Management): Guidelines provide for, and guide the development and implementation of, reasonable, responsible, and cost-effective management actions at the allotment and watershed level which move rangelands toward statewide standards or maintain existing desirable conditions. Appropriate guidelines will ensure that the resultant management actions reflect the potential for the watershed, consider other uses and natural influences, and balance resource goals with social, cultural/historic, and economic opportunities to sustain viable local communities. Guidelines, and therefore, the management actions they engender, are based on sound science, past and present management experience, and public input.

Indicator: An indicator is a component of a system whose characteristics (e.g., presence, absence, quantity, and distribution) can be observed, measured, or monitored based on sound scientific principles. An indicator can be evaluated at a site- or species-specific level. Monitoring of an indicator must be able to show change within timeframes acceptable to management and be capable of showing how the health of the ecosystem is changing in response to specific management actions. Selection of the appropriate indicators to be observed, measured, or monitored in a particular allotment is a critical aspect of early communication among the interests involved on-the-ground. The most useful indicators are those for which change or trend can be easily quantified and for which agreement as to the significance of the indicator is broad based.

Litter: The uppermost layer of organic debris on the soil surface, essentially the freshly fallen or slightly decomposed vegetal material.

Management Actions: Management actions are the specific actions prescribed by the BLM to achieve resource objectives, land use allocations, or other program or multiple use goals. Management actions include both grazing management practices and range improvements.

Objective: An objective is a site-specific statement of a desired rangeland condition. It may contain either or both qualitative elements and quantitative elements. Objectives frequently speak to change. They are the focus of monitoring and evaluation activities at the local level. Monitoring of the indicators would show negative changes or positive changes. Objectives should focus on indicators of greatest interest for the area in question.

Range Improvements: Range improvements include such things as corrals, fences, water developments (reservoirs, spring developments, pipelines, wells, etc.) and land treatments (prescribed fire, herbicide treatments, mechanical treatments, etc.).

Rangeland: Land on which the native vegetation (climax or natural potential) is predominantly grasses, grass-like plants, forbs, or shrubs. This includes lands revegetated naturally or artificially when routine management of that vegetation is accomplished mainly through manipulation of grazing. Rangelands include natural grasslands, savannas, shrublands, most deserts, tundra, alpine communities, coastal marshes, and wet meadows.

Rangeland Health: The degree to which the integrity of the soil and ecological processes of rangeland ecosystems are sustained.

Riparian: An area of land directly influenced by permanent water. It has visible vegetation or physical characteristics reflective of permanent water influence. Lakeshores and streambanks are typical riparian areas. Excluded are such sites as ephemeral streams or washes that do not have vegetation dependent on free water in the soil.

Standards: Standards are synonymous with goals and are observed on a landscape scale. Standards apply to rangeland health and not to the important by-products of healthy rangelands. Standards relate to the current capability or realistic potential of a specific site to produce these by-products, not to the presence or absence of the products themselves. It is the sustainability of the processes, or rangeland health, that produces these by-products.

Terms and Conditions: Terms and conditions are very specific land use requirements that are made a part of the land use authorization in order to assure maintenance or attainment of the standard. Terms and conditions may incorporate or reference the appropriate portions of activity plans (e.g., Allotment Management Plans). In other words, where an activity plan exists that contains objectives focused on meeting the standards, compliance with the plan may be the only term and condition necessary in that allotment.

Upland: Those portions of the landscape which do not receive additional moisture for plant growth from run-off, streamflow, etc. Typically these are hills, ridgetops, valley slopes, and rolling plains.

Appendix 3

SPLIT-ESTATE LANDS

OVERVIEW

In Wyoming, the BLM manages approximately 11.6 million acres of federal minerals under private surface, usually referred to as split estate. The majority of this split estate resulted from the Act of July 17, 1914, as amended, (30 U.S.C.§ 121,122) which opened prior withdrawn federal mineral lands to nonmineral entry, more specifically, the appropriate Homestead Acts (HA), and the Stockraising Homestead Act (SRHA) of December 29, 1916, as amended, (43 U.S.C.§ 299).

By the late 1800s much of the public domain lands had been transferred to private ownership either by sale or by homesteading. The annual report for 1882 from the General Land Office pointed out that companies had fraudulently acquired great quantities of valuable coal and other lands. In response to this and subsequent investigations President Theodore Roosevelt, in 1906, withdrew more than 66 million acres of coal lands from settlement and location. Congress questioned whether or not the President had authority to do this. In 1910 Congress passed the General Withdrawal or Pickett Act giving the President power to "temporarily" withdraw public lands from settlement and location for public purposes.

In response to the uproar that this created with politicians, business people, and homesteaders President Roosevelt signed the Act of March 3, 1909 which allowed homesteaders who had settled coal lands to patent those lands as long as the coal was reserved to the United States. The Act of June 22, 1910 permitted homesteaders to file for coal lands as long as the coal was reserved to the United States.

The mineral policies were extended to reserving portions or, in most cases, the full mineral estate to the United States by the Act of July 17, 1914. That Act opened lands that were withdrawn or classified for phosphate, nitrate, potash, oil, gas, or asphalic minerals or are valuable for those deposits to entry under the appropriate HA. Finally, the SRHA reserved all minerals to the United States.

As part of the mineral policies initiated during his Presidency, Roosevelt had advocated a leasing policy for coal and petroleum lands, but Congress resisted the idea. In 1917, potassium deposits could be leased with the enactment of the Potash Leasing Act, which was passed because potassium was essential to America's production of military explosives during World War I. After numerous proposals and much heated debate in the congress, the Mineral Leasing Act (30 U.S.C.§ 181 et seq.) was adopted in 1920 and extended leasing to coal, petroleum, natural gas, sodium, phosphate oil shale, and gilsonite. Under the appropriate provisions and authorities of the Mineral Leasing Act, individuals and companies could prospect for and develop the minerals listed.

Discussed in this appendix is what authority BLM has to condition and regulate federally authorized leases, specifically oil and gas, on split estate and the policy and guidance used to accomplish this.

The BLM is mandated by the Federal Land Management and Policy Act of 1976 (FLPMA), section 202, to develop, maintain, and revise land use plans on public lands where appropriate using and observing the principles of multiple use and sustained yield. Section 103(e) of the FLPMA defines public lands as any lands and interest in lands owned by the United States. The mineral estate is an interest owned by the United States. The BLM has an obligation to address this interest in their planning documents (43 CFR 1601.0-7(b); Bureau Manual 1601.09).

The FLPMA is intrinsically tied to the mandate provided by the National Environmental Policy Act of 1969 (NEPA). Specifically, section 102 of NEPA states, "Congress authorizes and directs the federal government and its agencies to use a systematic interdisciplinary approach which insures the integrated use of the natural and social sciences and the design arts in planning and decision making where man has an impact on man's environment." This theme is also present in section 202(c)(2) of the FLPMA where, as with NEPA, it recognizes that management of the public lands and resources (interest) and the consequences associated with their use or consumption are tied to biologic, ecologic, social, and economic boundaries and not merely surface boundaries.

Through the years, from the planning stage through development of the mineral estate, two areas of concern have consistently arisen from this split-estate issue: does the BLM have the statutory authority to regulate how private surface owners use their property, and does the BLM have the authority to condition and regulate federal mineral development such as a federal oil and gas lease. These two concerns have been addressed in the resolution of two RMP protests in 1988 on split estate (North Dakota RMP and Little Snake RMP) and two Washington Solicitor's Opinions (April 1 and 4, 1988). The conclusion states,

> "In summary, while the BLM does not have the legal authority in split estate situations to regulate how a surface owner manages his or her property, the agency does have the statutory authority to take reasonable measures to avoid or minimize adverse environmental impacts that may result from federally authorized mineral lease activity."

An example of this authority is a January 7, 1992 Interior Board of Land Appeals (IBLA) Decision (122 IBLA 36, Glen Morgan, January 7, 1992) which stated "The operator of an oil and gas lease is responsible for reclamation of land leased for oil and gas purposes, even after expiration of the lease and even where the surface estate is privately owned. Such reclamation includes the restoration of any area within the lease boundaries disturbed by lease operations to the condition in which it was found prior to surface disturbing activities." Another key point that was presented in this IBLA decision referenced the reservation of mineral reserves under section 9 of the SRHA. This section provides that reserved to the United States is the "right to prospect for, mine, and remove the [reserved minerals]," which right encompasses "all purposes reasonable incident to the mining or removal of the coal or other minerals" (43 USC §299, 1988). As long interpreted by the Department of the Interior, such purposes include reclamation of the surface of the affected land after mining is complete and the minerals are removed.

AUTHORITY

The Mineral Leasing Act of 1920 (MLA)

The Mineral Leasing Act, as amended (30 U.S.C. §§ 181-287) and its implemented regulations are the authority to lease and produce federal minerals. The restrictions identified through the planning process and attached to federal oil and gas leases constitutes a legal contract between the lessee and the BLM. No other party can change that contract without the expressed consent of the authorized officer. The authorized officer may waive, modify, or amend lease conditions as site-specific analysis dictates.

The section of the MLA that specifically refers to the regulation of surface-disturbing activities on oil and gas leased lands is found in 30 U.S.C. § 226(g), 1988. The key statement which does not distinguish between public surface and split-estate surface but applies to all leases is, " The Secretary of Interior, or for the National Forest lands, the Secretary of Agriculture, shall regulate **all** surface-disturbing activities conducted pursuant to **any** lease issued under this chapter, and shall determine reclamation and other actions as required in the interest of conservation of the surface resources" (emphasis added).

It has been cited that Onshore Oil and Gas Order #1 of 1983, "Approval of Operations on Onshore Federal Land and Indian Oil and Gas Leases" is the final resolution to the split-estate mineral issue. The order has sometimes been interpreted to mean that BLM has waived all or many of its responsibilities during the development of the federal oil and gas where split estate is involved. The order does not rescind or revoke any of the law or regulations including the MLA that inspired it. Furthermore, this order cannot revoke any other BLM responsibility or obligation specified elsewhere in laws or regulations, again including the MLA.

The following are the laws and executive orders in addition to the MLA that pertain to split-estate federal mineral authorizations. They are not all inclusive; new laws and amendments are passed frequently.

Federal Land Policy and Management Act of 1976 (FLPMA)

The BLM is responsible for both considering the impacts of its actions and approvals in land use planning as well as for managing those impacts for public lands. The public land to be considered for split estate is the mineral interest and not the surface. The private surface is not public land; thus, it is not subject to the planning and management requirements of the FLPMA. BLM has no authority over use of the surface by the surface owner. The BLM is required to declare how the federal mineral estate will be managed in the RMP, including identification of all appropriate lease stipulations (43

CFR 3101.1; BLM Manual Handbook, H-1624-1, IV.C.2). To be consistent with the requirement of the FLPMA, it is necessary to apply the same standards for environmental protection of split estate lands as that applied to the federal surface (BLM Manual 3101.91 B.1). The FLPMA also provides in Section 202 that the BLM "...shall provide for compliance with applicable pollution control laws, including State and federal air, water, noise, or other pollution standards of implemented plans." Many of these laws are addressed later in this document.

National Environmental Policy Act of 1969 (NEPA)

The BLM's responsibilities on split-estate lands under NEPA are basically the same as for federal surface. Even though the impacts will occur on private surface, BLM is still responsible for considering alternatives or imposing protective measures since the impacts will be caused as a direct consequence of activities approved by BLM and conducted pursuant to a federal oil and gas lease. Mitigation measures for impacts which are identified during the NEPA analysis may be imposed under the general authority set out in sections 30 and 37 of the MLA of 1920 (30 U.S.C. §§ 187 and 193) and the policy of FLPMA. Other statutes that could apply for taking reasonable measures to avoid or minimize adverse environmental impacts that may result from federally authorized mineral lease activities are: the Clean Water Act of 19772 (CWA), the Clean Air Act (CAA), the National Historic Preservation Act (NHPA), the Endangered Species Act of 1973 (ESA), and the Federal Onshore Control and Reclamation Act of 1987 (FOCRA). The FOCRA specifically requires BLM to regulate surface disturbance and reclamation on all leases. With respect to offsite impacts which also could include off-lease, off-unit, or off-original patent boundary, mitigation must be considered and met in order to approve a lease action regardless of whether the surface is private or federal. The legal jurisdictional boundary (the lease boundary) and access to such will be discussed in more detail in the section "Access to Split Estate to Develop Federally Owned Minerals." If an operator cannot mitigate impacts of jurisdictional boundaries for lease development, BLM gives careful consideration as to whether the application could or should be approved. Also, before leasing the mineral estate or approving lease development, BLM determines whether that action would significantly affect the quality of the humane environment regardless of the surface ownership. In this analysis, BLM considers all impacts, even visual, of the proposed action whether those impacts are to surface resources, to use of the land by the surface owner, or to the subsurface. The BLM also takes into account the views of the surface owner and what effects implementing the mitigation measures for lease activity would have on his/her use of the surface.

