

LAND & RESOURCE USE
PLAN & POLICY 2015-2020
RELEASED FOR PUBLIC COMMENT

Sweetwater County Conservation District
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INTRODUCTION

The Sweetwater County Conservation District (“the District”) developed the Sweetwater County Conservation District Land and Resource Use Plan and Policy (“Plan”) to translate its statutory mandate into land management policy and direction. The Plan identifies and applies goals, objectives, and policies to the state and federal regulatory framework that governs the management of private, state, and federal land and the rangeland, soil, water, and wildlife resources. The Plan will guide County, private, state, and federal decision makers in addressing federal and state natural resource management issues.

OVERVIEW

The District has a broad mandate to assist, promote, and protect public lands and natural resources, soil, water, and wildlife resources, to develop water and to prevent floods, to stabilize the ranching and agriculture industry, to protect the tax base, and to provide for the public safety, health, and welfare of the citizens. The District is charged with conserving, protecting, and developing these resources on all lands within the District and, thus, it is one of the few governmental entities with express authority to address resource issues, in cooperation with private landowners or state or federal land management agencies on private, state, and federal lands. State law also gives the District broad powers to accomplish these policies and mandates, through research and education, implementation of erosion control, water, and range projects with landowners, development of comprehensive plans, demonstration projects, providing financial and other assistance to landowners, management of flood control projects or lands under cooperative agreements with the United States, and adoption of rules and ordinances. Both federal and state laws authorize intergovernmental coordination and cooperation, which provide a mechanism for the District to meet its mandate and policies for all lands within the District.

This Plan is based on the District policy to facilitate, protect, and preserve the utilization and conservation of rangeland resources, soil, water, and wildlife, to stabilize the ranching and farming concerns, to protect private property rights, to protect and enhance the customs and cultures and the economy, to protect the tax base, to assure the well-being of the people, and to provide for the public health, safety, and welfare of the County’s citizens. The policy and powers of the District encompass the obligation to protect the custom and culture of the people of the District and to provide for community stability. The District developed the Plan as a guide to efficiently and effectively use its resources.

In preparing the Plan, the District utilized a grassroots, locally-led planning process to determine the conservation needs, set priorities, assess costs, utilize local, state and federal participation and partnerships, and inform and educate the public in conservation matters. The Plan goals, objectives, and policies shall not violate the Constitution of the United States of America or the Constitution of the State of Wyoming, and are adopted in accordance with the Wyoming Administrative Procedure Act. [See Addendum Tab No. 36c at 178, Wyo. Stat. §16-3-103]. The District shall develop action plans to implement specific projects to meet the Plan’s goals, objectives, and policies. Such projects may be developed at the request of District residents,

business or industry, local, state or federal agencies, conservation groups, others, or as needs are identified by the District.

As this Plan is implemented, individual projects shall be communicated to the public for consideration and input by all interested parties. The District shall also ensure that it takes into account the effects on adjoining landowners and other Conservation Districts. The Plan will continually evolve to address dynamic and ever-changing issues, and may be amended, as needed, by the District.

The District believes that the American concept of government of the people, by the people, and for the people is best served when government affairs are conducted as close to the people as possible (*i.e.* at the local government level). The District finds it desirable to address the use and management of these important resources, especially rangelands, soil, and water conservation, within the political jurisdiction of the District and the County as the heart of its comprehensive planning efforts.

The District is well aware that one goal of the County's citizens and, therefore, its government, has been the continuation of a lifestyle, which assures the quiet enjoyment of private property rights and property interests and provides the highest degree of protection for these rights. Property rights and interests are important to the people living and working in this remote, rugged County, which has an area larger than some states, but the population of a small town. Many people who live in Sweetwater County rely on the land and its productive use. Private ownership and the incentives provided by private ownership are driving forces that support the livelihood of many Sweetwater County citizens.

The United States owns about 70% of the land in Sweetwater County, but this land is managed by several different federal agencies pursuant to different federal laws and policies. The Bureau of Land Management (“BLM”) of the Department of the Interior (“DOI”) manages the public lands (about 65%) for multiple use, and primarily livestock grazing pursuant to the Taylor Grazing Act, 43 U.S.C. §§315-315r, [Addendum Tab No. 25 at 128-131] and the Federal Land Policy and Management Act (“FLPMA”), 43 U.S.C. §§1701-1783 [Addendum Tab No. 28 at 133-151]. The Forest Service of the U.S. Department of Agriculture (“USDA”) manages the Flaming Gorge National Recreation Area (“NRA”) and the Ashley National Forest, a small parcel of which is located in Wyoming. The enabling statute for the Flaming Gorge NRA governs its management as part of the Colorado River Storage project [Addendum Tab No. 7 at 14, 16 U.S.C. §640v, Addendum 132 Tab No. 26 at 132, 43 U.S.C. §620] and the Ashley National Forest is managed for multiple use and sustained-yield under the laws, which apply to National Forests. [Addendum Tab No. 5 at 13, 16 U.S.C. §460v-1, Addendum Tab No. 13a at 60, 16 U.S.C. §1604]. The Seedskaadee Wildlife Refuge, which was also established as part of the Colorado River Storage Project, is managed by the U.S. Fish and Wildlife Service (“USFWS”) under the National Wildlife Refuge Administration Act to protect wildlife and habitat and to provide for recreation and other uses compatible with the primary purposes of the refuge. [Addendum Tab No. 8 at 16, 16 U.S.C. §668dd].

The State lands, which are generally sections 16 and 36 of each township, were granted to Wyoming upon admission to the Union for the support of the public schools and revenues from

those lands are part of a permanent fund. [Addendum Tab No. 31b, 31c at 157-158, Wyo. Const. Art. 7, §2, Art. 18, §1]. About 3% of the County land base is owned by the State and managed by the Board of Land Commissioners for the optimum benefit and use of the people of Wyoming, consistent with multiple use and development of agriculture, grazing, recreation, minerals, timber, energy, and public utility services. [Addendum Tab No. 45 at 229, Wyo. Stat. §36-12-102]. The 2004 Strategic Plan provides overall management objectives for the management of trust assets and resources for the optimum benefit of the trust beneficiaries and Wyoming citizens. [Appendix Tab G, *Office of State Lands and Investments Strategic Plan*, July 1, 2004 to June 30, 2008 (Sept. 1, 2003)].

The historical development of the transcontinental railroad through Sweetwater County established the “Wyoming Checkerboard,” which is a 50-mile wide and 150-mile long band of alternating sections of private and federal land. The disproportionate amount of federal land as well as the Wyoming Checkerboard in Sweetwater County means that any change in federal land management also affects private land uses and these policy changes have an even greater effect on the County's economy.

Federal law, in particular, establishes national policies that focus on national interests, rather than local interests. While federal land use and planning decisions may create benefits for state and national citizens outside of the County, they may also transfer a disproportionate amount of the costs and responsibilities to local communities and citizens.

In order to meet its statutory mandate, the District needs to fully participate in federal land management decisions, rulemaking, and resource policy development, at all stages of the decision process. For the same reason, the District must also participate in the development of Board of Land Commission policies and decisions.

It is the intent of the District to protect the custom and culture of County citizens as part of its policy direction to protect the public health, safety, and welfare of the citizens. The District will work with local, state, and federal agencies, so that the external agencies will hereafter cooperate, coordinate, communicate, and consider local, state, and federal policies before implementing actions that affect the local communities and citizens, both within and outside the boundaries of the County.

Federal and state laws require the respective agencies to coordinate with the local government entities and consider the local land use plans in the process of planning and managing federal and state lands within the geographic boundaries of Sweetwater County, Wyoming. [See Addendum Tab No. 28c at 135, 43 U.S.C. §1712(c) (9); Addendum Tab Nos. 34e at 175, and 39a at 192, Wyo. Stat. §§11-16-132, 18-5-208]. All federal and state agencies proposing actions that will impact the County, its citizens, and resources therein should provide the District with written notice of proposed actions for review. In particular, when BLM prepares an EA or EIS, it will contact the Sweetwater County Conservation District, 79 Winston Drive, Suite 110, Rock Springs, Wyoming 82901, (307) 362-3062 and fax (307) 362-1459. The District will then determine appropriate action to be taken, and provide input, information, and comment on proposed actions or activities. The District will also notify other government agencies of actions that are proposed by the District affecting various resources and amenities in the County and

solicit other agency input and comment. The purpose of this exchange of information is to minimize impacts upon and maximize the benefits to the residents of the County as well as other members of the public.

AUTHORITY

The District is a local governmental subdivision of the state as defined and established by the Wyoming Conservation Districts Law. [Addendum Tab No. 34 at 172-175, Wyo. Stat. Title 11, Art. 16]. The people of Sweetwater County elect the five-member Board of Supervisors to the District during the general election by popular vote. The elected members represent both the rural and urban populations within Sweetwater County. The District supervisors are the only locally elected board specifically charged with the responsibility of representing the citizens of Sweetwater County on natural resource issues. A conservation district supervisor serves the community voluntarily. The District Board of Supervisors administers and implements projects and programs funded through local, state, federal, and private partnerships.

The District, pursuant to the Wyoming Conservation Districts Law, is authorized to develop plans and policy for the District and file said plans in the office of the Sweetwater County Clerk. [Addendum Tab No. 34d at 173, 174-75, Wyo. Stat. §11-16-122 (iv) and (xvi)].

LEGISLATIVE DECLARATIONS

The legislative declarations and policies of the Wyoming State Legislature guide the District's exercise of authority in developing this Plan. [See Addendum Tab No. 34c at 173].

Wyo. Stat. §11-16-103 - Legislative Declarations and Policy:

(a) It is hereby declared that the farm and grazing lands of Wyoming are among the basic assets of the state; that improper land use practices cause and contribute to serious erosion of these lands by wind and water; that among the consequences which would result from such conditions are the deterioration of soil and its fertility and the silting and sedimentation of stream channels, reservoirs, dams and ditches; that to conserve soil, and soil and water resources, and prevent and control soil erosion, it is necessary that land use practices contributing to soil erosion be discouraged and that appropriate soil conserving land use practices be adopted.

(b) It is hereby declared to be the policy of the legislature to provide for the conservation of the soil, and soil and water resources of this state, and for the control and prevention of soil erosion and for flood prevention for the conservation, development, utilization, and disposal of water, and hereby to stabilize ranching and farming operations, to preserve natural resources, protect the tax base, control floods, prevent impairment of dams and reservoirs, preserve wildlife, protect public lands, and protect and promote the health, safety and general welfare of the people of this state. (Laws, 1941, ch. 134, 2; C.S. 1945, 34-1402; Wyo. Stat. 1957, 11-236; Laws 1959, ch. 193, 2; Wyo. Stat. 1977, 11-19-103; Laws 1978 ch. 32, 1.)

The term “conservation” is broadly defined to include “development, improvement, maintenance, preservation, protection and use of natural resources, and the control and prevention of floodwater and sediment damages, and the disposal of excess waters.” [Addendum Tab No. 34b at 172, Wyo. Stat. §11-16-102(iv)]. Thus, the policy and authority granted to the District covers virtually all aspects of natural resource use and management within the District.

PRIMARY COORDINATION GUIDELINES

The District has established a Land and Resource Advisory Committee (“LRAC”) with several community-based subcommittees to advise and assist the District in formulating plans and responding to specific land and resource issues. [See Appendix Tab E-3, SWCCD Land and Resource Advisory Committee Resolution]. The District and the LRAC recognize that it is their duty and obligation to enter into official land use planning activities and to participate equitably and fully with the federal and state management agencies and local government entities. The establishment and appointment of members to the LRAC and the LRAC meetings will conform to Wyoming law. [Addendum Tab No. 34 at 172-176, Wyo. Stat. Title 11, Ch. 16; Title 16, Addendum Tab No. 36 at 176-184, Ch. 4. Article 3 (“Administrative Procedure Act”); and Addendum Tab No. 38 at 189-192, Article 4 (“Open Meetings Act”).]

In accordance with state and federal laws regarding land use planning, the protection of private property interests, and to ensure achievement of the District mandate to protect and conserve rangeland, soil, water, and wildlife resources, the District and the LRAC seek to maintain and to revitalize the principles of multiple use of the state and federally-managed lands. To that end, the District adopts this Plan, including planning policy and guidelines for the state and federally managed lands in the County.

This Plan adopts a process for the District and the LRAC to coordinate in advance with the federal and state agencies and local governments regarding any proposed action, which will alter or impact land uses in the County. This includes, but is not restricted to, the effects on private property rights and private property interests, the economic stability, the historically developed custom and culture of the County, the provisions of this Plan, and the Sweetwater County Comprehensive Land Use Plan. [See Appendix Tab C.] Such agencies and governments are requested, prior to taking official action or issuing a report on a proposed action, to coordinate with the District. The agencies and local governments may accomplish this, in part, by providing the District or its agent’s timely notice of the proposed actions, policies, rules, or land management changes, the purposes, objectives, and estimated economic impacts of such action.

The District and the LRAC are committed to a positive planning process with federal and state agencies and local governments. The District will equitably consider the best interests of all of the people of Sweetwater County and the State of Wyoming in the use of state and federal lands. The District commits to seeing that all natural resource decisions affecting the County are guided by the following principles:

- To maintain and revitalize the concept of multiple use on state and federal lands in Sweetwater County.

- To protect private property rights and private property interests, including investment-backed expectations.
- To protect local historical custom and culture.
- To protect the traditional economic structures in the County that form the base for economic stability.
- To facilitate new economic opportunities by relying on free markets.
- To protect the rights to the enjoyment of the natural resources of the County by all citizens.

The District believes that resource and land use management decisions made in a coordinated manner by federal and state agencies and local government entities will maintain and revitalize multiple use of state and federal lands within and affecting Sweetwater County and will enhance environmental quality.

The goals, objectives, policies, and guidelines set out in this Plan are based on applicable state and federal law and rules.

The Plan is the commencement of the planning process for the District. The process itself is ongoing as the LRAC and the District become involved in all stages of the decision process followed by federal and state agencies and local government entities.

DISTRICT DESCRIPTION

The Sweetwater County Conservation District was originally called the Big Sandy Soil and Water Conservation District, which was organized in September of 1960 at the request of local citizens for the purpose of conserving the soil, water, and all other natural resources and to promote and maintain the welfare of the people in the District. The Secretary of State signed a certificate of the first Inclusion of Additional Territory within the boundary of the Big Sandy Soil and Water Conservation District in November of 1969. Other boundary changes were made and, in 1974, the Secretary of State filed a certificate to include all of Sweetwater County in the Big Sandy Soil and Water Conservation District. In late August of 2002, the Big Sandy Soil and Water Conservation District name was changed to the Sweetwater County Conservation District.

The focus of the District has expanded from primarily working to reduce and prevent soil erosion to also addressing other important resource management matters. These include water quality and quantity, grazing management, wildlife conservation, tree establishment, land-use planning, public education efforts, and conservation in our urban areas.

SWEETWATER COUNTY

History

Sweetwater County is named for the Sweetwater River where, according to legend, a balky mule during the fur-trade period dumped a precious cargo of sugar into the water. Thomas Fitzpatrick and Jedidiah Smith of the 1824 Ashley Expedition are credited with naming the Sweetwater River, as well as changing the name of the Spanish River to the Green River in honor of one of Ashley's St. Louis, Missouri partners.

In 1867, there were only two population centers in what became the Wyoming Territory: Cheyenne, because of the Union Pacific Railroad, and the South Pass mining region. The South Pass gold field, which recorded 2,862 people in the 1869 Census, was the second most populated area of the day.

Sweetwater County began its history as Carter County, which was created by the Seventh Dakota Legislative Assembly on December 27, 1867 out of Laramie County, Dakota Territory. Later the First Wyoming Legislative Assembly changed the name from Carter County to Sweetwater County. In 1868, the County also encompassed Yellowstone Park, Uinta, Lincoln, Sublette, Teton, Park, Hot Springs, Fremont, parts of Big Horn and Washakie Counties, and all of the present day Sweetwater County. When the organization of the Territory of Wyoming was completed May 19, 1869, South Pass City was recognized as the County Seat until 1873, when the Third Legislative Assembly changed it to Green River City. Between 1884 and 1888, the legislature carved out Fremont County and adjusted the boundaries of Carbon County to define the boundaries of present day Sweetwater County.

Sweetwater County is the only Wyoming County that was created as a result of mining. Minerals extraction dominated the economy and growth of the County from its inception. The development of mining and the railroad stimulated the agriculture industry to provide food for the workers. Some of Wyoming's earliest livestock operations were established in Sweetwater County.

Location

Sweetwater County Conservation District encompasses all of Sweetwater County in the southwest corner of Wyoming which covers 10,426 square miles and is the thirteenth largest county in the United States. Adjacent counties include Lincoln, Sublette, Fremont, Carbon, and Uinta Counties in Wyoming; Daggett and Summit Counties in Utah, and Moffat County in Colorado.

Physical Setting

Sweetwater County's land includes areas of low elevation, semi-arid desert to high mountain conifer/aspen landscapes. The majority of soils are underlain by soft bedrock of sedimentary origin, sandstone and shale. Along the northeastern and eastern portion lies the Red Desert, named for its red sand, with its vast area of moving sand dunes. The Flaming Gorge NRA is on the southern border of the District and extends into Utah.

Elevations

Elevations range from 6,000 to 11,000 feet above sea level. The average elevation is between 6,500 to 7,000 feet.

Soils

Soil is one of our basic natural resources. It is a factor (in relation to Geology) that helps determine what Sweetwater County looks like, how we live, where we live, what we produce and, in effect, how and where development occurs.

There are limitations and hazards inherent in various soils that occur throughout the County. The type of soil present on any particular site can and will impact the existing and proposed land uses. Some soils are seasonably wet and subject to flooding. Others are shallow to bedrock and may be unstable for building foundations or roadbeds. Sites that have a high water table are poor areas for underground installation of utilities or basements. Wet clay soils are not suited for septic drainage fields. Impervious soils that are required for sewage lagoons and sanitary landfills need detailed evaluations to prevent surface and groundwater contamination. Erosive soils, if disturbed by farming, road construction, or building development, can cause air and water pollution.

Vegetation

Using the vegetative communities described by the Natural Resource Conservation Service (“NRCS”), Precipitation Zones for Technical Range Site Descriptions, Sweetwater County is comprised of three major zones, based on precipitation and landform. The first and dominant, lies in the 7-9 inches precipitation zone of the Green River and Great Divide Basins. The second lies in the 10-14 inches precipitation zone of the Foothills and Basins West and includes areas near McKinnon, the southeast portion of the County, south of Rock Springs, White Mountain area, Steamboat Mountain area, and the south end of the Wind River Mountains. The third, and smallest, lies in the 10-14 inches precipitation zone of the High Plains Southeast and includes the northeast corner of the County near Bairoil.

Over half of the vegetation communities in Sweetwater County are dominated by Wyoming Big Sagebrush (*Artemisia tridentata subsp. wyomingensis*). Other plant species commonly found within this community include Needle and Thread Grass, Rhizomatous Wheatgrasses (Thickspike, Streambank, and Western), Indian Ricegrass, Sandberg Bluegrass, Prairie Junegrass, Needleleaf Sedge, Rabbitbrush (Douglas and Rubber), Winterfat, Shadscale, and Spiny Horsebrush.

A smaller, but significant, portion of Sweetwater County is dominated by salt tolerant species, characterized by desert shrubs and greasewood flats, which are common to saline soils. Dominant species in saline uplands include Gardner's Saltbush, Bud Sagewort, Greasewood, Winterfat, Bottlebrush Squirreltail, Indian Ricegrass, and Rhizomatous Wheatgrasses. Dominant species in lowland saline areas that receive additional moisture include Greasewood, Gardner's Saltbush, Four-wing Saltbush, Alkali Sagebrush, Winterfat, Rubber Rabbitbrush, Alkali Sacaton, Basin Wildrye, Inland Saltgrass, Baltic Rush, and Rhizomatous Wheatgrasses. Shrubs dominate the landscape of Sweetwater County. A climate characterized by predominantly winter and early spring moisture along with a short, dry growing season and sandy soils with low water-holding capacity provide a competitive advantage to deep tap-rooted, evergreen shrubs, such as Sagebrush.

Forestland is limited in Sweetwater County due to ‘site conditions,’ which include soils, drainage and precipitation elements. The dominant woodland type is juniper, which grows on the steep slopes and shallow soils south of Rock Springs to the state line. Other forest resources include Limber Pine, Lodgepole Pine, and Aspen. The riparian areas will have Cottonwood, Willow and shrub species.

Watersheds

The Continental Divide subdivides the state into four major drainage basins, including the Missouri, Columbia, Colorado, and the Great Salt Lake Basins. These geographic features make Wyoming the headwaters of the West. Sweetwater County contains a major portion of the Colorado Basin, which is divided into the following sub-basins: Big Sandy, Great Divide Closed Basin, Blacks Fork, Bitter, Vermillion, and Little Snake. There are numerous watersheds in each sub-basin.

Climate

The average temperature of Sweetwater County is 44° F, with January providing an average of 18° F and July contributing an average of 68° F. The average annual precipitation is about 9 inches with the average snowfall contributing approximately 35 inches. The average growing season is from 60 - 120 days, with some areas receiving a killing frost every month of the year.

Municipalities

Rock Springs and Green River are located along Interstate 80 in the west central portion of the County. In the northern part of the County lie Reliance, Eden, and Farson. To the northwest lies Fontenelle. In the northeast lies Bairoil. To the east lie Superior, Point of Rocks, Table Rock, Red Desert, and Wamsutter. To the west lie Little America and Granger and to the southwest lie Burntfork / Lonetree, McKinnon, and Washam.

Land Ownership and Administration (Based on County Assessor)

Sweetwater County covers 10,426 square miles (6,764,065 acres). About 73% of the land is owned by either the federal or state governments and 27% of the land is privately owned. Total population is 37,613 or 3.6 people per square mile.

Land Owner / Administrative Agency	Acres	Total Acres
Private Ownership		
	1,895,714	
Land		
Surface water		
Federal Ownership		
	4,902,918.8	
Bureau of Land Management		
	4,	

Bureau of Reclamation

Forest Service

US Fish & Wildlife Service

Seeds-kadee Refuge

State of Wyoming

183,967.66

Sweetwater County

1,061.28

Present Day

The County employment for the private sector is largely related to the natural resource industries; while the sizable public sector includes local, state, and federal government and educational employment. [See generally Appendix Tabs B, *Economic and Demographic Profile of Sweetwater County, Wyoming*, Bureau of Economic Assessment Regional Facts Sweetwater County, Wyoming 1993-2003; B-1, Bear Facts, Sweetwater County Bureau of Economic Analysis (1992-2002); B-2, MapStats Sweetwater County, Bureau of Economic Analysis; B-3, 2000 County Business Patterns for Sweetwater County, Wyoming; and B-4, Sweetwater County Top 30 Taxpayers.]

The economies of the rural communities in Sweetwater County continue to be heavily dependent on natural resources, while Rock Springs and Green River serve as the area's regional service centers.

CUSTOM, CULTURE & COMMUNITY STABILITY

Historically, the custom and culture of Sweetwater County is a story retold in many western counties. The settlement of the County is defined by the history of mining, railroads, ranching, and oil and gas development. It was led by hardy individuals willing to work and develop the resources and to bring forth communities. The settlement of the County is based on the beneficial use of the land.

Life was never easy for the settlers of this County. This is a land where nature has the upper hand. Water is scarce and access is critical. The early settlers of this land worked hard to establish their livelihood, and today's residents work equally hard to maintain that livelihood. The early settlers were diligent in pursuing legal protection of their property rights. Today's residents continue that diligence.

The people of Sweetwater County have traditionally earned their livelihood from activities associated with natural resources. The economy of the County in the past and today depends on the availability and utilization of natural resources. Directly or indirectly, the majority of the people employed in Sweetwater County depend on oil and gas, mining, power generation, and related service industries, ranching/farming, recreation, and other activities related to the availability of natural resources.

The history of Sweetwater County is steeped in the tales of mining and the railroad. From the first mining efforts in the early 1860s to the present day, mining has been important to the people who first settled here and to those, who now live in this County. Today, many people still actively work in the coal and iron industries, which play an important role in the County economy.

The development of the railroad and mines stimulated the development of agriculture. Herds of cattle were trailed from Texas, California, and Oregon to Wyoming, while sheep were also trailed into Wyoming. The cattle and sheep provided beef and mutton for the miners and railroad workers. As ranchers settled permanent sites for livestock (base properties), they recognized that transient trail drives threatened the quality of the range. Early Sweetwater County ranchers sought the help of Congress to protect the quality of the range in the early 1900s, some thirty years before the Taylor Grazing Act was passed.

Property rights are important to the residents of Sweetwater County. Private ownership and the incentives provided by that ownership are a driving force behind the culture and lifestyle of the County.

The custom and culture of Sweetwater County have been driven by available technology and resources, the distance to markets and prices, and the forces of a market economy. Much of the land producing the resources critical to the economy of Sweetwater County is managed by federal or state agencies. Thus, the present and future economy and community stability depend on federal and state agency land management policies. The County economy is greatly dependent on businesses operating on intermingled federal, state, and private lands.

The beneficial use of natural resources has been the basis for Sweetwater County's economy, custom and culture, even though technology, mechanization, and markets have altered the means of production and marketing of these resources from their historic beginnings. Mining, oil and gas, ranching, and farming provide the heritage of the County's residents, and residents continue those activities today.

In recent years, recreational use of the land in Sweetwater County has grown rapidly. Wyoming and out-of-state visitors come to the County for boating, fishing, hunting, camping,

snowmobiling, horseback riding, hiking, rock hunting, and other outdoor activities. There are potential conflicts between recreational users, landowners, and local residents. Currently, cooperative efforts on all sides have kept the conflict to a minimum.

1. GOAL: Protect and promote County custom and culture as part of the District's conservation activities to protect rangeland, soil, water, and natural resources, to stabilize ranch and farm operations, to protect the tax base, and to provide for the general health, safety, and welfare of the citizens at local, state, and federal government levels.

Objective 1A: Maintain traditional economic structures by ensuring a vital role of the public in land management procedures and decision processes.

Objective 1B: Open new economic opportunities through reliance on free markets and ensuring that the regulatory climate does not prohibit these opportunities.

Objective 1C: Enhance environmental quality to preserve and conserve the District's rangeland, water, and soil resources, while protecting the tax base and promoting public welfare.

2. GOAL: Consider the custom and culture of the County in all forms of planning considerations and processes and continue to develop and retain the County's cultural identity.

Objective 2A: Encourage the continued viability of agriculture due to its direct tie to the custom and culture of the area and its importance to the conservation of rangeland resources, soil, and water, which are needed by the residents and visitors to Sweetwater County.

Objective 2B: Encourage all local government entities to respect and provide for the continuation of the local custom and culture.

Objective 2C: Recognize the continued importance of mineral and energy development.

3. GOAL: Monitor and evaluate the effects and impacts of local, state, and federal land management actions on the custom and culture of Sweetwater County.

Objective 3A: Ensure that local, state, and federal agencies consider the physical environment, social, cultural, and economic needs of the County when making land use decisions and plans that affect the custom and culture of the County. Furthermore, work to ensure that the consideration process used to assess impacts to County custom and culture is cited as part of other local, state, and federal land management plans.

Objective 3B: Request the opportunity to review local, state, and federal land use and planning issues impacting the County's custom and culture and make recommendations pertinent to the issue in question.

Objective 3C: Recommend that local, state, and federal agencies enhance opportunities for responsible use of public lands, which benefit the custom and culture and economic base of Sweetwater County.

Objective 3D: Maintain the opportunity of free choice and participation for local citizens in determining how they, individually and collectively, can best adapt their economy, society, and culture to the forces of change that affect their lives and livelihood.

Objective 3E: Preserve and protect the institution of private property, while, simultaneously, using private property as a constructive tool to achieve the conservation goals that will protect the social and cultural life of Sweetwater County into the future.

Policy 1: *Actively and positively work to provide a voice for citizens and for local communities in planning the future of the county. [See Addendum Tab Nos. 28c & 28f at 135-36, 138, 43 U.S.C. §§1712(c) (9), 1739(e); Addendum Tab No. 34c at 173, Wyo. Stat. §11-16-103; Addendum Tab No. 35a at 176, Wyo. Stat. §9-8-302; Addendum Tab No. 35b at 176, Wyo. Stat. 16-1-101].*

Policy 2: *This land and resource use Plan and policies are developed to serve as a broad outline of the District's response to long-term shifts in land use, population patterns, and improvements in technology. Sweetwater County residents also value their relationship with the land and acknowledge their dependence on the rangeland, soil, and water resources for community and stability. The District strongly supports protecting and maintaining the rights of County residents to use and develop these resources as historically permitted. Mining, energy production, agriculture, and recreation are the cornerstones of the economy and culture of the people of Sweetwater County. Those cornerstones can and will change in time due to forces beyond the control of individuals, the community, and the County government. The citizens of Sweetwater County, however, seek a role and a voice in what happens to their lives and lifestyles as change occurs.*

Policy 3: *The people of Sweetwater County have traditionally and, for the foreseeable future, will likely earn their livelihoods from activities associated with Sweetwater County's custom and culture. The County's economy is, and will continue to be largely dependent upon these activities. Since Sweetwater County is directly dependent upon its natural resources, management decisions affecting land use directly impact and change the County's custom and culture. Therefore, a critical tie exists between the use of private, federal, and state natural resources and the economic stability of the County. It is imperative that stakeholders and informed representatives review natural resource issues as they are developed, to assure public land management decisions do not negatively impact the County's custom and culture.*

Policy 4: *Protection of Custom and Culture - The District is charged under state law to conserve rangeland, soil, and water resources in order to stabilize ranching and farming operations, to preserve natural resources, public lands and wildlife, "to protect and promote the health, safety and general welfare of the people of this state," and to protect the tax base. The term conservation" is broadly defined to include "development, improvement, maintenance, preservation, protection and use of natural resources, and the control and prevention of floodwater and sediment damages, and the disposal of excess waters." [Addendum Tab No. 34b at 172, Wyo. Stat. §11-16-102(iv)]. Thus, Wyoming law gives the District and the County broad*

discretion to protect all aspects of the county's environment, including the generations-old land use customs and culture of the people.

