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The Wyoming Department of Agriculture is dedicated to the promotion and enhancement of Wyoming's agriculture, natural resources and quality of life.

February 23, 2011

Don Simpson, Wyoming State Director
Bureau of Land Management
5353 Yellowstone Road
Cheyenne, WY 82009
Attn: Sherry Roche, Wild Lands Project Manager

Dear Mr. Don Simpson:

Following are the comments of the Wyoming Department of Agriculture (WDA) regarding the Draft Policy Manuals 6300-1 (Wilderness Inventory), and 6300-2 (Consideration of Lands with Wilderness Characteristics in the Land Use Plan).

Our comments are specific to our mission: dedication to the promotion and enhancement of Wyoming's agriculture, natural resources, and quality of life. As these new policies have the potential to affect our agriculture industry, our natural resources, and the welfare of our citizens, it's important you continue to inform us of proposed actions and decisions and provide us the opportunity to express pertinent issues and concerns.

The WDA does not support Secretarial Order 3310 (Order) and has sent the Secretary of the Interior a request to rescind this Order. The Governor of Wyoming and numerous other local governments and associations from across Wyoming and the west have made similar requests. The Order sets a high priority on land with wilderness characteristics and limits the 'multiple-use' directive provided by the Federal Land Policy Management Act of 1976 (FLPMA).

Following are our comments on each Draft Policy Manual.

BLM Policy Manual: 6300-2 (Consideration of Lands with Wilderness Characteristics in the Land Use Planning Process)

Section .04(C)(1): states: "Update and maintain the wilderness inventory for lands within the planning area." This must be consistent with FLPMA which states: "The Secretary shall pre-prepare and maintain on a continuing basis an inventory of all public lands and their resource and other values (including, but not limited to, outdoor recreation and scenic values), giving priority to areas of critical environmental concern. This inventory shall be kept current so as to reflect changes in conditions and to identify new and emerging resource and other values. The preparation and maintenance of such inventory or the identification of such areas shall not, of itself, change or prevent change of the management or use of public lands (Sec. 201. [43 U.S.C. 1711] (a))." FLPMA requires an inventory of all resources and does not provide for a higher priority to wilderness areas. There is concern that the 'wilderness inventory' will only look at wilderness characteristics and not appropriately account for all the other resources that may be impacted by a decision to protect these lands, such as mineral, recreation, and livestock grazing management.

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Section .04(C)(5): states; “*Disclose impacts of each alternative to identified LWC.*” This is a leading statement that once again prioritizes wilderness characteristics above all other resources. The analysis should go both ways, showing how alternatives impact Lands with Wilderness Characteristics (LWCs) and also how LWCs impact other resources and alternatives.

Section .06: States it is the BLM’s policy to manage wilderness resources as part of its multiple-use mission. The WDA believes the BLM is extending its power beyond FLPMA and The Wilderness Act of 1964, and actually limiting multiple-uses by placing a higher priority on LWCs and Wild Lands. FLPMA, Sec. 603. [43 U.S.C. 1782] (a), states clearly: “*Within fifteen years after the date of approval of this Act, the Secretary shall review those roadless areas of five thousand acres or more and roadless islands of the public lands, identified during the inventory required by section 201(a) of this Act as having wilderness characteristics described in the Wilderness Act of September 3, 1964 (78 Stat. 890; 16 U.S.C. 1131 et seq.) and shall from time to time report to the President his recommendation as to the suitability or nonsuitability of each such area or island for preservation as wilderness:*” The WDA strongly believes the BLM already has the authority and available processes to analyze and identify wilderness and lands with wilderness characteristics through the Wilderness Act of 1964 and FLPMA Section. Another Policy afforded to wilderness characteristics is not only redundant but also unnecessary.

