United States Department of the Interior

BUREAU OF LAND MANAGEMENT
California State Office
2135 Butano Drive
Sacramento, California 95825-0451
www.ca.blm.gov

September 11, 1998

8560(P)
CA-930

EMS TRANSMISSION: 9/11/98
Instruction Memorandum **No. CA-98-156**
Expires: 9/30/99

To: AFO's

From: Deputy State Director, Natural Resources

Subject: Public Notification of Proposed Actions and Unauthorized Activities Within Wilderness Study Areas and Wilderness Areas

As you are aware, BLM is required to inform all affected or interested publics about any proposed action or unauthorized activity occurring within BLM WSAs or wilderness areas. The Interim Management Policy (IMP) or H-8560-1 and previous California Instruction Memorandums for managing wilderness areas outlines some of the notification requirements. However, we have noted some confusion and inconsistency when implementing these requirements. In order to help update and clarify the notification process, the attached "California NOPA Procedures" outlines the requirements and procedures for Notice of Proposed Actions or NOPAs within Wilderness Study Area (WSA) and wilderness in California.

Key points in the Attachment include:

- All offices **must** notify interested or affected parties about proposed actions affecting WSAs or wilderness areas **before** such actions are approved. This should occur at least 30 days before the action except in the case of emergencies.
- Copies of the NOPA must be kept in the Field Office's wilderness files.
- All Field Offices **must** provide the State Director (CA-930, Wilderness Coordinator) a copy of the NOPA for the proposed action/unauthorized activity and a copy of the final decision for the action.

If you have any questions about the NOPA process or the attached instructions, feel free to contact Paul Brink, the California Wilderness Coordinator at (916) 978-4641.

Signed
Carl Rountree
DSD, Natural Resources

Authenticated
AJ Ajitsingh
Records Management

1- Attachment
California NOPA Procedures (3 pp)

cc
Chris Roholt, CDD
Jeff Jarvis, WO-240,204, LS

CALIFORNIA NOPA PROCEDURES

I. Public Notification Policy Within WSAs/Wilderness

Due to the level of interest in the management of lands under wilderness review or for lands designated wilderness, the Bureau of Land Management is committed to ensuring that all affected and interested publics are fully informed of any proposed action and unauthorized activity occurring on BLM public lands. It is BLM's policy that all offices **must** notify interested parties of proposed actions on land within their jurisdiction that are managed under the IMP **before** such actions can be approved. This Attachment provides further clarification to the general guidance found in Chapter II of the *Interim Management Policy For Lands Under Wilderness Review* (H-8550-1) dated July 5, 1995, and to previous California Instruction Memorandums relating to both WSAs and wilderness.

Proposed actions requiring NOPAs within WSAs areas generally include, but are not limited to:

- any potential surface-disturbing project, action, or use;
- any proposed placement of a facility, development, device or structure;
- requests for approval of mining plans of operation;
- gathering of information about mineral resources;
- applications for permits to drill;
- notices of intent to conduct oil and gas exploration operations on existing leases;
- proposed changes in livestock use, including changes in number, season of use, or kinds or classes of livestock;
- BLM-initiated projects, including implementation of decisions contained in land use and activity plans;
- public-initiated projects such as issuance of a filming permit or placement of a communication device;
- unauthorized activities that result in surface disturbances or in placement of facilities.

Proposed actions generally requiring NOPAs in wilderness generally include, but are not limited to:

- any action which may employ a prohibition listed in 4(c) of the Wilderness Act (i.e., commercial services, construction of roads, use of motor vehicles, motorized equipment, or mechanical transport, landing of aircraft, placement of structures or installations);
- any potential surface-disturbing project, action, or use;
- requests for approval of mining plans of operation; and,
- BLM-initiated projects, including proposals to begin or implement actions in land use and activity plans;
- unauthorized activities that result in surface disturbances or in placement of facilities.

II. Public Notification Procedures Within WSA's/Wilderness

Each Field Office must prepare, maintain, and update as necessary, a mailing list of all interested persons and organizations wishing to receive such notice. Persons and organizations **affected** by a proposed action or an unauthorized activity must also be notified regardless of whether or not they appear on the Field Office mailing list. The public notification must be mailed and received by interested and affected parties at least 30 days **prior** to making a decision on **all** proposals, except when it is not possible to do so because of emergency conditions or regulatory time frames, (e.g., fire, flood, search and rescue, 43 CFR 3802/3809).