CONSULTATION, COOPERATION, COORDINATION AND CONSISTENCY WITH LOCAL LAND USE PLANS

Federal law imposes an affirmative obligation on federal agencies to consult, cooperate, and coordinate with local government entities and to further ensure that the management of public lands is consistent with local land use plans to the maximum extent possible.

The Federal Land Policy and Management Act ("FLPMA"), which applies to public lands managed by the BLM, requires BLM to consult and coordinate with local governments in land use decisions and policies and to reduce contradictions and conflicts between local government land use plans and those of the BLM. [See Addendum Tab No. 28c at 135-36, 43 U.S.C. §1712(c) (9)]. BLM must also coordinate and consult on issues of rangeland management and livestock grazing with landowners, including the state with respect to state lands. [Addendum Nos. 25d at 131 and 28i at 141, respectively, 43 U.S.C. §315h, §1752(d)]. The Forest Service must also involve the public in land use planning and management decisions. [See Addendum Tab Nos. 13b and 13d at 60, respectively, 16 U.S.C. §§1604(d), 1612].

The National Environmental Policy Act ("NEPA") requires each federal agency to prepare a detailed statement before undertaking any action that may have a significant impact on the human environment. [Addendum Tab No. 23a at 106, 42 U.S.C. §4332(2) (C)]. NEPA imposes a procedural analytic requirement that also requires public involvement, consultation with state and local governments, and consideration of conflicts between the proposed action and local plans. *Id.* The Council of Environmental Quality ("CEQ"), which has the lead in rulemaking and policy under NEPA, has endorsed the role of local government agencies actively participating in environmental reviews of proposed federal actions as cooperating agencies, pursuant to NEPA. [Addendum Tab No. 23b at 107-111, 40 C.F.R. §§1501.6, 1502.19, 1503.1, 1508.5]. This policy was first articulated when then-acting CEQ Chair, George Frampton, directed the heads of all federal agencies "to more actively solicit in the future the participation of state, tribal and local governments as cooperating agencies in implementing the environmental impact statement process under the National Environmental Policy Act." [Addendum Tab No. 23c at 111, CEQ Memorandum July 28, 1998]. CEQ set out criteria when a local government should be granted cooperating agency status. [Addendum Tab No. 23d at 114, CEQ Memorandum, January 30, 2002].

The Information Quality Act or the Data Quality Act, Pub. L. 106-554, requires federal agencies to adopt guidelines that "provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies." The Office of Management and Budget ("OMB") and each federal agency has adopted guidance, although implementation has lagged in that federal land agencies often lack peer-reviewed balanced data and proceed regardless of the lack of quality information.

Wyoming law also provides for intergovernmental cooperation. [Addendum Tab Nos. 35a and 35b at 176, Wyo. Stat. §9-8-302 (local government cooperation for planning), §16-1-101 (cooperation with state, local governments, tribal governments, and federal agencies)].

The District involves local individuals, who have expertise, experience, or general interest, as well as groups that deal with specific issues, to aid the District in participating in the decision-making processes. The District LRAC is composed of local citizens, who will assist the District in compiling and disseminating pertinent information, identifying issues, drafting resolutions, and developing policy.

1. GOAL: Represent local interests in the decisions and planning efforts of local, state, and federal government agencies within and adjacent to the boundaries of the County.

Objective 1A: Support cooperators and government agencies in making sound natural resource decisions that are scientifically based, legally defensible, sensitive to resource health, and responsive to multiple use interests.

Objective 1B: Work to ensure local input on state and federal land management issues to promote multiple uses of public lands (grazing by wildlife and livestock, logging, oil and gas, minerals, and recreation) and to protect private property rights.

Objective 1C: Maintain partnerships with local, state, and federal agencies to provide technical assistance and/or funding to local cooperators.

Objective 1D: Encourage an intergovernmental framework that fully considers the local impacts of federal and/or state proposed actions to social, economic, physical, and cultural environment as a part of the overall planning and decision processes.

Objective 1E: Encourage the local, state, and federal agencies to share information that they routinely collect (*i.e.* geographic information system mapping and the assessment of new management practices and techniques) with the District, which will also share its data and information.

2. GOAL: Support the concept of local government as the primary and fundamental unit of government that provides local people with the opportunity to govern themselves.

Objective 2A: Encourage public education on the fundamentals of responsible government at local, state, and federal levels. Hold tours and workshops that will inform the County residents on resource issues, especially with respect to the District's goals, objectives, and policies set forth in this Plan.

Objective 2B: Support the use of Memoranda of Agreement or Understanding to provide for consultation, cooperation, coordination, and land management plan consistency.

Objective 2C: Encourage the development of processes and procedures to ensure that the County and participating state and/or federal agencies are able to efficiently and effectively meet their responsibilities as public entities for the benefit of the County citizens.

3. GOAL: Work closely with and enter into coordination and joint planning efforts with local, state, and federal agencies to ensure that the natural resource and private property right goals of the Plan are included in these agencies' planning and management actions, regulations, and policies with regard to private, state, and federal lands.

Objective 3A: Ensure that the "takings implication assessment," which addresses potential for private property rights takings, includes, but is not limited to, an evaluation as to the impacts of the proposed action on property rights, including partial interests in property, the potential for physical invasion, the potential for monetary loss, and/or threats to due process and equal treatment under the law. The District may assist the local, state, and federal agencies in these analyses.

***Policy 1:** Request that local, state, and federal governmental entities coordinate with the District, its representatives, and thereby the citizens of this County with respect to proposed actions, rules, policies, and land use planning.*

***Policy 2:** Encourage observance of federal and state laws, regulations, and policies that require consultation, cooperation, and coordination and land use plan consistency with local government entities.*

***Policy 3:** Local, regional, state, federal, or international government agencies proposing actions in the County should provide early consultation and coordination with the District. The District should develop, promote, and defend viable alternatives to the proposed actions of other government agencies when the proposed action would adversely impact any of the resource bases of the District.*

***Policy 4:** Any local, state, regional, and federal agencies that propose actions that will affect the Plan's goals, objectives, policies, or action plans, should prepare and timely submit a written report on the purpose, objectives, and estimated impacts of such actions, in accordance with the laws of Wyoming and the United States of America.*

***Policy 5:** To the extent required for compliance with local, state, and federal law, all local, state, and federal agencies should strive to act consistently with the Plan and coordinate with the Board of Supervisors for the purpose of planning and managing local, state, and federal lands within the geographic boundaries of Sweetwater County, Wyoming.*

***Policy 6:** Encourage state wildlife management agencies to provide adequate notice to local residents and governments before decisions are made or programs implemented.*

4. GOAL: Support the development of data and information that provides credible scientific support for management decisions.

Objective 4A: Ensure that land management decisions are based on quality data rather the available data.

CONSTITUTIONAL PRINCIPLES: DUE PROCESS AND PROTECTION OF PRIVATE PROPERTY

The U.S. Constitution created a form of government characterized by:

1. Limited powers granted to the federal government, with all unenumerated powers being reserved to the respective states.
2. Separation of those limited powers into legislative, judicial, and executive branches.
3. Creation of a process where the branches act to check and balance the power of the other branches.
4. Guarantee rights of due process and just compensation when private property is taken for public use.
5. Grant of authority to Congress to make rules and regulations governing federal property.

1. GOAL: Reaffirm the fundamental rights of mankind as enumerated in the Declaration of Independence, the constitutional rights of citizens as set forth in the U.S. Constitution and Bill of Rights, and the Wyoming Constitution, and acknowledge the limited nature of government as intended by the nation's founding fathers.

2. GOAL: Protect private property and interests in private property and promote the continuation of private economic pursuits.

Objective 2A: Respect private property rights and consider the effects of policies, regulations, and federal and state decisions on these rights.

Objective 2B: Enforce the requirements for takings implication assessments pursuant to Executive Order 12630 [Addendum Tab No. 47 at 236] and prepare comments.

Objective 2C: Recognize that the protection and preservation of privately owned land is desirable and necessary in Sweetwater County.

3. GOAL: Ensure that the principles of due process are applied and followed at all levels of government.

Objective 3A: Provide notice of District proceedings and actions and facilitate, when possible, public notification of proposed actions, regulations, policies, and land use planning by federal and state agencies.

Objective 3B: Facilitate the opportunity of the citizens to be heard in the appropriate proceeding.

Objective 3C: Promote the disclosure and public education of proposed actions, regulations, policies, and land use plan decisions that affect Sweetwater County.

Objective 3D: Enforce the applicable laws and rules prohibiting conflicts of interest.

Objective 3E: Respect and facilitate the due process rights of individuals and entities adversely affected by agency action to exercise their rights of an administrative appeal, including the right to a hearing on the record, with the right of cross-examination, before an impartial judge, who will promptly render a decision based on findings of fact and conclusions of law.

Objective 3F: Promote the protection of substantive due process rights. [See Addendum Tab No. 31f at 159-160].

***Policy 1:** Ensure that local, state, and federal agencies address regulatory actions that may affect a total or partial taking of property without compensation and that the proposed action is modified to avoid the taking, either in whole or in part. Examples of a regulatory taking include denial or limitation on access to private land or resources, denial of right-of-way to divert water or when the public is allowed to cross private land without a formal conveyance or permission of the landowner.*

***Policy 2:** Ensure that the local, state, and federal agencies respect procedural due process rights by providing adequate public notice and the opportunity for a hearing, including an evidentiary hearing, when granted by statute. Regulatory actions, such as designation of critical habitat under the Endangered Species Act or denial of surface access across federal land, operate to inversely condemn private property without providing just compensation. The District supports providing legal remedies when federal or state governmental action operates to take property rights or some portion of the property right.*

LAND TENURE, DISPOSITION, ACQUISITION, AND USE

An estimated 27% of the land in Sweetwater County is privately owned and the majority lies within the Wyoming Checkerboard. The private land comprises the County's tax base that must support most County services. The District recognizes that private land is essential to local industry and residents. An important check on the exercise of governmental authority is the protection of private property rights as provided in the United States Constitution and the Wyoming State Constitution.

Land in the Wyoming Checkerboard is 51% privately-owned and the United States and Wyoming, to a lesser extent, own the adjacent sections in the Wyoming Checkerboard. This fact makes the BLM, state, and private landowners mutually dependent when it comes to access, land uses, and land use decisions. Federal agencies prefer to manage land in contiguous blocks and, from time to time, have proposed land exchanges in the Wyoming Checkerboard to create contiguous blocks of federal land.

The District recognizes that the unique land ownership pattern in the Wyoming Checkerboard creates the potential for abuse and inverse condemnation of private property rights. It is possible for government action to take a portion of the private property, without actually condemning and paying for the entire parcel. Government action, which denies or restricts access to develop the

mineral estate or water rights, can also be a taking. Moreover, land exchanges may not fully compensate the landowners and may reduce the total private land base in the County.

The Wyoming Eminent Domain Act, Wyo. Stat. 1-26-501 *et seq.*, authorizes the condemnation of land only for public use and only as set forth in state law. Nevertheless, it is possible that eminent domain power may be used to acquire land needed by private corporations for projects deemed to serve the public good, such as electrical transmission lines. *Bridle Bit Ranch Co. v. Basin Elec. Power Co-op*, 118 P.3d 996, 1011-16 (Wyo. 2005). Wyoming condemnation authority is not as extreme as the case of *Kelo v. City of New London*, 545 U.S. 469 (2005) which involved the use of eminent domain to pave the way for a private developer to build urban mixed-use housing and retail on the basis that the local government had determined this was in the city's best interests. Nevertheless, the power of eminent domain should be used sparingly, especially when the ultimate land owner is not a local or state government agency.

Land exchanges can have impacts similar to those of condemnation, when the land exchange reduces the private land in the county or disrupts the legal interests in the land, such as a surface use agreement, right-of-way, mineral lease, or a grazing permit. Many land exchanges either extinguish the interest or materially change the land use.

1. GOAL: Any land tenure adjustments by a federal or state government agency should be conditioned on no net loss of private land or private property rights and should fully compensate the landowner for the value of the property interest, including investment-backed expectations, and compensate Sweetwater County for the lost property tax revenue.

Objective 1A: Private land, including isolated tracts, will only be acquired by state and federal government entities when it is consensual and there is clearly just and adequate compensation to the landowner and there is separate compensation to Sweetwater County for the lost tax base.

Objective 1B: Support voluntary land exchanges between the federal government and private landowners to adjust property lines and improve access and land management.

Objective 1C: Support and facilitate the acquisition by land exchange or voluntary sale of isolated tracts of state and federally managed lands to improve land use efficiency.

Objective 1D: Local, state, and federal land agencies should not acquire any private lands or rights in private lands within the County without first ensuring that the proposed acquisition meets the Plan goals and objectives listed above, the acquisition is for a clearly established public use, and there is fair and just compensation.

2. GOAL: Facilitate local economic development while limiting impacts from land ownership adjustments.

Objective 2B: Recommend that local, state, and federal government entities investigate and attempt to increase local economic development within the County and that the citizens of the County suffer no adverse aggregate economic impacts from land ownership adjustments.

Objective 2C: Request consultation, coordination, communication, and cooperation when land tenure adjustments to federal and state land are proposed within the County.

Objective 2D: Request that when federal and state land agencies propose changes in land use, impact studies on the proposed change be conducted at the expense of the agency proposing the change, and that mitigation measures are adopted in coordination with the District. Impact studies should address community stability (socio-economics), local custom and culture, grazing rights, rangeland resources, water rights, flood prone areas, access, and other identified concerns of the County.

Objective 2E: Promote the classification of public lands for transfer or lease when the lands are isolated, difficult to management or it would benefit the public to be transferred.

Policy 1: Ensure that BLM accurately identifies land eligible for disposal under FLPMA or for lease or conveyance under the Recreation and Public Purposes Act and acts promptly to facilitate transfers when requested.

3. GOAL: Advocate the continued cooperation between public and private land managers in the Wyoming Checkerboard.

Policy 1: Request the opportunity to investigate and evaluate all proposed land ownership changes between private owners and state or federal government entities to determine if the proposal is in the best interest of the citizens of the County.

Policy 2: Request that local, federal, and state government agencies work with each other in implementing proposed land use planning activities through the principles of coordination, consultation, and cooperation with the District and consistency with local land use plans.

Policy 3: Request the opportunity to make recommendations on proposed public or private land withdrawals for hazardous and non-hazardous waste storage, as well as the types of such waste through the principles of coordination, consultation, and cooperation with the District and consistency with local land use plans.

Policy 4: Oppose any additional property acquisitions by the Wyoming Game and Fish Department or the U.S. Fish and Wildlife Service and request timely notification regarding any wildlife planning and/or management actions within Sweetwater County and adjacent counties in Wyoming by the Wyoming Game and Fish Department or the U.S. Fish and Wildlife Service.

ACCESS AND TRANSPORTATION

Access rights-of-way and water rights were critical to the early settlers, and they remain critical today. The federal government owns 70% of the estimated 6.76 million acres of land in Sweetwater County. The state of Wyoming owns 3%, leaving only 27%, in private ownership. When Congress granted the alternating sections to the railroads for the transcontinental railroad, which runs through Sweetwater County, it created what is now known as the Wyoming Checkerboard, with its alternating sections of private and public lands. Congress also granted Wyoming two sections per township (Sections 16 and 36) for the support of the public schools. Many private landowners need rights-of-way across the state and federal lands to access their property, to use their water rights, and to exercise their grazing rights.

Today access to land, water, and natural resources remains critical to the economic stability and culture of Sweetwater County. The constitutionally protected right to travel is closely tied to access across federal land. Recreation users depend on trails and roads to hunt, camp, and enjoy the land and scenery in Sweetwater County. The use and development of natural resources depends on access across and to federal and state lands. The livestock operators need access to forage on federal land and access to move livestock and construction materials to maintain and build range structures. Landowners need access in the form of rights-of-way to divert water for hay and to provide water for livestock, or to use water in relation to other development. Increasing limits on access have the potential to strangle the local economy and alter the custom and culture while pushing greater number of people onto smaller areas of federal land.

In 1866, the Congress enacted a law to provide and protect access across federal lands for miners and others reliant upon water to earn their livelihood. Section 8 of Revised Statute 2477 (“R.S. 2477”) provided simply that, “the right-of-way for the construction of highways over public land, not reserved for public uses, is hereby granted.” [Addendum Tab No. 27 at 133, 43 U.S.C. §932 (repealed Pub. L. 94-579)]. Sweetwater County miners and ranchers developed such rights-of-way in the form of roads and trails, which continue to be used today. Congress repealed R.S. 2477 in FLPMA but preserved all pre-existing rights-of-way.

This easement across public lands, not withdrawn from public use, made an immediately effective grant, which took effect as soon as the road was established by use or construction. This was called an *en praesenti* grant, because it required no further official action from the federal government. It was accepted whenever and wherever roads and ways were established over unreserved federal land by construction or otherwise, and were available for public use. These public highways remain available to this day for public use.

Wyoming law identifies procedures for each County to establish and record public roads, and this includes R.S. 2477 rights-of-way. [Addendum Tab No. 41a at 193-194, Wyo. Stat. §24-3-101]. If a road, including an R.S. 2477 right-of-way, is not recognized by the County, then it is not considered to be a public right-of-way under Wyoming law. [Addendum Tab No. 41c at 194, *Yeager v. Forbes*, 78 P.3d 241, 255 (Wyo. 2003)]. Once a road is recognized by the County, it is part of the county public road system. [Addendum Tab No. 41b at 194, §24-3-201]. A public road remains a public road until the county officially vacates it or abandons it, as set out in the statute. *Carnahan v. Lewis*, 273 P.3d 1065, 1077 (Wyo. 2012).

Recent Tenth Circuit case law has considered R.S. 2477 rights-of-way in the context of Quiet Title Act claims brought by Counties in Utah. In *Southern Utah Wilderness Alliance v. BLM*, 425 F.3d 735, 762-68, 776-78 (10th Cir. 2005), the court held that mechanical construction of a road was not required in order to accept the R.S. 2477 right-of-way grant and that state law governed how the grant was accepted. The Tenth Circuit has further held, in terms of the Quiet Title Act's 12-year statute of limitations, that land use plans, roadless area classification, and other agency actions do not trigger the running of the statute of limitations without an actual denial of use of the right-of-way at issue. *Kane County v. United States*, 772 F.3d 1205, 1216-18 (10th Cir. 2014); *San Juan County v. United States*, 754 F.3d 787, 795-96 (10th Cir. 2014).

Following the 2005 Tenth Circuit decision in *Southern Utah Wilderness Alliance*, Interior Secretary Norton issued an agency-wide directive adopting the holdings of the court and revoking all previous R.S. 2477 guidance. Departmental Implementation of *Southern Utah Wilderness Alliance v. Bureau of Land Management*, 425 F.3d 735 (10th Cir. 2005); Revocation of January 22, 1997, Interim Policy; Revocation of December 7, 1988, Policy (Mar. 22, 2006). While lengthy, the direction accepts the Tenth Circuit holding that state law defines when and how a public road was established, that BLM lacks authority to adjudicate or regulate public RS 2477 roads and that the road should include at least the disturbed area. The direction encouraged BLM to work with local governments by entering into nonbinding determinations to facilitate review of road work to evaluate the impacts on resources outside of the right-of-way.

This direction has not been revoked but BLM recently wrote to SWCCD to the effect that it would not include such rights-of-way in its revision of the Green River Resource Management Plan.

Public use of rights-of-way established under R.S. 2477 may result in the extension of the easement for public travel over private land under the doctrine of adverse possession or when the public use arose before the land was conveyed into private ownership. Restricting access has the potential to limit or adversely affect the local economy. While Wyoming counties prefer to acquire a voluntary easement from private landowners, the public's use of a road that is "actual, open, notorious, exclusive and continuous for the statutory period, hostile, and under color of title or claim of right" for 10 years will support a finding of adverse possession. Wyo. Stat. 1-3-103.

Public access to routes of travel is essential to the County's transportation and public access systems and to the economic, social, political well-being, custom and culture of the communities and citizens of Sweetwater County. Because the County also depends upon the responsible use and development of public land resources, adequate, feasible, and fully-protected access is required to utilize and to protect these resources. Many land uses in the County depend upon roads and rights-of-way associated with general non-motorized and motorized travel.

The Sweetwater County Board of Commissioners has determined and documented the rights-of-way in the County that fall under R.S. 2477. See Appendix Tab D, Sweetwater County, Board of County Commissioners, Resolution 96-12-CC-01, R.S. 2477 Rights-of-way, December 17, 1996; Sweetwater County Board of County Commissioners, Resolution 11-02-CC-01, Updated R.S.

2477 Resolution (February 1, 2011) (maps depicting public roads, including R.S. 2477 rights-of-way are on file with the Sweetwater County engineer and can be viewed at the District office).

Although FLPMA repealed R.S. 2477, the public highways, roads, and ways established before October 1976, are specifically preserved, [Addendum Tab No. 28j, at 150, 43 U.S.C. §1769(a)]. The County's right, title, and interest in these rights-of-way include the right to evaluate and perform construction, reconstruction, and maintenance, which is reasonable and necessary for safe passage for the rights-of-way established prior to the repeal of R.S. 2477 or the reservation of the lands for public use.

Federal law also authorizes rights-of-way across federal land under the Alaska National Interest Lands Conservation Act ("ANILCA") or Title 5 of FLPMA. [Addendum Tab No. 15 at 61, 16 U.S.C. §3210, and Addendum Tab No. 28j at 141-150, 43 U.S.C. §§1761-1769]. Under FLPMA, the applicant must pay cost-recovery fees to process the permit and full market value of the easement, unless the applicant is a county. [Addendum Tab No. 28j at 146-47, 43 U.S.C. §1764(g)]. Mineral lessees are entitled to access under the terms of a mineral lease. [Addendum Tab No. 19k at 76, 43 C.F.R. §3101.1-2]. In many cases, these access rights are not public rights-of-way and do not establish public access.

1. GOAL: Support the historic right to travel over federal and state lands wherever necessary in pursuit of mining, oil and gas, ranching, farming, logging, recreational activities, motorized vehicle use, and all other historic uses.

Objective 1A: Participate in decision and planning processes with local, state, and federal governments affecting access and rights-of-way in Sweetwater County.

Objective 1B: Support mechanisms to help maintain the use of public roads; while protecting and/or mitigating any impacts on other resource values and respecting private property rights.

Objective 1C: Support opportunities for further economic development by ensuring that feasible access is available, while respecting private property rights.

Objective 1D: Support adoption of rules controlling off-road recreational use, where it is necessary to protect soil, water, wildlife, and vegetation resources.

2. GOAL: Protect private property rights in the County while facilitating rights of access.

3. GOAL: Develop a coordinated approach to the issues of roads and rights of ways with local, state, and federal agencies and private landowners.

Objective 3A: Support coordination and concurrence between the District, local interested parties, and relevant federal and state land management agencies, prior to any proposed road closures and obliterations in the County.

4. GOAL: Coordinate with private landowners, local, state, and federal agencies to develop a complete inventory of all roads and rights-of-way in Sweetwater County.

Objective 4A: Inventory the public roads and rights-of-way, using tools such as databases, maps, GIS locations, photographs, and historical records, in order to document their existence and whether such roads or rights-of-way have been abandoned or vacated.

Objective 4B: Recommend that surface routes of travel along existing trails, roads, or highways of public value and of legal origin within the County be electronically mapped and recorded as local government thoroughfares in accord with County designations.

5. GOAL: Evaluate new rights-of-way and road systems in light of identified need, impacts on the District Plan, goals and objectives, and private property rights.

***Policy 1:** Recommend that any new construction of an access route be under a plan accepted by County planner or as permitted by respective land ownership. Pre-existing routes will be honored according to their identification and physical character. Route maintenance standards will be in accord with designated classification and need.*

***Policy 2:** Recommend that the Resolution of the Sweetwater County Commission regarding R.S. 2477 rights-of-way be given the effect of an ordinance. See Appendix Tab D, Sweetwater County R.S. 2477 Resolution 96-12-CC-01, and maps (which are on file with the Sweetwater County engineer).*

***Policy 3:** BLM must accept public rights-of-way instead of only authorizing local government road work or public use under Title V of FLPMA, which only provides for a revocable permit. BLM must also cease and desist from issuing rights-of-way or assessing fees over public roads, because BLM lacks jurisdiction to regulate commercial access on a public road and thus it lacks the authority to issue such a permit.*

6. GOAL: Support identification, assertion, and protection of all County roads and public rights-of-way to protect the County's resources and promote public health, safety, and general welfare, including but not limited to, search and rescue, extreme weather, fire protection, resource conservation, health and law enforcement, and other services.

Objective 6A: Participate in local, state, and federal planning processes or any County planning process regarding transportation plans for new roads, reconstruction or maintenance of existing roads, and road closures (permanent and seasonal) to address economic and scientific-based concerns for water, air quality, and public access purposes.

***Policy 1:** Federal law provided for rights-of-way and establishment of public highways across unreserved public domain. The resolution of the status of roads and rights-of-way under R.S. 2477 remains in controversy at the national level. R.S. 2477 (the Act of July 26, 1866) states in Section 8: "The right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted." [Addendum Tab No. 27 at 133, 43 U.S.C. §932 (repealed)]. While R.S. 2477 was repealed in 1976, new access grants are available across public lands pursuant to Title V of FLPMA, [Addendum Tab No. 28j at 141-150, 43 U.S.C. §§1761-1769], the Mineral Leasing and Coal Leasing Acts for lease development, [Addendum Tab No. 19k at 76,*

43 C.F.R. §3101.1-2], and to private land under Alaska National Interest Lands Conservation Act (“ANILCA”), [Addendum Tab No. 15 at 61, 16 U.S.C. §3210].

Policy 2: Encourage identification and application of rights-of-way in order to support multiple uses on public lands, so long as there is adequate and just compensation of private property when the right-of-way crosses private land. BLM can only condemn a right-of-way “if necessary to secure access to public lands, and then only if the lands so acquired are confined to as narrow a corridor as is necessary to serve such purpose.” [Addendum Tab No. 28e at 138, 43 U.S.C. §1715(a)].

Policy 3: Participate in the federal NEPA process or any County planning process for communication, utilities, transmission, transportation and waterway corridors.

Policy 4: Support a transportation plan that optimizes accessibility across all federal and state managed lands within the County, while respecting private property rights.

Policy 5: Access to and/or across federal and state managed lands within the County should not entail encumbrances or restrictions on private property rights.

Policy 6: Support the adoption of the Sweetwater County Resolution 96-12-CC-01 and 11-02-CC-01 to perfect rights-of-way and protect R.S. 2477 rights-of-way. [See Appendix Tab D].

Policy 7: Support the identification of OHV loops and trail systems that respond to current and future demand for motorized recreation.

Policy 8: When the necessity for a closure has been established, additional trails and areas must be opened to offset the loss of that recreational opportunity.

ECONOMIC PROFILE AND DEVELOPMENT

One of the greatest challenges facing local governments today is the loss of the tax base, whether due to changes in land ownership or land uses. This is an even greater challenge in western states where the majority of the land is owned by the federal government. In order for any community to provide needed schools, health care, police protection, and other services, industry and commerce within the community must be supported and strengthened.

Economics pertain to the development and management of the material wealth of a government or community. Business and industries that have traditionally defined the economy in Sweetwater County to include revenue from: mining, power generation, oil and gas development and related services; farming, ranching, and livestock grazing; recreation and tourism (motorized and non-motorized recreation, water & land sports, hunting, fishing, hiking, etc.); residential or private property owner taxes, local businesses (private and corporate owned enterprises, etc.), and big game hunting, guide and outfitting, and other services. The abundant natural resources within the County provide opportunities for expanded economic growth. The County depends on these resources for economic viability and community stability. A primary purpose of this Plan is to foster cooperation and coordination among the County, federal, state, local

governments and adjacent counties, because the communities cannot remain economically viable without equal access to federal and state resources.

Management activities on the federal, state, and private lands directly affect the County economy. Oil and gas production, mining, power generation, agriculture, and recreation are the primary resource activities that provide income and promote community stability.

This Plan is a dynamic document, changing as more information becomes available and new situations arise. Economic and demographic data essential to the Plan will be included in later updates. The data should include both current and historical data for past decades and should give an indication of the trends, including people moving in and out. Data to be added may include:

1. Total personal income by major component (industry).
2. Full-time and part-time employment by major industry.
3. Transfer payments by major component (industry).
4. Agriculture income and expenses.
5. Total population and population by age categories.
6. Households by type.
7. School enrollments (private & public).
8. Tax revenues.

[See Appendix Tab A, Summary of Payment In Lieu of Taxes Paid to Sweetwater County, Wyoming, Tabs B, Economic and Demographic Profile of Sweetwater County, Wyoming; B-1, Bear Facts, Sweetwater County Bureau of Economic Analysis (1992-2002); B-2, MapStats Sweetwater County, Bureau of Economic Analysis; B-3, 2000 County Business Patterns for Sweetwater County, Wyoming; and B-4, Sweetwater County Top 30 Taxpayers].