Section .07(A): states: “*FLPMA specifically states that preserving and protecting certain public lands in their natural condition is part of the BLM’s mission.*” In U.S.C 1701(a)(7) & (8) states: “*(7) goals and objectives be established by law as guidelines for public land use planning, and that management be on the basis of multiple use and sustained yield unless otherwise specified by law; (8) the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use;*” This section of FLPMA makes it clear that the goal is to manage for multiple-use and sustained yield and will only manage certain public lands in their natural conditions where appropriate. These ‘certain public lands’ and ‘where appropriate’ is well defined in FLPMA in Section 603 (a) (43 U.S.C. 1782) as described above. Nowhere in FLPMA does it identify ‘Wild Lands’ or ‘Lands with Wilderness Characteristics.’

Section .1(C) is one of the most important sections in this policy. This section considers all resources and identifies the impacts from designation of LWCs or Wild Lands on the diverse resources present. The WDA suggests including a section in the policy which provides clear exceptions for resources that are predetermined as not creating significant impacts upon LWC, as the Wilderness Act of 1964 does: “...within a specific area and in accordance with such regulations as he may deem desirable, authorize prospecting for water resources, the establishment and maintenance of reservoirs, water-conservation works, power projects, transmission lines, and other facilities needed in the public interest, including the road construction and maintenance essential to development and use thereof, upon his determination that such use or uses in the specific area will better serve the interests of the United States and the people

thereof than will its denial; and (2) the grazing of livestock, where established prior to September 3, 1964, shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary... (16 U.S. C. 1131-1136, Section 4(d-Special Provisions)(1) and (2).” This section of the Wilderness Act ‘Grandfathers’ livestock grazing as an approved use in wilderness areas and should be treated the same in this Policy.

Section .1(C)(4) is also extremely important and is often overlooked in most Land Use Planning Processes. If LWCs or Wild Lands are proposed for an area, a thorough and complete economic analysis must be completed on all resources affected.

Section .13(D)(7) The WDA disagrees with excluding livestock grazing for several reasons.

- 1) Livestock grazing is a grandfathered use in Wilderness Study Areas (WSAs) pending action by Congress. LWCs should **not** be placed at a higher standard than WSAs or those areas already designated as Wilderness. Section 603 (c) of FLPMA specifically states that existing grazing uses can be continued.
- 2) FLPMA also mandates multiple uses. Exclusion of livestock grazing greatly limits multiple uses.

Section .13(D)(8) and (9) We are also concerned that points 8 and 9 may limit the ability to develop new range improvements and maintain those already in existence. It is imperative that these practices continue. There are many cases in which range improvements may improve wilderness characteristics by improving resource conditions.

Section .13(E)(3) states: “...*grazing management may be consistent with protection of wilderness characteristics.*” Livestock grazing should be clearly identified as an approved activity in LWCs or Wild Lands designated areas as it is in the Wilderness Act of 1964. Grazing management is consistent with protection of wilderness characteristics. There is no reason **managed** grazing should not be consistent with protecting wilderness characteristics. Grazing has been established in most areas for close to a century and any areas identified as containing LWC has developed wilderness characteristics in conjunction with large ungulate grazing. We recommend changing this language.

Section .24 should develop a full list of ‘De Minimus practices’ or practices that will create minor surface disturbance or minor impacts to wilderness characteristics, e.g. livestock grazing, maintenance of range projects (list all), and construction of temporary facilities (list all), etc. This will provide a clear understanding of allowable uses.

Section .25 We are concerned this direction to begin land use planning will allow the public and special interest groups the ability to initiate land use planning often and to the detriment of other resource values and resource uses. For example, if any project is proposed in an area and Wild Land characteristics are found in that area, the project could be placed on hold until inventory is updated and the land use planning process (a long and expensive process) can be initiated and completed.

Section .3 (Recommendations for Possible Future Congressional Designation). The process for designating lands to the National Wilderness Preservation System is already a law under the Wilderness Act of 1964. Secretarial Order 3310 and this Policy (6300-2) is creating a new policy to circumvent the Wilderness Act of 1964. The Wilderness Act (Public Law 88-577 (16 U.S. C. 1131-1136)) sets a clear process of determining wilderness areas. This new process only hinders the existing Land Use Planning processes and allows another avenue for special interest groups to oppose and litigate BLM decisions.