National Historic Preservation Act (NHPA)

Section 106 of the NHPA requires the BLM to consider the effects of its actions on historic properties and to seek comments from the State Historic Preservation Officer and the Advisory Council on Historic Preservation (BLM Manual Section 8143.06). In fact, federal agencies are required to take into account the effect of any federally assisted or federally licensed **undertaking** on properties included on, or eligible for inclusion on, the National Register of Historic Places. These responsibilities are the same on split-estate land as on public land (BLM Manual 3101.9). The 1992 amendments to the NHPA replaced the definition of "undertaking" in Section 301 of the Act as follows,

> "Undertaking means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a federal agency, including:
>
> (A) those carried out by or on behalf of the agency;
> (B) those carried out with federal financial assistance;
> (C) those requiring a federal permit, license, or approval; and
> (D) those subject to State and local regulation administered pursuant to a delegation or approval by a federal agency."

If activities to be conducted on split estate under the terms and conditions of a federal oil and gas lease would result in adverse effects to historic properties, BLM has the authority to impose appropriate avoidance or mitigation measures. Currently, the BLM Authorized Officer consults with the State Historic Preservation Officer (SHPO) to identify and evaluate historic properties that might be affected, to assess effects, and to determine satisfactory means for avoiding or mitigating adverse effects. The Advisory Council is then given the opportunity to comment only if listed or eligible properties would be affected. This process is explained in more detail in a current agreement between the Advisory Council, SHPO and BLM (regulation guidance is found in 36 CFR 800).

The BLM Manual 8100 (including the Wyoming manual supplements) contains guidance, policy, and

the extent that BLM is responsible on split estate. It also indicates direction when access is denied to an operator or BLM personnel in determining effects pursuant to the NHPA. Key points in the manual are that (a) any historic properties encountered belong to landowner and if the landowner wishes, any cultural material removed from the property would be returned after study; (b) the Authorized Officer must consider alternatives if the landowner continues to refuse access for cultural resource work, including the feasibility of relocating the project; and, (c) the Authorized Officer may also consider approval or denial of the application without the cultural resource information. The other avenue for access is by way of the courts and is addressed under "Access to Develop Federally Owned Minerals."

Endangered Species Act of 1973 (ESA)

Section 7 of the ESA requires federal agencies, in consultation with the Secretary (currently delegated to the U.S. Fish and Wildlife Service) to ensure that no action authorized, funded, or carried out by the agency is likely to jeopardize the continued existence of a threatened or endangered species, whether plant or animal, or would result in the destruction or adverse modification of a species' critical habitat. The ESA requirements apply to oil and gas leasing and operations on split estate just as they do to federal lands (Onshore Order No. 1; 43 CFR 3164.1).

A proposed surface-disturbing federally-related action cannot and must not be approved until all applicable federal statutory requirements have been met.

OTHER STATUTES AND EXECUTIVE ORDERS

Clean Water Act of 1977, as amended (CWA)

This act is an extremely complex and lengthy statue but is a key law regarding the control of toxic substances. It requires the BLM to participate with the state and other federal agencies in water quality planning and permitting activities. It was amended by the Water Quality Act of 1987 to require states to assess their rivers, streams, and lakes and to develop nonpoint source management plans to control and reduce specific nonpoint sources of pollution. It required federal agencies to be consistent with management programs. The 1987 Act added section 402(p) to the CWA to address storm water discharges under the National Pollutant Discharge Elimination System (NPDES). The discharge of any pollutant to surface waters of the United States is regulated by issuing a NPDES permit. This permit establishes effluent limitations and monitoring requirements for discharges. Oil and gas exploration and production (E&P) wastes discharged to surface water requires these permits. In 1990, the Environmental Protection Agency (EPA) published regulations requiring all storm water discharges associated with industrial facilities to obtain NPDES permits. Industrial discharges included construction projects where five or more surface acres are disturbed. Oil field development (surface disturbance) could be included in this definition. The State of Wyoming, Department of Environmental Quality (DEQ) has been delegated this responsibility from EPA of administering and issuing permits for this program. In order to meet the demand and number of permits, DEQ developed a single generic permit which was issued to cover a large number of similar facilities within a geographic area. The EPA granted DEQ primacy for general permits in 1991, and in 1992, DEQ issued its general permit for storm water discharges from construction activities.

Another portion of the CWA, amended by the Water Quality Act of 1987, that warrants discussion is section 404. In oil and gas surface-disturbing activities, section 404 must be complied with. This section covers all discharges of dredged or fill material into waters of the United States including lakes, streams, intermittent waterways, and wetlands. Certain categories of activities, including some oil and gas surface-disturbing activities, could be permitted under a current nationwide permitting system. The most frequent need for a 404 permit in oil and gas development is in road and pipeline construction through wetlands. Although many BLM specialists have been trained in the identification of wetlands, the authority for identifying and delineating wetlands lies with four federal agencies: Army Corps of Engineers (CE), EPA, Fish and Wildlife Service (FWS), and Natural Resources Conservation Service (NRCS). However, all activities affecting a riparian-wetland area which result in the discharge of dredge or fill material require a 404 permit. These are issued by the CE located at 504 West 17th Street, Cheyenne, WY 82001-4348, (307) 772-2300. Other permits are required when a 404 permit is needed. An example is a 401 permit (Water Quality Certification) from the DEQ. This certification is intended to demonstrate that the project will comply with state water quality standards and other requirements as may be imposed by the state. This is required before a 404 permit will be issued.

Clean Air Act of 1955, as amended (CAA)

The Act states that BLM and its permitted actions must comply with national and State air quality standards, It also directs BLM to cooperate with the states in carrying out their implemented plans. The Act also provides for the prevention of significant deterioration of air quality and places significant responsibility upon the BLM for the protection and, in certain cases, for enhancement of air quality and air-related values including visibility.

Executive Order (EO) 11988 of 1977, "Floodplain Management"

This EO states "direct or indirect support of floodplain development must be avoided whenever there is a practical alternative." The BLM Manual 7221 states, "Long- and short-term adverse impacts on natural and beneficial floodplains functions associated with the use and modification of floodplains must be avoided, to the extent possible; and actions causing definable adverse impacts (long- or short-term) to the natural and beneficial floodplain functions must include protection, minimization of damage, restoration, and preservation measures." The 1979 manual guidance is somewhat outdated; it refers to unit resource analysis (URA), management framework plan (MFP), and some BLM planning and environmental assessment guidance more recently updated, but the basic processes and guidance are still applicable. The resource area plans do not contain floodplain identification. The guidance refers to the appropriate official (BLM hydrologist) to identify the base (100-year chance of a flood) and/or critical (500-year chance of a flood) floodplain in relation to the location of the proposed action. This identification must extend upstream and downstream beyond the boundaries of the proposed action far enough to permit an analysis of the impacts that the proposal may have on the floodplain functions beyond the project boundary. Also, the public must be afforded an opportunity to be involved in the decision making process for all actions within a floodplain or that may affect it. The difference in restrictions for addressing proposed actions within base versus critical floodplains is somewhat lacking. However, for actions within base floodplains, the BLM will make a determination whether the proposed action will be located there. In critical floodplains, only critical actions will be identified and analyzed according to the Bureau environmental assessment process. Oil and gas activity especially involving major surface-disturbing activity qualify as critical action and should be appropriately assessed within a critical floodplain. The guidance does not state that BLM cannot authorize actions within floodplains, but it does state that mitigation and restoration measures must be completed for each alternative considered.

Executive Order 11990 of 1977, "Protection of Wetlands"

This EO directs federal agencies to take action to minimize the destruction, loss, or degradation of wetlands. All federally initiated, financed, or permitted construction projects in wetlands must include all practical measures to minimize adverse impacts. Section 404 of the CWA (discussed above) is one of the permit processes to protect or minimize adverse impacts to wetlands.

Eagle Protection Act of 1940

This act prohibits taking any golden or bald eagle or nests of such birds. Taking is defined under this statute to include molesting or disturbing. Violation of the prohibition in 16 U.S.C.§§ 668-668d is a criminal violation regardless of where the activity occurs, whether it is on public land, National Forest lands, or private lands.

Resource Conservation and Recovery Act of 1976, as amended (RCRA)

This law is used to regulate the treatment, storage, and disposal of hazardous wastes. Hazardous wastes are solid wastes that are listed or exhibit one or more of the characteristics of hazardous waste such as certain human toxicity criteria or contain one or more of 50 chemical compounds/substances that are listed as hazardous constituents. The RCRA defines solid wastes as any material that is discarded or intended to be discarded. It can be solid, semi-solid, liquid, or contain gaseous material. Oil and gas E&P wastes with the enactment of an amendment to RCRA in 1980 are exempt from the hazardous waste management and disposal requirements (subtitle C of RCRA [Section 3001(b)(2)(A)]). They include drilling muds and cuttings, produced waters, and associated wastes (40 CFR 261). Generally, E&P exempt wastes are generated in primary field operations and not as a result of transportation or maintenance activities. When listed nonexempt and exempt wastes are mixed, the entire mixture could be considered a hazardous waste. For example, discarding a half empty listed solvent in a reserve pit could cause the otherwise exempt reserve pit contents to become a hazardous waste. This may result in closure of a reserve pit under RCRA hazardous wastes regulations.

The amendment to RCRA also mandated EPA to study E&P wastes and recommend appropriate regulatory action to congress. EPA conducted the study and submitted the report to Congress on December 28, 1987. This regulatory determination was made public on June 30, 1988. A key portion of this determination follows:

> "The Agency plans a three-pronged approach toward filling gaps in existing State and Federal regulatory programs by:
>
> 1) Improving Federal programs under existing authorities in Subtitle D of RCRA, the Clean Water Act, and the Safe Drinking Water Act.[1]
>
> 2) Working with States to encourage changes in their regulations and enforcement to improve some programs; and,
>
> 3) Working with Congress to develop any additional statutory authority that may be required."

Some of the reasons put forth by EPA for this determination are:

— "Subtitle C does not provide sufficient flexibility to consider the costs and avoid the serious economic impacts that regulation would create for the industry's exploration and production operations;

— existing state and federal regulatory programs are generally adequate for controlling oil, gas, and geothermal wastes. Regulatory gaps in the Clean Water Act, and Underground Injection Control (UIC) program are already being addressed, and the remaining gaps in state and federal regulatory programs can be effectively addressed by formulating requirements under Subtitle D of RCRA and by working with the States; and

— it is impractical and inefficient to implement Subtitle C for all or some of these wastes because permitting burden that the regulatory agencies would incur if even a small percentage of these sites were considered Treatment, Storage, and Disposal Facilities (TSDFs)" (53 FR 25456, July 6, 1988).

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[1] Nonhazardous wastes are regulated under Subtitle D of the RCRA. Subtitle D regulations are less extensive and depend primarily on state control.

The Interstate Oil and Gas Compact Commission (IOGCC) is an organization comprised of the governors of the 29 oil and gas producing states and has been assisting states in developing their oil and gas regulatory programs since 1935. In January 1989, the IOGCC formed a council on regulatory needs to assist EPA in its three-pronged approach mentioned above to fill the gaps in regulations. This council is comprised of 12 state regulatory agency members and is supported by a nine-member advisory committee made up of representatives from state regulatory agencies, industry, and public interest/environmental groups. This council is also assisted by representatives from EPA, Department of Energy (DOE), and BLM who act as official observers.

The purpose of the council is to recommend effective regulations, guidelines, and standards for state-level management of oil and gas production (E&P) wastes. It is not intended to form the sole basis for any future federal statutory or regulatory authorities that may be sought by EPA for E&P wastes. In 1990 the IOGCC adopted guidelines in the form of technical and administrative criteria recommended by the council and advisory committee. This publication, *EPA/IOGCC Study of State Regulation of Oil and Gas Exploration and Production Wastes* is known as "IOGCC Guidelines" or the "Green Book." These guidelines were update in May 1994 with the publication titled *IOGCC Environmental Guidelines for State Oil & Gas Regulatory Programs.*

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA)

The CERCLA, also known as "Superfund," and closely related to RCRA, is distinct and separate in that it mandates the cleanup of **hazardous substances** which encompasses a much broader range of products than does **hazardous wastes** defined by RCRA. It requires the potentially responsible party (PRP) to undertake cleanup (section 106) or to recover costs incurred in conducting remedial actions from PRPs (section 107). Hazardous substance means any element, compound, mixture, solution, or substance designated pursuant to section 102 of CERCLA.