If public response indicates more time is required, the approval period may be extended, depending upon the situation and at the discretion of the Field Manager. Field Offices are encouraged to send notifications to the public earlier than 30 days prior to making a decision, but in all cases, with the exceptions noted above, notifications must be sent early enough to provide recipients sufficient time to inform BLM of their concerns **prior** to the decision date for a proposed action. Federal Register and other "legal notices" are optional and should be reserved for unusually sensitive proposals which generate widespread public interest, controversy, or concern.

All public notifications for proposed actions should contain at a minimum:

1) the name and address of the Field Office responsible for processing the proposed action;
2) the name of the WSA/wilderness in which the action is being proposed;
3) the WSA/wilderness number;
4) the date the public notification period begins;
5) the date the public notification period ends;
6) the purpose of the proposed action;
7) the location of the proposed action within the WSA/wilderness (unless it is confidential, e.g., cultural sites, caves, threatened or endangered species) expressed in terms of a general, legal or metes and bounds description;
8) the nature and extent of the proposed action;
9) the size of the proposed action; and,
10) the expected decision date **and** implementation date for the proposed action. The public notification should also consist of one or more maps for orientation, and may incorporate drawings, graphics, and other descriptive documentation. The public notification must be signed and dated by the Field Manager.

When unauthorized activities that result in surface disturbance or in the placement of facilities/ are discovered, public notification should commence as soon as practicable after discovery. Such notifications are for information only and are not intended to delay or impede timely law enforcement or reclamation/restoration actions. In order to protect evidence and/or specific information about an alleged perpetrator(s), certain information may be withheld from the public notification pending disposition of any

administrative or legal remedies. As a minimum, the public notification for unauthorized activities must contain:

1) all the applicable information elements listed for proposed actions above;
2) a description of the present situation including when the unauthorized activity was discovered and what action has been taken to halt the operation if still active (e.g., citation, notice of noncompliance, temporary restraining order, trespass notice);
3) an analysis of how the IMP/wilderness was violated and to what extent wilderness values were impaired;
4) an assessment of the physical damage to the site; and,
5) anticipated reclamation actions planned including expected dates for implementation and completion.

The BLM's goal is to immediately reclaim the impacts caused by any unauthorized action to a level as close as possible to the original condition, or at least to a condition that is substantially

unnoticeable. BLM will attempt to collect costs of reclamation from any and all persons responsible for causing impacts. If the person(s) responsible for the unauthorized impacts is not known, BLM will undertake immediate reclamation and initiate action to locate the person(s) responsible and collect the reclamation costs from these persons. If the person(s) responsible for the unauthorized impacts is known and is willing to perform the necessary reclamation, the BLM must prescribe how and when the work will be accomplished. If the person(s) responsible for the unauthorized impacts is known but is unwilling to perform the needed reclamation, BLM will undertake immediate reclamation and initiate action to collect the costs from the responsible person(s).

As a matter of courtesy, and in continuance of our efforts to ensure that interested and affected publics are kept informed of our actions related to the disposition of proposed actions/unauthorized activities, the decision notification should be sent to all recipients who responded to the original public notification. The decision notification must include the standard appeal language found in Washington Office Instruction Memorandum No. 94-07 dated October 4, 1993, and the standards for obtaining a Petition For Stay. Form 1842-1, which provides information on taking appeals to the Interior Board of Land Appeals, must also be attached to the decision notification.

At a minimum, the following persons should be a part of the NOPA mailing list:

California Wilderness Coalition
2665 Portage Bay East, Suite 5
Davis, California 95616

Sierra Club
c/o Vicky Hoover, Chair San Francisco Committee
85 2nd Street, 2nd floor
San Francisco, California 94105-344

The Wilderness Society
c/o Mr. Norbert Riedy
P.O. Box 29241
San Francisco, California 94129

Copies of the NOPA and final decision will be kept in the Filed Office's corresponding wilderness inventory file. In addition, all Field Offices **must** provide the State Director (CA-930, Wilderness Coordinator) a copy of the NOPA for the proposed action/unauthorized activity and a copy of the final decision for the action.