UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

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EMS TRANSMISSION 09/18/2002
Instruction Memorandum **No. 2002-257**
Expires: 09/30/2003

To: All Washington and Field Officials

From: Assistant Director, Renewable Resources and Planning
Director, Office of National Landscape Conservation System

Subject: Revisions and Clarifications to H-8550-1, Interim Management Policy for Lands Under Wilderness Review, as it Relates to Wildlife Management

Program Area: Wilderness Management, Wildlife Management.

Purpose: The purpose of this Memorandum is to provide revised or expanded guidance to the wildlife section of the most recent update of Handbook H 8550-1, Interim Management Policy for Lands under Wilderness Review (IMP) dated July 5, 1995.

Policy/Action: This Instruction Memorandum will: (1) Address the relationship between the States and BLM in the management of resident fish and wildlife in the WSA's; (2) Address the policy for construction of new permanent installations and for surface disturbing activities in the WSA's; (3) Address policies related to stocking, augmentation and reestablishment of wildlife species in the WSA's; (4) Address policies for introduction or transplant of wildlife species into the WSA's; (5) Clarify ADC guidance in the WSA's; and (6) Make minor modifications to Chapter 1, Section B, on specific policy guidance related to management of the WSA's.

The attachment has modifications and additions to Chapter I, pages 9-12 and Chapter III, Section G, Wildlife, pages 43-45 of the July 5, 1995, IMP Handbook (H-8550-1)

Timeframe: Effective immediately.

Budget Impact: The effects on the budget of implementing this request are minimal.

Background: The IMP is a dynamic document. There have been three major updates since its initial release in 1979. Each of these updates has clarified questions on previous guidance and added specific examples and illustrations to aid in evaluating complex interim management issues. For example, a major addition to the latest update is guidance on approval of projects now that the Secretary of the Interior has sent wilderness recommendations to the President, and the President has forwarded them to the Congress.

The IMP now clearly states that any proposed discretionary action that would create surface disturbing impacts that would require reclamation can no longer be approved. Prior versions of the IMP had allowed certain projects even if they created temporary impacts on wilderness character as long as those impacts could be eliminated by reclamation actions. The intent of modifying the IMP was to insure that proposals now in Congress reflect the true character of the lands being considered for wilderness. That could only be assured by establishing a "reclamation deadline" after which time all previously approved projects would be reclaimed, and no new projects requiring reclamation would be approved.

In addition to the restrictions on project approval brought about by the passing of the reclamation deadline, the 1995 update included new examples related specifically to wildlife management issues and modified the language in Section G, Wildlife. The modifications caused concerns from some State wildlife management agencies that the revised language did not accurately reflect the shared roles for wildlife management in wilderness study areas (WSA's) and the need for coordination and cooperation between the agencies and the Bureau of Land Management (BLM).

Even before the release of the 1995 update, issues had arisen regarding the appropriate roles and responsibilities in wildlife management in WSA's. This overriding issue coupled with concerns over the 1995 update and the indication that interim management may continue much longer than initially anticipated resulted in a request from several State wildlife agencies for clarification of certain statements in the IMP.

In March 1995, in a related event, the BLM entered into a national Memorandum of Understanding (MOU) with the Animal and Plant Health Inspection Service (APHIS) in regard to wildlife damage management (formally known as animal damage control (ADC)) activities on public land. This MOU was not referenced in the 1995 IMP update. In the MOU, parties recognized that, in simple terms and among other duties, the BLM manages wildlife habitats, the States are responsible for managing resident wildlife, and the animal damage management unit of APHIS provides wildlife damage management services. The parties also agreed that in evaluating the need for, and in conducting wildlife damage management programs (on public land), multiple-use objectives must be considered. The MOU did not recognize any distinctions between designated wilderness, wilderness study areas, and other public land or in the differing management mandates of those classifications.

Manual/Handbook Sections Affected: This IM revises and clarifies H-8550-1, Interim Management Policy for Lands Under Wilderness Review.