The CERCLA provides for the exclusion of petroleum, including crude oil, or any fraction thereof which is not otherwise or specifically listed from the definition of hazardous substances, contaminants, or pollutants (sections 101 and 104). This also includes natural gas, natural gas liquids, liquified natural gas, and synthetic gas usable for fuel. The legislative

history of the petroleum exclusion in CERCLA indicates that although petroleum and any fractions thereof are exempt, hazardous substances that have been added to oil but are not normally found in petroleum at the levels added, are not exempt. EPA could respond under CERCLA to releases of **added** hazardous substances from E&P wastes. Several oilfield waste disposal sites that accept RCRA Subtitle C exempt wastes are now Superfund sites because these sites were not managed to prevent the release of hazardous substances. RCRA exemption does not release the operator of liability under CERCLA.

The CERCLA can be applied retroactively to provide for strict liability without regard to fault, and in appropriate circumstances, to impose joint and several liability. This liability may ultimately be the responsibility of the landowner, who also has the option of using CERCLA as the legal basis to sue the responsible parties who abandon hazardous substances on their land. It has been interpreted that any such release which is defined in section 101 of CERCLA occurring on split estate be removed by the responsible party as provided by 43 CFR 3162.5-1(c) and Notice to Lessees and Operators of Onshore Federal and Indian Oil and Gas Leases (NTL-3A). It is further interpreted to expand the requirement by the BLM to federal oil and gas leases on split estate that any such release be removed in compliance with the regulations provided by RCRA for hazardous wastes and CERCLA for hazardous substances. **(This expanded interpretation is presently being review by BLM's Washington Solicitor.)** The reasoning for this expanded interpretation is leasing and subsequent development of the federal mineral estate on split-estate land is a federal action controlled by federal regulation and applicable federal and state laws. The BLM is the managing agency for federal oil and gas lease development on split estate. Although it could be strictly interpreted that the BLM is **not** the ultimate responsible landowner (surface owner), there is a legal and moral interpretation that the BLM (the mineral estate manager) in leasing the federal minerals, is the ultimate responsible party if all else failed to secure retribution for damages and cleanup from the responsible operators/lessees. This would release the private surface owner(s) from any lease development liability of which they have no direct control. However, it would not release the private surface owner(s) from potential liability for a release of hazardous waste or substance that they authorized on their land that was not part of the federal lease development.

There is a multitude of players as well as laws in solid waste management; it is difficult to determine who to call or who is responsible for what. The key experts for the BLM are the hazardous materials specialists/coordinators. The regulations for hazardous substances and wastes are found in 40 CFR, and they are the enforcement domain of EPA. The DEQ is anticipated to be delegated primacy from EPA for the enforcement of the solid waste management regulations including those for hazardous substances and wastes. This delegation is anticipated to take place in October 1995.

The Department of the Interior has the following fundamental principles of waste management:

> "Wherever feasible, we will seek to **prevent** the generation and acquisition of hazardous wastes; where waste generation is unavoidable, we will work to **reduce** the amounts (toxicity or risk) generated through the use of sound waste management practices; we will **manage** waste materials responsibly in order to protect not only the natural resources entrusted to us, but the many people who live and work on our public lands, and the millions more who enjoy our lands and facilities each year; we will move aggressively to **clean up and restore** areas under our care that are contaminated by pollution."

ACCESS TO SPLIT-ESTATE TO DEVELOP FEDERALLY-OWNED MINERALS

Any mineral lessee or operator (any person who has acquired from the United States the mineral deposits in such land) may enter and occupy as much of the private surface (patented) as may be required for the purpose of prospecting for mining or removal of minerals upon completion of any one of the following options (43 CFR 3814, 1994):

1. Upon securing a written consent or waiver of the surface owner(s) for lands covered by the federal lease and/or access to such lease over patented lands covered by the SRHA or HA estate or a single estate unified from several parcels originally patented under the above subject acts.

2. Upon payment of damages for crops, tangible improvements, and the value of the land for grazing purposes to the owner of the lands referenced in (1) above.

3. Upon the execution of a good and sufficient bond or undertaking to the United States

for the use and benefit of the owner of the land referenced in (1) above, and to secure the payment of such damages for the crops, tangible improvements and the value of the land for grazing purposes of the owner as may be determined and fixed in an action brought upon the land or undertaken in a court of competent jurisdiction against the principles and sureties thereon.

For options 1 and 2 mentioned above, the BLM will require, at a minimum, a signed statement from the approved operator representative or the landowner that the operator/lessee and the landowner have reached an agreement for surface disturbance damages. The BLM also may require the operator/lessee to furnish any additional agreement with the surface owner for the protection of surface resources and the reclamation of disturbed areas for incorporation into conditions of approval for authorizing the action. If the agreement is not deemed adequate to protect both on and offsite damage to the lands, additional measures and mitigation will be required. If no agreement is reached, then the method according to option 3 must be followed. Under this method, a good and sufficient bond must be posted by the lessee/operator payable to the United States for payment for damages, specifically for crops, tangible improvements, and the value of the land for grazing purposes. Nationwide, statewide, and individual bonds should suffice for this coverage (BLM Manual 3104.1; Coquina Oil Corp., 41 IBLA 248, 1979; Theo R. Gassin, 55 IBLA 257, 1981). According to the procedures for this option, the lessee/operator must serve this bond on the affected landowner and serve proof to the appropriate BLM office that they have done so. This then prompts the BLM authorized officer to serve written notice (certified letter) to the landowner containing pertinent information about the proposed action and her/his right to protest. A copy must also be sent to the lessee/operator. The protest period runs for 30 days from date of service by BLM.

The emphasis in this section is on access within SRHA and HA patented land. This process for access also pertains to patents issued pursuant to section 203 (sales) and section 206 (exchanges) of the FLPMA.

The right to access an oil and gas lease includes all the land within the original patent even if that land is not within the lease. If an oil company wishes to cross one portion of a patent that has been subdivided into two portions to drill in the other portion, they have that right. In *Kinney Coastal Oil Co. v. Kieffer,* 277 US 488, 544 (1928), Coastal Oil, who held a federal oil and gas lease, sued the surface owner for subdividing the surface and erecting buildings for a town. The Supreme Court agreed with the oil company and ruled to prevent the use of the area as a commercial or residential area. Thus, the mineral owner's dominant servitude applies anywhere within the limits of the original patent no matter how far or often the surface estate has been subdivided. In another landmark case, *Mountain Fuel Supply Co. v. Smith,* 471 F. 2d (10th Cir. 1973), an oil company wished to cross 10 parcels to drill a well on the 11 parcel. All of the parcels have been patented at different times to different parties. At a later date, all of these parcels had been obtained by the defendant in this case. The court made no less than three significant holdings in this case. One, if the parcels had remained separately owned, the oil company would **not** have access rights across the 10 parcels to drill a well on 11; however, the company does have access rights on the 11th parcel on which they were to drill their well (471 F. 2d at 596,597). Two, where the surface ownership of all the parcels had been unified under a single ownership, the oil company would indeed have access across all the parcels (471 F. 2d at 597). Three, the approved unitization of the area by the appropriate authority was simply irrelevant (471 F. 2d at 597). The lessees were restricted to the development of their leases, or if appropriate, within a unit. The SRHA or HA access rights to develop federal mineral is dictated by the patented surface or a combination of patents unified by a single owner.

Following are three decisions options that may evolve in the protest period.

If no objections are received from the landowner within the protest period, the authorized officer will issue and serve a final decision of approval of the sufficient bond coverage to the landowner with a copy going to the lessee/operator. The lessee/operator can then enter onto the surface of the patented land(s) of which are affected by the lease provided all applicable federal and state laws are met.

If the surface owner files a protest (objection) to the bond within the protest period, the authorized officer will review the bond coverage, accompanying papers, and objections to determine whether the bond should be approved or disapproved. If the bond is disapproved, a decision will be served on the lessee/operator with a copy going to the landowner. The lessee/operator will have 30 days to appeal to the Director of the BLM. There have been cases where this appeal has gone to the Interior Board of Land Appeals; however, this is not the process according

to the regulations contained in 43 CFR 3814. If the bond is approved, the decision will be served to the surface owner with a copy going to the lessee/operator. The surface owner will be given 30 days to appeal the decision to the Director. If no appeal is filed, the authorized officer will serve a second final decision to the landowner approving the bond with no further right of appeal. The lessee/ operator can then enter onto the land as specified above. If an appeal is filed, the action cannot be approved until the matter is settled by a decision from the Director or his delegated authority approving or disapproving the bond.

In no instances will lease action such as an APD be approved in the absence of the surface owner consent without first satisfying the requirements of 43 CFR 3814. The purpose of these requirements is to ensure that the surface owners are treated fairly, and the mineral lessee/operators are allowed to enjoy the full privileges of their lease.

In instances where landowner demands become unreasonable or excessive, the operator is protected by 43 CFR 3814 regulations. Conversely, BLM is assuring the landowners of the opportunity to protect themselves and to assure just compensation via the 43 CFR 3814 regulations.

If the landowner and lessee/operator cannot agree or settle on a payment for damages within the lifespan of the authorization(s), especially if the lease is to be abandon, then the landowner should take her/his action to a court of competent jurisdiction to secure payment of such damages. The lessee/ operator has the option also to go to court to settle for payment of damages to the landowner. This may be especially true if a lessee/landowner should want their bond released from any lease obligations including termination. If an agreement cannot be reached for settlement for the payment of damages, either party may go to court at anytime in this above mentioned process to have the court set the amount of damages which are to be paid at that time. Another option that could be pursued by a lessee/operator for access to develop federal minerals is via state condemnation procedures.

It is not BLM's position to encourage the practice of payment of damages in lieu of restoration, nor to question the terms and dollar amounts under which an agreement is made. It is merely a position to assure that an agreement is reached which is acceptable to both parties. The BLM does have the right according to the MLA to require additional surface reclamation measures on all lease actions. However, they must be reasonable, justifiable, and in compliance with all pertinent laws. The goal should be to restore these areas disturbed by lease activities and operations to their original condition or to a reasonable environmentally sound condition. The surface owner should be compensated for all damages created by lease development.

Policy and Guidance for Authorizing Class II Injection Wells for Fluid Disposal located on Split Estate, Private Surface/Federal Minerals.

If an oil and/or gas well located within a federal oil and gas lease on split estate is converted to an injection well for disposing of off-lease, unit-produced fluids by either a third party or the current oil and gas lessee/operator, a right-of-way (ROW) is **not** the appropriate authorization and will **cease** being the permitting instrument. This policy resulted from two key IBLA decisions: Mallon Oil Company (104 IBLA 145, September 2, 1988), and Phillips Petroleum Company (105 IBLA 345, November 17, 1988). The outcome from the Mallon Oil Company case was that once the minerals have been removed from the ground, the void formerly occupied by the minerals reverts to the surface owner. In this case both the surface and minerals were owned by the United States, and the court upheld that an ROW issued by BLM was the appropriate authorization. In the Phillips Petroleum Company case which involved split-estate lands, the BLM did not have the authority to issue a permit for the disposal of salt water into a dry well located on private surface and federal minerals. In actuality, BLM used the wrong authorization mechanism—a permit pursuant to section 302(b) of the FLPMA instead of an ROW under section 501 of the FLPMA. However, the BLM was not the owner. According to the Mallon Oil Company case decision, the void space is the property of the surface owner. Henceforth, the federal mineral estate will be protected using the following guidelines and procedures.

Where BLM determines that there are federal minerals within the formation for injection of fluids, the appropriate authorization for fluid disposal on existing federal oil and gas leases on split estate is by an approved Sundry Notice (Form 3160-5) These well activities will be the responsibility of the appropriate lessee/operator and **not** a third party.

In considering and documenting feasibility for each case, the following factors must be analyzed, where applicable, in the applicant's proposal for subsequent well operation (Sundry Notice): (1) geology, (2) economic factors, (3) volume of produced

fluids, (4) hydrology and hydrogeology, (5) land use plans, (6) availability of private, state, and other land disposal sites, (7) state and/or federal agencies' permitting requirements (Onshore Oil and Gas Order #7, 1994), (8) water quality, (9) well bore schematics (present and/or proposed), (10) monitoring requirements of down hole injection/disposal, and, (11) other factors determined by the authorized officer. Not only the applicant, but even more important, the BLM must consider these factors before approving an authorization.

If the proposal is determined to be feasible, and a Sundry Notice is the instrument of authorization, the following conditions and stipulations should be considered and included as part of the authorization:

1. A stipulation stating, "The disposal well authorization may be terminated by the authorized officer of the BLM by a decision notifying the approved lessee\operator thirty days (30) prior to the date of termination. Termination must be for cause which includes, but is not limited to, compliance with both the lease and specific Sundry Notice authorization stipulations and conditions as well as the protection of the federal mineral estate, and the laws and regulations that govern thereof.

