



Environmental Assessment
DOI-BLM-CO-S012-2021-0002-EA
February 2022

Mary Austin Acquisition - CANM

***Applicant:** The Conservation Fund*
***Preparing Office:** Tres Rios Field Office*
29211 Hwy 184
Dolores, CO 81323
Phone: 970-882-1120

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CHAPTER 1

1.0 INTRODUCTION

1.1 Background

The Bureau of Land Management (BLM) is proposing to purchase 647 +/- acres of private land within the boundaries of the Canyons of the Ancients National Monument (CANM) in Montezuma County, Colorado. The parcel is located within Yellow Jacket Canyon and is characterized by steep canyons and a perennial stream. The legal description is shown in Table 1 below, and maps are in Appendix B.

Table 1. Legal Land Description for the Proposed Acquisition

Location	Project Feature	Acres
<u>Township 37 North, Range 18 West, N.M.P.M.</u> Section 20: SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 29: N $\frac{1}{2}$ NE $\frac{1}{4}$; E $\frac{1}{2}$ NW $\frac{1}{4}$; and SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 30: SE $\frac{1}{4}$ NE $\frac{1}{4}$; N $\frac{1}{2}$ SE $\frac{1}{4}$; E $\frac{1}{2}$ SW $\frac{1}{4}$; and Lot 8 (SW $\frac{1}{4}$ SW $\frac{1}{4}$)	Tract I	483.81
<u>Township 37 North, Range 18 West, N.M.P.M.</u> Section 31: Lot 5 (NW $\frac{1}{4}$ NW $\frac{1}{4}$)	Tract II	162.79
<u>Township 37 North, Range 19 West, N.M.P.M.</u> Section 36: Tract 67 (N $\frac{1}{2}$ NE $\frac{1}{4}$; SW $\frac{1}{4}$ NE $\frac{1}{4}$)		

The property is currently owned by Mary Jane Austin (willing seller) and is under contract for sale to The Conservation Fund. The Conservation Fund (TCF) has acted as a cooperating organization to facilitate the prospective sale. The BLM has received funding from Congress via the Land and Water Conservation Fund (LWCF) to acquire the parcels. Once TCF purchases the property from Ms. Austin, BLM would then purchase the property from TCF. Currently, there are no public vehicle access routes to the property. The property could be accessed via adjacent CANM lands. The BLM currently permits commercial recreation-based activities (such as outfitter guided excursions) on CANM lands surrounding the acquisition property.

The 647-acre property proposed for acquisition includes 586 acres in the Yellow Jacket Canyon Allotment and Ms. Austin is the permittee. The remaining 61 acres are within the Burro Point Community and Sandstone Allotments, consisting of steep slopes and cliff faces. These 61 acres are inaccessible and have no effect on the management of these other allotments (Map 2 in Appendix B).



Figure 1. Overview of the proposed acquisition parcel within Yellow Jacket Canyon.

1.2 Purpose and Need for the Proposed Action

Purpose: Acquiring private land located entirely within the boundaries of the Monument creates a more contiguous management landscape and allows BLM to consolidate land ownership, thereby increasing BLM’s ability to manage cultural, natural and recreational resources on a landscape scale. Under management of the BLM, the cultural resources located on the private property would receive protection under Federal historic preservation laws (such as NHPA, NAGPRA, etc.) and ensure long-term preservation of prehistoric landscape components within this region. Additionally, there is a value to having a net increase in riparian habitat and stream miles which provide critical habitat to an endangered fish and sensitive fish species.

Need: The need is to respond to the offer made by a willing seller in order to acquire these private in-holdings. Additional needs include implementing Section 1.3.6 of the 2010 Canyons of the Ancients National Monument Resource Management Plan as well as fulfilling guidance outlined in the CANM Presidential Proclamation to acquire land within the boundaries of the Monument. The BLM is authorized under Section 205 of the Federal Land Policy and Management Act of 1976, as amended, (43 U.S.C. 1701 et seq.) to acquire non-federal lands or interests in lands by purchase, exchange, or donation.

Additionally, there is a need to recognize the existing grazing [AUMs] and incorporate that use into the current permit (Yellow Jacket Canyon), under 43 CFR 4110.1-1, as well as updating grazing permit terms and conditions (43 CFR 4130.3-1 and 4130.3-2) to reflect the change in percent of public land to private land permitted

Finally, if the land is requested for use under a Special Recreation Permit (aka outfitter/guide), BLM has responsibility under Section 302(b) of the Federal Land Policy and Management Act to regulate through permits or other instruments the use of public lands, which includes commercial recreation use.