Counties and states cannot tax the federal lands within their boundaries. The federal government has several mechanisms to share revenues generated from federal land that (in part) compensate local governments for the loss of the tax base. These payments may be based on the amount of federal land within the state (and County), under the Payment-In-Lieu of Taxes Act ("PILT"), which includes a share of revenues generated to the U.S. Treasury from coal, oil and gas or other leased minerals, or livestock grazing. [Addendum Tab Nos. 19a at 63 and 20a at 76, respectively, 30 U.S.C. §§191, 192c; and Addendum Tab No. 21 at 78, 31 U.S.C. §6903; Appendix Tab A, Summary of Payment In Lieu of Taxes Paid to Sweetwater County, Wyoming]. Thus, both the amount of federally-owned land within the County, the respective population, and how the land is used determine the payments to the state and, ultimately, to the County. Federal law directs payments to the state, and state law provides for distribution of some part of the revenue to the county of origin. This revenue structure requires the County to understand how activities and management actions on these federal, state, and privately-controlled lands affect the economic underpinnings of the local community. Federal land uses that generate revenues to the State and which support local communities include:

- 25% of Forest Reserve Fund
- Payments in Lieu of Taxes ("PILT")

- Taylor Grazing Act, Sections 3 and 15
- Refuge Revenue Sharing Act
- Mineral Leasing Act
- Mining and Materials Leasing Act
- Federal Coal Leasing Act
- Secure Rural Schools Act

[See Appendix Tab A, Summary of Sweetwater County PILT Payments.]

1. GOAL: Protect agricultural land and promote the continuation of agricultural land uses.

Objective 1A: Protect private property rights with respect to the right to use public land for agriculture uses.

Objective 1B: Support open market conditions for agriculture products.

Objective 1C: Protect and expand, as needed, water resources for agriculture uses.

Objective 1D: Support the County in identifying opportunities and prioritizing for economic development and diversification, (*i.e.* value-added products derived from natural resources and agriculture), business expansion and retention, telecommunication, and small business assistance.

2. GOAL: Support development and implementation of economic policy documenting the effects of federal and state lands management on the economic stability of Sweetwater County.

Objective 2A: Encourage research to address rural and urban economic issues.

Objective 2B: Support increasing the capacity of state and federal land resources to provide greater economic return to the County.

Objective 2C: Prohibit policies and actions that preclude or limit development or resource uses on federal surface, thereby placing all or most of the development impacts on private land.

3. GOAL: Ensure continued and consistent access to natural resources on federal and state lands in Sweetwater County.

Objective 3A: Support the responsible use and development of natural resources while maintaining multiple-use management practices on state and federal lands and preserving adequate public and private access to federal lands.

Objective 3B: Support economic development and diversification of existing land uses through business expansion and retention.

4. GOAL: Promote the enforcement of laws providing for reduced regulatory costs for small businesses, such as farming and ranching and small governmental entities, including Sweetwater County.

Objective 4A: Support and participate in identifying and quantifying the regulatory impacts on Sweetwater County, which is a local government entity protected under the Small Business Regulatory Enforcement Fairness Act. [Addendum Tab No. 1 at 1-7, 5 U.S.C. §§601-612].

Policy 1: *The District will enforce, monitor and promote the enforcement of statutory and regulatory policies that require a federal agency to document the effects of regulatory actions on small businesses, which include many agricultural operations in the County and the County itself. [See Addendum Tab No. 1 at 1-7, Small Business Regulatory Enforcement Fairness Act, 5 U.S.C. §§601-612, Addendum, Tab No. 51 at 256, Ex. Order 13272, August 13, 2002].*

Policy 2: *Participate in local, state, and federal land decision and planning processes to ensure the continued development and conservation of natural resources to provide growth and expansion of related industries, while ensuring the continued conservation of rangeland, soil, water, and wildlife resources.*

Policy 3: *Preserve or acquire access for power, telecommunications, transportation of energy, and for water development by rights-of-way or easements.*

ENERGY / MINERAL RESOURCES

Energy and mineral resources occur without regard to whether the land is in private, state, or federal ownership. These resources have, and continue to, provide economic benefits and economic impacts for the citizens of Sweetwater County and the State of Wyoming. The District recognizes that effective development of its abundant mineral resources is necessary to the economic well-being of the county, the state, and the nation. Energy and mineral resource extraction is also consistent with the local history, custom, and culture.

Much of Sweetwater County is included in the Green River Basin, one of five high-priority energy basins identified pursuant to the Energy Policy and Conservation Act Amendments. In 2008, a joint report by several federal agencies, including the BLM, evaluated impediments to energy production on federal lands, including the Green River Basin. The study found that roadless designations and restrictions on development impeded development, but identified other factors, including the government's challenge with timely processing applications for permits to drill (APDs) and lack of infra-structure to transport oil or gas to markets. These factors make energy development in this region more difficult and costly. *Inventory of Onshore Federal Oil and Natural Gas Resources and Restrictions to Their Development – Phase III Inventory* (2008) (the complete report can be viewed at the District Office or online at http://www.blm.gov/wo/st/en/prog/energy/oil_and_gas/EPCA_III.html).

Four main categories of mineral resources exist within the County:

1. Fluid Leasable: (oil, coalbed methane and natural gas and geothermal) the objective is to provide for leasing in exploration and development. State and BLM-administered lands, not specifically withdrawn or closed to sale under the mineral leasing laws, should be open to leasing and development.

2. Solid Leasable: (coal - sodium/trona)

a. The coal and trona resources in the County are subject to development in an orderly manner consistent with the regulation and policies governing coal development, environmental integrity, national energy needs, and related demands.

b. With appropriate limitations and mitigation requirements for the protection of other resource values, all BLM-administered federal lands and federal coal lands in the County, except for those lands identified as withheld, should be open to coal resource inventory and exploration to help identify coal resources and their development potential, commensurate with all interests in coal *per se*.

c. Split Estate lands where the United States owns the surface but the minerals are owned by the State or private entity or where the United States owns the minerals but the surface is in private or state ownership: Government-owned surface overlaying State of Wyoming and privately-owned coal is subject to consideration for coal development with appropriate and necessary conditions and requirements for protection of the public land surface and surface resource uses, including big game crucial winter range, grouse leks, cultural values, geologic features, and rights-of-way. The Land Quality Division of the Wyoming Department of Environmental Quality (“Wyoming DEQ”) issues mining permits, which address reclamation and surface resources.

d. The known sodium leasing (soda ash) areas located on public lands are temporarily closed pending plan revisions and resolution of potential conflicts between mining and oil and gas development. Where BLM completed plan revisions, such as for the Kemmerer and Rawlins Resource Management Plans (RMPs), the land is now open for sodium leasing unless it is a WSA or specific management area. The Rock Springs RMP is still under revision, and the BLM allows no new leasing during the planning period. The sodium leasing activity is limited to lease modifications or fringe acreage additions in existing leases in support of ongoing operations.

e. The remainder of the County is open to sodium (soda ash) prospecting except for areas, such as WSAs or specific management areas that are closed to mineral leasing, surface mining, or mechanical prospecting type activities.

3. Other Minerals: The minerals management objective for other minerals is to provide opportunities for exploration and development of building stone, sand, and gravel as needed to provide for use while protecting other resources, as such resources may be governed by regulation.

Locatable Minerals (under General Mining Law 1872, [Addendum Tab No. 17 at 62, 30 U.S.C. §§21 *et seq.*]. The locatable minerals management objective is to ensure that public lands are available to explore, locate, and develop by mining claims while protecting other relative resource values. With the exception of lands withdrawn from mineral location, the County is open to filing of mining claims and exploration for and development of locatable minerals.

4. **Geophysical Exploration:** The management objective for geophysical exploration activities is to provide opportunity for exploration of mineral resources and collection of geophysical data, while protecting other resource values.

1. GOAL: Encourage suitable mineral and energy resource exploration and development in the County, while conserving rangeland, soil, fish and wildlife habitat, air quality, visual and water resources.

Objective 1A: Encourage elimination of unreasonable or unfounded barriers, prohibitions, and impediments to mineral and energy resource exploration and development.

Objective 1B: Enforce requirements in FLPMA that BLM review land withdrawals should be reviewed in the federal planning process or immediately thereafter to ensure that they are still necessary and that BLM only withholds public lands from mining or mineral leasing pursuant to federal law or an official order of withdrawal that is published in the Federal Register with an explanation justifying the closure.

Objective 1C: Discourage the use of informal policies or unofficial classifications, such as lands with wilderness characteristics or mineral leasing closures, by federal agencies to withhold high energy potential areas from leasing or development. These practices violate FLPMA's requirement that public lands be managed in accordance with land use plans and that decisions to withhold public lands from mineral development must be evaluated in terms of the social and economic effects and reported to Congress.

Objective 1D: Support Executive Orders 13211 and 13212, as amended by Executive Order 13302. [Addendum Nos. 49a-49c at 251-254] directing all federal agencies to facilitate the permitting and development of power distribution facilities and to remove regulatory impediments to the exploration and development of energy resources on public lands.

2. GOAL: Support a policy to promote mineral resource recovery by making federal and state lands within the Wyoming Checkerboard of the County and elsewhere open to mineral leasing and development, subject to mitigation measures to be applied on a case-by-case basis in the permit according to state law.

Objective 2A: Support the retention of existing mineral and energy operations, consistent with sound economic and environmental practices.

Objective 2B: Support large and small-scale mineral and energy resource exploration consistent with sound economic and environmental practices to conserve rangeland, soil, and water resources.

3. GOAL: Ensure compliance with all existing local, state, and federal laws regarding oil, gas and mineral exploration and/or their production, so that the District's mandate to conserve rangeland, soil, and water resources are met.

4. GOAL: Protect the rights of land owners and surface owners so that mineral development can proceed consistent with the District’s mandate to conserve rangeland, soil, and water resources.

Objective 4A: Enforce reclamation actions to ensure that the site-specific reclamation plan is appropriate for the soils, vegetation, and climate, that the site to be disturbed is evaluated in order to establish a baseline inventory of the qualities and characteristics of the site, that an adjacent reference site is identified to provide a working example of the disturbed site, that the disturbed sites are immediately stabilized to conserve soils, that interim vegetation is planted to hold soils, including the use of sterile, non-native seeds, and that final reclamation is done on disturbed areas as soon as possible. Local reclamation plans will involve the District and affected landowners.

Objective 4B: Require the federal land agencies to monitor completed reclamation to document success or to require additional measures to ensure that reclamation succeeds and that invasive non-native plants are eradicated.

Objective 4C: Support mitigation that is closely tied to actual impacts, such as replacement grazing forage for displaced grazing permittees or range / vegetation improvement projects to mitigate impacts on rangeland resources and wildlife habitat.

Objective 4D: Oppose off-site mitigation when the site is located on privately-owned land outside the project area, which effectively places private land in state or federal ownership; when it does not provide mitigation for the resources that are impacted; and when the site lacks a nexus to the project area. The federal government has no authority to stipulate land uses on private or state lands and cannot require landowners unaffiliated with a project to burden their land with what would be the equivalent of a conservation easement. Further, the federal government must comply with unconstitutional conditions doctrine when conditioning approval of a permit upon mitigating impacts of a proposed project. *Koontz v. St. Johns River Water Mgmt. Dist.*, 133 S. Ct. 2586, 2595 (2013). The government “may not leverage its legitimate interest in mitigation to pursue governmental ends that lack an essential nexus and rough proportionality to those impacts.” *Id.*

Objective 4C: Require detailed monitoring plan that involves the District and affected landowners to ensure that mitigation and reclamation actions are enforced and are successful. The monitoring plan will also require consistent and regular site review to measure the site’s response to management measures and determine if it is appropriate to change either mitigation or reclamation to achieve the objectives.

5. GOAL: Support coordinated efforts between the local, state, and federal agencies in the inventory, evaluation, and development of mineral resources.

Objective 5A: Recommend that local, state, and federal agencies assess socio-economic impacts of any proposed changes to natural resource-related use plans that impact Sweetwater County School Districts.

Objective 5B: Recommend that local, state, and federal agencies conduct a thorough investigation of future mineral industry potential and the consequences of all land use decisions. Local, state, and federal planning documents should disclose consequences to future mineral development and economic impact of proposed policies or plans to the continuity of the County's minerals industry.

Objective 5C: Request that local, state, and federal agencies notify the District of any proposed actions or regulations, which may impact minerals industry opportunities on state, federal, or private land within the County to enable the District to review and comment on local, state, or federal actions or changes significant to mineral and related industry opportunities in the County.

6. GOAL: Support beneficial mining efforts and their economic impacts or effects and encourage mining and milling efforts on private and public lands.

Objective 6A: Carefully evaluate proposed revisions of the General Mining Law of 1872 to determine the impacts, if any, for mining in the County. Discourage over-regulation that inhibits scientifically-sound mining practices.

Objective 6B: Ensure that private, state, and federal lands are open to mining exploration and development and ensure that such lands should continue to be used for that purpose.

Objective 6C: Encourage open access to, across, over, under, and through the state and federal lands for prospecting and exploration to provide incentives for private investment in mineral development.

Policy 1: *Make recommendations regarding any such proposed revisions of the General Mining Law of 1872 to the appropriate state and federal representatives in order to influence the outcome to favor the custom, culture, and economy of the County.*

Policy 2: *Mineral and energy resource exploration and development are among the historic uses on private, state, and federal land; their continuance is compatible with the principles of multiple-use on state and federal lands.*

Policy 3: *Support mineral and mining company efforts to conduct science-based research applicable to mining and mineral processing, subsidence, expansion, and new development that is environmentally and economically viable.*

Policy 4: *Local, state, and federal agency plans or management recommendations shall include a social and economic impact description (either brief or in-depth depending on the case needs) that addresses the effects on energy and mining development.*

ALTERNATIVE ENERGY

The term alternative energy generally refers to non-carbon based energy. These include wind, geothermal, and solar, as well as nuclear power. Wyoming does not have any nuclear power plants, although it does have commercially viable uranium deposits. Wyoming and Sweetwater

County, in particular, have high potential for wind and solar energy. Even though alternative energy does not have carbon-based emissions, there are potentially significant environmental impacts associated with each. Both wind and solar energy development require separate transmission lines for the low voltage lines. Sweetwater County is the site for several proposed lines, including Energy Gateway West, Energy Gateway South, and TransWest Energy. These transmission lines require additional land to separate them from regular lines and provide potential raptor perching opportunities that threaten prey like the sage grouse and pygmy rabbit.

Wind energy requires the use of tall turbines that harness the high winds typical of central Sweetwater County. A wind energy site also requires an alternative energy source (carbon-based) to run the turbines when the wind is not sufficient and additional transmission facilities to tie the wind energy system into the grid. These facilities require the use of the surface, federal, state, and private land. Identified impacts can include injury or death to migratory birds caught in either the wind turbines or lines, surface disturbance, roads for maintenance, and changes in the skyline due to the permanent construction. The sage grouse conservation plan in particular prohibits wind energy sites within core areas and imposes additional mitigation for the sage grouse.

Solar energy requires a relatively large land area to install and maintain commercial grade solar panels. Like wind energy, supplemental fuels, usually natural gas or coal, are necessary to keep the system operational when weather obscures the sun. The predominance of federally-owned land and historic trails make a commercially viable solar energy project more difficult due to the impacts on the viewsheds along the historic trails in the county.

Geothermal energy has a longer record of providing commercially viable power. It does require, however, the drilling of numerous shallow wells to harness the geothermal power. A geothermal energy project also requires closely-spaced wells and related transmission facilities.

The current federal policies to advance alternative energy development as a solution to the harm caused by carbon-based sources of energy, including coal, natural gas, and oil, need to be measured in terms of environmental impacts and costs. Development and use of virtually all sources of energy have significant environmental impacts. Wind and solar energy costs tend to outweigh the amount of electrical energy produced, even with significant federal funding and public support.

Along with alternative energies comes the development and use of transmission line rights-of-way to transport the energy generated by existing and/or reasonably foreseeable energy sources, such as from wind farms in Wyoming. There are currently three transmission line projects that have been completed or are going through the final stages of the NEPA process that cross through Wyoming and are within or near Sweetwater County. These include the Energy Gateway West Transmission Line Project, the Energy Gateway South Transmission Line Project, and the TransWest Express Transmission Line Project. The Energy Gateway West Transmission line crosses through Sweetwater County following an existing line's location. The Energy Gateway South and TransWest Express Transmission lines currently have preferred alternatives that lie just to the east of Sweetwater County. Each of these two projects has also considered the alternative of locating the transmission line through the eastern portion of Sweetwater County,

which falls within a designated underground utility corridor. The District has been actively involved throughout the NEPA process to ensure the transmission line projects have limited impacts on the environmental resources, private land, and existing land uses in Sweetwater County.

1. GOAL: Support alternative energy development where it is both commercially feasible and does not have disproportionate environmental impacts.

Objective 1A: Evaluate alternative energy projects proposed for Sweetwater County based on the same criteria applied to more traditional projects, including impacts of visual resources, wildlife habitat, soils and vegetation, and impacts on existing land uses.

2. GOAL: Support transmission line rights-of-way that follow, as closely as possible, the existing transmission corridor or other existing lines, and that have the least amount of impact on visual resources, wildlife habitat, soils and vegetation, and impacts on existing land uses.

Objective 2A: Encourage the federal government to address how the transmission line projects will impact existing mineral rights and future mineral development.

Objective 2B: Oppose any transmission line right-of-way that interferes with or adversely impacts private property rights when other reasonable alternative locations are available.

CLIMATE CHANGE

The issue of climate change is really composed of several questions, including: Have temperatures varied in the last century? Assuming yes, then are these temperature variations so outside of the historic and prehistoric variations as to prove a major trend that will continue? Are these temperature changes due to human activities, specifically the use of materials that emit CO₂ that warrant major changes in how power is generated and people live.

Scientists including the United Nations Intergovernmental Panel on Climate Change ("IPCC") concluded that the Earth's temperatures have increased at an alarming rate in the last five decades and that the increases are due primarily to carbon emissions. The conclusions of IPCC and accepted wisdom of much of the scientific community are strongly disputed by other equally prominent scientists. The scientific controversy gained importance in 2009 when East Anglia University emails of the leading climate change scientists were hacked and widely distributed. The emails showed that the IPCC contributors actively discredited critiques of their data, ensured that scientists that questioned the conclusions regarding global warming now renamed climate change would never be published, and denied access to the data used and calculations made by IPCC for its published conclusions.

The release of the East Anglia emails lent further support to earlier publications calling into question the quality and validity of the statistical and scientific analysis used to support the premise of global warming. In 2010, the global warming scientists announced that the original data and calculations used to prove global warming were lost or misplaced. The loss of such

data makes it virtually impossible to validate the original calculations that have led to a major policy shift in the United States and throughout the world.

While IPCC and the Global Warming Policy Foundation both launched investigations, they each concluded that climate change was still occurring. Meanwhile in the United States, the Environmental Protection Agency ("EPA") and other federal agencies are incorporating climate change policies into the regulatory system without examining the underlying data or responding to the significant scientific questions raised about whether there is climate change and whether it is due to carbon emissions.

Recent data also shows that temperatures are not rising in accordance with the models and in many cases scientists have determined that the actual temperatures are adjusted upward to conform to the premise of climate change. The questions relating to causation and whether short term variations are in fact long term support the conclusion that more research needs to be done before abandoning carbon fuels.

Revamping the regulatory system to reduce or eliminate carbon dioxide emissions would have significant impacts on Wyoming. As noted in the discussion of Alternative Energy, wind and solar sources of power have significant adverse environmental impacts, including loss and conversion of wildlife habitat, bird mortality from wind turbines, and loss of scenic resources. Public transportation in the form of high-speed trains and buses is not practical in Wyoming and other more sparsely populated states. Wyoming residents need automobiles and trucks to travel the state for work and recreation.

Switching to non-carbon emitting sources of power and travel has a double impact on Wyoming. It would reduce major economic drivers for the state: coal and oil and gas. Second, it would greatly increase the costs to individual residents for power and travel.

1. GOAL: Ensure that the underlying theories of climate change continue to be carefully scrutinized and require better scientific documentation.

Objective 1A: Ensure that any project discussion of climate change reflects scientifically sound and balanced viewpoint of the scientific controversy.

Objective 1B: Quantify the costs and benefits of any regulatory changes adopted to address climate change.

Objective 1C: Oppose permanent investments based on the assumptions of climate change until the international scientific controversies are addressed with credible and quality data.

WATER RIGHTS

“Water being essential to industrial prosperity, of limited amount, and easy of diversion from its natural channels, its control must be in the state, which, in providing for its use, shall equally guard all the various interests involved.”

Wyoming State Constitution, [Addendum Tab No. 31a at 157, Art. 1, §31].

Wyoming is a prior appropriation doctrine state under which the right to use water is based on the date when a specified quantity of water was put to beneficial use, with preference given to the prior user or appropriation. [Addendum Tab Nos. 46a and 46b at 230, respectively, Wyo. Stat. §§41-3-101, 41-3-102]. Wyoming law establishes procedures and criteria for the recognition of water rights under the doctrine of prior appropriation. [Addendum Tab Nos. 46a-d at 230-231, Wyo. Stat. §§41-3-101 to 104].

Early miners, farmers and ranchers established water rights through the doctrine of prior appropriation. The earliest adjudicated rights in Sweetwater County date from the mid-1860s. As subsequent efforts were made to control the water, landowners brought suit to protect their prior appropriation rights. Today, holders of water rights are still struggling to preserve their rights against encroachment.

1. GOAL: Support allocation of water resources in Sweetwater County in accordance with Wyoming Water Law and the prior appropriation doctrine.

Objective 1A: Coordinate with the appropriate agencies in the land use inventory, planning, and management activities, which affect water resources in Sweetwater County, either directly or indirectly, to ensure consistency with the Plan.

2. GOAL: Support the protection of private rights and interests in irrigation and water development structures on public lands.

3. GOAL: Encourage the use of upstream storage structures and water retention to enhance available water for appropriation and beneficial use, through a combination of:

- On stream storage
- Off stream storage
- Structural storage
- Non-structural storage

Policy 1: *Use of water resources in Sweetwater County is necessary to meet the District’s mandate to conserve rangeland, soil, wildlife, and water resources, and is also necessary to local culture and community stability with particular emphasis on the economic stability of the community.*

Policy 2: *Pursuant to the doctrine of prior appropriation, the District discourages federal agency water right purchases. Furthermore, the District encourages federal agencies to lease*

water rights from the state or private water rights owners rather than claiming water for a federal agency.

Objective 3B. Water resources will remain under state control.

Policy 1: Federal water right claims will be carefully scrutinized to ensure that they meet the letter and the spirit of the Wyoming appropriation laws.

Policy 2: Oppose all efforts by federal agencies to limit or control appropriations and use of water, such as through the denial of rights-of-way necessary to put the water to beneficial use.

Objective 3C: Unappropriated water shall be used within the watershed.

Policy 3: Promote water projects that ensure that the unappropriated water is put to beneficial within the watershed.

WATER QUALITY

State and federal law regulate water quality with respect to point sources or discharges into any water body, which requires a National Pollution Discharge Elimination System (“NPDES”) permit, and nonpoint sources of water pollution, which are regulated through Best Management Practices and watershed plans to limit erosion into specific streams. Wyoming DEQ implements the water pollution laws, issues NPDES permits to implement and enforce federal effluent standards, [Addendum Tab No. 42c at 207-210, Wyo. Stat. §§35-11-301-310] and regulates wetland protection. [Addendum Tab No. 42d at 213-215, Wyo. Stat. §§35-11-308-311]. As part of its regulation of nonpoint sources, the Wyoming DEQ has also identified impaired streams, total maximum daily loads of pollution, and participated in watershed planning to reduce erosion and runoff. [Appendix Tab U *Wyoming Nonpoint Source Management Plan-Update (2013)* and Tab V, *Livestock/Wildlife Best Management Practice Manual-Update (2013)*].

The District is the responsible local government entity charged with protection of soil and water resources. Non-point source water pollution is regulated by the Wyoming DEQ under the Wyoming Environmental Quality Act, [Addendum Tab No. 42 at 195-214]. The District is responsible for the analyses and identification of contaminant sources; the development of Best Management Practices, which apply to nonpoint sources of water pollution; and the development of policies and implementation strategies for improving water quality within the County. [See e.g. Appendix Tabs T, and V, respectively, Watershed Strategic Plan (approved and revised 11/16/2000); *Livestock/Wildlife Best Management Practice Manual-Update (2013)*]. Local, state, and federal agencies involved in planning and/ or implementing the Wyoming Water Quality Act need to cooperate, coordinate, and consult with the District in the County and adjacent counties.

A recent Wyoming law restricts the taking of water quality samples unless the agency or organization has secured the permission of the landowners. Wyo. Stat. 6-3-414 (2015). The law

responds to the chronic trespasses by Western Watersheds Project, whose sole purpose in collecting water quality data is to end livestock grazing.

1. GOAL: Ensure that productive watersheds are maintained for water quality.

Objective 1A: Maintain healthy rangelands and control soil erosion for productive watersheds.

2. GOAL: Ensure the enforcement of the application of the "Credible Data Legislation," which provides the basis for surface water quality monitoring in Sweetwater County. [Addendum Tab No. 42c-ii at 207, Wyo. Stat. §35-11-302(b)].

Objective 2A: Ensure that land use inventory, planning or management activities affecting point or nonpoint sources and water quality in Sweetwater County, either directly or indirectly, are coordinated through the District and are consistent with the Plan.

Objective 2B: Ensure that all management and watershed plans and land use practice modifications proposed by either local, state, or federal agencies premised on water quality issues are coordinated with the District and are consistent with the protection of private property rights.

Objective 2C: Recognize the economic and social benefits of customary land use activities in Sweetwater County and balance against the “social and economic value of the source of pollution.” [Addendum Tab No. 42c-ii at 207, Wyo. Stat. §35-11-302].

Objective 2D: Support and facilitate water quality testing and monitoring programs that collect Credible Data according to Wyo. Stat. §35-11-302 [Addendum Tab No. 42c-ii at 207] data using a local steering committee according to the Watershed Strategic Plan. [See Appendix Tab T, *Watershed Strategic Plan* (approved and revised 11/16/2000).]

Objective 2E: Encourage preparation of a prioritized list of watershed treatment measures to identify problems and suggest actions to solve those problems. These watershed treatment measures and Best Management Practices could include, but not be limited to: seeding, revisions in grazing practices, and the construction of retention ponds and runoff diversion structures.

Objective 2F: Support third-party monitoring only when the third party closely follows DEQ protocols, the data is available to all, and the third party has secured the landowner’s permission to take samples.

Policy 1: *The Watershed Strategic Plan will guide the management of water and watersheds and will be voluntary and locally led and may be put in motion by the 303D listing of a stream by the Wyoming DEQ. Watershed Management Plans can be prepared for geographical areas with similar problems, identify specific actions to be implemented to achieve specific goals, and prioritize actions based on the severity of the problem and the likelihood of success.*

a) *Communicate, coordinate, and consult with affected local landowners, permittees and lessees, municipalities, local, state, and federal agencies to assure protection or enhancement of*

existing water quality. Such protection must be consistent with the Colorado River Basin Salinity Control Act and the State of Wyoming water quality standards.

The District may undertake water quality monitoring and its agents may be guided by a locally led Watershed Advisory Group made up of affected landowners, permittees, lessees, and local, state and federal government to assure compliance. Support from the District, its agents, and partners will be utilized for project design and construction, along with guidance from the Nonpoint-Source Pollution Plan and applicable Wyoming approved Best Management Practices. If construction contracts are necessary, support will be sought from all appropriate local, state, and federal agencies and landowners.

[See Appendix Tabs T, U, and V, respectively, *Watershed Strategic Plan; Wyoming Nonpoint Source Management Plan Update (2013), Livestock/Wildlife Best Management Practice Manual-Update (2013)*].

3. GOAL: Request local, state, and federal agencies to notify the District of any proposed actions or regulations, which may impact water permitting and water rights on state, federal, or private land within the County to enable the District to review and comment on local, state, or federal actions or changes significant to water resources.

Objective 3A: Oppose any legislation, rules, or guidance that attempts to expand the government's jurisdiction over water sources beyond those granted by the CWA and Supreme Court precedent.

WATER / WATERSHEDS

Water and associated water rights in the County are integral to municipal, industrial, agricultural, and recreational uses. Local industry utilizes and controls substantial agricultural and industrial flow and storage water rights in the County. These water rights are essential for the continued operation of coal and trona mining and electricity generation activities in the County. The agricultural uses of water from the Green River and its tributaries are directly associated with viability of agricultural operations throughout the County. The Green River and its tributaries (Vermillion and Red Creek Basins) host habitat necessary for the survival of four federally endangered fish species in the lower reaches of the Green River in adjoining states. The Green River and the Flaming Gorge NRA also host a vital and economically-important cold-water fishery. Private, state, and federal lands border the Green River and its tributaries. In addition to the river front lands that are privately owned, the State of Wyoming owns and manages several parcels and other portions of the river front are owned by the United States and managed by USFWS as part of the Seedskaadee National Wildlife Refuge, or by the Forest Service, as part of the Flaming Gorge NRA. The river system must supply adequate flows to meet the Colorado River Compact requirements as it relates to quantity and salinity, flow regimes for the endangered fish, additional agricultural storage, and industrial storage needs, and needs for recreational storage. [Addendum Tab No. 30 at 153]. The Green River Basin Water Plan addresses these obligations and also proposes to develop reservoir storage in tributaries to the Green River to address identified water shortages. [See Appendix Tabs Q and R, respectively,

Green River Water Basin Plan, Executive Summary-Update (2010), and Green River Basin Water Planning Process, Final Report-Update (2010).]

Watersheds within the Green River Basin are exporting water from the state of Wyoming. Several interdisciplinary planning, management, and implementation groups/agencies exist to address water resource issues in the County and the Green River Basin. (*i.e.* Wyoming State Engineer's Office, Wyoming Water Development Commission ("WWDC"), Wyoming DEQ, Eden Valley Irrigation and Drainage District ("EVIDD"), Colorado Salinity Control Forum, Green River Basin Advisory Group ("GRBAG") Planning Process, Coalbed Methane Coordination Coalition ("CBMCC"), Upper Green River Joint Powers Water Board, and the Wyoming Game & Fish Commission. Discussion has centered on retaining more water within Wyoming and, specifically, within the Green River Basin as a whole and within the County under the priorities identified by the Green River Basin Plan. Adequate water quality and availability is necessary for significant municipal, industrial, commercial, agricultural, and recreational opportunities in Sweetwater County.