2. An approved underground injection control (UIC) permit issued by the State of Wyoming, Oil and Gas Conservation Commission (WOGCC), and written approval from the surface owner.

3. Produced fluid disposed in a well must be traced to the specific oil and gas well(s) from which it came, and these specific well(s) so stated as part of the approved Sundry Notice.

Converting federal oil and gas oil wells within a federal lease on split-estate lands to Class I commercial injection wells (wells used to dispose of hazardous waste; 40 CFR 144.6, 1993) will **not** be authorized for fluid disposal into a formation containing federal minerals.

If the BLM determines that the produced fluids from off-lease/unit is to be disposed of by injection into a formation found to be totally void of federal minerals, the following conditions **must** be addressed before a well is approved for disposal purposes:

1. The lessee/operator must comply with all the appropriate regulations within 43 CFR 3160 (1994), and more specifically section 3162.3-4, "Well Abandonment."

2. If used for disposal purposes, the BLM must consider that the well will meet specific criteria including: (1) that appropriate steps will be taken to avoid intermingling of fluids (oil, gas, and water) between formations or intervals that contain fluids of significant different quality, and (2) protect **all** federal minerals that may occur in other formations.

3. For an abandoned federal well to be used for subsurface disposal of off-lease/unit produced fluids into a formation depleted of federal minerals, a BLM release form must be properly filled out and signed by the private surface owner(s), and accepted by the BLM authorized officer. By signing this release form, the private surface owner acknowledges her/his potential future liability for disposal activities and for assuring the operation of the well to standards as required by appropriate federal and state regulatory agencies. With an approved release, the landowner also could ultimately assume the responsibility for the final plugging and reclamation requirements for the well. When BLM accepts this release, the lessee/operator's oil and gas bond should also be released for this well.

Appendix 4

LANDOWNERSHIP ADJUSTMENT STRATEGY FOR THE BLM-ADMINISTERED PUBLIC LANDS IN THE NEWCASTLE FIELD OFFICE, WYOMING

PURPOSE OF THE LAND ADJUSTMENT STRATEGY

The purpose of this land adjustment strategy is to provide general guidance to the land adjustment program for the Newcastle Field Office in order to accomplish plan objectives of the resource area. The strategy will be useful in guiding land exchange negotiations as well as other land adjustment actions with landowners and discussing the overall program with the public.

The strategy provides general direction for federal land adjustments and may be modified or amended as new information and/or opportunities become evident. The strategy does not make hard and fast decisions on land adjustment; it provides concepts. Specific land adjustment proposals will be analyzed using the National Environmental Policy Act of 1969 (NEPA) process including public participation. Decisions to implement a specific proposal will be based on the specific NEPA analysis and finding that the proposal is in the public interest and consistent with the land use plans, and applicable laws and regulations.

Goals

The overall goals are:

1. to develop a landownership pattern that will provide better access to, and better management and protection of the public lands;

2. to identify and pursue appropriate disposal actions of public land to private individuals and/or for management by other federal or state agencies to help solve problems related to intermixed landownership patterns; and

3. to implement and accomplish landownership adjustment in a timely, cost-effective manner while continuing to streamline processes.

Objectives

These following objectives will tier to the resource management plan with emphasis on land adjustment using exchanges, including assembled land exchanges.

1. Provide or improve public access and recreation use and opportunities by consolidating landownership pattern and acquiring easement through land adjustment.

2. Reduce conflicting land management objectives between private landowners and the BLM.

3. Improve resource management of BLM-administered public lands and other federal lands to meet planning direction and allow implementation of an ecosystem management approach.

4. Acquire lands within critical wildlife habitat areas, special management areas such as areas of critical environmental concern, or riparian areas according to planning direction.

5. Improve cost-effective management practices and cost efficiency of management objectives by reducing administrative costs.

JUSTIFICATION FOR A LAND ADJUSTMENT PROGRAM

The intermingled landownership pattern in the Newcastle Field Office planning area makes it especially difficult for both the BLM and the private landowners to achieve their individual management objectives and inhibits management effectiveness and efficiency. In striving to meet its planning objectives, the Newcastle Field Office will plan and use landownership adjustment to consolidate public lands into more manageable and accessible units to further benefit the public and to more effectively initiate and continue management practices. The intent of landownership adjustment is not to increase the federal land estate, but to consolidate parcels into more efficient and manageable patterns.

An issue and comments from past scoping meetings involved access to and recreation potential on

public lands. Another area of interest over the past several years from both adjoining landowners and the general public was the desire to acquire many of these isolated public land parcels. Also, with the onset of range reform and the uncertainty of grazing lease fees, landowners surrounding isolated, scattered parcels of public lands within their ranch units have voiced their growing interest in purchasing these lands. These scattered, isolated public lands are both expensive and difficult to manage, and more efficiency would be gained while better serving the public by disposing of these parcels. In exchange for many of these disposal parcels, lands or easements could be acquired through avenues such as "assembled land exchanges" where several different federal and/or private parcels are combined and exchanged in one or more transactions over time. The expense of conducting the exchange could be distributed among several different participants and a higher dollar value could be used to exchange for lands or public interest therein that the BLM has identified for high priority acquisition in accordance with land use plans.

LAND ADJUSTMENT PROGRAM

It is anticipated that land exchanges will provide the greatest opportunity to improve the landownership pattern. No exchange will be completed without a determination that the public interest will be well served according to 43 CFR 2200.06 (b).

In order to minimize impacts to the local governments, such as loss of Payment in Lieu of Taxes (PILT), preference should be given to acquiring lands in counties where these public lands are to be disposed.

LAND ADJUSTMENT EVALUATION CRITERIA

The acquisition and disposal evaluation and ranking criteria shown on the following pages were approved on October 11, 1995. They were developed by an interdisciplinary team referred to as the Casper District Land Exchange Team (LET) comprised of members from the resource areas and the district. Though the BLM has since reorganized into field offices that report directly to the State Director, the product the LET developed is still valid. The criteria they used were derived from laws, regulations, policy, program/resource management experience, and planning decisions. The Newcastle Field Office will continue to use the criteria in evaluating land adjustment proposals.

Acquisition Criteria

Given: Acquisition of land has to have and/or provide public access that can be managed effectively and cost efficiently according to BLM goals and initiatives. Can this given be met?

Yes ☐

No ☐

(If **yes** continue completing ranking criteria)

Explain: (that is, uncontrolled access, restricted or cooperative)

_____

_____

_____

Ranking Criteria (Points Awarded)	**Points**
I. Public Values	
A. Recreation	
1. Hunting	
a. Big Game	
(1) Multiple species (15 points)	_____
or	
(2) Single species (10 points)	_____
b. Small Game	
(1) Multiple species (15 points)	_____
or	
(2) Single species (10 points)	_____
2. Fishing (15 points)	_____
3. ORV Use (If meets planning or public demand objectives)	
a. Present (5 points)	_____
b. Potential (5 points)	_____
4. Scenic (0-15 points in increments of 5 points) *(Based on visual resource management ratings)	_____
5. Other Recreation Value(s) (5 points each) (Specify) _____	_____
_____	
_____	

Acquisition Criteria
Ranking Criteria (Continued)

B. Resource(s) Management

* If the resource value is present, would the value(s) acquired or consolidated be/add to the cost efficiency and manageability of them by BLM/federal agency by completing the land adjustment.

1. Improves cost and management efficiency in:

a. Cultural Resources (5 points) _____

b. Forestry Resources (5 points) _____

c. Valuable Historic Resources (5 points) _____

d. Minerals Resources (5 points) _____

(1) Oil and Gas Leases ☐

(2) Coal Leases ☐

(3) Locatables ☐

(4) Salables ☐

e. Paleontological Resources (5 points) _____

f. Range Resources (5 points) _____

g. Watershed(5 or 10 points) _____

h. Wildlife Resources (habitat) (5 points) _____

i. T & E Species (5 points) _____

j. Other _____ (5 points) _____

C. Unique Opportunities (5-50 points in increments of 5) _____

Explanation:

_____

_____

_____

Note: Unique opportunities may also be qualified by factors that aid in the economics of the opportunities; (i. e. proponent shares a percentage of the expenses on the evaluation of the public land. Such expenses as the costs of cultural inventory, T&E, appraisal, etc.)

II. Provide access to blocks of consolidated federal land or State (?) lands.

5 points for 1-640 acres _____

10 points for 640-2000 acres _____

15 points for 2,000-5,000 acres _____

20 points for 5,000-10,000 acres _____

30 points for 10,000 + acres _____

Total Points	

Acquisition Criteria
Ranking Criteria (Continued)

Acres in consolidated blocks that access effects: _____ acres.

Further explanation of topics: _____

Criteria for Disposal of Public Lands	
Given: Public interest will be well served. Any one or more of the following criteria may be used to justify the disposal of public land:	
☐	public land, because of its location and other characteristics, is difficult and uneconomical to manage.
☐	public land is not suitable for management by another federal department or agency.
☐	public land acquired for a specific purpose is no longer required for that or any other federal purpose.
☐	disposal of public land would serve important public purposes
☐	public land is more suitable for residential, commercial, agriculture, or industrial development in nonfederal ownership
☐	create ownership patterns that allow for local community development that cannot be achieved prudently or feasiblely on land other than public land and which outweigh other public objectives and values.
☐	consistent with the mission of BLM and land use plans

** Dispose of entire grazing allotment/lease Yes ☐ No ☐

Acres in grazing allotment/lease: _____ acres

Appendix 5

WILD AND SCENIC RIVER REVIEW OF WATERWAYS IN THE NEWCASTLE RESOURCE MANAGEMENT PLAN PLANNING AREA

INTRODUCTION

As part of the planning effort for developing the Newcastle RMP, the BLM planning team members reviewed all BLM-administered public land surface along waterways within the Newcastle RMP planning area (Crook, Weston, and Niobrara counties). This review was to determine if any of these BLM-administered public lands met the wild and scenic rivers eligibility criteria and suitability factors, as identified in the Wild and Scenic Rivers Act (WSRA).

PUBLIC INVOLVEMENT AND COORDINATION

The Wyoming BLM staff met with representatives of various Wyoming state agencies, including the Governor's office, in January 1991. These meetings were specifically for the purpose of reaching a mutual understanding of the wild and scenic rivers 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 later-released BLM Wild and Scenic Rivers Manual 8351 (May 19, 1992). At the same time, this included disagreement by state government, with giving any consideration for reviewing waterways that do not contain water year-round (for example, intermittent and ephemeral 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 statement for conducting the BLM wild and scenic rivers 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. The policy and guidance statement was again updated to reflect a December 1993 Washington office policy change concerning the inappropriate consideration of jurisdictional concerns as an eligibility criterion instead of a suitability factor.

A September 20, 1989, *Federal Register* notice included the intent to conduct a wild and scenic rivers review in the Newcastle RMP planning area.

On June 20, 1991, an open house was held at the Newcastle Resource Area office in Newcastle. Several topics discussed at the open house covered all identified issues and land use and resource management options to be addressed in the Newcastle EIS, including the wild and scenic rivers review.

On June 28, 1991, a presentation on the Newcastle wild and scenic rivers review was given to the Casper District Multiple Use Advisory Council.

On February 12, 1992, the Newcastle wild and scenic rivers review was discussed with a representative of the Sierra Club.

In July 1992, BLM personnel briefed Wyoming state agencies on the preliminary eligibility and suitability findings of the wild and scenic rivers review in the Newcastle RMP planning area. No BLM-administered public lands along waterways in the planning area were found to meet either the eligibility criteria or the suitability factors. Due to a BLM policy change, some BLM-administered public land parcels along eight waterways in the review area were found to meet the wild and scenic rivers eligibility criteria. However, these BLM-administered public lands were not found to meet the wild and scenic rivers suitability factors. Thus, the policy change did not result in any net change in the ultimate outcome of the wild and scenic rivers review in the Newcastle RMP planning area. This is explained in the “Results of the Wild and Scenic Rivers Eligibility Review” section below.

General mailings were sent to the individuals, interest groups and agencies on the Newcastle Resource Area mailing list, requesting input for the development of the Newcastle RMP, throughout the RMP development process. Individuals and groups that have expressed interest in special designations or special management areas (such as wild and scenic rivers) are included on the list.

Briefings on the eligibility and suitability determinations were also given to the Wyoming Congressional delegation representatives, representatives from local government agencies, and the Crook, Weston and Niobrara County Commissioners.

PROCESS

The following definitions apply to key terms used in the WSRR process:

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 ephemeral or intermittent.

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 Newcastle 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 rivers suitability factors.