1.3 Decision to be Made

The BLM will decide whether to complete the proposed acquisition. The BLM will be considering the following decisions:

1. The BLM would decide whether to proceed with the proposed acquisition of the Austin parcel from the willing seller, Mary Austin, or to terminate the acquisition process.
2. Should the target parcel be acquired, the BLM would then decide whether to update the Yellow Jacket Creek Allotment livestock grazing permit with the resulting public lands acres and AUMs, or not.
3. Should the target parcel be acquired, the BLM would then decide whether to approve requests to adjust existing Special Recreation Permits to include use of the acquisition property, with no changes to other terms, conditions and stipulations, or not.

1.4 Conformance with BLM Land Use Plan(s)

Plan: Canyons of the Ancients National Monument Resource Management Plan (BLM, 2010)

Date: June 2010

Conformance Review:

Page 78: “Work with willing sellers in order to acquire private in-holdings and edge-holdings by means of acquisition, exchange of other BLM lands targeted for disposal outside of the Monument, donation, or conservation easement. When, and/or if, the opportunity arises, acquire private parcels that:

- adjoin, or are contained within, the Monument boundary
- protect cultural and/or natural resources
- enhance recreation experiences and benefits
- provide additional access to public lands; and/or

- contain no, or few, improvements (such as houses, buildings, or facilities), unless they can be used to meet Monument management goals, or they require little or no reclamation.”

Page 78: “Acquire or exchange land only when cultural resources management will be enhanced.”

Page 78: “Manage all properties acquired at the time of the signing of the Final RMP/Final EIS ROD, and in the future, in accordance with the laws, rules, regulations, policies, standards, and guidelines applicable to the rest of the Monument.”

Page 84: “Administer 23 allotments.”

Page 86: “Manage and enable access to the Monument for recreational activities while, at the same time, protecting cultural and natural resources, ensuring compatibility with other existing and permitted uses, and considering effects on adjacent landowners and the local community.”

Page 89: “Continue existing SRPs, and allow extension, renewal/transferral, and/or adjustment, on a case-by-case basis. Allow up to 10 SRPs, at the discretion of the Monument Manager (see education and information section for requirements).”

1.5 Compatibility with CANM Presidential Proclamation

Canyons of the Ancients National Monument was established by Presidential Proclamation on June 9, 2000. The Monument was noted for “Containing the highest known density of archaeological sites in the Nation, the Canyons of the Ancients National Monument holds evidence of cultures and traditions spanning thousands of years. This area, with its intertwined natural and cultural resources, is a rugged landscape, a quality that greatly contributes to the protection of its scientific and historic objects. The monument offers an unparalleled opportunity to observe, study, and experience how cultures lived and adapted over time in the American Southwest.” In addition to the cultural resources landscape, the Proclamation identifies the spectacular landforms, Mesa Verde nightsnake, long-nosed leopard lizard, twin-spotted spiny lizard, peregrine falcons, golden eagles, American kestrels, red-tailed hawks, northern harriers and game birds as objects to be protected (Executive Order, 2000).

Acquisition of Monument inholdings directly supports the Presidential Proclamation. The Proclamation states “Lands and interests in lands within the proposed monument not owned by the United States shall be reserved as a part of the monument upon acquisition of title thereto by the United States,” indicating that the writers of the proclamation anticipated other land within the Monument would be acquired by the United States in the future. Acquisition of these properties would ensure protection of the cultural and natural resources located on them, consistent with the Proclamation. In addition, the Proclamation states “laws, regulations, and policies followed by the Bureau of Land Management in issuing and administering grazing permits or leases on all lands under its jurisdiction shall continue to apply with regard to the lands in the monument.”

1.6 Relationship to Statutes, Regulations, or Other Plans

The BLM, acting on behalf of the Secretary of the Interior, is authorized by Section 205 of the Federal Land Policy and Management Act of 1976, as amended, (43 U.S.C. 1701 et seq.) to acquire non-Federal lands or interests in lands by purchase, exchange or donation that are consistent with BLM's mission and applicable land-use plans.