Water resources are simply supplies of water that can be drawn upon for various uses. The District is charged with facilitating water conservation and utilization within the District. The District is authorized to aid farmers and ranchers with water projects, as well as addressing water supplies district-wide.

As per this Plan, activities depending on water resources in the County include, but are not limited to: agricultural uses (irrigation of crops, livestock water, wells, etc.); municipal and community uses (city and unincorporated town water supplies); recreation uses (water skiing, motorized and non-motorized water recreation, fishing, swimming etc.); industry uses (power plant operations, mining operations, oil and natural gas drilling, fertilizer plant operations, etc.); and wildlife uses (habitat for aquatic life, drinking for wild animals, etc.).

Federal and state agencies received applications from Aaron Million and expressions of interest from Colorado metropolitan water districts have proposed to exercise the State of Colorado's remaining water allocation in the Colorado River of about 250 million acre feet of water by diverting the water in Wyoming just above or from the Flaming Gorge Reservoir and transporting it through a giant pipeline across Wyoming and then south to Colorado. Project proponents have offered communities in eastern Wyoming, such as Casper and Cheyenne, potential water in exchange for their support.

The proposal was filed with the U.S. Army Corps of Engineers ("US COE"), which initiated an EIS in 2009. The US COE suspended action due to the lack of authorized right of diversion. The Federal Energy Regulatory Commission rejected Million's bid for jurisdiction in 2012. The Wyoming State Engineer rejected the Million water rights application for insufficient information in June 2015.

The proposal would significantly alter flows in the Colorado River system, especially below the Flaming Gorge Reservoir. The Bureau of Reclamation concluded that there is not sufficient water in the reservoir for the diversion without significantly affecting the habitat for threatened and endangered fish, as well as recreation facilities, fish and wildlife, and existing water rights.

Additional questions remain regarding the technical and financial feasibility of the project. The project was originally estimated to cost at least \$4 billion. The Million proposal would have been privately funded, whereas public water districts would secure funding through the sale of bonds or special assessments or significant state and federal funding.

The rejection of applications by the US COE, Federal Energy Regulatory Commission and the Wyoming Engineer suggest that the Million project will not proceed. The possibility of diverting water in Wyoming and transporting it to the Colorado Front Range remains an attractive option for Colorado water districts, because it avoids the costs of building both water storage and pipelines in Colorado.

1. GOAL: Facilitate water resource development that assures the protection of water quantity for the future growth and protection of Wyoming water rights under the Colorado River Compact [Addendum Tab No. 30 at 153] and other agreements.

Objective 1A: Participate in partnerships with local, state, and federal agencies to implement effective watershed-based management to ensure adequate water flows and high water quality in the county's principal rivers and streams (both intermittent and perennial).

Objective 1B: Facilitate and when possible seek funding for appropriate reservoir development to supplement in-stream flows during dry or drought periods for both listed fish and wildlife species and human use according to Wyoming Instream Flow Law. [Addendum Tab No. 46e at 232-236, Wyo. Stat. §§41-3-1001-1014].

Objective 1C: Support additional water storage facilities (*i.e.* reservoir and reservoir rehabilitation projects) on private, state, and federal lands within the County and the Green River Basin.

Objective 1D: Participate as appropriate in water-resource management plans and decisions impacting the County and the Green River Basin and/or the interests of its residents.

2. GOAL: Recognize that the protection and development of water resources are essential to the conservation of soil, rangeland, and wildlife resources as well as the short and long-term economic viability and community stability.

Objective 2A: Coordinate with locally-led watershed planning so that mineral development, rangeland vegetation treatments, forest/woodland harvests, and other appropriate projects reduce effects on soil erosion rates or water quality.

Policy 1: *Oppose Trans basin diversions and water projects unless it is shown to be the only source of water for the community funding the trans basin diversion and there is a clear benefit to the basin from which the water is diverted.*

Policy 2: Oppose interstate water transfers due to the adverse impacts on Wyoming water rights, existing commitments to maintain flows in the Colorado River system, and adverse impacts to future water development in Wyoming.

3. GOAL: Ensure the enforcement of the appropriation and recognition of water rights pursuant to Wyoming law for the beneficial use and support the utilization of private water rights as the most effective means for providing water resources for agricultural, municipal, industrial, domestic purposes, and fisheries.

Objective 3A: Recommend that water rights be recognized and allocated in accordance with state law, to individuals and/or agencies, which fund and develop new water sources while managing for established desired plant communities.

4. GOAL: Protect and support the conservation of the water resources of the County.

Objective 4A: Strive to develop the water resources of the County based on adjudicated water rights so as to best protect water quantity and water quality.

Objective 4B: Request that all emergency actions relative to water resources be subject to notice to the District.

5. GOAL: Facilitate and help to fund efforts to protect and enhance the quality and quantity of usable water by promoting and expanding the efficient management and use of water resources.

Objective 5A: Facilitate and seek funding for the water-conservation and salinity-reduction efforts of individual irrigators and individual irrigation and canal companies involved in the Colorado River Salinity Control Program, including but not limited to, the Big Sandy Project. [See Appendix Tab Q, Executive Summary Green River Basin Water Planning Process-Update (2010)].

Objective 5B: Support maintenance, protection, and/or enhancement of existing water quality in the context of watershed management and development.

Objective 5C: Protect and enhance the quantity of water by promoting and expanding the efficient management of rangelands and forests and the use of water resources for healthy watersheds.

Objective 5D: Support the development, adoption, and implementation of water storage, distribution, and conservation plans and projects by the District, individual irrigators, individual irrigation and canal companies, industrial users, aquatic recreation users, municipalities, and public and private landowners.

6. GOAL: Support development and retention of storage facilities that would allow the capture of excess spring runoff to be utilized later in the year.

Objective 6A: Work with private landowners to identify potential storage sites.

Objective 6B: Support the development and use of water by municipalities, so long as the appropriations and development are based on documented needs for consumptive and beneficial uses.

Objective 6C: Encourage identification and prioritization for development, additional springs, well, and storage facilities within Sweetwater County.

7. GOAL: Promote locally-led watershed planning.

***Policy 1:** Water needs of the Green River Basin will be satisfied before consideration is given to leasing water out of the Green River Basin in Wyoming or the sale or lease of water out of state. Any sale or lease of water out of basin or out of state will be mitigated by storage before the transaction is approved.*

***Policy 2:** Support the protection of appropriated water rights so that "in-county and in-basin" water is made available to the County residents and Green River Basin residents first, and then to Wyoming residents, before being used by non-Basin interests. The District does not support the sale or lease of water from the Green River Basin to downstream (out-of-state) users. If the State of Wyoming chooses to lease Colorado River water to downstream users, revenue derived from the sale or lease of Green River Basin water should be returned to that Basin and be used to improve water storage, water wells, and distribution facilities within the Green River Basin. The District does not support the use, sale, or lease of Green River Basin water unless the storage needs of the Green River Basin have been met or mitigated. This policy also applies to transbasin diversions. The District does not support the use of sale or lease revenues to improve water needs in other areas of the State until the needs of the Green River Basin have been met and or mitigated.*

***Policy 3:** The protection of existing water rights and water uses within Sweetwater County is of primary importance to the District's mandate to conserve rangeland resources, soil, and water to stabilize the agriculture industry, and to protect the tax base. Therefore, changes in water uses for federal, state, or local purposes that will potentially reduce the available water or adversely affect existing water rights should be carefully considered in relation to the effects on rangeland resources, soil, and water and the agriculture industry, as well as the history, traditions, and custom and culture of the County. The District requests consultation, cooperation, and coordination with all local, state and federal agencies to any water use plans that have any effect on Sweetwater County and/or the Green River Basin to assure local land management plan consistency.*

***Policy 4:** Oppose the conversion of agriculture water to municipal and industrial uses, while not interfering with the underlying rights to sell or change the water right. Facilitate construction of water storage and other facilities to preserve agriculture water while allowing for the diversification of the community which would otherwise require water.*

***Policy 5:** During periods of drought or other emergencies, local, state, and federal agencies shall work closely with the District, the Wyoming State Engineer, and other local, state, and*

federal agencies to address availability of water for critical needs, including agriculture and municipal uses.

Policy 6: *Work for the implementation of the Green River Basin Plan by formation of an Upper Green River Basin Joint Powers Water Board, a Water Conservancy District, individual grants, and/or projects with the Wyoming Water Development Commission, as long as, the potential for direct benefits to the District exists. If it becomes evident that anticipated projects will not be built, the District will withdraw from the program and ask that the District's contributed funds be returned. These funds would be made available to local entities for water improvement projects.*

Policy 7: *Ensure that the Flaming Gorge Dam properly manages water supplies to meet obligations under the Colorado River Compact, and to help stabilize the economies of surrounding communities dependent on the recreational opportunities related to the dam.*

Policy 8: *Encourage and facilitate development of water storage facilities to meet Wyoming water needs.*

Policy 9: *Under the doctrine of prior appropriation, the District declares that historic and customary beneficial uses under state law, do and should take precedence over any and all in-stream flow use designations established under current Wyoming State Law.*

Policy 10: *The District requests notification of all proposed interstate and federal water development, conservation or other actions that may have an impact on the water rights or uses in Sweetwater County prior to initiating actions.*

- a) *Recommend that any water quality programs (i.e. nonpoint source pollution programs) evaluate, mitigate, and minimize the impacts on Sweetwater County's water rights, custom and culture, and economic viability.*
- b) *Recommend that at least one District representative or designee from water resource interests is included in decision-making process for proposed actions by local, state, or federal agencies affecting water resources in the County.*
- c) *Request notice of any actions or regulations which involve water resources on federal and state land within the county. The District will review and comment on local, federal or state actions or changes significant to water resource issues in the County.*

IRRIGATION / AGRICULTURE

Irrigated crops contribute to the economic base of the County and are integral to the stability of livestock production, wildlife habitat, and farming while maintaining the local custom and culture. Due to the location and additional water, cropland and irrigated fields often provide key winter habitat for big game and other wildlife.

1. GOAL: Support maintenance and/or enhancement of productive watersheds for the preservation of irrigated agriculture.

Objective 1A: Assist in maintaining healthy rangelands and forests for productive watersheds.

Objective 1B: Assist and promote the continued use of Best Management Practices for erosion control on rangeland and irrigated cropland by local cooperators.

2. GOAL: Protect water rights and irrigation ditch easements.

Objective 2A: Support the enforcement and implementation of Wyoming Water Law.

3. GOAL: Support maintenance and enhancement of water storage and conveyance structures.

4. GOAL: Support opportunities for grazing livestock on private, federal, and state lands, protection of property rights and equitable interests in land, science-based land stewardship, and promote Best Management Practices for the improvement and continued use of all rangelands and irrigated cropland within the County. [See Appendix Tab V, *Livestock/Wildlife Best Management Practice Manual-Update* (2013).]

Objective 4A: Encourage private land owners, local, state and federal agencies to cooperate in defining desired plant communities on private, state, and federal lands within the County to control soil erosion.

Objective 4B: Support increased productivity of irrigated lands to increase and/or maintain animal unit months (“AUMs”) in Sweetwater County.

5. GOAL: Encourage agricultural viability as part of the custom and culture and beneficial impacts on public land uses in the County.

Objective 5A: Encourage the use of locally-led interdisciplinary groups to address agricultural issues in relation to public land uses on a case-by-case basis.

6. GOAL: Promote public education by providing information to urban and rural communities regarding agriculture, natural resource, and wildlife issues.

Objective 6A: Support and utilize local, state, and federal partnerships for cost-share programs for range improvement and irrigation practices.

Objective 6B: Develop information regarding roles of irrigation and range management to educate the public.

Objective 6C: Provide information to landowners and the general public on regulatory actions and their effects, including but not limited to, the Wyoming Environmental Quality Act, implementing the Federal Water Pollution Control Act, and the Endangered Species Act.

Objective 6D: Support Conservation Districts and their state associations in their efforts to assist resource managers on conservation actions and issues.

Policy 1: *Oppose local, state, and federal agency land use plans, regulatory actions, including rules, or management recommendations, which do not address the regulatory impacts and consider mitigation that will decrease impacts on small businesses (including agriculture) and small government entities. [See Addendum Tab No. 51 at 256, Ex. Order 13272 (Aug. 13, 2002)].*

Policy 2. *The characterization and conservation of soil and soil resources are fundamental to the proper development of all natural resource uses and are reflected in the legislative declaration of the District. Currently the Farson/Eden area is the only area in the county with a digitized/published soil survey. The remaining private, state, and federal lands within the county with natural resource uses need to be surveyed. Request that a county, state, and federal partnership be formed to fund a Natural Resource Conservation Service accepted Level III Soil Survey (digitized/published) for all lands within Sweetwater County.*

DITCHES / CANALS

1. GOAL: Recognize and protect ditch easements as property rights.

Objective 1A: Encourage recognition of ditch easements that include the right of the owner to enter, inspect, repair, and maintain a canal or ditch.

Objective 1B: Encourage the implementation of policies that limit encroachment upon or impairment of easements for canals or ditches, without the permission of the easement owner.

Objective 1C: Encourage adoption and implementation of policies encouraging the owners of ditch easements to be reasonable in the use of their easement.

2. GOAL: Cooperate with irrigation districts and ditch associations.

Objective 2A: Cooperate, coordinate, and consult with irrigation districts and ditch associations (acequias) in water planning and water related issues.

Policy 1: *Ownership of water rights, ditch water rights, and related easements are distinct property rights.*

FLOODPLAINS / RIVER TERRACES & WETLANDS

Floodplains are relatively broad and smooth valley floors constructed by active rivers and periodically covered with floodwater during periods of overbank flow. Floodplains usually include the riparian and wetland areas. The flood plain is a part of the active erosion and depositional activity of river channels.

River terraces (benches) are abandoned floodplains that formed when their associated rivers flowed at high levels in the past. Many alluvium-filled valleys in Sweetwater County have terraces at their margins, which, when irrigated, are some of the most productive farmlands.

Wetlands help regulate water levels within watersheds, improve water quality, and reduce flood and storm damages. Wetlands are most common in floodplains along rivers and streams (riparian wetlands). They also occur in isolated depressions surrounded by dry land (for example: playas, basins, and "potholes"), along the margins of lakes and ponds, and other low-lying areas, where the groundwater intercepts the soil surface or where precipitation sufficiently saturates the soil (vernal pools and bogs). Wetlands include marshes and wet meadows dominated by herbaceous plants; swamps dominated by shrubs, and wooded swamps dominated by trees.

The NRCS has primary responsibility for delineation of wetlands pursuant to an interagency Memorandum of Agreement dated January 6, 1994 [Addendum Tab No. 52 at 258]. The U.S. Army Corps of Engineers still has primary responsibility to issue a "dredge and fill" permit under Section 404 of the Clean Water Act when construction may affect the waters of the United States, such as filling in a wetland area. [Addendum Tab No. 22c at 98, 33 U.S.C. §1344]. Mitigation may be required in the form of replacement wetlands to meet the "no net loss" of wetlands policy.

Trough implementation of policies and guidelines, the Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) extended their jurisdiction over those waters protected by the Clean Water Act (CWA) to include waters that may affect waters of the U.S. Three U.S. Supreme Court decisions have defined and limited the scope of the EPA and Corps jurisdiction over waters: *United States v. Riverside Bayview Homes Inc.*, 474 U.S. 121 (1985), *Solid Waste Agency of Northern Cook County (SWANCC) v. U.S. Army Corps of Engineers*, 531 U.S. 159 (2001), and *Rapanos v. United States*, 547 U.S. 715 (2006). These cases created the rule that the EPA and Corps have jurisdiction over wetlands that are continuously adjacent to or have a significant nexus with traditional navigable waters under the CWA. In 2007, the EPA adopted direction consistent with the Supreme Court decision. In 2009, the EPA supported legislation to reverse the Supreme Court decisions in *SWANCC* and *Rapanos*, but the legislation failed. [Clean Water Restoration Act of 2009, S. 787, 111th Cong.]. The EPA then proposed to revise its 2007 CWA guidance to extend its regulatory authority through selective interpretation of the Supreme Court Decisions. [76 Fed. Reg. 24479]. This guidance was never made final due to the numerous comments that were received criticizing the EPA for not conducting rulemaking and failing to respect the previous decisions of the Supreme Court.

The EPA and Corps finally published the proposed rule Definition of Waters of the United States under the Clean Water Act in April of 2014. [79 Fed. Reg. 22188]. The government received numerous comments on the proposed rule. The majority of the substantive comments criticized the rule for expanding its authority beyond those granted in the CWA and in conflict with Supreme Court precedent. The EPA announced the final rule in May of 2015. The new rule provides the EPA and Corps with jurisdiction over waters that are not navigable; includes tributaries that are perennial, intermittent, or ephemeral, have bed, banks, and ordinary high water marks, and flow directly or indirectly to traditional waters; waters adjacent to traditional waters, including those within 100 feet of an ordinary high water mark of a traditional water or within a 100-year floodplain and 1500 feet of an ordinary high water mark of a traditional waters; and waters with a significant nexus to traditional waters, such as waters within the 100-

year floodplain of a traditional water and waters within 4000 feet from the high tide line or ordinary high water mark of traditional waters. 80 Fed. Reg. 37054 (2015).

Twenty-seven states challenged the rule and industry groups filed their own challenges. The four state cases were consolidated in the Sixth Circuit Court of Appeals under multi-district litigation procedures. The Sixth Circuit enjoined EPA on October 9, 2015 from enforcing the rule on the basis that the plaintiffs had shown likelihood of succeeding on the merits. *In re: Environmental Protection Agency and Department of Defense Final Rule; "Clean Water Rule: Definition of Waters of the United States,"* 80 Fed. Reg. 37,054 (June 29, 2015), Nos. 15-3799/3822/3853/3887.

1. GOAL: Encourage a cooperative approach to wetlands issues that conserves and protects soil and water resources and also protects rangeland and agriculture uses.

Objective 1A: Work with local, state, and federal agencies and landowners to achieve acceptable solutions and mutual benefits, both economic and otherwise, on these issues.

Objective 1B: Participate in the process to develop a consistent definition and accurate delineation of wetlands and lands adjacent to wetlands that can be applied in the District.

Objective 1C: In developing a wetlands definition, attempt to include the following components:

Wetlands are naturally occurring areas of predominantly hydric soils that support hydrophyte vegetation due to existing wetland hydrology. [Glossary, pp. 101-102].

Hydric soils are defined as soils formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part. *Id.*

Hydrophyte vegetation is defined as development of plant communities specifically adapted for recurring inundation or saturation. Generally there should be a predominance or b of obligate wetland plants and facultative wetland plants. *Id.*

Objective 1D: Ensure that regulation of wetlands does not impair property rights.

2. GOAL: Respect the role of local wetlands in the landscape which is different from and independent of national wetlands and related regulation.

3. GOAL: Oppose expansion of wetlands regulations and the government's jurisdiction over water sources as proposed by the EPA.

RIPARIAN AREAS

Riparian areas are zones bordering lakes, reservoirs, potholes, springs and seeps, wet meadows, vernal pools, and ephemeral, intermittent, or perennial streams. They are of prime importance to water quality, water quantity, stream stability, and fisheries and wildlife habitat. Abundant water, forage, and habitat attract a proportionately greater amount of use and conflict than their small area would indicate. They are vital to the livestock grazing industry, mining, and many are also well suited for development as high quality agricultural farmland.

A riparian area is an area along a watercourse or around a lake or pond. It also refers to a “corridor encompasses the stream channel and that portion of the terrestrial landscape from the high water mark toward the uplands where vegetation may be influenced by elevated water tables, or flooding, or by the ability of soils to hold water.” Citing Malcomb Hunter, Robert Naiman states:

"At the smallest scale, the riparian zone is the immediate water's edge where some specialized plants and animals form a distinct community. At a larger scale, the riparian zone is the area periodically flooded by high water, the stream banks and flood plain. At the largest scale, the riparian zone is the band of land that has significant influence on the stream ecosystem, and/or is significantly influenced by the stream."

BLM describes riparian areas as those terrestrial areas where the vegetation complex and micro climate conditions are products of the combined presence and influence of perennial and/or intermittent water, associated high water tables and soils which exhibit some wetness characteristics. The term ‘riparian area’ often refers to the zone within which plants grow rooted in the water table of these rivers, streams, lakes, ponds, reservoirs, springs, marshes, seeps, bogs and wet meadows. [Appendix Tab X, *Riparian Area Management, Riparian Wetland Soils* BLM-Forest Service, Technical Reference 1737-19 (2003).]

Riparian areas are ecosystems that occur along watercourses or water bodies. They are distinctly different from the surrounding lands because of unique soil and vegetation characteristics that are strongly influenced by free or unbound water in the soil. Riparian ecosystems occupy the transitional area between the terrestrial and aquatic ecosystems. Typical examples would include floodplains, stream banks, and lakeshores.

Upland rangelands generally refer to all areas that are not in a riparian area or wetland. The uplands will vary by soil and plant species but do not have natural sources of water that otherwise change soils and plants.

1. GOAL: Encourage a coordinated approach when establishing riparian and upland management plans and encourage the use of Best Management Practices.

Objective 1A: Encourage enhancement of the range resources through planned grazing systems that provide an accurate and verifiable system for comprehensive (short and long-term) monitoring and evaluation of the entire range resource within the grazing system.

Objective 1B: Encourage defining riparian areas as areas of land directly or indirectly influenced by permanent water. Riparian areas have visible vegetation or physical characteristics reflective of permanent water influence. Excluded are such sites as ephemeral streams or washes that do not exhibit the presence of vegetation dependent upon free water in the soil.

Policy 1: *Support livestock and other managed uses of watersheds because properly managed multiple uses are compatible and consistent with watershed management.*

Policy 2: *Exclude from wetlands regulations, including mitigation or compensatory wetlands policies, those artificially-created wetlands that cease to be wetlands when the water project is repaired and the area dries up.*

Policy 3: *Require water quality monitoring as part of energy and right-of-way development projects to ensure groundwater and surface water quality is not degraded.*

RANGELANDS, WOODLANDS AND FORESTS

Rangelands

The majority of the rangelands and riparian zones in the County support an understory or periodic cover of herbaceous or shrubby vegetation suitable for rangeland management principles or practices. The principal natural plant cover is composed of native grasses, forbs, and shrubs that are valuable as forage for livestock and big game. Any land supporting vegetation is suitable for wildlife or domestic livestock grazing, including grasslands, woodlands, shrub lands, and forest lands. Rangeland includes lands revegetated naturally or artificially to provide a plant cover that is managed like native vegetation. Rangelands in the County consist of sage brush-steppe, grasslands, desert shrub lands, and wet meadows. Most of the land in Sweetwater County is classified as rangeland. The soil and climate make the land best-suited for grass and shrubs, rather than farming. The earlier discussion of the District at pp. 8-10, covers vegetation, soil, and precipitation, as well as wildlife and game species. The BLM requires public rangelands to meet, maintain or make substantial progress towards meeting standards, which were developed for Wyoming. [Appendix Y, Wyoming Standards for Healthy Public Rangelands].

Forests & Woodlands

The Flaming Gorge NRA and the small portion of the Ashley National Forest are located in Sweetwater County. This land area is managed pursuant to the laws governing the National Forest System, although the NRA is also subject to the provisions of the Colorado River Water Project under which it was established.

Most National Forests were reserved from the public domain to provide a perpetual supply of timber for home industries, to prevent destruction of the forest cover, and to maintain favorable conditions of flow. Subsequent legislation directs that the National Forests are to be managed for multiple use and sustained yield, based on standards and guidelines established in regulation and customized to each unit of the National Forest System through the land use planning process. [Addendum Nos. 13a and 13c at 60, 16 U.S.C. §1604(c) and §1604(e)]. Portions of the Ashley

National Forest and the NRA were established by land acquisition and these units were not “reserved” from the public domain. While some of the laws governing the management of National Forests apply, the reserved water rights doctrine does not apply to acquired lands.

While there is little commercial logging in Sweetwater County, timber is cut for firewood and poles. Other thinning projects are warranted to reduce fuel loads that now average 95% due to insects, disease, and drought. These fuel loads on the Ashley National Forest threaten watersheds and municipal waters in Sweetwater County. The forest lands are primarily piñon, juniper, Lodgepole and limber pine, and some Douglas fir.

Woodland products (*i.e.* piñon - juniper, cottonwood, and Douglas fir) will be provided as a part of multiple use management while providing reasonable protection to other resources (managed on a sustained yield basis). Fuel wood, cedar posts, and other woodland products should be available for harvest by the public. Public utilization of the woodlands could be used along with prescribed burns to improve habitat for livestock and wildlife. Woodland management plans will be prepared to describe specific actions to be implemented to achieve objectives. A charge will generally be made for these products, but free use could be authorized on additional lands where the material has no market value or the demand is small. Stipulations to protect visual resources, wildlife habitat, and other resource values could be attached to permits at time of issue.

1. GOAL: Achieve good rangeland, forest, and woodland health to ensure healthy and vibrant watersheds for current and future generations and to sustain the stability of ranching and agriculture.

Objective 1A: Protect our environmental capital assets by managing mortality and reducing fuel loads on rangeland and forest areas.

Objective 1B: Maintain and restore watershed health by demonstrating active rangeland, forest, and woodland management.

Objective 1C: Enhance and restore habitat.

Objective 1D: Continue to provide a wide variety of trees, shrubs, and seedlings to the community for windbreaks, shelterbelts, and aesthetic value for wildlife and agricultural use.

Objective 1E: Support the early detection and control of noxious and invasive weeds and insect infestations.

2. GOAL: Support and promote a sustainable and continuous supply of forage, timber, wood products and bio-fuels, firewood, wildlife, fisheries, recreation, and water supplies utilizing multiple use on our public rangelands, forests, and woodlands.

Objective 2A: Request to be involved in the designation/management of areas that may require single-use or restrictive-use.

Objective 2B: Support the maximum area of land possible to be excluded from single-use or restrictive-use designations, so that excluded land is available for active and sound management.

Objective 2C: Support local land managers on site-specific management decisions based on sound science, compliance with Wyoming Standards for Healthy Public Rangelands and Best Management Practices. [See Appendix Tab Y, Wyoming Standards for Healthy Rangelands and Tab V, *Livestock/Wildlife Best Management Practice Manual-Update (2013)*].

Objective 2D: Ensure that rangeland health assessments identify all of the causal factors when there is a failure to meet the Wyoming Standards for Healthy Rangelands and that livestock grazing uses are not reduced to compensate for or mitigate the impacts of other causal factors.

3. GOAL: Educate the public on the benefits of multiple use and long-term sustained yield of rangeland and woodland resources.

Objective 3A: Encourage public education documenting through science and practical experience the benefits of active management of rangelands, forest, woodlands and other areas.

Objective 3B: Support cooperation with public land managers, local organizations, boards and governments on the importance of public lands to local infrastructure maintenance.

Objective 3C: Support agreements with federal and state agencies to formalize a working relationship with local, state and federal land managers.

Policy 1: Encourage the creation of a model in Sweetwater County that demonstrates how active rangeland management can meet economic needs, while maintaining and restoring watershed health.

Policy 2: Work with local, state and federal agencies in partnership to help assess the state of our rangelands, forests and woodlands.

Policy 3: Explore vegetation management and harvest methods, where applicable, that enhance wildlife habitat, through vigorous new growth and a natural mosaic and that reduce fuel loads.

Policy 4: Support local, regional, state and federal partnership in the manufacture and use of forest and forest by-products, including innovative ways to harvest timber.

Policy 5: Coordinate the monitoring of wildlife species with the Wyoming Game & Fish. Permittees, private landowners, state and federal land managers in order to provide project engineering design, construction and prescribed burning support for resource enhancement. The forestlands/woodlands program will provide support through vegetation treatments for both rangeland and forest areas that will enhance wildlife habitat.

Policy 6: Support the four principal dimensions as outlined by the National Forest County Partnership Restoration Program to address the existing extreme fire potential which are (1) Community-based collaboration with stake holders; (2) Integration of Best Management

Practices that incorporate peer-reviewed science; (3) Expedited implementation of rangeland, forest watershed, and landscape restoration and enhancement projects at the site-specific and landscape levels; and (4) Flexibility in authorities and programming. [See Appendix Tab F, 2002 Mega Ag Convention Joint Resolutions, Wyoming Association of Conservation Districts, Wyoming Stock Growers Association, and Wyoming Wool Growers Association.]

Policy 7: *Recommend the following actions to assist in ensuring healthy and sustainable rangelands, forests, woodlands and other areas:*

a) *Become actively involved in multi-jurisdictional/county level coordinating committees such as those formed under the National Fire Plan, or where these committees do not currently exist, initiate committee formation to address rangeland and forest management concerns. [Appendix Tabs JJ, KK, LL and NN, respectively, Wyoming High Priority Interface Communities Map, Fire Management Green River RMP Map 4, Wyoming Interagency Fire Plan (draft), and Fire Management Plan, Southwestern Zone Wyoming BLM 2004].*

b) *Examine criteria for the USDA - Forest Service and DOI competitive grant processes for the National Fire Plan to determine avenues to improve ranking of projects from Wyoming designed to address wildfire fuels mitigation. [Appendix Tab JJ, Wyoming High Priority Interface Communities Map.]*

c) *Seek cooperating or coordinating agency status where the District has jurisdiction, expertise or capacity within the District exists, to facilitate input into planning and management, providing review and comments to pre-planning project implementation, EA and EIS document development.*

d) *Actively promote fuel reduction projects to protect watersheds, water quality, and vegetation, as well as sage grouse habitat.*

Policy 8: *Support the Wyoming Office of State Lands Strategic Plan with respect to management of forest resources on private land to achieve the best long-term return on investment and to promote healthy forests. Support efforts to encourage a similar and compatible policy with respect to forests on federal land that are eligible for harvest or intensive management to reduce the incidence of disease and insect infestation.*

Objective 1E: Address the impacts of beetle infestation and disease.