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:

Step I: Wild and Scenic Rivers Eligibility Criteria and Tentative Classification

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 planning team members reviewed all waterways in the Newcastle RMP planning area to see if they contained any BLM-administered public lands that meet the eligibility criteria. Only those portions of 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 Newcastle RMP planning area.

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.

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, 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 Newcastle RMP planning area, are as follows:

<u>Scenic:</u> 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 area; and must

be of a quality to attract visitors from outside the area.

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.

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 (for example, erosional, volcanic, glacial, and other geologic structures).

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:

a. 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.

b. 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.

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:

a. 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.

b. 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.

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.

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.

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

Tentative Classification. At the same time that eligibility determinations are made, BLM-administered public lands that meet the eligibility criteria are also given a tentative classification (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 BLM-administered public lands involved and adjacent 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:

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.

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 or a hill for example, it could qualify for scenic classification.

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, or the 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.

Results of the Wild and Scenic Rivers Eligibility Review for the Newcastle RMP Planning Area

The Newcastle wild and scenic rivers review team met on October 9, 10, 11, 22, and 23, 1992, to conduct the preliminary eligibility review for the waterways in the Newcastle RMP planning area.

Because of the broad interpretation of the "free flowing" criterion, all waterways reviewed were assumed to be free-flowing. Using 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 226 waterways reviewed in the RMP planning area, the BLM-administered lands along 218 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, was established. This new criterion provided that, where the BLM-administered public land surface represents 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. In considering this new criterion, 19 BLM-administered public land parcels, scattered along the remaining eight of the waterways reviewed (Beaver Creek, West Plum Creek, Blacktail Canyon, Belle Fourche River, Inyan Kara Creek, Whoopup Creek, Cave Springs Creek, and Bear Run Creek) were found to not meet the eligibility criteria. Subsequently, this jurisdictional eligibility criterion policy was rescinded (BLM Washington Office Instruction Memorandum No. 94-69, December 3, 1993), because jurisdictional considerations (administrative role or presence) are factors of suitability, rather than eligibility criteria, and are more appropriately addressed in the suitability determination phase of the review process. As a result, the 19 parcels of BLM-administered public lands along the remaining 8 waterways mentioned above were found to meet the wild and scenic rivers eligibility criteria.

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

Attachment B and Table B (waterway segment identification and classification) describe the involved public lands in more detail and show the tentative classification (either wild, scenic, or recreational) given to each of the BLM-administered public land parcels that meet the eligibility criteria.

Step II: Wild and Scenic Rivers Suitability Factors

Any BLM-administered public lands that are found to meet the eligibility criteria and that are classified (wild, scenic, or recreational) are further reviewed to

determine if they meet the wild and scenic rivers suitability factors. The suitability determinations are 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:

1. Characteristics which do or do not make the BLM-administered public lands a worthy addition to the WSRS.

2. Status of landownership, minerals (surface and subsurface), use in the area, including the amount of private land involved, and associated or incompatible uses. Jurisdictional consideration (administrative role and or presence) must be taken into account, to the extent that management would be affected. Refer to BLM Manual 8351.33A2 (as amended on December 22, 1993) for additional information and details on the consideration of this suitability 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.

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.

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.

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.

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.

8. Other issues and concerns, if any.

Results of the Wild and Scenic Rivers Suitability Review for the Newcastle RMP Planning Area

Due to the jurisdictional considerations policy change mentioned above, a suitability review was conducted on the BLM-administered public lands determined to meet the eligibility criteria (BLM lands along Beaver Creek, West Plum Creek, Blacktail Canyon, Belle Fourche River, Inyan Kara Creek, Whoopup Creek, Cave Springs Creek, and Bear Run Creek) to determine whether or not they meet the wild and scenic rivers suitability factors. The Newcastle 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 used to make these determinations. Much of the public input received during the eligibility phase involved discussion of suitability factors. This input proved very valuable in helping the BLM to make the preliminary suitability determinations. All parties who participated in the eligibility review process were notified of the preliminary suitability determinations by mail and were afforded the opportunity to comment. Specialists determined that none of the BLM-administered public lands involved met the suitability factors; therefore, they will not be considered for inclusion in the WSRS. 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.

Step III: Management of BLM-Administered Public Lands That Meet the Suitability Factors

Because there were no BLM-administered public lands found to meet the suitability factors, step III of the review process (described below) is not applicable to, and was not conducted as part of the wild and scenic rivers review process in the Newcastle RMP planning area. It is described here for informational purposes only. Management of the BLM-administered public lands involved will be included within the provisions of the general planning and management decisions of the Newcastle RMP.

The BLM land use planning decisions are developed and implemented for any BLM-administered public lands along waterways that are determined to meet the suitability factors. These planning decisions are made

in the RMP and include management objectives, management actions, and appropriate allocations of land and resource uses that would maintain the outstandingly remarkable values and tentative wild and scenic waterway classifications identified on the BLM-administered public lands involved.

The 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. The results and documentation of the BLM wild and scenic river reviews for the RMP planning area would be used in developing any such reports.

Attachment C summarizes the wild and scenic rivers suitability review conducted for the Newcastle RMP planning area.

Appendix 5—Attachment A
Wild and Scenic Rivers Eligibility Review
for the
Newcastle RMP Planning Area

County	Segment Number	Name of Waterway	Township	Range	Section	Quarter-Quarter	Quarter	Free Flowing?	Outstandingly Remarkable Values?
Niobrara	S1	Cheyenne River	39 N	62 W.	01	NW	SE	Yes	No
Niobrara	S2	Cheyenne River	41 N.	67 W.	26	SE	NW	Yes	No
Niobrara	S3	Antelope Creek	38 N.	62 W.	25	SW	SW	Yes	No
Niobrara	S4	Black Tail Creek	37 N.	61 W.	19	SW	SW	Yes	No
Niobrara	S5	Indian Creek	35 N.	60 W.	27	NE	--	Yes	No
Niobrara	S6	Stream	36 N.	65 W.	27	SE	SE	Yes	No
Niobrara	S8	Cow Creek	38 N.	66 W.	07	NE	SE	Yes	No
Niobrara	S9	Cow Creek	38 N.	66 W.	09	SE	NW	Yes	No
Niobrara	S10	Little Cow Creek	38 N.	67 W.	24	SE	--	Yes	No
Niobrara	S11	Spring Creek	39 N.	65 W.	34	--	--	Yes	No
Niobrara	S12	South Greasewood Creek	39 N.	64 W.	34	NW	--	Yes	No
Niobrara	S13	Dixon Draw	40 N.	65 W.	15	NE	--	Yes	No
Niobrara	S14	Snyder Creek	40 N.	65 W.	30	SW	--	Yes	No
Niobrara	S15	Snyder Creek	40 N.	65 W.	30	NE	SE	Yes	No
Niobrara	S16	Snyder Creek	40 N.	65 W.	29	NE	NW	Yes	No
Niobrara	S17	Stream	39 N.	65 W.	12	NE	NE	Yes	No
Niobrara	S18	Snyder Creek	40 N.	65 W.	23	NW	NE	Yes	No
Niobrara	S19	Robbers Roost Creek	40 N.	61 W.	09	NW	NW	Yes	No
Niobrara	S20	Stream	40 N.	60 W.	08	SW	NW	Yes	No
Weston	S21	Stream	45 N.	63 W.	04	SW	--	Yes	No
Weston	S22	Stream	45 N.	63 W.	04	SW	SW	Yes	No
Weston	S23	Stream	45 N.	63 W.	04	SW	SE	Yes	No
Weston	S24	Stream	45 N.	63 W.	08	SE	--	Yes	No
Weston	S25	Poison Creek	46 N.	63 W.	30	NW	--	Yes	No
Weston	S26	Beaver Creek	46 N.	63 W.	30	SW	--	Yes	No
Weston	S27	Beaver Creek	46 N.	63 W.	31	NW	NW	Yes	No
Weston	S28	Beaver Creek	46 N.	64 W.	23	SE	SE	Yes	No
Weston	S29	Beaver Creek	46 N.	64 W.	23	SE	SE	Yes	No
Weston	S30	Beaver Creek	42 N.	61 W.	07	NW	NE	Yes	No
Weston	S31	Beaver Creek	42 N.	61 W.	06	SW	NW	Yes	No
Weston	S32	Beaver Creek	42 N.	61 W.	06	SW	SW	Yes	No
Weston	S33	Stream	46 N.	64 W.	15	NE	--	Yes	No
Weston	S34	Beaver Creek [Stockade]	47 N.	60 W.	03	NW	--	Yes	Yes
Weston	S35	West Plum Creek	46 N.	62 W.	27	SE	SW	Yes	Yes
Weston	S36	West Plum Creek	46 N.	62 W.	27	SE	SW	Yes	Yes
Weston	S37	Blacktail Canyon	46 N.	62 W.	15	SE	NW	Yes	Yes
Weston	S38	Lone Tree Creek	45 N.	67 W.	05	NE	--	Yes	No
Weston	S39	Stream	45 N.	67 W.	04	SE	SE	Yes	No
Weston	S40	South Beaver Creek	43 N.	62 W.	28	SW	NW	Yes	No
Weston	S41	South Beaver Creek	43 N.	62 W.	29	--	--	Yes	No
Weston	S42	Stream	41 N.	61 W.	13	SW	--	Yes	No
Weston	S43	Blacktail Creek	43 N.	61 W.	21	NE	NE	Yes	No
Crook	S44	No. Fork Little Mo. River	57 N.	67 W.	34	NE	SE	Yes	No
Crook	S45	No. Fork Little Mo. River	57 N.	68 W.	35	NW	NE	Yes	No
Crook	S46	No. Fork Little Mo. River	57 N.	66 W.	33	NW	NE	Yes	No
Crook	S47	Belle Fourche River	53 N.	66 W.	25	NW	--	Yes	Yes
Crook	S48	Belle Fourche River	53 N.	66 W.	26	SE	--	Yes	Yes
Crook	S49	Belle Fourche River	55 N.	64 W.	13	SW	NE	Yes	Yes
Crook	S50	Belle Fourche River	57 N.	63 W.	13	SW	NE	Yes	Yes
Crook	S51	Stream	57 N.	61 W.	02	SW	NE	Yes	No
Crook	S52	Gaff Creek	57 N.	64 W.	03	NE	SE	Yes	No
Crook	S53	Holben Creek	58 N.	64 W.	33	NW	SW	Yes	No
Crook	S54	Boggy Creek	57 N.	63 W.	19	SW	NW	Yes	No
Crook	S55	Prickly Pear Creek	57 N.	66 W.	21	SE	SW	Yes	No
Crook	S56	Short Creek	58 N.	66 W.	30	NE	NE	Yes	No

Appendix 5—Attachment A (Continued)
Wild and Scenic Rivers Eligibility Review
for the
Newcastle RMP Planning Area