An array of policies exist that would apply to acquired lands once they become public and administered by the Bureau of Land Management, such as:

- Standards for Public Land Health: The subject parcels are private lands. Therefore, no public land health assessments have been conducted on them.
- Federal Land Policy Management Act (FLPMA) of 1976, as amended
- National Environmental Policy Act (NEPA) of 1969, as amended
- Clean Air Act of 1963, as amended
- Clean Water Act (CWA) of 1948, as amended
- Endangered Species Act (ESA) of 1973, as amended
- National Historic Preservation Act (NHPA) of 1966, as amended
- Native American Graves and Repatriation Act (NAGPRA) of 1990, as amended
- Migratory Bird Treaty Act (MBTA) of 1918, as amended
- Taylor Grazing Act of 1935 (TGA)

1.7 Scoping and Identification of Issues

The BLM Tres Rios Field Office conducted internal scoping to identify environmental issues and concerns associated with the Proposed Action. During the onsite inspection meeting on November 4, 2020, BLM specialists discussed potential effects to visual and recreational resources, hydrological resources, sensitive fish species habitat, and vegetation resources. A BLM interdisciplinary team (ID Team) meeting was held with BLM resource specialists on December 2nd, 2021, to identify environmental issues.

The BLM posted notice of the Proposed Action on BLM's ePlanning website on January 3rd, 2022, to notify the public of the Proposed Action. As a result of the posting, fifty-nine comment letters on the Proposed Action were received by the BLM. Forty-seven comments were supportive while the remainder of the comments expressed concerns about resource issues such as recreational access, grazing and the 647 acres being removed from the Montezuma County taxable land base.

The CEQ Regulations state that environmental assessments (EA)s should "briefly provide sufficient evidence and analysis" for determining whether to prepare an environmental impact statement (EIS) or a finding of no significant impact (FONSI) (40 CFR 1501.5) and that agencies should only briefly discuss issues other than significant ones (40 CFR 1500.4(e)). While many issues may arise during scoping, not all the issues raised warrant analysis in an environmental assessment (EA). Issues would be analyzed as Key Issues if: 1) an analysis of the issue is necessary to make a reasoned choice between alternatives, or 2) if the issue is associated with a significant impact, or where analysis is necessary to determine the significance of the impacts. No Key Issues

were identified for detailed analysis. Section 1.8 describes issues raised that did not warrant detailed analysis.

1.8 Issues Considered but Eliminated from Further Analysis

The following resources were considered but eliminated from further analysis, because of the following rationale.

Resulting Grazing Permit Updates

The parcel is currently managed in conjunction with the BLM portion of the grazing allotment. As a result of this acquisition, the acquired parcel would continue to be part of the Yellow Jacket Canyon grazing allotment. An administrative action would therefore be needed to update the terms of the grazing permit in land ownership. This change reconciles the fact that more forage will now come from public land and the permittee will be required to pay for AUMs grazed on public lands for those AUMS that would now be recognized as public land through the annual authorization (grazing bill). This issue was eliminated from further consideration because the permit updates are administrative in nature and there is no net change in AUMs grazed on the ground.

The property proposed for acquisition is mainly located within the Yellowjacket Canyon Allotment (586 acres). The proposed acquisition property (as well as 712 additional acres which will remain in private ownership) is currently utilized in conjunction with the allotment. The BLM will update the existing livestock grazing permit to include the acquired grazing into the boundaries of the Yellowjacket Canyon Allotment (#08057) as required per 43 CFR 4130.3-1 and 43 CFR 4130.3-2. There will be no net change in actual AUMs allocated.

The remaining sixty-one acres of the proposed acquisition lands would fall within the adjacent Burro Point Community and Sandstone grazing allotment boundaries (see Map 2 in Appendix B). The acreage within both the Burro Point Community and Sandstone Allotments consists of steep slopes and sheer cliff faces. This acreage is small, inaccessible and has no effect on the management of these other allotments.

Table 2 outlines the public land and private land acres with the current land ownership of the Yellowjacket Canyon Allotment and the changes that would occur as a result of acquisition. The terms of the grazing permit would be updated to reflect the changes in land ownership and are outlined in Table 3.

Table 2. Yellow Jacket Canyon Allotment Acres

	Public Land Acres	Private Land Acres	Total
Current	2428	1298	3726
Proposed	3014	712*	3726

*A change of 586 acres of the parcel within the allotment boundary.