Policy 1: *Develop or participate in a coordinated plan to reduce fuel loads in forest areas that are already infested and manage the remaining forested areas to minimize further infestation.*

Policy 2: *Include in the plan soil conservation and renegotiation to restore the forested areas and improve forest health.*

Policy 3: *Ensure that recovered wood products are used, whether for building material or biofuels.*

FLORA AND MANAGEMENT OF VEGETATION

Management of vegetation is based on the flora (plants) of a particular region, district, or geographical period; a description of such plants describes plants living in nature that include both native and introduced plants to the County as well as desirable and undesirable plants. *See* p. 8-9 As per this Plan, activities depending on native and introduced flora include, but are not limited to: agriculture (livestock carrying capacities, desired plant communities); weed (management); recreation and education (plant identifying, 4-H range judging, etc.); habitat management for domestic and wild animals; and species of concern (management of rare, threatened, and endangered plants or habitat for animal species of concern, including state sensitive species). Vegetation resources may be managed differently on private land, as compared with land owned by the State or the United States. The Plan attempts to consider vegetation resources on all lands, while respecting private land interests and rights.

The encroachment of juniper/piñon, pine, and Douglas fir into rangelands can reduce rangeland diversity and productivity and dewater riparian areas and wetlands. Similarly, the expansion of decadent and old sagebrush over thousands of acres in Sweetwater County threatens multiple uses and the maintenance of healthy rangeland conditions and habitat. The spread of invasive species, such as halogeton and cheat grass, by surface disturbing activities also threatens rangeland resources. More aggressive or intensive management of these vegetation communities will enhance and sustain multiple uses and increase rangeland productivity.

Sweetwater County enjoys a diverse and abundant plant population. Private, state, and federal lands provide vital plant species managed for various consumptive and non-consumptive uses.

Goal 1: Encourage and facilitate reclamation and mitigation of the impacts on the forage resource that comes as a result of surface disturbance from mining, oil and gas, utilities, and recreation.

Objective 1A: Encourage land managers and landowners to seek technical assistance to mitigate surface disturbance to facilitate soil and water conservation and re-establishment of native or other desired vegetation.

Objective 2A: Encourage immediate reclamation after surface disturbing activities, site stabilization and intermediate reclamation, the use of native and sterile nonnative plant seeds, and monitoring of reclamation efforts to facilitate the re-establishment of native or other desired vegetation.

2. GOAL: Enhance the current amount of rangeland vegetation, by actively reversing the colonization and encroachment of rangelands by piñon, juniper, conifer and weed infestations.

3. GOAL: Participate in local plans for sage grouse management to ensure an effective balance between sagebrush habitat for sage grouse and grass vegetation for domestic and wild grazing animals.

4. GOAL: Support and work to identify range management objectives based on site potential, climate and land uses.

Objective 4A: Facilitate and support monitoring and evaluation of rangeland, soil, and water conditions to ensure that management decisions are based on sound and credible data as mandated in state and federal law.

5. GOAL: Support the establishment of habitats that are ecologically sustainable, diverse in species and structure and not manage habitat for the benefit of a single species in the County based on site potential and climate, and set goals for plant management to benefit and protect rangeland resources, soil, and water.

Objective 5A: Work to secure NRCS accepted Level III Soil Survey on all lands in Sweetwater County to identify Desired Plant Communities.

Objective 5B: Support a local, regional, state, and federal partnership effort to complete a Level III NRCS accepted, prioritized, digitized and published soil survey for all of the lands in Sweetwater County (unique checkerboard land pattern requires a three-way partnership).

Objective 5C: Support the use of the completed Soil Survey to manage highly erodible soils found in Sweetwater County, to maintain productivity, minimize erosion, protect private and public water reserves, water quality, limit severe and critical erosion by restricting or mitigating surface disturbance so as to minimize soil erosion, and to restore degraded areas.

Objective 5D: Request local, state, and federal agencies to work with local public to develop Desired Plant Community goals for management areas. These goals shall provide for a variety of land uses and that will maintain and enhance the rangeland, soil, and water resources to stabilize the ranching and agriculture of the District, and, in turn, protect the custom and culture and economy of Sweetwater County. Native vs. non-native species and desirable and non-desirable species shall be identified through a local-input process for the County.

Objective 5E: Request cooperation in identification of and recovery-planning efforts for sensitive, threatened and endangered plant species which evaluate, mitigate, and support the County's custom and culture, economic viability and community stability.

6. GOAL: Encourage and promote the protection of the grassland resources from the invasion and expansion of juniper/piñon pine, conifers, sagebrush, and non-native invasive plants and noxious weeds.

Objective 6A: Participate in the review of and encourage the inclusion of control measures for woody species.

Objective 6B: Work closely with local, state and federal agencies to identify areas for sagebrush management and control, based on wildlife habitat needs, without compromising overall rangeland vegetation productivity.

Policy 1: Recommend local, state and federal agency research and provide funding opportunities and compensation to landowners that provide high quality habitat for animal and plant wildlife species of concern.

Policy 2: The characterization and conservation of soil and soil resources are fundamental to the proper development of all natural resource use and is a legislative declaration of the District. Utilize the digitized/published soil surveys and complete the Natural Resources Conservation Service accepted Level III Soil Survey (digitized/published) for all lands within Sweetwater County.

Policy 3: Recommend that local, state, and federal partnership fund a NRCS-accepted Level III Soil Survey on all lands within Sweetwater County.

Policy 4: Recommend locally driven efforts be initiated to identify Desired Plant Communities for areas within Sweetwater County.

Policy 5: Recommend at least one District representative or LRAC designee from flora (plant) interests to be included on any team-based decision making process by local, state or federal agencies that relates to vegetation management in the County.

Policy 6: Request to be notified by local, state and federal agencies as to any action or regulation which involves plants or vegetation management for wildlife on local, state and federal land within the County. The District will review and comment on local, state and federal actions or changes significant to plant and related wildlife issues in the County.

Policy 7: Recognize that the continued presence or possible listing of any rare plant species as endangered or threatened under the ESA or as sensitive heightens the need for private citizens, local, state and federal agencies to identify desired plant communities for areas within the District.

CONTROLLING WEEDS & PESTS

The spread of noxious and invasive weeds on all land is a national problem that threatens rangeland and farmland productivity. [Addendum Tab No. 53 at 270, Ex. Order 13112 Invasive Species, (Feb. 3, 1999)]. Halogeton and cheat grass are two noxious weeds that are particularly abundant in Sweetwater County and adversely impact rangeland and farmland productivity. Any surface disturbing activities have the potential to increase the presence and spread of these noxious weeds. Weed seeds are transmitted primarily by wind, wildlife and birds but will take root more easily where the surface is disturbed. Sweetwater County has an aggressive weed control program in place, including full-time County Weed Supervisors and a five-member Weed and Pest Board.

1. GOAL: Support and cooperate in the development of a comprehensive Sweetwater County Weed Management Plan.

Objective 1A: Encourage the implementation of county weed control policies.

Objective 1B: Continue the County commitment to fund weed control programs in Sweetwater County. Review and be consistent with Weed & Pest plan or encourage working relationships.

2. GOAL: Support eradication, to the extent possible, of nonnative invasive plants and noxious weeds within Sweetwater County. [See Appendix Tab J, 2003 Declared List of Weeds and Pests, Wyoming Weed and Pest Control Board, as amended.]

Objective 2A: Support the Sweetwater County Weed & Pest Board (“SCWPB”) as the weed authority for Sweetwater County.

Objective 2B: Encourage the cooperation of local, state and federal governments for procurement of additional funding for SCWPB for the control of weeds on all lands in the County.

Objective 2C: Support SCWPB current and future efforts to identify the location of all noxious weeds, in particular halogeton and cheat grass and similar invasive plants, and initiate management and/or eradication.

Objective 2D: Cooperate in noxious weed control to improve the productivity of federally-managed rangelands consistent with local, state and federal law and policies to eradicate noxious and invasive weeds, and to enhance native vegetation. [See Appendix Tab J, 2003 Declared List of Weeds and Pests, Wyoming Weed and Pest Control Board, as amended; Addendum Tab No. 53 at 270, Executive Order 13112, Invasive Species (Feb. 3, 1999)].

Objective 2E: Support cooperative agreements and, if necessary, legal actions to assure the protection of all lands from noxious weed invasion or occupation.

Objective 2F: Communicate, coordinate and consult with local, state and federal governments on education about the eradication of invasive alien species.

3. GOAL: Recognize the State of Wyoming Noxious Weed List [Appendix Tab J, 2003 Declared List of Weeds and Pests, Wyoming Weed and Pest Control Board, as amended.] Addendum Tab No. 32 at 160, Wyo. Stat. §11-5-102(a) (xi)] and assist Sweetwater Weed & Pest Districts in monitoring efforts of invasive plant species and noxious weed infestations throughout the county.

Objective 3A: Work with the State and SCWPB to add Cheat grass and halogeton to the Wyoming Noxious Weed List.

4. GOAL: Support control of undesirable plants and pests, including mosquitoes, by scientific methods including integrated pest management with consideration given to: competitive planting, bio-control by insects and weed eating mammals, cultural, chemical and mechanical treatments for both plants and pests, by cooperating with local, state and federal governments.

Objective 4A: Work closely with local, state, and federal health agencies to manage and monitor zoonotic and vector-borne diseases, including mosquitoes that transmit viruses, such as West Nile.

Objective 4B: Facilitate public education regarding effects of zoonotic and vector-borne diseases on game and wildlife, including impacts of West Nile virus on sage grouse and sylvatic plague on prairie dogs and mountain lions.

5. GOAL: Oppose efforts of special interest groups to attribute noxious weeds infestation to livestock grazing.

Objective 5A: Educate agency personnel and the public regarding the documented vectors of wind, wildlife, and birds for the transfer of noxious weeds and methods to eradicate infestations.

LIVESTOCK GRAZING

The production of livestock in Sweetwater County is necessary to the area economy, tax base, and the livelihood of the ranching/farming businesses and related industries and it is also vital to the well-being and continued health of natural resources on federal, state and private lands. The District shall strive to protect our ranching/farming heritage, as it is a primary foundation of the custom and culture of the County.

The range production of livestock and livestock grazing are management tools that are used to maintain and enhance the rangeland resource. Improving the rangeland resource through livestock grazing benefits watersheds, wildlife, water quality and recreation, reduces wildfire risk, as well as providing needed forage for sustaining livestock production and wildlife habitat.

Pursuant to the Taylor Grazing Act, the public lands in Sweetwater County were determined to be “chiefly valuable for livestock grazing” and were withdrawn from sale or homestead entry to be managed for grazing. [Addendum Tab Nos. 25a and 25b at 129-130, respectively, 43 U.S.C. §315, and Executive Order of November 26, 1934, No. 6910]. Public lands in the County were organized into the Rock Springs Grazing District. In 1964, Congress directed BLM to manage the public lands for multiple use and sustained-yield. With passage of FLPMA in 1976 and the Public Rangelands Improvement Act (“PRIA”) in 1978, 43 U.S.C. §§ 1901-1908, Congress affirmed the multiple use mandates for public lands but identified livestock grazing along with mineral development, wildlife, and recreation, as primary multiple uses. [Addendum Tab Nos. 28b, 28h, 29 at 133, 139, and 151, respectively, 43 U.S.C. §1702(l), §1732(a), §1901(a) (4)]. PRIA directed BLM to intensively manage public lands in order to improve and enhance rangeland conditions. [Addendum Tab No. 29 at 151, 43 U.S.C. §1901(b)]. Congress also earmarked \$10 million each year to fund range improvement projects, including water development and vegetation treatment. *Id.*

1. GOAL: Support and facilitate the continued use of private, state, and federal lands for the production of livestock.

Objective 1A: Support the continued use of federal and state lands for livestock grazing.

Objective 1B: Support the recognition and protection all private property rights, including water rights.

Objective 1C: Support the recognition and protection of the right to graze livestock on public lands through legal recognition of grazing preference rights.

Objective 1D: Support range livestock production that is environmentally and economically viable.

Objective 1E: Support locally-led coordinated resource management planning to resolve management conflicts and to ensure involvement of all interests.

2. GOAL: Coordinate with Wyoming Game and Fish Department to ensure that wildlife and big game numbers do not outstrip habitat and to reduce conflicts between rangeland resources for livestock grazing and wildlife forage and habitat needs. Federal land managers must promptly notify the WGFD and request immediate adjustments in wildlife numbers when habitat capacity is exceeded.

3. GOAL: Support management of rangelands to maintain and enhance desired plant communities for the benefit of watersheds, wildlife, water quality, recreation and livestock grazing.

Objective 3A: Encourage compliance with the all applicable state and federal rangeland and livestock grazing laws, with state law being applied when there is no clear federal preemption.

Objective 3B: Encourage the use of coordinated range management plans (allotment management plans or coordinated activity plans) for each grazing allotment that allow for the flexibility and updating of management during the ten-year term of the grazing permit. (*i.e.* water development, juniper/sagebrush control, re-seeding, fencing, salting plans, herding plans and grazing systems).

Objective 3C: Encourage utilization of rangeland standards and guidelines that are scientifically proven and peer reviewed and work to change standards and guidelines, when they are unnecessary and scientifically controversial or unproven.

Objective 3D: Support consistent monitoring of vegetation conditions.

4. GOAL: Support and facilitate range improvement projects to benefit rangeland, soil and water resources.

Objective 4A: Support enhancement of habitat for the benefit of livestock and wildlife through the use of range improvements.

Objective 4B: Ensure that water projects developed for livestock will be designed so that wildlife can use the water without hazard.

Objective 4C: Support decisions regarding range improvements to be made on an allotment basis, as they are an integral part of the use of state leases, private leases, private lands, other allotments, and the overall operation of each ranch enterprise. Facilitate funding and necessary environmental reviews to reduce costly delays.

Policy 1: *The District will support opportunities for livestock grazing on private, state and federal lands. This includes advocating for the protection of equitable property rights, science-based land stewardship, and promotion of Best Management Practices for the improvement and continued use of all rangelands and irrigated cropland within the District. (See Appendix Tab V, Best Management Practices for Grazing).*

Policy 2: *Use scientifically-sound management practices and the development of planned grazing systems and supporting infrastructure (i.e. - fences, reservoirs, spring developments, and vegetation treatments) with short- and long-term monitoring to evaluate whether goals and objectives are being met.*

Policy 3: *Oppose agency efforts to restrict the development of livestock water or other rangeland improvements.*

Policy 4: *Work cooperatively with the local ranchers and other interested parties to address resource concerns on a site-specific basis. These cooperative efforts may include, when appropriate, facilitating the Section 8 review, which refers to the requirement that a federal land agency “coordinate, consult, and cooperate” with the permittee or lessee and the state land agencies, when preparing an allotment management plan. [Addendum Tab No. 28i at 150, 43 U.S.C. §1752(d)]. In Wyoming, the Section 8 review is facilitated pursuant to a memorandum of understanding between the Department of the Interior and the Wyoming Public Lands Council that provides for rangeland monitoring. [Appendix Tab W, Memorandum of Understanding between Department of the Interior Bureau of Land Management and Public Lands Council on Cooperative Rangeland Monitoring (January 30, 2004)]. The Wyoming Department of Agriculture also sponsors an Agricultural & Natural Resource Mediation Program that includes the use of a technical review team to examine the reasonableness of an agency decision.*

Policy 4: *Facilitate the use of prescribed fire and other approved methods to manage sagebrush, control weeds and tree encroachments, and to enhance, maintain or increase current grazing levels.*

Policy 5: *Recommend that local, state and federal agencies cooperate with the District and the agriculture industry to define desired plant communities on local, state and federal lands.*

Policy 6: *Encourage compliance with FLPMA’s direction that livestock grazing be recognized as one of the primary multiple uses and that any decision to end livestock grazing must be reported to Congress and the BLM must revise its land use plan to reflect the elimination of grazing, and applicable executive orders must be modified. To the extent that BLM uses land use planning as the vehicle to end livestock grazing, it must do so with “careful and considered consultation, coordination and cooperation” with the grazing permittees, the state, and local government*

entities, including conservation districts. [See Addendum Tab Nos. 28a-c at 133-135, 28h at 139, 43 U.S.C. §§1701(a) (2); 1702(l); 1712(c) (9), 1712(e); and 1752(d)].

Policy 7: *Work to increase productivity of rangeland to increase and/or maintain Animal Unit Month ("AUMs") to maximum sustainable levels on rangeland in Sweetwater County.*

Policy 8: *Encourage mechanisms to allow flexibility for grazing allotments or grazing lease agreements, including the subleasing of grazing rights or allotments on state or public lands.*

Policy 9: *The District may seek cooperating agency status with respect to amendments or revisions of land use plans, activity plans or allotment management plans. When BLM proposes to eliminate livestock grazing, the District will identify person[s] to participate on the planning team, provide data and research regarding the role of grazing, and to facilitate the free flow of information.*

Policy 10: *It is the District's position that:*

Management of public lands must maintain and enhance agriculture to retain its contribution to the local economy, customs, cultural and heritage as well as a secure national food supply.

Forests, rangelands, and watersheds, in a healthy condition, are necessary and beneficial for wildlife, livestock grazing, and other multiple-uses.

Management programs and initiatives that increase forage for the mutual benefit of the watersheds, livestock operations, and wildlife species should utilize all proven techniques and tools.

Most of the public lands in the District were classified as chiefly valuable for livestock grazing and were withdrawn from operation of the general land laws which closed public lands to settlement but directed that they be open for mineral development and be managed for livestock grazing pursuant to the Taylor Grazing Act. The available forage was then allocated between wildlife and grazing preference holders, such that the established grazing preference represented the best professional judgment of the Bureau of Land Management at that time. The government cannot properly change these decisions without amending the original withdrawal and revising the land use plan based upon sound and valid monitoring data.

Forage allocated to livestock may not be reduced for allocation to other uses. Current livestock allocation will be maintained.

The government agencies should support financially the needed structural and vegetation improvements to ensure there is sufficient forage, especially when there is pressure from other land uses, and to maintain or improve overall vegetation and resource conditions.

The continued viability of livestock operations and the livestock industry should be supported on the federal lands within the District by management of the lands and forage resources, by the proper optimization of animal unit months for livestock, in accordance with supportable science

and the multiple use provisions of the Federal Land Policy and Management Act of 1976, 43 U.S.C §§1701 et seq., the provisions of the Taylor Grazing Act of 1934, 43 U.S.C. §§531 et seq, and the Public Rangelands Improvement Act, 43 U.S.C. §§1901, et seq.

Land management plans, programs, and initiatives should provide that the amount of domestic livestock forage, expressed in animal unit months, for permitted, active use as well as wildlife forage, be no less than the maximum number of animal unit months sustainable by range conditions in grazing allotments and districts, based on an on-the-ground and scientific analysis. It opposes the relinquishment or retirement of grazing animal unit months in favor of conservation easements, wildlife, horses and other uses.

It opposes the transfer of grazing animal unit months to wildlife or horses.

Any reductions in domestic livestock animal unit months must be temporary and scientifically based upon rangeland conditions.

Policies, plans, programs, initiatives, resource management plans, and forest plans may not allow the placement of grazing animal unit months in a suspended use category unless there is a rational and scientific determination that the condition of the rangeland allotment or district in question will not sustain the animal unit months proposed to be placed in suspended use. Any grazing animal unit months that are placed in a suspended use category should be returned to active use when range conditions improve.

Policies, plans, programs, and initiatives related to vegetation management should recognize and uphold the preference for domestic grazing over alternate forage uses in established grazing districts while upholding management practices that optimize and expand forage for grazing and wildlife in conjunction with state wildlife management plans and programs in order to provide maximum available forage for all uses.

In established grazing districts, animal unit months that have been reduced due to rangeland health concerns should be restored to livestock when rangeland conditions improve, and should not be converted to wildlife use.

The proper management and allocation of forage on public lands is critical to the viability of the District's agriculture, recreation and tourism industry.

Management of forage resources directly affects water quality and water yields.

Increases in available forage resulting from conservation practice, improved range condition, or development of improvements by the livestock operators or other allocated forage user will be credited to that use.

Increases in available forage resulting from practices or improvements implemented by managing agencies will be allocated proportionately to all forage allocations, unless the funding source specifies the benefactor.

Upon termination of a permit, livestock permittee will be compensated for the remaining value of improvements or be allowed to remove such improvements that permittee made on his/her allotment.

Forage reductions resulting from forage studies, fire, drought or other natural disasters will be implemented on an allotment basis and applied proportionately based on the respective allocation to livestock, wildlife and wild horses. Reductions resulting from forage studies will be applied to the use responsible for the forage impact.

Permittee may sell or exchange permits. Such transactions shall be promptly processed. Changes in seasons of use or forage allocation must not be made without full and meaningful consultation, consultation, and coordination with permittee.

The permitted seasons of use set forth in a management plan may be adjusted and still be in conformance with the plan if;

- 1. Meeting, maintaining, or making progress towards meeting for range management standards officially adopted by the managing agency*
- 2. Managing agency and the permittee sign an agreement documenting monitoring plan*
- 3. with coordination, consultation and cooperation, the managing agency develop grazing management practices determined necessary including those that provide for physiological requirements of desired plants.*

Livestock allocations must be protected from encroachment by wild horses and wildlife.

Permanent increase or decreases in grazing allocations reflecting changes in available forage will be based on the vegetative type of available forage and applied proportionately to livestock or wildlife based on their respective dietary need.

Policy 10: *Federal law provides that the seasons of use are part of the grazing permit and these terms cannot be unilaterally changed.*

Policy 11: *NEPA documents addressing the impacts from full field oil and gas development must also provide for mitigation and compensation to the affected ranchers for loss of grazing and disruption.*

FIRE MANAGEMENT

The District supports the sound use of fire, such as in prescribed burns, thinning, or as vegetative treatments, and salvage logging in burned forest areas. Wildfires should be aggressively suppressed and prevented when private property is threatened.

The District supports sound land management policies, including prescribed burns or use of wildfire to reduce fuel loads and the risk of catastrophic wildfire. [Appendix Tab NN, Fire Management Plan, Southwestern Zone, Wyoming BLM 2004.] The District recognizes that intense wildfires harm organic material in the soils, increase soil erosion and pollute water, and cause significant damage to rangeland resources, water treatment facilities, irrigation systems,

and the loss of fish and wildlife habitat. When forested or rangeland areas are not managed and fuel loads build up, the wildfire managed under a “let it burn” policy can lead to catastrophic consequences. While natural wildfire may allow the landowner to improve vegetation, these situations are distinguished from use of “let it burn” policies in roadless or wilderness study areas that allow wildfires spread over thousands and even hundreds of thousands of acres or escape to destroy property and threaten communities.

While Wyoming BLM does not list any Sweetwater County community as being at risk for fire, the fire risk assessment is limited to the Wyoming communities near timbered areas. [Appendix Tab JJ, Wyoming High Priority Interface Communities Map.] Rangeland fires occur frequently in Sweetwater County; [Appendix Tab KK, Fire Management Map 4, and Green River Resource Management Plan.] Wildfires do occur with some frequency in Sweetwater County, as recognized in the most recent fire management plan.

The Ashley and Uinta Wasatch Cache National Forest in Utah carry very high fuel loads (95%). Projects to reduce fuel loads face regulatory obstacles because much of the affected areas are managed under the Roadless Rule and USDA limits logging to only very small areas that are insufficient to reduce the current fuel loads or regenerate the dead stands of trees. The treatment of wildfire in Utah will affect Sweetwater County water as well.

Fire suppression policy should be guided by the need to achieve the highest level of protection for human safety and private property. Fire suppression may be necessary in areas where fire would endanger human safety and private property or valuable vegetation that supports and expands multiple uses or threatens habitat of sensitive species. The blanket fire suppression policy of the past has contributed to the extensive juniper piñon pine/conifer encroachment and decadent habitats. On rangeland and grassland areas, the combination of weather, drought and reduced use can also lead to fuel loading that facilitates larger, more intense wildfires. The role of wildfire and fire suppression in the context of maintaining sagebrush habitat is also controversial, with some evidence suggesting that past fire suppression decreased overall forage productivity and sagebrush habitat.

The Department of the Interior recently made suppression of wildfire in sage grouse habitat a priority. Interior also directed that suppression of non-native and noxious weeds be a priority component of reclamation after a wildfire.

1. GOAL: Where appropriate, encourage limited utilization of fire and, otherwise, encourage fire suppression, to support and expand multiple uses and to achieve vegetation management goals.

Objective 1A: Encourage utilization of fire suppression in areas where fire would endanger human safety and private property or valuable vegetation that supports and expands multiple uses and/or provides critical habitat for sensitive species.

Objective 1B: Participate in consideration of a limited and judicious use of wildfire, rather than favoring a “let it burn” policy, for areas where invading and expanding shrubs and trees are reducing the value of the rangeland resources.

Objective 1C: Encourage development of policies for grazing rest prescriptions related to either wildfires or prescribed burns on a site-specific basis taking into account the needs of the vegetation and flexibility to meet the needs of the rancher.

Objective 1D: Encourage development of vegetation treatments and use of livestock grazing to keep fuel loads within appropriate limits.

Objective 1E: Encourage the adoption of the following policies by regulatory entities:

Policy 1: Where rest prescriptions are appropriate, they may include the year of the burn, light late-season use in the year following the burn or moderate late season use in the second year following the burn.

Policy 2: Post-fire grazing will not be limited when monitoring and evaluation produces relevant, accurate data that demonstrates grazing will not unduly harm the range.

Policy 3: In the planning of prescribed burns, where feasible, market the renewable timber resource while reserving desirable seed trees, before burning.

Policy 4: Fire should not replace timber harvest as the primary forest management tool.

Policy 5: Post-fire reclamation must also include aggressive efforts to limit or eradicate non-native and noxious weeds, including cheat grass and halogeton.

WILDLIFE

The term “wildlife” describes animals living in nature that are not domesticated or tamed. As per this Plan, activities in the County that depend on wildlife, include but are not limited to: hunting (elk, deer, moose, antelope, bear, mountain lion, coyotes, grouse, rabbits, waterfowl, etc.); aquatic wildlife (fishing, managing endangered fishes etc.); passive recreation (bird watching, wildlife viewing, etc.); and species of concern (bald eagle, black-footed ferret, mountain plover, sage grouse, & Colorado River fish).

Hunting big game, waterfowl and upland game birds has been a traditional part of life in the County even before the first settlers. In the early days, hunting was necessary for survival and, though today it is less essential, it still provides a food resource and recreation for many people. As such, it is a component of the custom and culture of the County.

The County is renowned for its big game hunting and provides excellent hunting for County residents and visitors. Employment as guides, selling supplies and equipment, meals, fuel and lodging to hunters provide income for County residents and contributes to the overall county economy.

Increased wildlife populations in some areas of the County have taxed the available habitat (*i.e.* – the Wyoming Checkerboard). Wildlife often moves onto private property in large numbers

through migration and grazing habits. This intensifies competition for available forage and exacerbates conflicts between wildlife habitat and management objectives to maintain rangeland conditions for livestock grazing. There is a real need for coordinated wildlife management, inventorying and harvest in order to balance habitat availability and wildlife populations.

The County enjoys a diverse and abundant game and non-game wildlife populations. This resource provides a variety of recreational opportunities and potential economic benefits. Wildlife interests should be considered in all public land use/resource development decisions and the District supports responsible wildlife management practices that complement other County interests. The District supports reasonable critical habitat, seasonal closure, and buffer zones to restrict uses, so long as these regulations and policies do not create a "single-use" status. Habitat classifications, seasonal closures and buffer zones for specific species need to be adapted and adjusted to accommodate other resource uses and/or development in order to meet the spirit and direction of multiple uses.

1. GOAL: Support the maintenance and improvement of habitats in order to sustain viable and harvestable populations of big game and upland game species, as well as wetland-riparian area habitat for waterfowl, fur-bearers, and a diversity of other game and non-game species without sacrificing forage for range and agriculture interests and, further ensuring that wildlife management and habitat objectives reduce and/or avoid conflicts with other multiple uses.

Objective 1A: Request cooperation and coordination with the local, state and federal agencies to ensure a sustained harvest of game birds, fish, and mammals, which is beneficial to these game populations.

Objective 1B: Support wildlife management objectives and numbers based on what the range conditions and habitat can support. Wildlife habitats should be managed for sustainable wildlife populations that take into account obligations for livestock grazing and competing resource management objectives and drought.

Objective 1C: Support reasonable and science-based protection and restoration of critical winter range habitat, while respecting private property and considering the economic effects.

Objective 1D: Recommend that crucial or critical habitat designations consider economic impacts to the human environment, possible conflicts with other land uses, and protection of private property rights.

Objective 1E: Recommend local, state and federal agencies research and provide funding opportunities and compensation to landowners for resource enhancement that benefits wildlife.

Objective 1F: Request the inclusion of at least one SWCCD board member or designee to represent wildlife interests for any team-based decision making process by local, state or federal agencies which affects wildlife resources in the County.

Objective 1G: Support mitigation measures when conflicts with wildlife and livestock occur, in order to protect the range resource in a stable or improved trend. If reductions in grazing are

required, allocations to wildlife and livestock will be reduced proportionately based on the quantified role that can be attributed to grazing with other causal factors, in accordance with Wyoming Standards for Healthy Rangelands in order to ensure that other resource uses are adequately protected. [See Appendix Tab Y, Wyoming Standards for Healthy Rangelands.]

Objective 1H: Oppose closures or restrictions in traditional winter range areas for livestock permittees and oil and gas operators as both industries are heavily regulated and for the most part do not adversely affect wintering big game.