County	Segment Number	Name of Waterway	Township	Range	Section	Quarter-Quarter	Quarter	Free Flowing?	Outstandingly Remarkable Values?
Crook	S57	Thompson Creek	58 N.	65 W.	29	SE	NE	Yes	No
Crook	S58	Stream	53 N.	67 W.	25	NW	NW	Yes	No
Crook	S59	Buffalo Creek	49 N.	67 W.	31	NE	SW	Yes	No
Crook	S60	Buffalo Creek	49 N.	67 W.	31	NE	SW	Yes	No
Crook	S61	Cold Springs Creek	50 N.	61 W.	32	NE	NE	Yes	No
Crook	S62	Cold Springs Creek	50 N.	61 W.	32	NE	NE	Yes	No
Crook	S63	Cold Springs Creek	51 N.	61 W.	09	SE	SE	Yes	No
Crook	S64	Inyan Kara Creek	50 N.	64 W.	35	SW	SE	Yes	Yes
Crook	S65	Little Mitchell Creek	52 N.	68 W.	07	NE	SW	Yes	No
Crook	S66	Little Mitchell Creek	52 N.	68 W.	07	NE	SE	Yes	No
Crook	S67	Gammon Prong Creek	57 N.	67 W.	20	SW	SE	Yes	No
Crook	S68	Stream	49 N.	66 W.	33	SW	SE	Yes	No
Crook	S69	West Fork Wind Creek	49 N.	66 W.	33	SE	SW	Yes	No
Crook	S70	West Fork Wind Creek	49 N.	66 W.	33	NW	--	Yes	No
Crook	S71	Stream	49 N.	66 W.	17	SW	SE	Yes	No
Crook	S72	Stream	52 N.	68 W.	04	NW	--	Yes	No
Crook	S73	Stream	52 N.	68 W.	05	SW	SW	Yes	No
Crook	S74	Stream	52 N.	68 W.	07	NE	NW	Yes	No
Crook	S75	Stream	52 N.	68 W.	06	NW	NE	Yes	No
Crook	S76	Stream	51 N.	67 W.	18	NE	SW	Yes	No
Crook	S77	Stream	53 N.	67 W.	03	SW	NE	Yes	No
Crook	S78	Stream	53 N.	66 W.	30	NW	NW	Yes	No
Crook	S79	Stream	53 N.	68 W.	31	NW	--	Yes	No
Crook	S80	Stream	52 N.	66 W.	05	NE	SW	Yes	No
Crook	S81	Stream	52 N.	66 W.	05	NW	--	Yes	No
Crook	S82	Stream	52 N.	66 W.	24	SE	NE	Yes	No
Crook	S83	Stream	51 N.	66 W.	01	SW	--	Yes	No
Crook	S84	Tomcat Creek	50 N.	65 W.	32	NE	--	Yes	No
Crook	S85	Stream	50 N.	65 W.	32	NE	NW	Yes	No
Crook	S86	Stream	50 N.	65 W.	31	SE	--	Yes	No
Crook	S88	Stream	50 N.	64 W.	06	SE	NE	Yes	No
Crook	S89	Stream	50 N.	64 W.	06	SE	--	Yes	No
Crook	S90	Houston Creek	50 N.	64 W.	06	SE	NW	Yes	No
Crook	S91	Stream	50 N.	64 W.	07	NE	--	Yes	No
Crook	S92	Stream	49 N.	64 W.	02	NW	NW	Yes	No
Crook	S93	Stream	52 N.	62 W.	31	SW	NW	Yes	No
Crook	S94	Stream	52 N.	61 W.	13	SW	SW	Yes	No
Crook	S95	Stream	49 N.	65 W.	07	NE	SE	Yes	No
Crook	S96	Stream	49 N.	65 W.	07	NE	SE	Yes	No
Crook	S97	Stream	54 N.	68 W.	25	NW	NW	Yes	No
Crook	S98	Stream	54 N.	68 W.	25	NE	NW	Yes	No
Crook	S99	Stream	49 N.	68 W.	34	NE	SE	Yes	No
Crook	S100	Stream	54 N.	61 W.	06	NE	SW	Yes	No
Crook	S101	Stream	54 N.	61 W.	06	NE	NW	Yes	No
Crook	S102	Stream	54 N.	61 W.	06	--	--	Yes	No
Crook	S103	Stream	54 N.	61 W.	07	NE	SW	Yes	No
Crook	S104	Stream	54 N.	61 W.	07	NE	SW	Yes	No
Crook	S105	Stream	49 N.	65 W.	21	SW	SW	Yes	No
Crook	S106	Stream	56 N.	68 W.	23	SW	NW	Yes	No
Crook	S107	Stream	56 N.	68 W.	21	NE	SE	Yes	No
Crook	S108	Stream	56 N.	68 W.	03	SW	NW	Yes	No
Crook	S109	No. Fork Little Mo. River	57 N.	67 W.	31	SE	NW	Yes	No
Crook	S110	Stream	57 N.	67 W.	05	SE	--	Yes	No
Crook	S111	Moulton Creek	58 N.	67 W.	28	NE	NE	Yes	No
Crook	S112	Stream	58 N.	67 W.	27	SW	--	Yes	No

Appendix 5—Attachment A (Continued)
Wild and Scenic Rivers Eligibility Review
for the
Newcastle RMP Planning Area

County	Segment Number	Name of Waterway	Township	Range	Section	Quarter-Quarter	Quarter	Free Flowing?	Outstandingly Remarkable Values?
Crook	S113	Stream	58 N.	67 W.	34	SW	--	Yes	No
Crook	S114	Stream	57 N.	67 W.	23	--	--	Yes	No
Crook	S115	Battle Creek	57 N.	67 W.	15	SW	SW	Yes	No
Crook	S116	Battle Creek	57 N.	67 W.	15	SW	SW	Yes	No
Crook	S117	Stream	57 N.	67 W.	27	SW	NW	Yes	No
Crook	S118	Gammon Prong Creek	57 N.	67 W.	28	SE	SE	Yes	No
Crook	S119	Little Missouri River	56 N.	66 W.	20	NW	NW	Yes	No
Crook	S120	T L Creek	56 N.	66 W.	20	NW	NW	Yes	No
Crook	S121	Mule Creek	56 N.	67 W.	25	SW	NE	Yes	No
Crook	S122	Mule Creek	56 N.	67 W.	25	SW	SE	Yes	No
Crook	S123	Carrie Nation Creek	55 N.	67 W.	06	SE	SW	Yes	No
Crook	S124	Stream	56 N.	67 W.	19	NW	--	Yes	No
Crook	S125	Stream	56 N.	67 W.	30	NE	NE	Yes	No
Crook	S126	Stream	56 N.	67 W.	15	NW	--	Yes	No
Crook	S127	Stream	56 N.	67 W.	15	SW	--	Yes	No
Crook	S128	Stream	56 N.	67 W.	15	SE	NE	Yes	No
Crook	S129	Little Missouri River	56 N.	66 W.	18	SE	SE	Yes	No
Crook	S130	Little Piney Creek	49 N.	65 W.	14	SE	SE	Yes	No
Crook	S131	Willow Creek	49 N.	65 W.	14	SE	SE	Yes	No
Crook	S132	Deep Draw	49 N.	65 W.	23	SW	--	Yes	No
Crook	S133	Willow Creek	49 N.	65 W.	23	NE	--	Yes	No
Crook	S134	Deep Draw	49 N.	65 W.	25	NW	--	Yes	No
Crook	S135	Willow Creek	49 N.	65 W.	23	SE	--	Yes	No
Crook	S136	Green River	49 N.	65 W.	26	SE	SE	Yes	No
Crook	S137	Willow Creek	49 N.	65 W.	25	SW	SW	Yes	No
Crook	S138	Stream	56 N.	67 W.	11	SE	SW	Yes	No
Crook	S139	Stream	56 N.	67 W.	02	SE	SE	Yes	No
Crook	S140	Stream	56 N.	67 W.	01	SW	--	Yes	No
Crook	S141	Stream	56 N.	67 W.	01	SW	--	Yes	No
Crook	S142	Cedar Creek	56 N.	67 W.	01	NW	SW	Yes	No
Crook	S143	Cedar Creek	56 N.	67 W.	01	NW	NW	Yes	No
Crook	S144	Bush Creek	56 N.	66 W.	05	NE	--	Yes	No
Crook	S145	Cedar Creek	56 N.	67 W.	02	SE	--	Yes	No
Crook	S146	No. Fork Little Mo. River	56 N.	67 W.	02	NE	NW	Yes	No
Crook	S147	Stream	56 N.	67 W.	10	NE	NE	Yes	No
Crook	S148	Cedar Creek	56 N.	67 W.	10	SE	--	Yes	No
Crook	S149	Stream	56 N.	67 W.	10	SE	--	Yes	No
Crook	S150	Stream	56 N.	67 W.	10	SW	--	Yes	No
Crook	S151	Cedar Creek	56 N.	67 W.	10	SW	--	Yes	No
Crook	S152	Stream	56 N.	67 W.	05	NE	SE	Yes	No
Crook	S153	Stream	56 N.	67 W.	05	NW	--	Yes	No
Crook	S154	Stream	56 N.	67 W.	08	NW	--	Yes	No
Crook	S155	Driscoll Creek	56 N.	67 W.	08	NW	--	Yes	No
Crook	S156	Stream	56 N.	67 W.	07	NE	--	Yes	No
Crook	S157	Storm Draw	57 N.	66 W.	29	SE	--	Yes	No
Crook	S158	Stream	57 N.	67 W.	25	NW	NE	Yes	No
Crook	S159	North Battle Creek	57 N.	67 W.	23	NE	--	Yes	No
Crook	S160	Stream	57 N.	66 W.	18	SE	NE	Yes	No
Crook	S161	North Draw	57 N.	66 W.	18	NE	--	Yes	No
Crook	S162	Stream	57 N.	66 W.	05	SW	SE	Yes	No
Crook	S163	Stream	57 N.	66 W.	05	SE	SW	Yes	No
Crook	S164	Craft Draw	57 N.	66 W.	05	SW	--	Yes	No
Crook	S165	Craft Draw	57 N.	66 W.	05	SW	--	Yes	No
Crook	S166	Strand Draw	57 N.	66 W.	21	NE	--	Yes	No
Crook	S167	No. Fork Little Mo. River	57 N.	66 W.	27	SW	NW	Yes	No

Appendix 5—Attachment A (Continued)
Wild and Scenic Rivers Eligibility Review
for the
Newcastle RMP Planning Area

County	Segment Number	Name of Waterway	Township	Range	Section	Quarter-Quarter	Quarter	Free Flowing?	Outstandingly Remarkable Values?
Crook	S168	Prickly Pear Creek	57 N.	66 W.	27	NW	SW	Yes	No
Crook	S169	Stream	56 N.	66 W.	23	NE	--	Yes	No
Crook	S170	Stream	56 N.	66 W.	23	NE	--	Yes	No
Crook	S171	Stream	57 N.	65 W.	15	SE	NE	Yes	No
Crook	S172	Stream	57 N.	65 W.	15	SE	--	Yes	No
Crook	S173	Stream	57 N.	65 W.	11	SE	SE	Yes	No
Crook	S174	Stream	57 N.	65 W.	08	NW	NE	Yes	No
Crook	S175	Bronco John Creek	57 N.	65 W.	35	NW	SW	Yes	No
Crook	S176	Stream	56 N.	65 W.	02	SW	SE	Yes	No
Crook	S177	Lindsey Creek	56 N.	65 W.	11	SW	NE	Yes	No
Crook	S178	Lindsey Creek	56 N.	65 W.	11	NW	--	Yes	No
Crook	S179	Stream	57 N.	65 W.	35	SE	NW	Yes	No
Crook	S180	Stream	57 N.	65 W.	02	NW	--	Yes	No
Crook	S181	Stream	57 N.	65 W.	02	NE	SW	Yes	No
Crook	S182	Sage Creek	57 N.	65 W.	02	NE	SE	Yes	No
Crook	S183	Sage Creek	57 N.	65 W.	01	SW	--	Yes	No
Crook	S184	Stream	57 N.	65 W.	01	SW	SE	Yes	No
Crook	S185	Little Missouri River	57 N.	65 W.	29	NW	NE	Yes	No
Crook	S186	Little Missouri River	56 N.	66 W.	17	NW	NW	Yes	No
Crook	S187	Little Missouri River	56 N.	66 W.	17	NW	NW	Yes	No
Crook	S188	Little Missouri River	56 N.	66 W.	17	NW	NW	Yes	No
Crook	S189	Little Missouri River	56 N.	66 W.	17	NW	SW	Yes	No
Crook	S190	Stream	58 N.	66 W.	29	SW	NW	Yes	No
Crook	S191	Stream	58 N.	65 W.	30	NW	--	Yes	No
Crook	S192	Stream	58 N.	65 W.	30	NE	NE	Yes	No
Crook	S193	Stream	58 N.	65 W.	19	SE	SE	Yes	No
Crook	S194	Stream	58 N.	65 W.	30	SW	--	Yes	No
Crook	S195	Stream	58 N.	65 W.	30	SW	--	Yes	No
Crook	S196	Stream	58 N.	65 W.	32	SW	NW	Yes	No
Crook	S197	Stream	58 N.	65 W.	32	NE	NE	Yes	No
Crook	S198	Stream	58 N.	65 W.	28	SW	--	Yes	No
Crook	S199	Stream	56 N.	66 W.	29	NE	SE	Yes	No
Crook	S200	Stream	56 N.	66 W.	28	SW	--	Yes	No
Crook	S201	Dinky Creek	56 N.	66 W.	28	NE	NE	Yes	No
Crook	S202	Stream	56 N.	66 W.	27	NW	--	Yes	No
Crook	S203	Stream	55 N.	66 W.	15	SE	NE	Yes	No
Niobrara	S204	Twentyone Draw	40 N.	60 W.	06	SE	--	Yes	No
Niobrara	S205	Twentyone Draw	40 N.	60 W.	08	NW	--	Yes	No
Crook	S206	Stream	56 N.	65 W.	18	SE	NE	Yes	No
Crook	S207	Stream	56 N.	65 W.	18	NE	--	Yes	No
Crook	S208	Stream	56 N.	65 W.	07	SE	NE	Yes	No
Crook	S209	Big Draw	56 N.	65 W.	05	NE	--	Yes	No
Crook	S210	Stream	57 N.	65 W.	33	NE	NW	Yes	No
Crook	S211	Stream	57 N.	65 W.	33	NW	NW	Yes	No
Crook	S212	Stream	57 N.	65 W.	32	NE	--	Yes	No
Crook	S213	Gaff Creek	57 N.	64 W.	02	SW	SW	Yes	No
Crook	S214	Stream	57 N.	64 W.	14	NW	NW	Yes	No
Crook	S215	Gaff Creek	57 N.	64 W.	14	NW	--	Yes	No
Crook	S216	Stream	57 N.	64 W.	22	NE	NW	Yes	No
Crook	S217	Stream	57 N.	64 W.	15	SE	SW	Yes	No
Crook	S218	Stream	58 N.	61 W.	30	NW	--	Yes	No
Crook	S219	Stream	58 N.	61 W.	25	SE	NE	Yes	No
Niobrara	S220	Owl Creek	40 N.	66 W.	08	SE	SE	Yes	No
Niobrara	S221	Owl Creek	41 N.	66 W.	31	SE	--	Yes	No
Niobrara	S222	Stream	40 N.	66 W.	04	NE	NE	Yes	No