Table 3. Current and Proposed Grazing Permit Terms and Conditions

	Number of Livestock	On Date	Off Date	Percent Public Land	Public Land AUMS
Current	87	11/20	4/05	22	87
Proposed	87	11/20	4/05	26	103

Rangeland Management

Commentors suggested analyzing the permitted livestock grazing management in Yellow Jacket Canyon allotment (such as considering the environmental benefits/impacts of removing livestock). This issue was eliminated from further consideration because the acquisition would not change grazing management (or number of livestock grazed or AUMs grazed). The proposed parcel is already within the boundaries of the allotments and does not contain any fences that would separate it from other BLM public lands. As a result of this, the grazing management would not change. There is other private land consisting of 712 acres which will continue to be grazed in conjunction with the Yellow Jacket Canyon Allotment and is not part of the proposed acquisition. As per 43 CFR 4110.1-1, the BLM shall recognize existing grazing permits in effect at the time of acquisition. Making changes to the grazing management of the allotments is beyond the scope of the acquisition.

Commentors suggested analyzing the effects on riparian resources. This issue was eliminated from further consideration because the riparian resources on the parcel would remain unchanged as part of the acquisition and no changes in that management have been proposed.

Cultural

Federal acquisition would add federal legal protection to documented and undocumented historic properties located within the acquired parcel. Any projects proposed within the parcel after acquisition would require tribal consultation and compliance with all federal laws and regulations.

Recreation

Commentors suggested analyzing the recreational benefits of acquiring the parcel, including the possibility of creating additional access routes and recreation sites. Public access into this parcel is extremely limited due to the severe topography of the canyon walls in this portion of Yellow Jacket Canyon. The development of a motorized route is not deemed feasible. Similarly, development of a non-motorized route is not under consideration at this time.

Currently, no public recreational uses exist on this privately owned property. Due to the remote nature of the parcel, and lack of developed access via either trail or road, future recreational use would likely be limited to the occasional hiker or hunter, or via commercially guided foot or horseback access only.

Economic

Commentors suggested analyzing the economic effect of removing 647 acres from Montezuma County's taxable land base. This issue was eliminated from further consideration because the County will likely receive slightly more money through payment in lieu of taxes (PILT) payments after the acquisition than they currently receive through property taxes. In 2022 the landowner is paying property taxes to Montezuma County for agricultural land of less than \$150/annually (Montezuma County, 2022). The federal government provides PILT payments to Counties to offset nontaxable lands. In fiscal year 2021, Montezuma County received \$197,836 for 482,884 acres or approximately \$0.41/acre. PILT payments are subject to annual federal budget appropriations, but the program has been more stably funded in the past decade. Although the payment calculation varies, it is reasonably foreseeable that the County would receive at least \$250 in additional PILT payments from federal acquisition of the parcel. Additionally, the BLM plans to continue its current use as a livestock grazing allotment.

CHAPTER 2

2.0 PROPOSED ACTION AND ALTERNATIVES

2.1 Alternative A – Proposed Action

Overview

The Proposed Action is for the BLM to purchase the above-described property at the appraised fair market value, at the earliest possible date. No change in the natural landscape is associated with the Proposed Action. Land surface ownership and status would change from Private to Federal. The acquired land would be managed as part of Canyons of the Ancients National Monument (CANM) according to the goals and objectives outlined in the CANM Resource Management Plan (RMP) (2010).

No water rights are proposed to be acquired.

Currently a gravel road provides limited motorized access from Montezuma County Road G to the parcel boundary. However, this route crosses private land with no public easement and is not open to public travel. Currently, equestrian and pedestrian access within the target acquisition parcel is available for the grazing permittee/landowner. This type of use would continue to be managed as a part of the grazing permit according to BLM grazing regulations. The trail(s) across the parcel could be maintained by the permittee with hand tools including the use of chainsaws. There are no motorized roads/trails currently being utilized or maintained within the parcel.

BLM currently administers several Special Recreation Permits allowing commercial recreation-based activities on BLM lands adjacent to the acquisition. Under the proposed action, if requested by the Special Recreation Permit holder(s), their permits could be adjusted to allow commercial recreation-based activities to occur within the acquisition parcel as well, while following all other existing permit terms, conditions and stipulations.

The potential parcel to be acquired under the LWCF Act would not be subject to entry under the Acquired Lands Mineral Leasing Act, including oil & gas, upon acquisition, with the exception that the acquisitions are subject to any and all valid and existing leases. Minerals are already reserved to the federal government and leased to Kinder Morgan. In addition, the potential acquired parcel would not be subject to hard rock mineral leasing through a prospecting permit.