2. GOAL: Coordinate with the Wyoming Game & Fish Department to ensure that all affected landowners, lessees and permittees are consulted when developing specific Wildlife Management Plans for the County.

Objective 2A: Evaluate and comment on Wildlife Management Plans to ensure that they include annual head count, population targets, harvest guidelines, special hunts to mitigate damage to private property and rangeland resources, and guidelines for future site-specific management plans affecting upland, water fowl and big game habitat to meet the health of vegetation communities and rangeland health standards.

Objective 2B: Evaluate and comment on Wildlife Management Plans to achieve the objective of maintaining healthy wildlife populations balanced with resource carrying capacity and other land uses.

Objective 2C: Encourage rangeland and forest studies to monitor wildlife relationships to the available habitat and impacts of wildlife on vegetation enhancement projects.

Objective 2D: Help to fund cooperative studies with willing private landowners on wildlife damage to rangeland resources and related concerns.

Objective 2E: Help to fund the study of wildlife population fluctuations related to both habitat condition and other non-habitat impacts, which affect reproduction and survival.

Objective 2F: Encourage development of a recordkeeping system that tracks the incidence and disposition of wildlife damage on federal, state and private lands.

Objective 2G: Coordinate with local, state and federal agencies in adjacent states of Colorado and Utah on plans and regulations regarding wildlife to ensure consistency with this Plan.

Objective 2H: Encourage cooperation among local, regional, state and federal governments and private landowners in the management of big game and non-game wildlife species, including threatened and endangered species and state sensitive species populations.

Objective 2I: Encourage opening of access roads for late-season hunts when expected harvest quotas have not been met while preserving the integrity of other resource values. Encourage landowners on a voluntary basis to provide access onto private lands if a large number of

targeted species are residing on private lands during the late-season hunt period, or if the landowner controls access to public land where the targeted animals are residing.

Objective 2J: Coordinate with the Wyoming Game & Fish to ensure consultation with all affected landowners, lessees and permittees in the development of specific wildlife population targets, harvest guidelines, and late-season and special hunts when harvest guidelines are not met.

3. GOAL: Help to fund the scientifically-based and peer-reviewed management and monitoring of wildlife resources and habitat impacts in the County to meet the multiple-use desires and objectives and the conservation of rangeland resources, soil, and water while respecting the legal grazing rights of ranching and agriculture interests and meeting other multiple use objectives, including mineral and energy development.

Objective 3A: Encourage wildlife management practices that sustain wildlife resources and habitat without measurably degrading other multiple use activities or private property rights.

Objective 3B: Support game herd population objectives and management decisions that will benefit the wildlife resource, including species viability, while taking into consideration and mitigating competition between wildlife species and domestic livestock.

Objective 3C: Recommend wildlife management agencies dedicate funds to compensate landowners for game damage based on problematic site needs.

Objective 3D: Recommend that the results from the Small Water Development Projects Program currently conducted by Wyoming Water Development Commission be implemented to increase water storage capacity to meet needs of agriculture, industry, recreation, municipalities and endangered fish.

Objective 3E: Recommend that regulatory agencies adopt bond release criteria for mine reclamation lands based on established criteria for habitat goals (topographic relief, surface water management techniques, establishment of diverse vegetation).

Objective 3F: Discourage the release through introduction or re-introduction of non-domesticated exotic [non-native] wildlife species, unless it is shown that there is adequate forage and habitat before introduction or re-introduction and that introduction or reintroduction will have no significant impact on existing wild game populations and domestic livestock grazing; *i.e.*, wild turkeys, chuckers and pheasants. Any introduced or reintroduced species should have the potential to increase sportsman opportunity and tax revenue *without adverse effects on other land uses, such as canceling sheep grazing permits in big horn sheep introduction areas.*

Objective 3G: Recommend that wildlife management agencies dedicate financial and personnel resources to predator management. Encourage sportsmen, landowners and private citizens concerned with the unreasonable take of wild game and domesticated stock by predators to support funding for predator control, including the purchase of management stamps which are issued through licensing agents.

Objective 3H: Request to be notified by local, state and/or federal agencies of any actions or regulations that involve wildlife on private, state and federal land within the County. The District may review and comment on state or federal actions or changes significant to wildlife issues in the County.

4. GOAL: Ensure that proposed wildlife introductions on federal lands be evaluated by consulting with state and local government entities and involving the public. Wildlife introductions and populations that may encroach onto state and private lands will be planned and evaluated based on consistency with local land use plans in consultation with local government entities and with public involvement under NEPA, when it applies.

Objective 4A: Cooperative management agreements between permittees, agencies, and conservation organizations will be allowed, wildlife use will be limited to the allocated forage. Wildlife numbers in excess of those for which forage has been provided should be considered in trespass and removed.

5. GOAL: Mediate management of wildlife and wildlife habitat conflicts and competition with range resource management objectives for livestock grazing.

Objective 5A: Oppose the conversion of livestock AUMs to wildlife AUMs. Forage allocations should be based on recognized grazing preference rights and the results of scientific forage studies identifying available forage for wildlife and livestock.

Objective 5B: Ensure that forage for introduced animals will be allocated from existing forage allocated to wild horses and wildlife and not from livestock grazing allocations. Wildlife introductions should not entail additional land use restrictions or stipulations for mineral development or grazing.

Objective 5C: Recommend that season-of-use conflicts between livestock and wildlife be addressed by revisiting the wildlife population objectives and in annual allotment operating plans to provide for maximum flexibility to allow permittees to best utilize forage allocations for livestock.

Objective 5D: Work to ensure that forage adjustments to livestock grazing also make proportionate adjustments for wildlife and/or wild horses, when wildlife and/or wild horses are a causal factor in the area not meeting the Wyoming Healthy Rangeland Standards.

Objective 5E: Support partnerships to monitor the fragmentation of wildlife habitat.

Policy 1: *Encourage the use of local, state and federal cost-share programs for wildlife habitat enhancement.*

Policy 2: *Support participation in local, regional, state and federal planning efforts that affect wildlife resources in the County.*

***Policy 3:** Encourage formal agreements with appropriate local, state and federal agencies in developing and implementing plans for improving management of game and non-game wildlife populations in the County.*

***Policy 4:** Participate in proposals to introduce or re-introduce wildlife to ensure that the proposal is consistent with local land use plans, that local government entities are consulted and that public involvement is encouraged.*

***Policy 5:** Support efforts to responsibly reduce predation of sensitive species, increase hunting and fishing opportunities within appropriate carrying capacities, decrease game damage conflicts, and generally ensure that wildlife numbers do not lead to habitat and other management conflicts with other rangeland resource uses and management objectives, including ranching, agriculture, and mineral development since ranching, mining, energy development and hunting are all important to the custom and culture of the County. Actively support management solutions that will avoid converting livestock AUMs to wildlife AUMs.*

***Policy 6.** Support responsible land management that adjusts for wildlife habitat needs, when it is appropriate and supported by sound science.*

***Policy 7:** Well-managed resources uses are compatible with healthy and sustainable wildlife populations.*

FISHERIES

Fishing, like hunting, plays an important role in County life and is a major contributor to the area's economy. In the early days, fishing was a necessary part of survival, and though today it is less essential, it still provides a food resource and recreation for many people. The County has renowned blue ribbon streams that provide excellent fishing opportunities for county residents and visitors. The Flaming Gorge NRA and the Seedskaadee Wildlife Refuge are also popular fishing opportunities. Employment opportunities include serving as a guide for the anglers or providing services such as selling supplies, meals, fuel, lodging and equipment.

1. GOAL: Support preservation and enhancement of the fisheries resource in the County.

Objective 1A: Support management to prevent spread of diseases, such as whirling disease.

Objective 1B: Support management to prevent the degradation of fisheries through overuse.

2. GOAL: Support a balance between native and introduced species of fish where both are currently present in a fishery.

Objective 2A: If it is scientifically determined that introduced (including non-native) species are not competing, displacing or harming the native fish populations, determine and consider the economic impact on Sweetwater County, prior to taking any action to introduce non-native species.

3. GOAL: Support a balance between the commercial (guides and outfitters) and recreational anglers.

Objective 3A: Support a coordinated approach when overcrowding or overuse becomes a problem.

4. GOAL: Encourage a coordinated approach when conflicts between anglers and other resource uses exist.

Objective 4A: Request that planning processes regarding fisheries occur in consultation with the District. The creation of fisheries in headwater streams will receive low priority; however, preference will be given to a fish species that is likely to provide recreational fishing as soon as possible after introduction or is likely to become a listed species and will sustain itself through natural reproduction.

Objective 4B: Ensure that instream flows identified to maintain or enhance fisheries are derived from water storage and do not impair water rights. [Addendum Tab No. 46e at 232-236, Wyo. Stat. §§41-3-1001-41-3-1014].

***Policy 1:** Preference will be given to a fish species that is likely to provide recreational fishing as soon as possible after introduction or is likely to become a listed species and will sustain itself through natural reproduction. Historically, the part of the Green River and tributaries that run through Sweetwater County have been known to have significant stream fishery resources. The development of fisheries in one or more headwater streams is not discouraged, but is not likely to result in a significant addition to recreational opportunities in a quantitative sense and, therefore, should receive a very low priority for development. Development of such a fishery should not result in additional restrictions to the minerals industry nor adversely affect access to water by livestock and agriculture.*

***Policy 2:** The fish habitat must be shown to existing prior to any introduction or reintroduction and any adverse impacts on existing uses must be mitigated.*

***Policy 3:** Oppose the introduction or reintroduction of any predators, fish or wildlife.*

RECREATION

The County has a wide array of recreational and tourism opportunities for residents and visitors alike. Visitors to these areas have a direct impact by drawing on county-provided infrastructure such as, law enforcement, emergency medical and waste disposal services and have a major impact on the area economy and tax base. Store owners, restaurants, hotels and motels, outfitters and many more interests depend on seasonal recreation and tourism for their livelihoods. Activities that traditionally define recreation and tourism in the County, include, but are not limited to: big game hunting, trapping, fishing, off-road vehicle use, mountain biking, hiking, camping, snowmobiling, cross-country skiing, river rafting, kayaking, hang-gliding, bird and wildlife watching.

1. GOAL: Encourage a broad spectrum of public land recreational opportunities in the County, while protecting and conserving natural resources consistent with the Plan.

Objective 1A: Encourage recreational activities that enhance opportunities for economic development and maintain the custom and culture of the County.

Objective 1B: Encourage recreational activities on the lands in the County that increase the capacity for federal and state land resources to provide more economic return to the County.

Objective 1C: Locate and assess the areas where recreation uses are having adverse resource impacts.

2. GOAL: Encourage recognition of the social, cultural and economic significance of recreation in the region, and encourage implementation of policies that will evaluate the viability and impacts of various recreational opportunities, while ensuring protection of other resources and resource use conservation of rangeland, water and soil resources.

3. GOAL: Encourage implementation of plans and programs that provide a balance of motorized and non-motorized recreational opportunities in the County.

4. GOAL: Support recreation in the management of state and federal lands that are consistent with the multiple uses of these lands, and to promote the continuation of historical access on state and federal lands to facilitate recreation uses.

Objective 4A: Encourage private sector development of recreation services and programs.

Objective 4B: Support the BLM Tread Lightly program as part of efforts to conserve soil resources. [Appendix Tab II, Tread Lightly Program.]

Objective 4C: Request to be notified of proposed management and fee options for recreation areas.

Objective 5: Maintain existing levels of recreation facilities and areas, including those for motorized use, and increase available facilities where there is demand for additional recreation, including motorized recreation, consistent with allocated land uses.

Policy 1: *Resource development and recreation are not exclusive.*

Policy 2: *Recreation should not favor one type to the exclusion of others.*

Objective 6: Analyze and provide for the increased demand for dispersed and motorized recreation opportunities in light of the importance of recreation to the economy and custom and culture.

PREDATOR CONTROL

The Animal Damage Control program is conducted with the cooperation of the Animal, Plant Health Inspection Service-Animal Damage Control, Wildlife Services (“APHIS-ADC, WS”) of USDA pursuant to the Animal Damage Control Act. [Addendum Tab No. 2 at 7, 7 U.S.C. §426]. In 1999, the Wyoming legislature established the Animal Damage Management Board, which administers animal damage control in Wyoming and provides additional funding from hunting licenses to participating predatory districts. [Addendum Tab No. 33b at 161, Wyo. Stat. 11-6-302]. [Appendix Tab Z-1, Memorandum of Understanding Between Wyoming Animal Damage Management Board and Wyoming Game and Fish Commission and Wyoming Department of Agriculture and United States Department of Agriculture Animal and Plant Health Inspection Service Wildlife Services May 1, 2002 (“ADC MOU”).] The Wyoming Animal Damage Management Board, in cooperation with the Department of Agriculture, the Game and Fish Commission, and the local predatory animal control boards are responsible for animal damage control with APHIS-ADC, WS. [Addendum Tab No. 33a at 161, Wyo. Stat. §§11-6-201, 205, 206; Appendix Tab Z-1, ADC MOU.] The 23 predatory animal control boards administer the funds, which are from predatory animal control fees, Wyoming Department of Agriculture, Wyoming Game and Fish, and USDA. [Addendum Tab No. 33a at 161, 167, Wyo. Stat. §§11-6-205, 210].

The Animal Damage Management Board is composed of state officials, representatives of the livestock industry, Wyoming Game and Fish Commission, non-consumptive users of wildlife, and one urban representative. [Addendum Tab No. 33b at 166, Wyo. Stat. 11-6-303]. [See also Appendix Tab Z-2, Wyoming Animal Damage Management Board Strategic Action Plan, 1999-2004.]

Predator control in Wyoming centers primarily on preventive control of coyotes and foxes, which have hit unprecedented numbers in the last 20 years. ADC also addresses problem bears, mountain lions and wolves. Livestock operators are reimbursed for bear predation in certain circumstances. The coyote control program also tracks sylvatic plague, since the virus antibodies of the plague can be found in coyote blood. Wyoming Game and Fish currently tests blood samples and reports the data to the National Center for Disease Control. More recently predator control also addresses raven populations that eat sage grouse eggs and chicks. Predators appear to significantly depress sage grouse numbers.

1. GOAL: Encourage control of predatory animals to reduce property damage and to protect wildlife and to protect the local economy and tax base, including the viability of the agriculture community.

Objective 1A: Support trapping as a historic and environmentally-sound method of controlling predatory animals.

Objective 1B: Encourage protection of private lands bordering federal and state lands from predatory animals and property damage.

Objective 1C: Encourage good husbandry and sound environmental restraints, including the option of chemical control.

Objective 1D: Encourage retention of and expansion of an animal damage control plan for the protection of livestock and crops through the county predator boards and the control of disease-carrying animals.

Objective 1E: Support predator control based on a balance between the best science available, economics, and logistics, evaluated on a case-by-case basis utilizing currently recognized methods of predator control that remain as viable options for predator control, until such time that new and better technology offers new options.

2. GOAL: Support management of predator populations at levels consistent with the optimum utilization of forage by wild and domestic ungulates.

Objective 2A: Encourage formal agreements with local, state and federal agencies to reduce the predation on wildlife and livestock and promote interstate cooperation in the tri-state area by initiating agreements with Colorado and Utah conservation districts and counties.

3. GOAL: Support control of predators, rodents and insects, which are disease-bearing vectors that are a recognized threat to public health.

Objective 3A: Encourage coordination, communication and cooperation between local, state and federal health officials, along with veterinarians, weed and pest authorities and predator boards.

Policy 1: Coordinate, communicate and cooperate with local, state and federal agencies (i.e., Predatory Animal Boards, Weed and Pest Boards) regarding pest and predator control actions and regulations in and affecting Sweetwater County and promote agreements with state agencies and local boards in Utah and Colorado to ensure a comprehensive response to pests and predators.

Policy 2: Reintroduction and-introduction plans should provide for compensation to livestock operators for actual value of loss, including replacement cost, including direct and incidental expenses relating to the loss, and prompt payment thereof.

WILD HORSES

Sweetwater County is home to eight of the 16 wild horse herds in the State of Wyoming and more than half of the number of wild horses in the state. Under the authority of the Wild Free-Roaming Horses and Burros Act ("Wild Horse Act"), [Addendum Tab No. 11 at 35-37, 16 U.S.C. §§1331-1340], the BLM must protect and manage wild horses and maintain wild horse numbers to achieve a "thriving natural ecological balance" on the public lands. The BLM must remove wild horses from private or state land upon request.

Following Congress' enactment of the Wild Horse Act, the wild horse numbers grew exponentially. Litigation brought by landowners in the Wyoming Checkerboard, part of which lies in Sweetwater County, resulted in a federal court order requiring the BLM to keep wild horse numbers to the number of wild horses accepted by the landowners... [Appendix Tab AA, *Mountain States Legal Foundation, Rock Springs Grazing Association v. Andrus*]. BLM also

established “herd management areas” (“HMAs”) and “appropriate management levels” (“AMLs”) in the Green River and Rawlins plans. [Appendix Tab DD, Map of BLM Wyoming Horse Herd Management Areas.] These plans however incorporated the wild horse numbers from the original agreement without evaluating the carrying capacity of the Checkerboard or the public lands or changes due to chronic overpopulation of wild horses, increased big game numbers, drought, or conversion from sheep to cattle in many areas.

Pursuant to the Wild Horse Act, the Rock Springs, Lander, Pinedale and Rawlins BLM Field Managers must inventory wild horses, request funding to remove “excess” horses and maintain the wild horses within the appropriate management levels for the areas within the Wyoming Checkerboard in accordance with federal court decisions or within the agreed upon numbers for the identified HMAs. The BLM Field Offices are responsible to gather and maintain the wild horses until they are assigned through the Adopt-A-Horse program, if not otherwise disposed of as authorized by the Wild Horse Act.

The wild horse gathering and adoption programs have faced ongoing problems due to lack of funding for horse removal, management conflicts within the BLM, and litigation by various wild horse protection interest groups that often delay or prevent the removal of wild horses. While the local BLM offices are directly responsible for implementing wild horse management, their work is subject to budget decisions made by the BLM Wyoming State Office and the BLM Washington Office. Often wild horse removal and adoption efforts are not given priority and face funding cuts as the funding is diverted to address higher priority programs.

The BLM failed, for a number of reasons, to keep the wild horse numbers within the limits of the 1981 court order and the land use plans. As a result, the wild horse numbers in Sweetwater County are substantially above the 1971 numbers and exceed the AMLs established in the land use plans. Wild horses do not remain within the HMAs boundaries and are eligible for removal.

In 2003, the BLM and the state entered into a consent decree under which the BLM agreed to inventory and gather wild horses pursuant to a schedule in order to keep wild horses in the HMAs and at their AMLs. [Appendix Tab BB, *State of Wyoming v. U.S. Dept. of the Interior*, Consent Decree]. The BLM declined to renew the 2003 Consent Decree in 2013 and has opposed efforts to require the agency to maintain appropriate management levels. The State again sued BLM and the government chose to oppose the litigation rather than address the excess number of wild horses in the HMAs. The District Court dismissed the case on jurisdictional grounds and the State has appealed the dismissal to the Tenth Circuit Court of Appeals.

In 2014 the State legislature funded a fecal monitoring program to document wild horse numbers and resource impacts, especially on sage brush habitat. It is in its second year.

The lessees in the Wyoming Checkerboard earlier sued BLM for failing to manage the wild horses in accordance with the 1979 agreement and 1982 court order. *Rock Springs Grazing Association v. Salazar*. The plaintiff asked that BLM bring the wild horses to zero based on the past history of not promptly removing wild horses. The parties settled in 2013 with an agreement that included retaining one HMA, removing all other wild horses from the Wyoming Checkerboard.

In 2014, wild horse advocacy groups challenged the second gather that would remove the wild horses from the Wyoming Checkerboard. The District Court denied efforts to enjoining the gather that proceeded in the fall of 2014. In 2015, the District Court affirmed the BLM decision to remove the wild horses from the Checkerboard but remanded for BLM to consider relocating some wild horses. The wild horse groups appealed the case to the Tenth Circuit Court of Appeals.

In 2011, the landowners within the Checkerboard withdrew their consent to allow wild horses on their land and requested removal of all the wild horses. The BLM declined the request to gather wild horses on the basis of lack of funds and the landowners' previous commitment to allowing wild horses, so the landowners brought suit. *RSGA v. Salazar*, No. 11-263 NDF. The BLM and the landowners settled the case under a court approved consent decree that required the BLM to

remove all wild horses on private lands, including the Checkerboard. The number of wild horses allowed within the Checkerboard is now set at zero, except for within the White Mountain HMA. The BLM also agreed to consider revising the HMAs and AMLs in Wyoming.

The wild horse herds grow rapidly, either an average of 20% to as much as 42% a year. These numbers exceed what the rangeland resources can support, especially given increased emphasis on sage brush habitat. Since 1971, the success of the wild horse program has depended on the ability of BLM to pipeline the captured wild horses into private care in a reasonable time and expense. After several decades, the market for adopted wild horses has become saturated. In 2004, Congress amended the law to give BLM sale authority, which will expand BLM's options when managing wild horses. BLM never exercised its sale authority.

In 2011, BLM adopted a new wild horse strategy to emphasize reproduction controls and to better market the adoption program. The BLM faces budget and regulatory obstacles in managing the wild horses but the sale authority will allow BLM to more effectively move the wild horses out of the corrals, once they are gathered from the public lands.

Without active management, wild horse populations can negatively impact private, state and federal land resources, compete with wildlife and big game for rangeland resources, soil and water resulting in less desirable wild horse herds. [See Appendix Tab CC, *Uintah County v. Norton*, Civ. Tab No. 00-482J (D. Utah 2001).] It is imperative the BLM fully comply with the limits on wild horse numbers established in court judgments, consent decrees, and plans and promptly reduce numbers before resource damage occurs.

BLM's track record for allocating funds for this program is abysmal. As result of the current orders governing the Checkerboard, BLM has been under a legal mandate to do so in Wyoming. Without the legal mandate, BLM would not have the funds necessary to perform the gathers in order to keep pace with the population increases.

1. GOAL: Revise appropriate management levels in light of sage-grouse habitat and 1995 Range Health Standards.

2. GOAL: Manage wild horses within the AML numbers for each HMA as identified in the Resource Management Plans or the numbers set in the 2013 Consent Decree between private landowners and the BLM. Pursuant to the terms of the Consent Decree, the BLM must inventory and remove all wild horses except for those located within the White Mountain HMA. The BLM must proceed to remove all other wild horses outside of the HMAs and must remove all wild horses found on private land, upon request.

Objective 2A: Oppose recommendations to increase the wild horse numbers over the numbers stated in the current Resource Management Plans ("RMPs") and the 2013 Consent Decree, or to establish new or expand HMAs.

Objective 2B: Support the revision of HMAs and AMLs where the HMAs overlap sage grouse management areas to ensure reduced impacts on habitat.

Objective 2C: Participate in the annual hearings for the use of helicopters in the gathering of wild horses, and during the public input phase for the periodic preparation of environmental analysis for gathering plans. The District may present testimony and input based on the population status of the wild horses, and concerns of the citizens and land owners/managers of Sweetwater County.

Objective 2D: Support modification of HMA boundaries to reduce resource conflicts and adverse effects on private lands or to ensure that wild horse numbers conform to current resource capacity and land uses.

Objective 2E: Support a new statewide Consent Decree between BLM and the State of Wyoming to ensure that BLM is required to meet the original objectives.

Objective 2F: Oppose any new HMAs and continue to enforce the Consent Decrees to ensure no increases in wild horse populations and that wild horses remain off the Checkerboard and other private lands.

3. GOAL: Oppose the continued maintenance of wild horses on private land without the consent of the landowner.

4. GOAL: Oppose the continued presence of wild horses outside the HMAs and require that BLM promptly remove all wild horse populations to zero outside of the established HMAs.

5. GOAL: Oppose the continued presence of wild horses within the Checkerboard, except for in the White Mountain HMA, and require that BLM promptly remove all wild horse populations within the Checkerboard pursuant to the 2013 Consent Decree.

6. GOAL: Manage wild horses for viable healthy herds that will not adversely impact the rangeland resources, wildlife habitat for wildlife, soil resources or other approved multiple uses.

Objective 6A: Inform local, state and national BLM offices of concerns regarding impacts of their wild horse management decisions on the citizens and resources of Sweetwater County.

7. GOAL: Encourage coordination, communication and cooperation with local citizens and public agencies to address the impacts of wild horse management in Sweetwater County and adjoining areas.

Objective 7A: Be advised of and participate in all revisions and/or amendments to the Green River, Lander, Kemmerer, Pinedale, Rawlins and Little Snake Resource Area RMPs and all Wild Horse Herd Management Area Plans in and affecting the County.

Objective 7B: Participate actively in the annual inventory or count of wild horse populations in and affecting Sweetwater County. Facilitate mutually acceptable methodology for wild horse inventories that have the support of the BLM, Wyoming Game and Fish and local landowners.

Annual inventories of wild horses are necessary to determine the status of the wild horses in relation to the AMLs. Such inventories must also account for foals borne in the same calendar year and undercounting GIS maps may be prepared and maintained to reflect the latest population data and migration patterns and to enforce gathering and removal operations.

Objective 7C: Participate in the development or implementation of habitat management and monitoring plans.

8. GOAL: Support authority through rulemaking or Congress to give the BLM additional options for the disposal of wild horses so that the BLM can meet the terms of the RMPs and the legal decrees and decisions that govern wild horse management in and affecting Sweetwater County.

Objective 8A: Maximize the assignment of wild horses into private care and ownership.

Objective 8B: Encourage wild horse management tools that will permit long-term, cost-effective solutions but recommend use of short-term remedies to ensure that the wild horses are not left on the public or private lands in numbers that exceed resources and do not impinge on other habitat needs or land uses.

Objective 8C: Encourage the BLM to develop new strategies that include, but are not limited to, marketing to supplement the Adopt-A-Horse program, and implement sound business practice in decisions to perform work in-house or by contract.

Objective 8D: Support new fertility control methods that address all of the mares in a herd, do not require annual booster shots, and will last sufficient time to be cost-effective.

9. GOAL: Educate the public on the need to manage the wild horse herds to maintain the health and natural dynamics of the herds, and their co-existence with wildlife, livestock and other resources within their habitat.

Objective 9A: Support local community initiatives to promote the tourism industry to visit and view the wild horse resources in Sweetwater County.

Policy 1: *Revise management levels to conform to sage-grouse habitat and rangeland health.*

Policy 2: *Develop monitoring to document wild horse use of the rangeland resources, including water and forage.*

Policy 3: *It is essential that BLM comply with the consent decrees to maintain wild horse numbers within the established limits, to remove horses from private land, and to count wild horses so that BLM has accurate data when the wild horse herds exceed numbers. The BLM shall not allow wild horses in areas outside of the designated HMAs and shall not exceed the population levels stipulated in the Consent Decrees and other orders. The long-term adverse effects of excess wild horses on rangeland resources, soil, water and wildlife are well-*

documented. Despite the cost of the program, BLM must be held to the rules, terms of the consent decrees and its own management plans.

Policy 4: *Any wild horses returned to the HMA after a gather should be adjusted by birth rate to insure that allowable population numbers are not exceeded by next gather.*

Policy 5: *Wild horses that are determined to be feral or abandoned shall be removed. If branded or otherwise marked, enforce trespass laws.*

Policy 6: *Mark wild horses that are gathered and returned to the HMA to better control feral horses.*

Policy 7: *Require health testing of all wild horses at every gather in cooperation with the state veterinarian.*

AIR RESOURCES

The air quality of the County is one of the area's greatest resources. The District is committed to protecting its air resources. Air quality problems do exist but are usually site specific. In July of 2012, the EPA designated the Upper Green River Basin (UGRB) area as marginal nonattainment for the 8-hour ozone NAAQS of 75 parts per billion. The UGRB area includes all of Sublette County, the northeast corner of Lincoln County, and the northwest corner of Sweetwater County. Wyoming Department of Environmental Quality (WDEQ) adopted new policy, increased monitoring, and detailed emission inventory by the WDEQ Air Quality Division and the creation of a UGRB Air Quality Citizens Advisory Task Force. The WDEQ recently issued its UGRB Ozone Strategy on April 28, 2015.

When an area classified as nonattainment, the WDEQ must prepare a plan to bring the area into compliance, secure EPA approval, and continue to collect data. On October 1, 2015 EPA reduced the reduced the levels of ozone that are classified as nonattainment 79 *Fed. Reg.* 75234, available at <http://www.gpo.gov/fdsys/pkg/FR-2014-12-17/pdf/2014-28674.pdf>. WDEQ must re-examine the current plan to show that it will achieve lower standards.

Winter air inversions do affect some areas of this region in relation to diesel and auto exhaust, mining, wood smoke, smoke from wildfires and prescribed burns. The elevated ozone levels in the UGRB are related to at least four winter ozone factors: adequate amounts of precursor chemicals, snow cover, temperature inversions and low winds, and sunlight. The WDEQ has been working on lowering the ozone levels and Wyoming has now gone four winters without an ozone exceedance.

The State of Wyoming has the authority and responsibility to regulate air quality impacts within the state, including Class I air sheds. In accordance with Wyoming's Environmental Quality Act, the DEQ Air Quality Division is responsible for implementing the state's air quality standards and regulations. [Addendum Tab No. 42b at 205-206, Wyo. Stat. §§35-11-201-214]. The Division's air quality program is composed of three separate compliance areas:

(1) A permit program for the construction of new sources and modification of existing sources. The primary purpose of this program is to assure compliance with ambient standards set to protect public health and to assure that best available control technology is utilized to reduce and eliminate air pollution emissions.

(2) An operating permit program for all major sources of air pollution including major sources of hazardous air pollution. This includes permitting to continue operations after a given date; renewal of permits every five years, and the annual payment of an emission fee sufficient to fund the cost of the program.