Coordination: This IM has been developed jointly by the Fish, Wildlife, and Forests Group (WO-230) and the Wilderness, Rivers and National Trails Group (WO-172)

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1 Attachment
1-Revisions and Clarifications to H-8550-1 (5 pp)

Directives forwarded to State Director, CA-930, P. Brink, L. Thomas, L. Tichy 9/18/02

Attachment: Revisions and Clarifications to H-8550-1

CHAPTER III. POLICIES FOR SPECIFIC ACTIVITIES

G. WILDLIFE

1. General. (as revised)

The Federal Land Policy and Management Act (FLPMA) (P.L. 94-579, Sections 302(b) and 603(c)), the Wilderness Act (P.L. 88-577, Section 4.d(8)), Alaska National Interest Lands Conservation Act (ANILCA) (P.L. 96-487, Section 1320), Department of the Interior regulations 43CFR, Subtitle A, Part 24, and Executive Order (E.O.) 13112, all provide pertinent policy and direction concerning the management of resident fish and wildlife that occur on land under BLM administration.

States have broad trustee and police powers over resident fish and wildlife found on Federal land within their borders. Hunting, fishing, and trapping are normally permitted in the WSA's. The States establish hunting, fishing and trapping regulations, issue licenses, and provide enforcement of their regulations. Neither FLPMA nor the Wilderness Act affects the jurisdiction or responsibilities of the States with respect to fish and wildlife management. State management of these resident fish and wildlife is accomplished using a variety of techniques and tools. The States regulate where and when the activities of hunting, fishing, and trapping can take place in WSA's. The BLM retains the authority, upon proper public notification, to close or restrict certain uses in a WSA or portion of a WSA to protect persons, property, and public land and resources through the issuance of a Closure Order (43CFR 8364).

The BLM is responsible for managing the habitat upon which these fish and wildlife are dependent. In WSA's, the BLM has an additional responsibility to assure that these management techniques and tools do not cause impairment to wilderness values and that fish and wildlife management activities emphasize the continuation of natural processes to the greatest extent possible. Pages 2-5 of the IMP Handbook define the nonimpairment mandate. Chapter II of the IMP provides the specific guidance on procedures for evaluation of proposed actions following the National Environmental Policy Act (NEPA) process.

2. State-Federal Coordination. (new)

In order to ensure effective management of resident fish and wildlife species, and at the same time not impair wilderness values, it is the policy of the BLM to maintain effective coordination and communication with State wildlife management agencies. The BLM policy (MS 6521, Section 11), requires that each State Office develop and maintain an up-to-date MOU with the appropriate State

wildlife management agencies that outlines policies and procedures for efficient and effective management of fish and wildlife resources under the jurisdiction of the State. The BLM and the State wildlife management agency can use the MOU to identify any State-specific management activities, policies and /or procedures that may involve WSA's and to discuss under what conditions State fish and wildlife activities will be conducted in WSA's.

3. Permanent Installations and Surface Disturbing Activities Including Disruption of Vegetation. (as revised)

Permanent structures and facilities and surface disturbing activities in support of wildlife management such as new vehicle access routes, guzzlers, water tanks, exclosure fences, vegetation manipulation, and surface modifications that change the land's natural contour are normally not permitted under the non-impairment criteria described on page 9 of the Handbook.