We strongly believe the BLM has existing processes, policies and management practices to analyze and protect high priority resources. We think creating another Policy is unnecessary and believe the existing Policies can suffice in managing these resources.

Glossary: The WDA recommends using the standard surface disturbing activities definition provided in Instructional Bulletin No. WY-2007-029 (September – 2007). “**Surface Disturbing Activities** – An action that alters the vegetation, surface/near surface soil resources, and/or surface geologic features, beyond natural site conditions and on a scale that affects other Public Land values. Examples of surface disturbing activities may include: operation of heavy equipment to construct well pads, roads, pits and reservoirs; installation of pipelines and power lines; and the conduct of several types of vegetation treatments (e.g., prescribed fire, etc.). Surface disturbing activities may be either authorized or prohibited.”

BLM Policy Manual: 6300-1 (Wilderness Inventory)

Section .06(A): Discusses Wilderness Inventory and keeping it current. FPLMA does not specify wilderness inventory or single out wilderness inventory as you are portraying in the Draft Policy Manual. FPLMA states: “*The Secretary shall pre-prepare and maintain on a continuing basis an inventory of all public lands and their resource and other values (including, but not limited to, outdoor recreation and scenic values), giving priority to areas of critical environmental concern. This inventory shall be kept current so as to reflect changes in conditions and to identify new and emerging resource and other values. The preparation and maintenance of such inventory or the identification of such areas shall not, of itself, change or prevent change of the management or use of public lands (Sec. 201. [43 U.S.C. 1711] (a)).*” FLPMA requires an inventory of all resources and does not provide for a higher priority to wilderness areas. There is concern that the ‘wilderness inventory’ will only look at wilderness characteristics and not appropriately account for all the other resources that may be impacted by a decision to protect these lands, such as mineral development, recreation, and livestock grazing management.

Section .06(A)(1) and (3): states that an inventory needs to be updated when: “The public or the BLM identifies wilderness characteristics as an issue during scoping in a National Environmental Policy Act analysis,” We are concerned that the public or special interest groups will use this opportunity to bog down the BLM staff and force them to continuously inventory areas for wilderness characteristics on a regular basis. This action would keep BLM Staff occupied and prevent them from completing other important duties, like managing the other resources they are tasked with. We have seen these tactics used in certain groups Freedom of Information Act requests. Here will be another tool in their tool box to keep the BLM from doing the important job of managing for multiple-use.

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Section .12: The WDA supports the process in determining the presence or absence by documenting the existing conditions rather than the potential conditions that may result from future planning decisions.

Section .3: This section possesses too much subjectivity and personal bias in determining solitude and primitive/unconfined types of recreation. The Policy actually says use "good judgment." how can the BLM expect any consistency with such policy direction. It goes even further to ask a BLM individual to place himself/herself in "visitors" shoes to determine a potential opportunity for solitude. This subjectivity is just too great and would be hard to defend in court or in the land use planning efforts.

In summary, the WDA does not support Secretarial Order 3310 and strongly encourages the Order and these Draft Policies be eliminated. We support the BLM continue to utilize existing practices of analyzing Wildlife Study Areas, ACECs, Visual Resource Management, etc. These practices and designations should continue to suffice in managing the public lands for the priority resources of concern.

We appreciate the opportunity to comment on the Draft Policy Manuals for the proposed Wilderness Inventories and Land Use Planning Process for Lands with Wilderness Characteristics. We encourage continued attention to our concerns and we look forward to hearing about and being involved in future proposed actions and decisions.

Sincerely,



Jason Fearneyhough
Director

JF/cw

CC: Governor's Planning Office
Wyoming Game and Fish Department
Wyoming Board of Agriculture
Wyoming Stock Growers Association
Wyoming Wool Growers Association
Wyoming Farm Bureau Federation
Wyoming Association of Conservation Districts
Wyoming State Grazing Board
Rocky Mountain Farmers Union