(3) A facility inspection and compliance program to assure facilities maintain pollution control equipment at high collection efficiencies and maintain compliance with emissions standards and permit conditions. This includes compliance with state and federal asbestos removal standards, which protect the public from exposure to asbestos fibers in ambient air.

1. GOAL: Cooperate, coordinate and consult with private, state and federal landowners to reduce, eliminate, or mitigate any site-specific degradation of air quality.

Objective 1A: Request to be notified of any present and future air quality designations within the County.

Objective 1B: Provide assistance to business, industry and land management agencies including, but not limited to, the use of planting windbreaks and living snow fences to reduce or eliminate dust.

Objective 1C: Assist industry in obtaining accurate expert analysis of data concerning hydrocarbon emissions from oil field production facilities.

Policy 1: *Request to be notified of and participate, as appropriate, in any local, state, regional and federal land planning processes that impact managing and monitoring air resources in and affecting the County.*

Policy 2: *Support compliance with local, state and federal air quality laws and regulations. State of Wyoming DEQ is responsible for issuing appropriate air quality permits, determining Best Available Control Technology, and setting air quality standards in compliance with the Wyoming Environmental Quality Act, which implements the federal Clean Air Act. [Addendum Tab No. 42b at 205-206, Wyo. Stat. §§35-11-201, 202, 203.] The installation (if necessary) and operation of monitoring stations will require cooperation and funding from various federal, state, and local agencies.*

Policy 3: *Support air quality compliance programs that address all of the causal factors affecting air quality.*

VISUAL RESOURCES

Visual resources in the County are a composite of landforms, human and animal life forms, water features, cultural features, terrain, geologic features and vegetative patterns which create the visual environment. These visible physical features are important to the landscape and the scenic quality of the County.

Visual resource management or VRM is defined by the BLM based on naturalness, scenic qualities and permitted land uses. BLM recognizes four classes, with Classes I and II having the greatest values. The planning process first inventories the viewsheds or scenic qualities. Class I is a natural landscape such as a national wilderness area or ACEC with scenic qualities. Classes II through IV are inventoried based on scenic quality, sensitivity (land use), and distance. These three factors are evaluated in light of land uses permitted under the land use plan. The combined evaluation leads to the designation of VRM classes.

There is a risk that BLM land use plans will use VRM classes to restrict land uses, rather than having the VRM class reflect the permitted land uses. When that occurs, the VRM classes may restrict energy development or livestock grazing, by managing the viewsheds to be natural or like wilderness, even though the land use plan otherwise permits energy development and livestock grazing. VRM classifications should be narrowly tailored to reflect previous and current land use decisions and appropriate land uses.

1. GOAL: Support the protection of the visual resource while maintaining economic stability and the underlying land use allocations.

Objective 1A: Request coordination with local, state and federal planning actions that affect the visual resource and VRM classifications that affect land uses.

2. GOAL: Protect private land uses and state land rights and federal land use allocations by adjusting VRM classifications to be consistent with the land uses.

Objective 2A: Oppose the use of VRM classifications that will impair or impede land uses on private and state lands.

Objective 2B: Oppose the use of VRM classifications that undercut the federal land use allocation, including grazing permits, special use permits, mining, rights of way, and oil and gas leases.

WASTE MANAGEMENT

The disposal and clean-up of solid wastes are regulated by Wyoming DEQ pursuant to authority delegated in the Resource Conservation Recovery Act, [Addendum Tab No. 24 at 117-128, 42 U.S.C. §§6901-6949a, Addendum Tab No. 42a at 195, Wyo. Stat. §§35-11-101 to 35-11-105]. Waste management issues arise in context of landfill sites for local governments and reclamation and site management for mining and oil and gas operations. State and federal law govern the

standards for managing landfill sites and industrial development that generates various waste products. The District, however, has a direct interest in ensuring that the soil and water resources are protected. To accomplish this objective, the District will actively participate in landfill and other waste management site issues as well as related land management decisions regarding the management and clean-up of industrial sites.

1. GOAL: The District may communicate, coordinate and consult with private landowners, local business, local, state and federal governments on issues relating to existing and future landfill sites.

Objective 1A: Utilize current Best Management Practices to protect water resources, inform and achieve community awareness, and encourage the public to participate in waste management issues.

Objective 1B: Encourage the reuse and recycling of materials.

Objective 1C: Encourage municipal and county governments to provide levels of service adequate to meet the community's social, environmental, economic needs and obligations.

Objective 1D: Research new markets for agriculture waste products.

2. GOAL: The District may participate in development decisions to ensure that soil and water resources are protected and conserved.

Policy 1: Educate and inform local citizens concerning new markets for waste products.

SPECIAL LAND DESIGNATIONS

Wilderness

In the Wilderness Act of 1964, Congress established a National Wilderness Preservation System to be composed of federally managed lands called "wilderness areas," which are only designated by Congress. [Addendum Tab No. 9 at 25-32, 16 U.S.C. §§1131-1134]. The Act defines a wilderness as "an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain" . . . "[in] contrast with those areas where man and his own works dominate the landscape." [Addendum Tab No. 9a at 25, 16 U.S.C. §1131(a)].

Land management of wilderness areas is very restrictive because the Wilderness Act prohibits the use of mechanized equipment and motorized vehicles and generally prohibits permanent structures. Mineral development is also prohibited, subject to valid rights that predate wilderness designation. Wilderness areas are not intensively managed, so fire suppression is rarely undertaken. While livestock grazing may continue, grazing management is difficult and expensive due to limits on access and use of motorized equipment and agency resistance to range improvements or increases in livestock numbers. Studies of livestock grazing in wilderness reveal that agencies use their discretion to progressively deconstruct livestock grazing.

Wilderness designation prohibits or hinders needed vegetation and watershed treatment. Wilderness management prohibits the use of mechanical equipment as well as motorized equipment of any kind. Vegetation and watershed treatments are more effectively performed using modern day equipment.

In 1976, FLPMA directed BLM to conduct a wilderness inventory and study of public land roadless areas that were greater than 5,000 acres in size. [Addendum Tab No. 28l at 150, 43 U.S.C. §1782]. FLPMA gave BLM 15 years to inventory, study and make recommendations to Congress on public lands suitable for wilderness designation. *Id.* The BLM wilderness review and study also addressed manageability of the areas and the potential mineral resources that could not be developed if the area were designated for wilderness.

In Wyoming, the BLM identified about 575,000 acres as wilderness study areas (WSAs) and recommended 240,364 acres for wilderness designation. The President forwarded these recommendations to Congress in 1992 but Congress has not acted. Pending congressional action, the 575,000 acres of WSAs have been managed so as to not impair their suitability for wilderness under the BLM interim management policy. [Addendum Tab No. 28l at 150, 43 U.S.C. §1782(c)].

There are 13 WSAs in Sweetwater County which affect approximately 252,000 acres. [Appendix Tab EE, Wilderness Study Areas, Green River RMP, Map 28.] While the WSAs are not withdrawn from mining or mineral leasing, federal law prohibits new mineral leasing. [Addendum Tab No. 19h at 74, 30 U.S.C. §226-3]. In addition, the no impairment management policy ("IMP") limits mineral development and all other uses to the levels that existed in 1976. [Addendum Tab No. 28l at 150, 43 U.S.C. §1782(c)]; *see also* H-6330-Management of Wilderness Study Areas (2012), available for review at the District office. Most mineral leases, issued after 1976 and before 1987, included a stipulation that development is contingent on future designation. Livestock grazing activities are also restricted so that range improvements are often not approved and increases in grazing use are limited.

In 1996, BLM initiated policy to establish additional WSAs in Utah and Colorado, even though Congress had not acted on the 1992 wilderness recommendations and BLM's authority to conduct a wilderness review expired in 1991. In December 2000, the Interior Department Secretary remanded the draft Jack Morrow Hills Draft Coordinated Activity Plan to the Wyoming BLM for failing to consider designation of new wilderness study areas. The Wyoming BLM had earlier explained that new wilderness was not considered because the 1997 Green River RMP record of decision states:

The Bureau's recommendations to the Secretary of the Interior on Wilderness Study Areas ("WSAs") in the Green River Resource Area have been made under separate documentation. These areas were addressed in separate Wilderness EIS and Wilderness report documents which are also on file in the Green River Resource Area Office. The decisions regarding wilderness area designation are made by Congress.

[Appendix Tab S, Record of Decision, Green River RMP at 1 (1997)].

In December 2000, the Interior Secretary reversed the Wyoming BLM and instructed the BLM to adopt the conservation alternative, including consideration of new WSAs identified in citizens' proposals. This directive dated December 22, 2000 was overridden in 2001 under a new BLM Director.

In 2003, the Interior Department reversed the previous administration policy issued in January 2001 requiring BLM to conduct new wilderness reviews on public lands and establish new WSAs. [Appendix Tab FF-3, BLM IM 2003-195 Rescission of National Level Policy Guidance on Wilderness Review and Land Use Planning (June 20, 2003)]. Under the 2003 direction, no new WSAs are to be established. [See also Appendix Tabs FF-2, BLM IM-2003-274, BLM Implementation of the Settlement of *Utah v. Norton* Regarding Wilderness Study; and Tab FF-3, IM-2003-275 change 1, Consideration of Wilderness Characteristics in Land Use Plans.] BLM affirmed that only Congress could designate wilderness and that BLM could not undertake *de facto* wilderness for areas that were not already WSAs.

Also in 2003, the Wyoming federal court held that a federal agency has no authority to create WSAs or to manage such lands for *de facto* wilderness unless Congress has authorized it. [Appendix Tab GG, *Wyoming v. U.S. Dep't of Agriculture*, 570 F. Supp.2d 1309, 1350 (D. Wyo. 2008), *rev'd* 661 F.3d 1209 (10th Cir. 2011)]. The court set aside the Forest Service Roadless Rule that prohibited road construction in inventoried roadless areas, which were former WSAs, because: "Congress unambiguously established in the Wilderness Act that it had the sole authority to designate areas within the National Forest System as 'wilderness.' To allow the Secretary of Agriculture and the Forest Service to establish their own system of *de facto* administrative wilderness through administrative rulemaking negates the system of wilderness designation established by Congress." The Tenth Circuit reversed, finding that the Roadless Rule and the Wilderness Act created two distinct areas with different restrictions that apply to each, and that the Roadless Rule therefore did not designate *de facto* wilderness. *Wyoming v. U.S. Dep't of Agriculture*, 661 F.3d 1209, 1229-34 (10th Cir. 2011) *cert denied* 133 S.Ct. 417 (2012).

Congress has been at an impasse with respect to the public land wilderness recommendations forwarded by the President in 1992. Some groups are working to develop compromise proposals at the local level that will preserve high value areas and protect historic land uses, like ranching. One such example is the Owyhee Initiative in southern Idaho. [See Appendix Tab MM, Owyhee Initiative, "The Owyhee Landscape Conservation Initiative Proposal."] The Owyhee Initiative is based on consensus reached by a group of county commissioners, ranchers, and conservation groups, who met for more than two years to reach a compromise. The compromise supports designation of some WSAs as wilderness, releases other WSAs from no impairment management, drops all future R.S. 2477 assertions, and adopts a scientific review committee to guide future land management. The Owyhee Initiative was presented to members of the Idaho congressional delegation in spring of 2004.

In December 2010, Interior Secretary Ken Salazar announced Secretarial Order No. 3310 (SO 3310), *Protecting Wilderness Characteristics on Lands Managed by BLM*, and the BLM adopted guidelines implementing it. SO 3310 created the “lands with wilderness characteristics” (LWC) classification for lands inventoried and found to possess wilderness characteristics but which are not part of a congressionally designated wilderness area or a WSA. If during the land-use planning process or during project-specific NEPA reviews the BLM concluded that an area was appropriate for protection of wilderness characteristics, then it was required to designate the lands as Wild Lands or LWCs in the applicable Resource Management Plan (RMP).

Congress defunded SO 3310 in April 2011 and has continued the ban. The Interior Secretary has never rescinded the Order, but BLM suspended its Manuals implementing it and issued Instruction Memorandum (IM) 2011-154, providing direction to identify and manage the LWCs to preserve their wilderness qualities. In March 2012, the BLM replaced IM 2011-154 with two Manuals. Despite Congress defunding SO 3310, the BLM continues to inventory public lands for their wilderness character and manage those areas designated as LWCs to preserve their wilderness character. In SWC, BLM has considered about 32,000 acres for LWC designation. Other areas are still being proposed.

1. GOAL: Oppose efforts to use land use classifications, such as LWCs or WSAs, to establish new *de facto* wilderness management areas outside of the already-identified WSAs in Sweetwater County by participating in state and Federal land use planning processes.

Objective 1A: Uphold the legal requirements and qualifications set forth in FLPMA, including those providing for the continuation of existing uses in WSAs.

Objective 1B: Advocate the expeditious resolution of wilderness designation for the BLM WSAs in Sweetwater County.

Objective 1C: Review current wilderness recommendations in relation to the impacts on natural resource-based industries, the economic stability of the County, the custom and culture of the citizens of the County, the ability to develop water resources and to intensively manage rangeland resources.

Objective 1D: Recommend the release of WSAs that were not recommended for wilderness from no impairment management and push for an end to the informal *de facto* wilderness management of all other “study areas.”

Objective 1E: Oppose the designation of LWCs within Sweetwater County and protection of these areas to preserve the lands wilderness characteristics as such designations interfere with other permissible uses of the land (i.e. oil and gas development, mining, recreation, and livestock grazing) and exceed BLM’s authority.

2. GOAL: Actively participate in all other proposals for special use designations to determine whether they are warranted and to assess the impacts on the District’s mandates.

Objective 2A: Insist on coordination, consultation and cooperation, as well as consistency with local land use plans with regard to special land designations, such as areas of critical environmental concern, special recreation management areas and visual resource management areas.

Objective 2B: Support special land use designations only when they are consistent with surrounding conservation management; do not preclude future conservation options for rangeland resources, soil conservation, and conservation, development and utilization of water resources; and contribute to sound policy of multiple use, economic viability and community stability.

3. GOAL: Protect Wyoming's water resources and water adjudication system from any claim of a federal reserved right arising out of a special use designation, including wilderness.

Objective 3A: Ensure that a wilderness designation does not affect state authority over water resources and that Wyoming's substantive and procedural laws controlling appropriation and allocation of water resources remain the primary authorities governing the waters in Sweetwater County regardless of wilderness designation. Enforce determination that wilderness designation does not create a reserved water right.

Objective 3B: Protect any interests in ditches, reservoirs or water conveyance facilities and easements or rights-of-way associated with those interests from impairment or diminution by any wilderness or other special use designations.

Objective 3C: Reaffirm that the rights to access, enter, inspect, repair and maintain those interests are not affected by any future wilderness designation, including the use of mechanized vehicles and equipment for repairs and maintenance of such facilities.

4. GOAL: Work for management of specific resources that offers protection within existing authority as an alternative to wilderness designation, which greatly limits land management for other resources and uses.

***Policy 1:** The District will work with citizens and county governments to communicate to Congress its recommendations regarding wilderness proposals. Said recommendations will be based upon the District's evaluation of impacts upon Sweetwater County and southwestern Wyoming, including areas adjacent to the county and may include proposals to Congress for modifications or adjustments of boundaries of proposed areas.*

***Policy 2:** Acknowledge that wilderness and the values of solitude and wilderness that attend it, are legitimate and important. Challenge the proposition that these values can only be attained by statutory designations that narrow rather than broaden the options available for landscape level conservation.*

***Policy 3:** All wilderness designations should meet the requirements and qualifications set forth by the Wilderness Act of 1964.*

Policy 4: *The District supports resolution of the wilderness issue by Congress and release of the remaining wilderness study areas to multiple-use management. The District also supports not allowing federal agencies to engage in endless and repetitive wilderness review or studies that expand lands managed as wilderness or as de facto wilderness while reducing the land base available for multiple uses.*

WILD AND SCENIC RIVERS

The Wild and Scenic Rivers Act provides for identification and designation of individual river segments for study and recommendation of river segments as a wild, scenic or Recreation River. [Addendum Tab No. 10 at 32-34, 16 U.S.C. §§1271-1287]. The Act protects "certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural or other similar values." [Addendum Tab No. 10a at 32, 16 U.S.C. §1271].

Designation under the Wild and Scenic Rivers Act also withdraws a minimum of a ¼ mile corridor on each side of the river from the mining, and other appropriation laws and mineral leasing, subject to valid existing rights, contracts, and privileges. [Addendum Tab No. 10d at 34, 16 U.S.C. §1283] Examples of valid existing rights would include mineral leases, rights-of-way permits and R.S. 2477 rights-of-way. Traditionally grazing permits are called a privilege, since the right to graze is a privilege and does not convey any right, title or interest in the land. [Addendum Tab No. 25c at 130, 43 U.S.C. §315b]. Permits and contracts are also valid existing rights but depending on the terms of the contract or permit, BLM may be able to modify the use. A mineral lease is recognized to be a property right and is construed like a contract. A valid existing right, like a valid mining claim, may be subject to less regulation.

BLM and the Forest Service must assess whether to recommend water ways for wild or scenic designation as part of the land use planning process. [Addendum Tab No. 10c at 34, 16 U.S.C. §1276(d) (1)].

1. GOAL: Participate in local, state and federal land planning processes for the designation and management of any Wild and Scenic River segments or similar designations in and adjacent to Sweetwater County.

Objective 1A: Participate in proposals for Wild and Scenic River segment or similar designation in and adjacent to the County to protect the water resources in Sweetwater County and future opportunities to develop and utilize such resources.

Objective 1B: Uphold the legal requirements and qualifications set forth by the Wild and Scenic Rivers Act, including those providing for the continuation of existing uses, privileges and contracts for designated rivers in and adjacent to or affecting Sweetwater County.

Objective 1C: Review any proposed Wild and Scenic River recommendations in relation to the impacts on natural resource based industries, the economic stability of the County, and on the

custom and culture of the citizens of Sweetwater County and the ability to further develop and utilize water resources in the District.

***Policy 1:** The District will carefully evaluate Wild and Scenic River proposals to determine the impact on water rights and the ability to utilize water rights in the future and will work closely with the BLM and the Forest Service and the County to ensure that existing and future water development opportunities are protected and that unsuitable rivers are removed from consideration at the earliest opportunity.*

***Policy 2:** In considering proposed segments' eligibility and suitability, the District will evaluate and prepare comments using the criteria in Department Manual 8351 - WILD AND SCENIC RIVERS - POLICY AND PROGRAM DIRECTION FOR IDENTIFICATION, EVALUATION, AND MANAGEMENT and Forest Service Manual 2354 and specifically quantifying the existing water rights and the likely restrictions on the exercise of such water rights.*

AREAS OF CRITICAL ENVIRONMENTAL CONCERN

FLPMA defines an Area of Critical Environmental Concern follows "areas within the public lands where special management attention is required (when such areas are developed or used or where no development is required) to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards." 43 U.S.C. §1702(a); 43 C.F.R. §1601.1-5 (definitions).

The critical factor in management as an ACEC is the need to prevent irreparable harm to identified resources. The District' support for designation of an Area of Critical Environmental Concern (ACEC), as defined in 43 U.S.C. Sec. 1702, within federal land management plans will be withheld until:

- it is clearly demonstrated that the proposed area satisfies all the definitional requirements of the Federal Land Policy and Management Act of 1976, 43 U.S.C. Sec. 1702(a);
- it is clearly demonstrated that the area proposed for designation as an ACEC is limited in geographic size and that the proposed management prescriptions are limited in scope to the minimum necessary to specifically protect and prevent irreparable damage to the relevant and important values identified, or limited in geographic size and management prescriptions to the minimum required to specifically protect human life or safety from natural hazards;
- it is clearly demonstrated that the proposed area is limited only to areas that are already developed or used or to areas where no development is required;
- it is clearly demonstrated that the proposed area contains relevant and important historic, cultural or scenic values, fish or wildlife resources, or natural processes which are unique

or substantially significant on a regional basis, or contain natural hazards which significantly threaten human life or safety;

- the federal agency has fully analyzed regional values, resources, processes, or hazards for irreparable damage and its potential causes resulting from potential actions which are consistent with the multiple-use, sustained-yield principles, and the analysis describes the rationale for any special management attention required to protect, or prevent irreparable damage to the values, resources, processes or hazards;
- it is clearly demonstrated that the proposed designation is consistent with the plans and policies of the district where the proposed designation is located;
- it is clearly demonstrated that the proposed ACEC designation will not be applied redundantly over existing protections provided by other state and federal laws for federal lands or resources on federal lands, and that the federal statutory requirement for special management addition to those specified by the other state and federal laws;
- The difference between special management attention required for an ACEC and normal multiple-use management has been identified and justified, and that any determination of irreparable damage has been analyzed and justified for short and long term horizons.

THREATENED AND ENDANGERED / SENSITIVE SPECIES

The keystone of good environmental stewardship lies in a healthy resource base. Endangered and threatened species, as well as all plants and all animals, depend on the intricate balance of stable ecological, economic and social functions of the immediate local community.

The Endangered Species Act (“ESA”), [Addendum Tab No. 12 at 37-59, 16 U.S.C. §§1531-1541], protects individual species of plants and animals wherever they occur when it is determined that the continued existence is threatened or endangered. [Addendum Tab No. 12a at 37, 16 U.S.C. §1533]. The ESA provides for listing of species through rulemaking, 16 U.S.C. §1533(a), and within a year after listing, the identification of critical habitat for the species. [Addendum Tab No. 12a at 37, 16 U.S.C. §1533(a) (3) (A)]. The Interior Department, through the USFWS, administers the ESA, with the exception of certain marine mammals and anadromous fish, which are under the jurisdiction of the National Marine Fisheries Service.

Only biological evidence is relevant to the decision whether to list, but economic and social impacts are to be considered in the designation of critical habitat. [Addendum Tab No. 12a at 38, 16 U.S.C. §1533(a) (3) (A)]. Once a species is listed, it cannot be “taken,” which is broadly defined to mean any direct harm to the species or harassment, which, in turn, includes disruption in activities or loss of critical habitat. [Addendum Tab No. 12c-ii at 59, 50 C.F.R. §17.3]. If a ‘take’ is likely to occur on private land, the landowner must secure a takings permit under Section 10 of the ESA, and often does so under a habitat conservation plan which also requires compliance with NEPA. [Addendum Tab No. 12c at 59].

For any federal project that may affect a listed species, the federal agency must first do a biological assessment, and then refer the issue of the impact to the USFWS, for actions that “may affect” the species. [Addendum Tab No. 12b at 45, 16 U.S.C. §1536; Addendum Tab No. 12b-ii at 48-58, 50 C.F.R. Part 402]. The USFWS must determine if the action will jeopardize the continued existence of the species and make conservation recommendations. The proposed action cannot go forward until the USFWS completes its review and concludes that the project will not jeopardize the species. If the USFWS makes a jeopardy finding, the project is essentially stopped, despite the right to appeal to the ESA Committee. [Addendum Tab No. 12b.i. at 45, 16 U.S.C. §1536].

The ESA is the basis for several planning mechanisms:

- Recovery plans for listed species that set population and viability goals and define when a species might be eligible for delisting;
- Reintroduction plans, which govern introductions of listed species as part of a recovery effort;
- Habitat conservation plans which allow land uses on private lands to go forward even when a ‘take’ of a listed species may occur; mitigation of adverse effects is usually part of the plan;
- Conservation plans or agreements, often between states and USFWS, adopt management actions to avoid listing the species;
- Candidate conservation agreements, under which a landowner commits private land to management for the species, may also have ‘safe harbor’ provisions that assure that the landowner need not take any additional mitigation measures if the species is listed.

All of the above plans and agreements require some form of NEPA process, which provides an opportunity for public involvement.

Management of the Canadian Gray Wolf, still a listed species in certain states under the ESA, presents a unique situation. In 1995, the USFWS reintroduced the gray wolf in Wyoming (31 wolves). Since the introduction in Yellowstone and Grand Teton National Parks, National Elk Refuge, and adjacent National Forest wilderness areas, the gray wolves have rapidly expanded their territories and their numbers. The Wyoming Game and Fish has documented over 34 packs as of September 23, 2014 in Wyoming outside the Yellowstone National Park (YNP) and the Wind River Reservation (WRR). [Wyoming Game and Fish Department, National Park Service, USDA-APHIS-Wildlife Services, and U.S. Fish and Wildlife Service, Wyoming Gray Wolf Population Monitoring and Management Interim Report: January 1, 2014 through September 23, 2014, at (2015)]. Under the Wyoming Game and Fish Department’s management plan, the State of Wyoming commits to manage for at least 10 breeding pairs and at least 100 wolves in Wyoming outside YNP and the WRR. [Appendix Tab O, Wyoming Gray Wolf Management Plan, Wyoming Game and Fish Commission-Update, at 6-7 (September 14, 2011)]. Wolves inside the Greater Teton National Park and the National Elk Refuge counts towards the state’s wolf population objective. *Id.* The new plan reflects the cooperative planning effort between the USFWS and the state of Wyoming. The plan reflects Wyoming law that declares wolves a

predator outside of the wolf introduction area, when there are more than seven packs. Wyoming law and the management plan are consistent with the large number of reported wolves south of the park. Wolf numbers have increased remarkably and wolf predation causes hundreds of thousands of dollars of damage a year to Wyoming livestock and Wyoming wildlife populations.

The Wyoming Game and Fish filed an addendum to the plan on March 22, 2012 to clarify the plan, and the applicable state statutes and regulations were revised. The USFWS approved the plan, statutes, and regulations on September 10, 2012 and the wolves were delisted in Wyoming on September 30, 2012. However, several non-governmental organizations challenged the USFWS delisting and the Federal District Court vacated the decision. *Defenders of Wildlife, et al. v. U.S. Fish and Wildlife Serv.*, Civ. No. 1:12-cv-01833-ABJ, Dkt. 68 (Sept. 23, 2014). The gray wolf is again listed as a nonessential experimental population in all of Wyoming.

1. GOAL: Participate in local, state and federal rulemaking and planning regarding the designation and management of any species designated in any category or classification for protection or consideration of protection, under the ESA in and adjacent to Sweetwater County.

Objective 1A: Encourage compliance with the applicable state and federal statutes, including preparation of an environmental impact statement when critical habitat is designated.

Objective 1B: Participate fully with local, state and federal agencies to prepare an analysis of local economic and social impacts that any such critical habitat designation will have on the County.

Objective 1C: Consider the information from the socio-economic impacts when developing a coordinated management plan with local, state and federal agencies for the management of any species designated for protection under the Endangered Species Act in and affecting the County.

Objective 1D: Investigate and oppose, when appropriate, any threatened or endangered species designation that may disrupt uses of the land and is not consistent with the Plan.

Objective 1E: Enforce the requirement that critical habitat designations take local socio-economic impacts into account. Areas may be excluded as critical habitat based upon economic impacts unless the failure to designate the area as critical habitat would result in extinction of the species. [See Addendum Tab No. 12a at 37, 16 U.S.C. §1533(b) (2)].

Objective 1F: Request cooperating agency status and participate in the coordinated preparation of recovery plans, reintroduction plans, habitat conservation plans, conservation plans or agreements, and candidate conservation agreements for species occurring within or adjacent to or affecting the County.

Objective 1G: Continue to provide education and information concerning state and federal wildlife agency purchases or leases of riparian easements and other land acquisitions for endangered species habitat based on the impacts these activities have on individual property rights and the ability to develop, utilize and conserve the water resources.

Objective 1H: Encourage cooperation between private landowners and local, state and federal governments to most effectively achieve protection of endangered and threatened species, rather than imposing land-use restrictions and penalties.

2. GOAL: Support participation in all decisions and proposed actions, including NEPA procedures for an Environmental Assessment (“EA”) or Environmental Impact Statement (“EIS”), which affect the District, regarding sensitive, threatened, or endangered species recovery plans, introduction or reintroductions, habitat conservation plans, conservation agreements or plans, or candidate conservation agreements.

Objective 2A: Oppose the introduction or transplant of threatened and endangered species within the boundaries of the County, unless the District and the County consent and it is done pursuant to specific terms and conditions that avoid disrupting existing land uses.

Objective 2B: Request more effective management of, including but not limited to, grizzly bear and Canadian gray wolf populations and their confinement to only Yellowstone National Park.

Objective 2C: Recommend that proponents of protection, recovery activities, and other threatened and endangered and sensitive species programs finance the activities, including public involvement and compensation to the affected landowners.

Objective 2D: Recommend that federal agencies respect distinctions between special status species (state sensitive species, etc.) and those listed under the ESA.

Objective 2E: Participate in appropriate legislation and regulations directing management of threatened and endangered species and state sensitive species.

3. GOAL: Support delisting of species once population goals set out in recovery plans are achieved.

Policy 3A: Recovery plans must clearly state goals and describe the point that recovery is accomplished.

4. GOAL: Explore alternatives to listing, which may include conservation plans and related conservation agreements with local, state and federal agencies to address possible threats to species and their habitat and to avoid official listing.

Objective 4A: Support and participate in conservation plan initiatives as an alternative to listing the sage grouse with the added condition that the respective conservation plan include criteria to evaluate existing data and science and to evaluate the effectiveness of the proposed conservation measures.

Objective 4B: Support the use of candidate conservation agreements with assurances for private land and candidate conservation agreements for federal lands as a mechanism to provide habitat for candidate species while allowing current land uses to continue.