There are, however, five possible exceptions to the nonimpairment criteria, also listed on page 9 of the Handbook. One of them, Exception 4, may apply directly to wildlife management. Exception 4 may allow certain new wildlife related projects that would otherwise be impairing, if those projects can be shown to clearly protect or enhance the land's wilderness values. Wilderness values that may be enhanced by wildlife management activities that support healthy wildlife populations include naturalness, primitive and unconfined recreation opportunities, and ecological values. Examples of permanent structures and facilities and associated surface disturbing activities which may meet the criteria of Exception 4 are:

> Permanent structures or facilities built with approval of the administering agency for the benefit of threatened, endangered, or special status species if they are determined essential to the species' conservation and recovery, and they contribute to a visitor's wilderness experience;
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> Permanent riparian, wetland, and aquatic structures and facilities permitted under the following conditions: their purpose is to maintain or enhance wilderness values, protect or maintain natural conditions, restore deteriorated habitat resulting from human influence, and they can be constructed to be substantially unnoticeable;
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> Installations to enhance wildlife and wildlife related activities which were identified in the wilderness inventory and study of the specific WSA as a wilderness value of the area and which do not degrade the values of roadlessness, naturalness, solitude, or primitive and unconfined recreation opportunities that initially qualified the area for designation as a WSA.

The following factors must be met for each permanent installation or surface disturbing activity that has met the standard for the exception as set out above:

a. Is substantially unnoticeable;

b. Will not have a permanent negative impact on habitat in the WSA;
c. Will not create a cumulative impact through its proximity to other pre-existing facilitie the WSA;
d. Is not dependent on vehicle use for access and/or maintenance. The authorizing document must describe how the project will be maintained and monitored without vehicle access. Existing ways may be used for access in WSA's during the interim period;
e. A determination has been made that alternative sites outside the WSA or nonstructural alternatives will not accomplish the objectives of the proposed project.

Permanent facilities which meet these conditions will be constructed, operated and maintained consistent with specific management activities, policies, and/or procedures identified in an environmental assessment or nonimpairment analysis and the State-level MOU.

4. Stocking, Reestablishment, and Augmentation of Fish & Wildlife. (as revised)

Stocking, reestablishment, and augmentation (restocking) of fish and wildlife on public land are management activities typically carried out by the State fish and wildlife management agencies. These State agencies are responsible for determining the type, number, and distribution of wildlife involved in these practices. Stocking is the act of releasing native or naturalized (alien species introduced into the area before it became a WSA) animals in an area currently occupied by the same species. Augmentation (restocking) is the act of releasing native or naturalized animals to maintain or enlarge an existing population of the same species within a specified area. Reestablishment is the act of releasin native species into formerly occupied habitat for the purpose or intent of creating self-sustaining populations.

The responsibility for conducting these activities also lies with the States, except in the case of federally listed species, where the States have concurrent jurisdiction with the Fish and Wildlife Service and National Marine Fisheries Service. Stocking, reestablishment, and augmentation of fish and wildlife on public land is allowed. These on-going activities should be done in accordance with State-level MOU's or written agreements between the applicable wildlife management agency(ies) and the BLM.

State and Federal agencies may use temporary enclosures and installations to trap or transplant wildlife as long as the nonimpairment criteria are met. Any temporary or permanent structure or facility or surface disturbing activity necessary to carry out the stocking, reestablishment, and augmentation of fish and wildlife in WSA's must be evaluated to determine if it meets the nonimpairment criteria. The BLM, as the administering Federal agency, is responsible for the analysis and approval of any proposed associated surface disturbing activities or structure or facility construction. BLM Manual 1745 provides more detailed descriptions of several of the terms used in this and the following section.

5. Introduction of Wildlife. (as revised)

Introduction is defined as the intentional or unintentional escape, release, dissemination, or placement of a species into an ecosystem as a result of human activity. As defined in Executive Order (E.O.) 13112, native species means with respect to a particular ecosystem, a species that, other than as the result of introduction, historically occurred or currently occurs in that ecosystem. Alien species means with respect to a particular ecosystem, any species that is not native to that ecosystem. Invasive species are defined in E.O. 13112 as alien species whose introduction does or is likely to cause economic or environmental harm or harm to human health.