Appendix 5—Attachment A (Continued)
Wild and Scenic Rivers Eligibility Review
for the
Newcastle RMP Planning Area

County	Segment Number	Name of Waterway	Township	Range	Section	Quarter-Quarter	Quarter	Free Flowing?	Outstandingly Remarkable Values?
Niobrara	S223	Fred Draw	41 N.	66 W.	27	NW	SE	Yes	No
Niobrara	S224	Stream	40 N.	67 W.	24	NE	SE	Yes	No
Niobrara	S225	West Bull Creek	39 N.	67 W.	26	NE	NE	Yes	No
Niobrara	S226	Little Cow Creek	38 N.	66 W.	20	SW	NE	Yes	No
Niobrara	S227	Stream	39 N.	65 W.	35	SW	NW	Yes	No
Niobrara	S228	Dogie Creek	39 N.	66 W.	08	SE	--	Yes	No
Niobrara	S229	Stream	39 N.	66 W.	08	SE	NE	Yes	No
Niobrara	S230	Stream	39 N.	66 W.	17	SE	NE	Yes	No
Niobrara	S231	Snyder Creek	39 N.	66 W.	06	SE	--	Yes	No
Niobrara	S232	Snyder Creek	40 N.	66 W.	33	SW	--	Yes	No
Niobrara	S233	Stream	40 N.	66 W.	33	SW	NW	Yes	No
Niobrara	S234	Stream	38 N.	64 W.	05	SE	--	Yes	No
Niobrara	S235	Stream	38 N.	64 W.	05	SE	--	Yes	No
Niobrara	S236	Stream	39 N.	64 W.	27	SW	NE	Yes	No
Niobrara	S237	Stream	39 N.	64 W.	27	SW	NW	Yes	No
Niobrara	S238	Stream	39 N.	65 W.	13	SW	SW	Yes	No
Niobrara	S239	Stream	39 N.	65 W.	25	SE	--	Yes	No
Niobrara	S240	Boggy Creek	39 N.	64 W.	17	NW	--	Yes	No
Niobrara	S241	Stream	39 N.	64 W.	05	SW	SE	Yes	No
Niobrara	S242	Stream	39 N.	64 W.	08	SE	SW	Yes	No
Niobrara	S243	Stream	40 N.	65 W.	25	SW	--	Yes	No
Niobrara	S244	Stream	40 N.	64 W.	32	SW	SE	Yes	No
Niobrara	S245	Stream	40 N.	65 W.	13	NW	NW	Yes	No
Niobrara	S246	Stream	40 N.	65 W.	13	SE	--	Yes	No
Niobrara	S247	Stream	40 N.	64 W.	17	SW	NE	Yes	No
Niobrara	S248	Snyder Creek	40 N.	64 W.	21	NW	NE	Yes	No
Niobrara	S249	Stream	39 N.	63 W.	28	SW	--	Yes	No
Niobrara	S250	Stream	39 N.	63 W.	27	NE	NW	Yes	No
Niobrara	S251	Stream	39 N.	63 W.	27	NE	NE	Yes	No
Niobrara	S252	N. Greasewood Creek	39 N.	64 W.	25	NW	--	Yes	No
Niobrara	S253	Stream	38 N.	63 W.	06	SW	--	Yes	No
Niobrara	S254	N. Greasewood Creek	39 N.	63 W.	32	SE	NE	Yes	No
Niobrara	S255	Stream	38 N.	63 W.	05	NW	--	Yes	No
Niobrara	S256	Seven Mile Creek	40 N.	63 W.	22	NE	NW	Yes	No
Niobrara	S257	Rock Corral Draw	40 N.	63 W.	01	SE	--	Yes	No
Niobrara	S258	Rock Corral Draw	40 N.	62 W.	05	NE	SW	Yes	No
Niobrara	S259	Trout Draw	40 N.	62 W.	05	NW	NW	Yes	No
Niobrara	S260	Mercer Draw	37 N.	66 W.	07	NE	--	Yes	No
Niobrara	S261	Stream	37 N.	66 W.	05	SE	SE	Yes	No
Niobrara	S262	Stream	38 N.	66 W.	33	NW	--	Yes	No
Niobrara	S263	Stream	38 N.	65 W.	31	SE	--	Yes	No
Niobrara	S264	Stream	37 N.	66 W.	12	SE	NE	Yes	No
Niobrara	S265	Cow Creek	38 N.	65 W.	28	NE	NE	Yes	No
Niobrara	S266	Twenty Mile Gulch	36 N.	66 W.	02	SW	SE	Yes	No
Niobrara	S267	Twenty Mile Gulch	36 N.	66 W.	14	NE	--	Yes	No
Niobrara	S268	Stream	36 N.	66 W.	09	NE	NW	Yes	No
Niobrara	S269	Mikes Draw	36 N.	66 W.	17	SW	--	Yes	No
Niobrara	S270	Stream	36 N.	67 W.	11	SE	NW	Yes	No
Niobrara	S271	Stream	35 N.	65 W.	04	SE	SE	Yes	No
Weston	S272	Oil Creek	43 N.	62 W.	23	--	--	Yes	No
Weston	S273	Oil Creek	44 N.	62 W.	35	--	--	Yes	No
Weston	S274	Oil Creek	46 N.	62 W.	15	NW	SW	Yes	No
Weston	S275	Four Mile Draw	46 N.	62 W.	14	--	--	Yes	No
Weston	S276	Whoopup Creek	43 N.	60 W.	06	SE	NW	Yes	Yes
Weston	S277	Whoopup Creek	43 N.	60 W.	20	--	--	Yes	Yes

Appendix 5—Attachment A (Continued)
Wild and Scenic Rivers Eligibility Review
for the
Newcastle RMP Planning Area

County	Segment Number	Name of Waterway	Township	Range	Section	Quarter-Quarter	Quarter	Free Flowing?	Outstandingly Remarkable Values?
Weston	S278	Whoopup Creek	43 N.	60 W.	21	--	--	Yes	Yes
Weston	S279	Whoopup Creek	43 N.	60 W.	28	--	--	Yes	Yes
Weston	S280	Whoopup Creek	43 N.	60 W.	29	--	--	Yes	Yes
Weston	S281	Whoopup Creek	43 N.	60 W.	33	--	--	Yes	Yes
Weston	S282	Whoopup Creek	44 N.	60 W.	31	SE	NE	Yes	Yes
Weston	S283	Cave Springs Creek	45 N.	61 W.	18	--	--	Yes	Yes
Weston	S284	Cave Springs Creek	45 N.	61 W.	19	--	--	Yes	Yes
Weston	S285	Beaver Creek Tributary	42 N.	61 W.	32	N1/2	--	Yes	No
Weston	S286	Bear Run Creek	46 N.	60 W.	09	--	--	Yes	Yes
Weston	S287	Thompson Canyon Creek	46 N.	60 W.	34	--	--	Yes	No
Weston	S288	N. Thompson Canyon Creek.	46 N.	60 W.	27	--	--	Yes	No
Weston	S289	N. Thompson Canyon Creek.	46 N.	60 W.	28	--	--	Yes	No
Weston	S290	Sherwood Canyon Creek	45 N.	60 W.	09	--	--	Yes	No
Weston	S291	Sherwood Canyon Ck. Trb.	45 N.	60 W.	08	--	--	Yes	No
Weston	S292	Sheldon Canyon Creek. Trb.	45 N.	60 W.	20	--	--	Yes	No
Weston	S293	Sheldon Canyon Creek. Trb.	45 N.	60 W.	21	--	--	Yes	No
Weston	S294	Stotts Canyon Creek	46 N.	60 W.	15	--	--	Yes	No
Weston	S295	Hay Creek	46 N.	67 W.	34	--	--	Yes	No
Weston	S296	Kinney Canyon Creek	45 N.	60 W.	05	--	--	Yes	No
Weston	S297	Kinney Canyon Creek	45 N.	60 W.	06	--	--	Yes	No
Weston	S298	Cedar Draw Creek	44 N.	60 W.	09	--	--	Yes	No
Weston	S299	Cedar Draw Creek Tribs.	44 N.	60 W.	04	--	--	Yes	No
Weston	S300	Cedar Draw Creek Tribs.	44 N.	60 W.	08	--	--	Yes	No
Weston	S301	Hay Creek	41 N.	60 W.	05	E1/2	--	Yes	No
Weston	S302	Line Creek	43 N.	60 W.	33	--	--	Yes	No
Weston	S303	Rats Valley Creek	45 N.	60 W.	18	--	--	Yes	No
Weston	S304	Rats Valley Creek	45 N.	61 W.	13	--	--	Yes	No
Weston	S305	Rats Valley Creek	45 N.	61 W.	24	--	--	Yes	No
Weston	S306	Sheep Creek & Tribs.	41 N.	61 W.	05	--	--	Yes	No
Weston	S307	Stream	48 N.	68 W.	25	--	--	Yes	No
Weston	S308	Stream	48 N.	68 W.	26	--	--	Yes	No
Weston	S309	Stream	47 N.	68 W.	01	--	--	Yes	No
Weston	S310	Stream	47 N.	68 W.	02	--	--	Yes	No
Weston	S311	Stream	47 N.	68 W.	04	--	--	Yes	No
Weston	S312	Stream	47 N.	68 W.	09	--	--	Yes	No
Weston	S313	Stream	47 N.	68 W.	14	--	--	Yes	No
Weston	S314	Stream	47 N.	68 W.	16	--	--	Yes	No
Weston	S315	Stream	47 N.	67 W.	17	--	--	Yes	No
Weston	S316	Stream	47 N.	67 W.	18	--	--	Yes	No
Weston	S317	Stream	47 N.	60 W.	09	--	--	Yes	No
Weston	S318	Stream	47 N.	60 W.	34	--	--	Yes	No
Weston	S319	Stream	46 N.	30 W.	multiple			Yes	No
Weston	S320	Stream	41 N.	61 W.	17	--	--	Yes	No
Niobrara	S321	21 Draw Creek & Tribs.	40 N.	60 W.	06	--	--	Yes	No
Niobrara	S322	21 Draw Creek & Tribs.	40 N.	60 W.	07	--	--	Yes	No
Niobrara	S323	21 Draw Creek & Tribs.	40 N.	60 W.	08	--	--	Yes	No

Appendix 5—Attachment B

Identification and Classification of BLM-Administered Public Lands Along the Waterways Determined to Meet the Wild and Scenic Rivers Eligibility Criteria

Segment of Waterway Reviewed
Bear Run Creek (Segment S286—T. 46 N., R. 60 W., sec. 09) Bear Run Creek traverses approximately 5 miles of which approximately 3/8 mile is on BLM-administered public land. This is an extremely rough and steep area in the foothills of the Black Hills of South Dakota and Wyoming. The BLM segment in itself is not manageable for any purposes other than its current uses which are recreation, potential timber management, and limited livestock grazing. Adjacent private lands have been subdivided and developed as seasonal home sites. Public access is by foot only.
Belle Fourche River (Segments S47& S48—T. 53 N., R. 66 W., sec. 25 &26; Segment S49, T. 55 N., R. 64 W., sec. 13; and Segment S50, T.57 N., R. 63 W., sec.13) The Belle Fourche River flows for approximately 75 linear miles in the resource area with less than 2-1/8 miles in four segments crossing BLM-administered public land. Only one parcel has public access. The Belle Fourche River flows through varied terrain changing from grass-shrub rangeland to steep pine-covered terrain with cottonwoods and willows in the riparian zone and grading back to grassland. Leafy spurge, a noxious weed, has become established and is at infestation levels along several segments both on public and private land. While the length of the river can be considered highly scenic and passes through Devils Tower National Monument, the public land segments are separated and do not contribute enough river distance to justify inclusion in the WSR system.
Blacktail Canyon Creek (Segment 37—T. 46 N., R. 62 W., sec. 15) Blacktail Canyon Creek flows for approximately 4 linear miles with approximately 1/4 mile crossing BLM-administered public land. The area is in the foothills of the Black Hills of South Dakota and Wyoming and crosses rugged steep terrain with pine-covered slopes and shrubs and deciduous trees in the riparian zone. Due to the small amount of public land this segment is not recommended for inclusion in the WSR system.
Cave Springs Creek (T. 45 N., R. 61 W., sec. 18 and 19) Cave Springs Creek drainage is approximately 3 miles long of which approximately 1 mile crosses BLM-administered public land. The drainage passes through broken terrain with deciduous trees and shrubs in a portion of the riparian zone and grassland in the remainder of the area. There is no public access. Scenic and historic values are not threatened. Public land management has only a minor influence on the character of the area. The public land segments alone do not contain the most significant historic or scenic values on the stream. Due to the small amount of public land and the lack of threats to values, the area is not recommended as suitable for inclusion in the WSR system.