Additionally, permitted livestock grazing associated with this parcel will be incorporated into and managed as a part of the existing Yellowjacket Canyon allotment. The terms of the grazing permit would be updated to reflect the changes in land ownership as described in Section 1.8.

2.2 Alternative B – No Action

The BLM would not purchase the property described above. Since the BLM would have no jurisdiction over the land under the No Action alternative, any number of situations may occur, including land subdivision, placement of a conservation easement, change in grazing management,

new construction, etc. There would be no change in terms and conditions on the existing livestock grazing permit or adjustments to existing Special Recreation Permits. In a few cases, such as the federal mineral lease to Kinder Morgan, the current condition can be determined to continue since it is defined through existing leases and rights.

2.3 Alternatives Considered, but Eliminated from Further Analysis

Commentors suggested an alternative involving the creation of additional recreation sites within or public access routes to the target acquisition parcel. This alternative was eliminated from consideration because it was speculative (no specific recreation sites or routes were proposed). Future route designations could be considered as per page 9 of the CANM RMP (BLM, 2010), “designating travel routes on any acquired lands will require an amendment to the Transportation Plan” and would require a separate NEPA review.

Commentors suggested an alternative involving the discontinuation of permitted livestock grazing from the parcel. This alternative was eliminated from consideration because BLM shall honor the existing grazing permit as per 43 CFR 4110.1-1. Consideration of changes to current grazing management practices does not meet the project purpose and need. Any changes made to current grazing management practices would require site specific analysis of the livestock grazing permit within the Yellowjacket Canyon allotment. Site specific analyses would include the following steps:

1. Land Health Assessment and data collection.
2. Land Health Evaluation Report
3. Specific analysis through a document that would comply with the NEPA and
4. A decision that complies with 43 CFR Part 4160.

Additional steps may also be required to comply with supplemental laws and regulations.

No other feasible alternatives were identified for the proposed project that would result in less impacts than the proposed action.

CHAPTER 3

3.0 CONSULTATION AND COORDINATION

3.1 Persons, Agencies, and Organizations Consulted

The following table identifies the persons, agencies, and organizations that were consulted for the purposes of completing this EA.

Table 3-1: List of all Persons, Agencies and Organizations Consulted

Name	Purpose & Authorities for Consultation or Coordination	Findings & Conclusions
Jicarilla Apache Nation Kewa Pueblo The Navajo Nation Ohkay Owingeh Pueblo de Cochiti Pueblo de San Ildefonso Pueblo of Acoma Pueblo of Isleta Pueblo of Jemez Pueblo of Laguna Pueblo of Nambe Pueblo of Picuris Pueblo of Pojoaque Pueblo of San Felipe Pueblo of Sandia Pueblo of Santa Ana Pueblo of Santa Clara Pueblo of Taos Pueblo of Tesuque Pueblo of Zia Southern Ute Indian Tribe The Hopi Tribe Ute Indian Tribe (Uintah & Ouray Reservation) Ute Mountain Ute Tribe Ysleta del Sur Pueblo Tribe of the Zuni Reservation	Consultation as required by the American Indian Religious Freedom Act of 1978 (42 USC 1531) and National Historic Preservation Act (16 USC 1531).	A tribal consultation letter was sent to 26 affiliated tribes regarding the proposed action.

3.2 Summary of Public Participation

Public scoping is described in Section 1.7.

3.3 List of Preparers

The following individuals listed in the following table(s) aided in the preparation of this document.

Mary Austin Acquisition - CANM

*DOI-BLM-CO-S012-2022-0002-EA
Tres Rios Field Office*

Table 3-2: List of BLM Preparers

Name	Title	Responsible for the Following Section(s) of this Document
Jeff Christenson	Outdoor Recreation Planner - TRFO	Recreation
Amala Posey-Monk	Outdoor Recreation Planner - CANM	Recreation
Michael Schmidt	Wildlife Biologist	Wildlife
Nate West	Wildlife Biologist	Wildlife
Tracy Perfors	Planning & Environmental Coordinator	NEPA
Harrison Griffin	Realty Specialist	Lands
Vince MacMillan	CANM Archaeologist	Archaeology
Garth Nelson	Range Management Specialist	Rangeland Management

Table 3-3: List of Non-BLM Preparers

Name and Organization	Title	Responsible for the Following Section(s) of this Document
The Conservation Fund	Acquisition Consulting Agency	General consultation and document review