In accordance with Section 2(a-b) of E.O. 13112, and the BLM's mandate to not take any action that could cause the impairment of wilderness values, it is BLM policy to prohibit to the extent practicable and permitted by law, the introduction of invasive alien species into WSA's. When it is determined that an invasive species is having a negative effect on native populations of plants or animals, the BLM must take measures to remove or eliminate the invasive species from the affected WSA. The BLM shall encourage planning and action at local, tribal, State, regional, and ecosystem-based levels to achieve goals and objectives of E.O. 13112. Section 2(a)(3) of the E.O. outlines rare circumstances where an agency might determine that the benefits from an introduction of an invasive species clearly outweigh the potential harm, for example, biological controls to eradicate weeds. In these cases the agency must make that determination available to the public. In addition should BLM make such a determination for an introduction involving a WSA, that proposal still must be further evaluated to ensure that it would not impair the suitability of the area for wilderness designation.

A non-impairment analysis must be completed for all introduction proposals. While the E.O. does not address the introduction of alien species, any such proposed introduction must be evaluated and must not impair an area's wilderness suitability. This includes proposals for the transplant of species not native to an ecosystem (alien species) for the purpose of establishing a self-sustaining population in the wild. The requisite nonimpairment analysis must always consider effects on naturalness, in particular the effect on habitats and on native species in the WSA. Any associated permanent or temporary installations or surface disturbing actions necessary to carry out the introduction or transplant must be identified and evaluated to determine if they are impairing. In addition, coordination between the State wildlife agency and the BLM is required in order to ensure that the proposed action is consistent with the IMP policies/procedures identified in an expanded State-level MOU as discussed in Section G2 of this memorandum and E.O. 13112 as it relates to introduction of invasive species.

6. Wildlife Damage Management (Formerly Animal Damage Control). (as revised)

Wildlife damage management activities limited to an area-restricted effort and directed at offending animals may be permitted as long as the proposed activity meets the nonimpairment criteria, and except for invasive species, will not jeopardize the continued presence of other animals of the same species or any other species in the area. Shooting of animals from aircraft can occur in WSA's in any State where the activity is consistent with State law and has been previously coordinated with the BLM State Director.

The MOU between the Animal and Plant Health Inspection Service (APHIS) and the BLM requires that the parties will meet at least annually to review wildlife damage management plans affecting BLM land and resources and coordinate management actions. The overriding goal in WSA's should be to use only the minimum amount of control necessary so as to ensure protection of wilderness, wildlife and other resource values.

Changes to Chapter 1, Section B. Specific Policy Guidance

Page 9, Section B(2). Nonimpairment: The second paragraph, is modified to say: "The following criteria are referred to hereafter as the "nonimpairment criteria" and will be strictly adhered to except where the proposal meets one or more of the permitted exceptions listed below."

Page 10, Section B(6). Enhancing Wilderness Values: The first paragraph is modified to say: "Wilderness values have been defined in section 2(c) of the Wilderness Act of 1964 as an area of undeveloped Federal land which:

- generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable;
- has outstanding opportunities for solitude or primitive and unconfined type of recreation;
- has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and
- may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.

The BLM Wilderness Inventory Handbook (Organic Act Directive No. 78-61, dated 9/19/78) further defined wilderness values as: roadlessness, naturalness, solitude, primitive and unconfined recreation, size and supplemental values (ecological, geological, or other features of scientific, educational, scenic, or historical value). Actions that clearly benefit a WSA's wilderness values through activities that restore, protect, or maintain these values are allowable. Though they may enhance wilderness values, these allowable actions must still be carried out in a manner which is least disturbing to the site."

Page 11, Section B(6). Enhancing Wilderness Values: The example in paragraph 4 relating to a proposed guzzler is deleted. Paragraph 5 on page 11 is revised to say, "We must ensure, therefore, in our consideration of any proposal to construct a facility within a WSA, that the facility will not degrade the very wilderness values that initially qualified the area for designation as a WSA."

Page 12, Section B(7). Existing Facilities: The second sentence is revised to say: "For example, these may include primitive vehicle routes ("ways") and other developments."