Segment of Waterway Reviewed (Continued)

Inyan Kara Creek (T. 50 N., 64 W., sec. 35)

Inyan Kara Creek flows for approximately 21-1/2 linear miles. Less than 1/8 mile of the creek flows across public land administered by the BLM from its origin to its confluence with the Belle Fourche River. The public land portion lies in a scenic creek bottom in rolling terrain. The riparian zone includes deciduous trees and shrubs. The BLM-administered portion of the stream is not large enough to preserve the outstanding values of the area.

Stockade Beaver Creek (Segment S34—Beaver Creek [Stockade], T. 47 N., R. 60 W., sec. 03)

The public land segment (approximately 0.25 mile) on Stockade Beaver Creek has been transferred to Weston County under the provisions of the Recreation and Public Purposes Act and is no longer in federal ownership. The area is currently being managed by Weston County as part of a county recreation site.

West Plum Creek (Segments S35 & S36—T. 46 N, R. 62 W., sec.27)

West Plum Creek flows for approximately 10½ linear miles. The BLM-administered public land occurs in two parcels totalling **d** mile in length. The area is in scenic pine-covered, steep terrain. The creek bottom meanders and has shrubs and deciduous trees along a portion of its length. Due to the small amount of public land and the scattered ownership pattern the public land segments are not recommended for inclusion as part of the WSR system.

Whoopup Creek and Tributaries (Segments S278, S279, S280, S,281, & S282—T. 43 N., R. 60 W., secs. 21, 28, 29, & 33 and T. 44 N., R. 60 W., Sec. 31)

The Whoopup Creek drainage and its tributaries on public land pass through varied terrain along the foothills of Elk Mountain, a part of the Black Hills of South Dakota and Wyoming. The creek itself has been dry for several years; the tributaries are intermittent, flowing only when snowmelt and heavy rains are occur. The main drainage of Whoopup Creek passes through Whoopup Canyon, a steep-walled scenic canyon. There is no public access to any segments of Whoopup Creek and only limited foot access to the public land along its tributaries. A portion of the public land along Whoopup Creek is managed as part of an ACEC for other values, and to protect the character of the drainage. The scattered parcels and intermittent landownership do not lend themselves to management as a component of the WSR system.

Appendix 5—Table B-1
Identification and Tentative Classification of BLM-Aministered Public Land Parcels That Meet the Wild and Scenic Rivers Eligibility Criteria

Parcel Number	Mileage Across Public Land	Location of Waterway	Distance to Next Public Land Parcel	Description And Values of Public Land Parcel	Preliminary Classification of Public Land Parcel
Bear Run Creek					
Sl(S286)	3/8	T. 46 N. R. 60 W., sec. 9	single parcel	Rugged, steep terrain; pine-covered hills; narrow riparian zone; difficult foot access only.	recreation scenic
Belle Fourche River					
Sl(S47)	3/8	T. 53 N., R. 66 W., sec. 25, NW	1/2 mile to S2	Timbered slopes, wide floodplain, cottonwood riparian zone, leafy spurge infestation; no access.	recreation scenic
S2(S48)	<1/8	T 53 N., R. 66 W., sec. 26, SE	1/2 mile to S1, approximately 15 air miles to S3	Timbered slopes, wide floodplain, cottonwood riparian zone, leafy spurge infestation; no access.	recreation scenic
S3(S49)	1/2 to 3/8	T. 55 N., R. 64 W., sec. 13, SWNE	approximately 13 air miles	Steep red rock cliffs to river bottom; wide grassy bottom abutting cliff.	recreation scenic
S4(S50)	1/4	T. 57 N., R. 63 W. sec. 13, SWNE	approximately 13 air miles to S3	Broad cottonwood riparian zone grading into prairie; no access.	recreation scenic
Blacktail Canyon Creek					
Sl(S37)	1/4	T. 46 N., R. 62 W., sec. 15, SENW	single parcel	Rugged steep pine-covered slopes; creek bottom with shrubs and deciduous trees.	scenic recreation
Cave Springs Creek					
Sl(S283)	3/4	T. 45 N., R. 61 W., sec. 108	adjacent to S2	Small canyon; intermittant stream, deciduous trees and shrubs in bottom; surrounded by shrub grassland; no access.	recreation scenic
S2(S284)	1/4	T. 45 N., R. 61 W., sec. 19	adjacent to S1	Small canyon; intermittant stream, deciduous trees and shrubs in bottom; surrounded by shrub grassland; no access.	recreation scenic
Inyan Kara Creek					
I(S64)	< 1/8	T. 50 N., R. 64 W., sec. 35, SWSE	single parcel	Wide creek bottom; riparian zone includes deciduous trees and shrubs; scenic setting.	scenic

Appendix 5—Table B-1

Identification and Tentative Classification of BLM-Aministered Public Land Parcels That Meet the Wild and Scenic Rivers Eligibility Criteria

Parcel Number	Mileage Across Public Land	Location of Waterway	Distance to Next Public Land Parcel	Description And Values of Public Land Parcel	Preliminary Classification of Public Land Parcel
Stockade Beaver Creek					
(Segment S34, T. 46 N., R. 60 W., sec. 3) This parcel is no longer in federal ownership; transferred to Weston County under provisions of the Recreation and Public Purposes Act. Currently managed as part of county recreation site.					
West Plum Creek					
Sl(S35)	1/4	T. 46 N., R. 62 W., sec. 27, SWSE	1/2 mile	Scenic pine-covered steep terrain; meandering creek bottom with shrubs and deciduous trees.	scenic
S2(S36)	1/8	T. 46 N., R. 62 W., sec. 27, NWNE	1/2 mile	Scenic pine-covered steep terrain; meandering creek bottom with shrubs and deciduous trees.	scenic
Whoopup Creek					
Sl(S276)	3/8	T. 43 N., R. 60 W., sec. 6, SENW	1/4 mile to S7	Dry creek bed in canyon; steep walls, few cottonwood trees; scattered shrubs.	recreation scenic
S2(S277)	3/8	T. 43 N., R. 60 W., sec. 20	1/2 mile to S2	Intermittant stream; tributary to Whoopup Creek; broken terrain with scattered pine and juniper; no public access.	recreation scenic
S3(S278)	1/4	T. 43 N., R. 60 W., sec. 20	1/2 mile to S2 and S4	Intermittant stream; tributary to Whoopup Creek; broken terrain with scattered pine and juniper; foot access only.	recreation scenic
S4(S279)	1/2	T. 43 N., R. 60 W., sec. 28	1 mile from S2	Tributary to Whoopup Creek; broken terrain through moderate to steep hills; foot access only.	recreation scenic
S5(S280)	1/2	T. 43 N., R. 60 W., sec. 29	I mile from S2	Tributary to Whoopup Creek; broken terrain through moderate to steep hills; foot access only.	recreation scenic
S6(S281)	1	T. 43 N., R. 60 W., sec. 33	I air mile from S5	Deep canyon with shrubs and scattered pine and juniper, chokecherry, and few deciduous trees in bottom. Intermittant stream. Foot access only.	recreation scenic
S7	3/8	T, 44 N., R. 60 W., sec. 31, SENE	1/4 mile to S1	Steep-walled narrow canyon with shrubs, cottonwood and juniper in bottom; no water in channel for several years; no public access.	recreation scenic

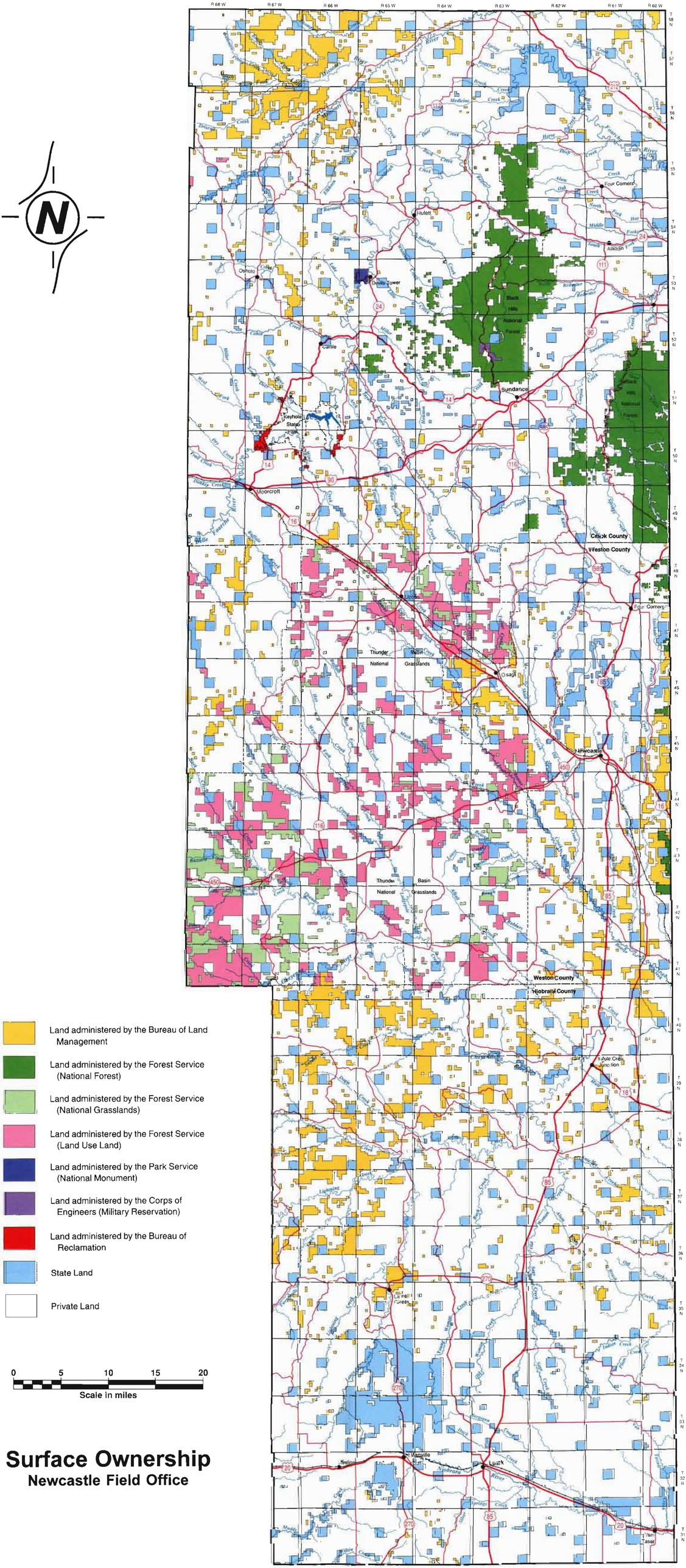
Appendix 5—Attachment C

Wild and Scenic Rivers Suitability Review for the Newcastle Planning Area

Waterway Reviewed	Total Length (Miles)	Total BLM Length (Miles)	Determination	Rationale*
West Plum Creek	~10½	**d**	unsuitable	1, 2
Blacktail Canyon Creek	~4	¼	unsuitable	1, 2
Belle Fourche River	~75	<2 **c**	unsuitable	1, 2, 3
Inyan Kara Creek	~13	< **c**	unsuitable	1, 2
Cave Springs Creek	~3	1	unsuitable	1, 2
Bear Run Creek	~5	**d**	unsuitable	1, 2
Whoopup Creek	~13	3 **d**	unsuitable	1, 2, 4
Stockade Beaver Creek	No longer in federal ownership			

*Rationale codes:

1—Not manageable due to small percent of federal ownership.
2—Federal ownership not enough to preserve outstanding values without adjacent nonfederal lands.
3—Conflicting management goals on federal, private, and state ownership.
4—Currently portions managed as special management area for other values.



Surface Ownership
Newcastle Field Office