APPENDIX A – REFERENCES

Bureau of Land Management (BLM). 2009. Canyons of the Ancients National Monument Proposed Resource Management Plan Final Environmental Impact Statement. Accessed online at <https://eplanning.blm.gov/eplanning-ui/project/65701/570>

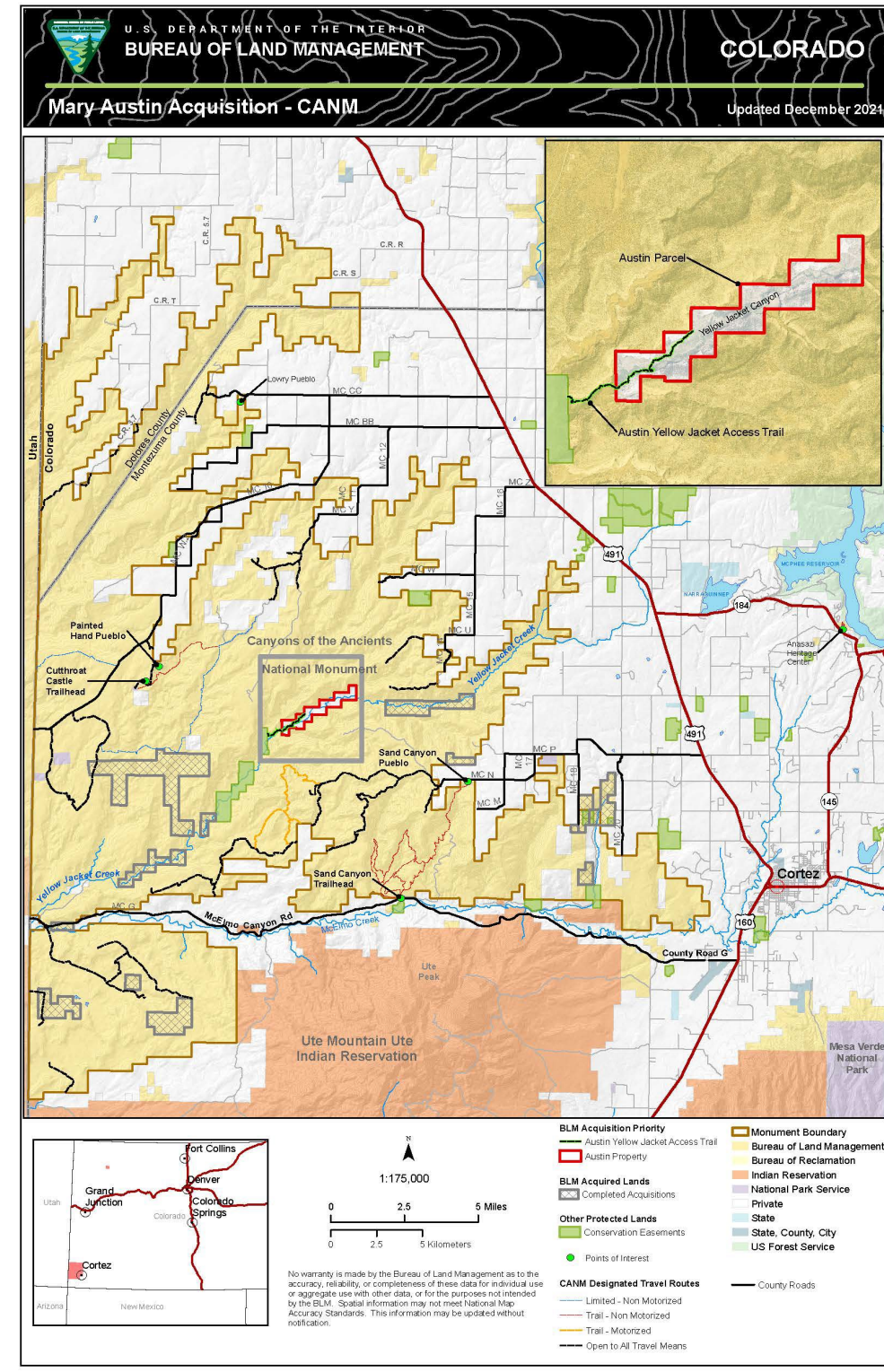
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APPENDIX B – MAPS



Mary Austin Acquisition - CANM

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Tres Rios Field Office