Policy 1: *Decisions to list a species as threatened or endangered need to be made on the basis of sound data and research that accurately assess the status of the species. When relatively little is known about the species and its history, the Interior Department should delay listing, since it is very difficult to delist a species, even when it is later determined to have been erroneously listed as threatened or endangered. The pending status of review of the western sage grouse is one example, where it remains a game species in most western states and is still being considered for protection under the ESA.*

Policy 2: *Recovery efforts and/or conservation plans for threatened or endangered species should consider impacts to local interests. These interests include resource use and development activities such as ranching, agriculture, mining, oil and gas exploration and production, sand and gravel, wood products, power development and recreation.*

Policy 3: *The District supports recovery efforts for threatened and endangered species which evaluate, mitigate and support Sweetwater County's custom and culture and economic viability and community stability.*

Policy 4: *Any black-footed ferret introductions would be accomplished pursuant to the black-footed ferret introduction plan developed for the Vermillion Basin and the Coyote Basin in Uintah County Utah. [Appendix Tab N, Black-footed Ferret Recovery Plan.] If any black-footed ferret enters Sweetwater County as a result of nonessential experimental black-footed ferret introductions on lands adjoining Sweetwater County, these animals would carry the same nonessential experimental designation that they carried on the lands into which they were originally introduced. The District opposes the designation of ferrets in Wyoming as non-essential and experimental under the 10(j) provisions of the Endangered Species Act despite the fact that the Wyoming Association of Conservation Districts supported that designation.*

Policy 5: *When planned introductions affect Sweetwater County, the planning process will include NEPA analysis that will consider the appropriate number of animals to be introduced, the location of the target population and distribution, impacts on other multiple uses and the recreational opportunities to be provided.*

Policy 6: *Wildlife introductions and existing populations on non-BLM lands that "spill over" or migrate to BLM lands will be considered in trespass and will be removed, unless those populations and specific habitat boundaries are provided for in this Plan.*

Policy 7: *Recommend endangered fish recovery efforts continue only when based on a balance of scientific justification, conserving past and future adjudicated water rights, economic viability and community stability of the County.*

Policy 8: *Support the Joint Resolutions of the 2002 Mega Ag Convention. [See Appendix Tab F, 2002 Mega Ag Convention Joint Resolutions, Wyoming Association of Conservation Districts, Wyoming Stock Growers Association and Wyoming Wool Growers Association].*

Policy 9: *Promote the interpretation of the ESA that the economic consequences must be considered with respect to the following actions: the jeopardy review to ensure that no proposed federal action will jeopardize the continued existence of a listed species, any approval of takings permits and designation of critical habitat. In addition, the USFWS must also include actions to mitigate the effects of designation of critical habitat.*

Policy 10: *Request that the USFWS follow the holding of the U.S. Supreme Court and acknowledge that economic consequences and/or a potential for a taking of private property are explicit concerns of the ESA [Addendum Tab No. 12b at 45, 16 U.S.C. §1536]. Moreover, USFWS evaluation of proposed federal actions under the ESA will carefully weigh the potential jeopardy to the species against other factors, including the species use of private lands, ongoing conservation or management efforts on private and state land, and the existence of scientific controversies regarding the status of the species. Any reasonable alternatives will also take into account the social and economic factors. The USFWS will also communicate, coordinate and consult with the District and Sweetwater County and potentially impacted property owners.*

Policy 11: *Recommend management activities for habitat of endangered, threatened or sensitive species be designed to benefit those species through habitat improvement. Current BLM policy treats candidate species and special status species (state sensitive species, etc.) as federally listed threatened and endangered species. This policy should cease until such time as NEPA analysis is completed for each such candidate or sensitive species, or they become listed pursuant to 16 U.S.C. §1533, [Addendum Tab No. 12a at 37.] The District's preferred management of these species would be development of conservation plans or agreements that would preclude federal listing.*

Policy 12: *To the greatest extent possible, any introductions or re-introductions of threatened or endangered species into the County or on lands adjacent to the County will be designated as nonessential experimental populations, and none will be introduced without NEPA compliance and public input. The boundaries of the County would be the boundaries for such nonessential experimental designated introductions. Public involvement, including the District, would be involved in developing plans for such introductions and decisions as to whether to implement such plans. Such introductions will not place an undue burden on other resource uses, including but not limited to, livestock grazing, oil and gas, recreation and mining.*

GREATER SAGE-GROUSE

In December 2007 the Idaho federal court set aside the decision of the USFWS not to list the sage grouse. *Western Watersheds Project v. Fish & Wildlife Service*, 535 F. Supp.2d 1173 (D. Id. 2007). The decision was remanded to the Service for a second review. In 2010, the USFWS announced its decision that while the sage grouse warranted listing there were other priorities that precluded listing at that time. 75 Fed. Reg. 13910 (Mar. 23, 2010). The USFWS concluded

that existing direction in the BLM's Land Use Plans (LUPs) were inadequate to protect the sage grouse and its habitat.

As causes of decline of the sage grouse, the 2010 warranted but precluded decision by the USFWS cites habitat conversion to irrigated fields and other land uses, energy development, changes in wildfire, roads and power lines, livestock grazing, feral equines, and significantly, the lack of adequate regulatory mechanisms to protect sage grouse. The USFWS largely discounts the role of predators and disease, although locally it is believed that West Nile Virus has played a major role in influencing sage grouse populations. However, due to the conservation efforts in Wyoming, sage grouse numbers have increased dramatically in recent years.

The Wyoming BLM and the Forest Service began Wyoming Sage-grouse Land Use Plan Amendments in 2010 to revise the sage grouse and sagebrush management for the Rawlins, Rock Springs, Kemmerer, Pinedale, Casper, and Newcastle RMPs, and the Bridger-Teton and Medicine Bow National Forests and Thunder Basin National Grasslands. In August of 2011, the BLM brought together the Sage Grouse National Technical Team (NTT) to develop a series of conservation measures to consider and analyze through the land use planning process. The NTT issued a report that forms the basis for the BLM's Land Use Plan Amendments. The NTT Report has been substantially discredited as a management document. The BLM Washington Office also issued an instruction memorandum that provided BLM direction on considering the conservation measures identified in the NTT's Report. WO BLM 2012-044.

BLM released its Record of Decision adopting 15 Greater Sage Grouse Land Use Plan Amendments on September 23, 2015. *See* 80 Fed. Reg. 57332 (Sep. 23, 2015). The RMP's were amended to include various land use restrictions, habitat objectives, and management actions to conserve sage grouse populations. The Land Use Plan Amendments further changed Core and Connectivity Areas to priority habitat management areas (PHMA) and Non-Core Sage-Grouse Habitat to general habitat management areas (GHMA). The Land Use Plan Amendments limit disturbance in PHMA (core) habitat to one energy or mining facility per 640 acres with a 5% disturbance cap. In PHMA (core) Surface occupancy and surface disturbing activities will be prohibited on or within a 0.6 mile radius of the perimeter of occupied sage-grouse leks. That buffer changes to .25 miles anywhere outside of PHMA (core). Within PHMAs, livestock grazing permits and leases that are under NEPA analysis for renewals and modifications will have to meet specific management thresholds based on sage-grouse habitat objectives or the use will be adjusted. Also within PHMAs, the BLM calls for the retirement of grazing permits when a permittee voluntarily relinquishes a permit or lease. The Amendments also introduce a new management concept by identifying Sagebrush Focal Areas (SFA), which would be managed as priority habitat management areas, recommended for withdrawal from the General Mining Law of 1872, and prioritized for management and conservation actions.

The State of Wyoming also developed a Core Area Strategy that identifies "core" sage-grouse habitat and implements buffer zones, noise restrictions, and other stipulations. *See* E.O. 2015-04. The Wyoming BLM adopted the Wyoming Core Area Strategy through instruction memorandum as well as by reference in the sage grouse land use plan amendments. WY BLM

2010-12. The Wyoming BLM replaced WY BLM 2010-12 with instruction memorandum WY BLM 2012-019. BLM has stated that the amendments are consistent with the Wyoming Core Area Strategy.

The Wyoming Core Area Strategy and the BLM's sage grouse amendments are not entirely consistent. E.O. 2015-04 does not identify nor place any restrictions on those acres identified as GHMA in the BLM sage grouse amendments. Nor does E.O. 2015-04 identify or add restrictions on those acres identified by the BLM as SFA. In total, the BLM sage grouse amendments nearly double the acres restricted.

On September 22, 2015, the U.S. Fish and Wildlife Service issued a decision that the Greater Sage Grouse did not warrant protection under the Endangered Species Act. *See* Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition to List Greater Sage-grouse (*Centrocercus urophasianus*) as an Endangered or Threatened Species, http://www.fws.gov/greatersagegrouse/PDFs/20150921_GRSF_FR_Signed.pdf. One of the major factors leading to the not warranted finding was the increased level of regulatory protection by federal and state plans.

1. GOAL: Participate in local, state and federal rulemaking and planning regarding the management of sage-grouse in and adjacent to Sweetwater County.

Objective 1A: Oppose federal government sage-grouse conservation plans and RMP Amendments that are inconsistent with the Wyoming Executive Order 2015-04 and its revisions. Object to the federal government applying sage-grouse habitat protections to more federal land, restrictions on livestock grazing, failure to manage other impacts, increased restrictions for surface-disturbing activities, and limitations or closures on existing access routes.

Objective 1B: Encourage the federal government to make any sage-grouse conservation plans, RMP Amendments, or any other planning documents consistent with Wyoming Executive Order 2015-04 and any revisions that are made to that Executive Order.

2. GOAL: Explore alternatives to listing, which may include conservation plans and related conservation agreements with local, state and federal agencies to address possible threats to species and their habitat and to avoid official listing.

Objective 2A: Support the use of candidate conservation agreements with assurances for private land and candidate conservation agreements for federal lands as a mechanism to provide habitat for candidate species while allowing current land uses to continue.

CULTURAL, ARCHEOLOGICAL, GEOLOGICAL AND PALEONTOLOGICAL RESOURCES

Balancing the need for existing land uses and the classification, recording, and protection of cultural and archeological sites presents a significant challenge for local, state and federal agencies, which manage state and federal lands in the County. Although the Archaeological

Resources Protection Act (“ARPA”) of 1979 provides strict and meaningful penalties against vandals caught destroying sites on land, local, state and federal land managers do not have the resources to completely record or protect all sites warranting special care. [Addendum Tab No. 4 at 11-13, 16 U.S.C. §§470aa-470mm]. However, most sites found in the County are open-lithic scatters with a few tools and flakes not likely to be noticed by the general public. The District recognizes the need to develop public education and stewardship programs, which increase awareness about cultural sites in the County. Public education programs should focus on responsible visitation, the history and meaning of various sites found on public lands and the impacts of surface collecting and excavating existing sites. Site protection strategies need to be balanced with other current and future land uses.

The County contains many special features, which due to their remote and rugged nature, are largely self-protected. When an imminent threat to these special features is identified, mitigation efforts necessary to protect significant scientific, educational and recreational values will be identified. Many other special features are susceptible to damage by recreation seekers.

The District is also entitled to participate in proceedings and actions taken under the Advisory Council on Historical Preservation (“ACHP”). The District may not always need to be a consulting party, but will when the archeological and cultural resource reviews directly affect the District’s mandate to conserve rangeland, soil and water resources and to stabilize the ranching and agriculture industry, as well as the mining and oil and gas industries.

1. GOAL: Encourage the preservation of all parts of our cultural heritage.

Objective 1A: Facilitate the recognition of special features in the County, which may include: mines, mills, expedition routes, stage stops, and livestock trail routes, horse corrals, campsites, buffalo jumps, pictographs and quarries.

2. GOAL: Support expansion of opportunities for scientific study, educational and interpretive uses of cultural and paleontological resources.

Objective 2A: Support monitoring of local, state and federal agencies in the provision of public visitation opportunities to cultural and archeological sites while providing sufficient site protection. This can be accomplished through local, state and federal agencies dedicating resources to identify and mark select cultural sites in the County.

Objective 2B: Request the right to be a consulting party with respect to local, state and federal actions that involve the protection and preservation of important cultural and paleontological resources and/or their historic record for future generations, including but not limited to, congressionally-designated historic trails and associated historic sites.

Objective 2C: Recognize the unique archeological features that occur on private, state and federal lands across the County. The District supports protection of private property owner's rights.

Objective 2D: Support responsible stewardship on cultural sites balancing resource protection with multiple uses.

Objective 2E: Evaluate the cooperative agreement between BLM and the National Park Service to implement the Oregon/Mormon Pioneer National Historic Trails Management Plan and determine whether to request consulting agency status. [See also Appendix Tabs HH, Wyoming BLM Historic Trails Map].

3. GOAL: Support balancing the current and future land uses dictated by custom and culture with the protection of cultural sites.

Objective 3A: Request notification and opportunity to comment on lands within Sweetwater County that the Wyoming Commission and Department of State Parks and Cultural Resources may propose for inclusion under Wyo. Stat. §§36-4-101 through 124, (governing the acquisition of suitable lands for Wyoming state parks, public recreation grounds, historic parks, and historical, archeological, geological and ecological sites) [Addendum Tab No. 44 at 217-228].

Objective 3B: Support the resolution of conflicts between cultural or paleontological resources and other resource uses.

Objective 3C: Request that local, state and federal agencies notify the District of any actions or regulations, which may impact cultural and archeological resources on state and federal land within the County. The District will review and comment on state or federal actions or changes significant to cultural and archeological resources in the County.

Policy 1: *Management of roads and trails that may be eligible for the NHRP but are not Congressionally designated, should not be managed as if they were designated roads and trails and should not be included in the ¼ mile protective setback on either side of the trail including, but not limited to, the Overland Trail, the Cherokee Trail, and the Point of Rocks to South Pass Road. [See Appendix Tab HH, Wyoming BLM Historic Trails Map]. Any trail designation needs to respect private property rights.*

Policy 2: *Recommend local, state and federal agencies not jeopardize existing land uses, such as oil and gas exploration, mining, road maintenance, grazing and recreation through the protection of cultural and archeological sites. Compliance can be accomplished with mitigation measures that affect a balance of existing uses and the need to protect cultural sites.*

Policy 3: *Acknowledge that sites eligible for or listed on the NHRP will be managed for their local, regional and national significance, under the guidelines of the National Historic Preservation Act, (especially sections 106 and 110) and ARPA). [Addendum Tab Nos. 3at 8, and 4 at 11, respectively, 16 U.S.C. §§470-470s; §§470aa-470mm].*

Policy 4: *Request to be recognized by federal agencies as a consulting party under Section 106 of the National Historic Preservation Act and subsequent amendment. Consulting party status*

will allow the District to work with local, state and federal agencies to facilitate typical multiple use activities when sites do not offer unusual or special cultural and archeological values.

Policy 5: *At least one representative or LRAC designee from cultural and archeological resources should be included on any team based decision-making process by local, state or federal agencies, which affects archeological or cultural resources in the County.*

Policy 6: *Sites eligible for or listed on the NHRP will be managed to ensure against adverse effects through proper mitigation, if disturbance or destruction is not avoidable. Management prescriptions for sites that are not eligible for the NRHP will be determined on a case-by-case basis according to values and impacts involved.*

Policy 7: *Support development including, but not limited to, roads, pipelines and power lines that may cross trails in areas where previous disturbance has occurred and/or where the trail segment has lost the characteristics that contribute to its National Register significance.*

Policy 8: *Preserve evidence of historic farming and ranching are important resources to the state and area.*

Policy 9: *Oppose historical trail management of roads that are used by the public and were established by public use.*

COMMUNICATION / TECHNOLOGY

1. GOAL: Support working with other counties within the region to ensure that the County's telecommunications and informational highway interests are heard and addressed to protect and promote the health, safety, and general welfare of the citizens of the County.

Objective 1A: Support increasing the number of adequate broadband T1-lines available for government, business and non-profit organizations.

Objective 1B: Encourage the introduction of the newest technology for accessibility from all areas within the County. Such technology should include but not be limited to:

- Hyper Spectral Imagery
- Cellular Telephone coverage
- Infra-Red Imagery
- Remote location access
- Geographic Information Systems (“GIS”) mapping
- Digitized Soil Survey
- Global Positioning Systems (“GPS”)
- Electricity

Policy 1. *Communications and associated technology are essential to the long-term vitality of the County. Construction of communication and technology infrastructure requires rights-of-*

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way across federal land. Recent proposals to restrict new rights-of-way across public land threaten the ability of the County to develop the necessary technological infra-structure necessary to support communication and technological services.

Policy 2: Recognize and provide for the fact that some communication equipment is site sensitive and should have priority over other uses.

THE CONTINUING PROCESS

The District recognizes that the Plan is dynamic and adaptive and will be updated as needed. It will require the cooperation, work and dedication of many county residents. The ongoing planning will include consideration of historic, current and future land uses in Sweetwater County.

GOAL 1: This Land Resource Plan and Policy shall be the basis for enforcing the FLPMA consistency requirements for public land management.

Policy 1: *Land and natural resources are essential to local industry and residents. It is the policy of the District that the design and development of all federal and state land dispositions and acquisitions, including boundary adjustments or land exchanges, be carried out for the benefit of individual property owners and to the benefit of the citizens of Sweetwater County.*

SWEETWATER COUNTY CONSERVATION DISTRICT DISTRICT LAND AND RESOURCE USE PLAN AND POLICY

Glossary of Terms

Access – A way of admittance, approach, entrance, passage, or ingress and egress.

Activity Plans – Allotment Management Plans (“AMPs”), Habitat Management Plans (“HMPs”), Watershed Management Plans (“WMPs”), Wild Horse Management Plans (“WHMPs”), and other plans developed at the local level to address specific concerns and accomplish specific objectives.

Agriculture – The art and science of growing crops and raising and breeding livestock. As per this Plan, activities which traditionally define agriculture in Sweetwater County include, but are not limited to, cattle and sheep ranching; hay, grain and other small and large grain crop production; and alternative livestock (domestic and wild).

Air Quality – The amount of pollutants in the atmosphere determine the area’s air quality. Federal and state law regulate as pollutants particulates, carbon dioxide, sulfur dioxide, nitrogen oxide, ozone, particulates, and other toxic air pollutants. National ambient air quality standards or “NAAQs” set maximum levels of pollutants.

Management systems include abatement and other measures to improve air quality, and to maintain air quality within a defined range. Ultimately the desired levels of air quality and the measures to be implemented are a political choice. This choice is usually based on subjective assessments of economic and social costs, benefits, feasibility, and other considerations. Air quality management strategies are not linear processes. Feedback is important to refine the strategy and help align it with circumstances, capabilities and needs.

Air shed – A geographic area that, due to topography, meteorology and climate share the same air.

Animal Unit Month (“AUM”) – The quantity of forage required by one mature cow and her calf (or equivalent, in sheep or horses, for instance) for one month. The amount of forage needed to sustain one cow, five sheep, or five goats for a month. In the United States, a full AUMs fee is charged for each month of grazing by adult animals if the grazing animal (1) is weaned, (2) is 6 months old or older when entering public land, or (3) will become 12 months old during the period of use.

Archeology – The art and science of studying history from the remains of early human cultures as discovered chiefly by systemic excavations. Cultural resources are evidence of patterns from a way of life of a specific period, race or people. As per this Plan, items and activities which traditionally define archeological and cultural resources in the County include, but are not

limited to, arrowheads, petroglyphs, pictographs, medicine wheels, bone hunting, rock hounding and historic trails.

Archeological and Historic Preservation Act 1974 – Provides for “the preservation of historical and archeological data (including relics and specimens) which might otherwise be irreparably lost or destroyed as the result of (1) flooding, the building of access roads, the erection of workmen's communities, the relocation of railroads and highways, and other alterations of the terrain caused by the construction of a dam by any agency of the United States, or by any private person or corporation holding a license issued by any such agency or (2) any alteration of the terrain caused as a result of any Federal construction project or federally licensed activity or program.” 16 U.S.C. §469.

Areas of critical environmental concern or ACEC – Defined as “areas within the public lands where special management attention is required (when such areas are developed or used or where no development is required) to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards.” 43 U.S.C. §1702(a).

Archeological Resources Protection Act 1979 – Protects “archaeological resources and sites which are on public lands and Indian lands.” The Act also promotes cooperation and information sharing between federal and state governments, the professional archaeological community, and individuals. 16 U.S.C. §470aa (b).

Archeological Resources – “Any material remains of past human life or activities which are of archaeological interest, as determined under uniform regulations promulgated pursuant to this chapter. Such regulations containing such determination shall include, but not be limited to, pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, pit houses, rock paintings, rock carvings, intaglios, graves, and human skeletal materials or any portion or piece of any of the foregoing items. Nonfossilized and fossilized paleontological specimens, or any portion or piece thereof, shall not be considered archaeological resources under the regulations under this paragraph, unless found in archaeological context. No item shall be treated as an archaeological resource under regulations under this paragraph unless such item is at least 100 years of age.” 16 U.S.C. §470bb(1).

Candidate Conservation Agreement – The USFWS by policy may enter into an agreement with a state agency, local government or private landowner to protect or manage habitat for a species that is proposed for listing but is not yet listed. Under the terms of the agreement, generally an agreed upon amount of land is set aside or earmarked to be conserved for the candidate species. The landowner may also receive compensation and assurances that if the species is listed, the landowner will not be required to adopt additional conservation measures.

Communication – The exchange or transfer of information using the technology of transmission systems.

Community Stability – Combination of factors to promote and sustain the viability of a community, including local economy, custom, and culture.

Conservation Plan – This term refers to situations when a state or states develop a management plan to protect a species that is proposed for listing under the ESA to persuade the USFWS not to list a species. The plan may be based on memorandum of agreement between federal and state agencies and may involve more than one state.

Cooperation – “[T]o act jointly or concurrently toward a common end.” Black’s Law 5th Ed. at 302.

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.

Coordination – “[A]djusted to, in harmony with.” *Id.* at 303.

Consistency – “[H]aving agreement with itself or something else; harmonious; congruous; compatible; not contradictory.” *Id.* at 279.

Consultation – A conference between two or more people to consider a particular question.

Core Area – The regions with the largest numbers of communal sage-grouse breeding grounds or leks, and sage grouse.

Culture – The body of customary beliefs, social forms, and material traits including the traditions of racial, religious and social groups; their morals, knowledge, customs, religions, law, beliefs, superstitions and art.

Custom – As used in this Plan, custom is defined as the usage or practice of the people, which by common adoption and acquiescence, and by long and unvarying habit, has become compulsory, and has acquired the force of a law with respect to the place or subject-matter to which it relates, and a habitual practice, more or less widespread, which prevails within a geographic or sociological area.

Customs – The way people implement their culture—the way they traditionally use the land, make a living and act toward each other. Customs are the visible and tangible manifestations of the shared beliefs that bind a group of people into a community. In law, customs consist of “long established practice or usage, which constitutes the unwritten law, and long consent to which gives it authority. Customs are general, which extend over a state or kingdom, and particular, which are limited to a city or district.”

***de facto* Wilderness Management** – Land management policy that is imposed without congressional direction or authority that mirrors or is similar to the management of areas designated by Congress as wilderness pursuant to the 1964 Wilderness Act. The management restrictions and prohibitions include: the prohibition of construction of new roads; restriction or prohibition on reconstruction or maintenance of existing roads; prohibition of mining or mineral

development; restrictions on activities that would require permanent structures or facilities, or restrictions on motorized vehicle use or the use of mechanical tools or means of travel.

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.

Disruptive Activities -- Human activities that directly interfere with key biological processes such as breeding, and which will have measurable and long-term impacts.

Ditch Easement – A right-of-way across land granting the right to construct and maintain a ditch. On public land, a right-of-way was granted across unreserved public lands when a ditch or a canal was constructed pursuant to R.S. 2339 and 2340, Act of July 26, 1866, ch. 262, Sec. 9, 14 Stat. 253, 254. These laws were repealed when Congress enacted FLPMA in 1976.

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.

Economics – Pertaining to the development and management of the material wealth of a government or community.

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.

Flora – The wild plants of a particular region, district or geographical period; a description of such plants.

Forestland – Land that is now, or is capable of becoming, at least 10% stocked with forest trees and that has not been developed for non-timber use ("BLM"). As defined by the USDA Forest Service is land that is at least ten percent covered with trees (Forested Landscapes in Perspective, 1998).

Forest Health – A measure of the robustness of forest ecosystems. Aspects of forest health include biological diversity; air and water productivity; natural disturbances; and the capacity of the forest to provide a sustaining flow of goods and service for people.

This term is often used to express a collection of concerns – with respect to the alleged deterioration in the forest conditions, including both current problems and (*e.g.* – insect and disease infestations, wildfires, and related tree mortality) and risks of future problems (*e.g.* – too many small-diameter trees) (overstocking), excess biomass in an unnatural mix of tree species in mixed stands.

Forms of Production – The forms of production component include the things you have or need to produce to retain or attain the desired quality of life.

The derived forms of production statement of the District reads as follows: *“The quality of life we strive for will be achieved by continuing to maintain and enhance sustainable and optimum production of renewable and non-renewable resources and to encourage and support the motive and means to enhance economic opportunity and education.”*

Future Resource Base – The future resource base component includes the people, land and community we live in and the services available, and what we will need to sustain and enhance our quality of life and forms of production.

The derived future resource base statement of the District reads as follows: *“Through the efforts of cooperation and communication among the local people, our community will have a beneficial impact on sustaining a strong and viable multiple-use of our lands, including agricultural, industrial, mineral production, commercial, recreational and historical uses, which together will provide the continued ability to generate wealth and growth and needs of our community.”*

General Habitat Management Areas – Sage-grouse habitat that is occupied (seasonal or year-round) habitat outside of priority habitat.

Geophysical Exploration – The use of geological and geochemical techniques, including, but not limited to, core and test drilling, well logging techniques, and various sampling methods; in order to produce information and data in support of possible mineral resource exploration and development activities, including pipelines. It also includes any operation using gravity, magnetic and seismic survey methods to produce geologic information and data in support of possible mineral resource exploration and development activities.

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.

Habitat Conservation Plan – The USFWS will approve a plan to protect habitat for a species listed under the ESA located on private land. The habitat conservation plan allows private landowners to use or develop the land, even though the activities may adversely affect a listed

species. The plan will also include a “takings permit” which will permit the incidental loss of habitat or potential harm to a listed species.

Habitat Fragmentation – An event that creates a greater number of habitat patches that are smaller in size than the original contiguous tract(s) of habitat.

Habitat Loss – The permanent or effectively permanent removal of habitat cover needed by a particular wildlife species.

Highway – Includes, but is not limited to, pedestrian trails, horse paths, livestock trails, wagon roads, jeep trails, logging roads, homestead roads, mine-to-market roads, alleys, tunnels, bridges, dirt or gravel roads, paved roads and all other ways and their attendant access for maintenance, reconstruction and construction.

Indicator – An indicator is a component of a system whose characteristics (e.g., presence, absence, quantity and distribution) can be measured based on sound scientific principles. An indicator can be measured (monitored and evaluated) at a site- or species-specific level. Measurement 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 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.

Intention – A determination to act in a certain way: resolve. Synonyms for intention/intent are: purpose, design, aim, end, objective, goal, mean or what one proposes to accomplish or attain.

Irreversible and Irretrievable Commitment of Resources – NEPA requires that each EIS address the resources that will be permanently lost or committed as a result of the project. When oil is produced from a well it is lost or committed and cannot be later developed. Vegetation resources associated with a well pad are not irreversible committed because the site can be reclaimed.

Jeopardy Review – The USFWS, pursuant to the ESA, must evaluate all federal actions that may adversely affect a species that is listed under the ESA to determine whether the proposed action is likely to jeopardize the continued existence of the species. 16 U.S.C. §1536. As part of the jeopardy review, which is also called a “Section 7 review,” USFWS prepares a biological opinion, makes a determination regarding jeopardy, and recommends additional conservation measures that would mitigate the impacts on the species. If the USFWS makes a finding of jeopardy, the proposed federal action may not proceed.

Land Designation – The classification of tracts of land by Congress or a land managing agency to recognize distinctive and unique characteristics or uses.

“Let it Burn” – A land management policy (and philosophy) that limits or ends fire suppression in order to reintroduce the role of natural wildfire into an ecosystem. This policy is most often used in wilderness areas, where the use of fire fighting equipment and tools is generally prohibited, or in the more remote areas of the National Park System. It also substitutes wildfire for logging or grazing to recreate pre-settlement environments.

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

Locatable Minerals – Minerals subject to exploration, development and disposal by staking mining claims as authorized by the Mining Law of 1872 (as amended). This includes valuable deposits of gold, silver and other uncommon minerals not subject to lease or sale.

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.

Memoranda of Understanding (“MOU”) – An instrument setting forth the terms of an informal agreement, most often between a state or local government and a federal agency to establish operational arrangements or information sharing. It may also regulate technical or detailed matters, such as terms for mutual maintenance of roads or other facilities. It is typically in the form of a single instrument and may not require ratification.

Memorandum of Agreement (“MOA”) – It is very similar to an MOU but will be worded as agreement rather than general understanding. Like an MOU, it will document an informal agreement between federal agencies, or divisions/units within an agency or department, or between a federal and state agency or unit of local government and will delineate tasks, jurisdiction, standard operating procedures or other matters which the agencies or units are duly authorized and directed to conduct.

Minerals – Naturally occurring homogeneous substances formed by organic or inorganic processes found on the surface or in the earth; deposits having some resource values such as coal, sand and gravel, precious and semi-precious metals, fossils and gemstones.

Multiple Land Use – Use of land for more than one purpose, for example, grazing of livestock, recreation and timber production. The term may also apply to the use of associated bodies of water for recreational purposes, fish and water supply. (UN).

Multiple-use – Multiple uses of the national forests means the “harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output.” Multiple Use and Sustained Yield Act of 1960 (P.L. 86-517, June 12,

1960) as amended. Multiple use implies a sustained yield of outdoor recreation, range, timber, watershed and wildlife and fish values.

Multiple use of the public lands managed by the Bureau of Land Management means: “the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output.” Federal Land Policy and Management Act, 43 U.S.C. §1702(c).

Multiple-use land – A combination of balanced and diverse resource uses that considers long term needs for renewable and nonrenewable resources including recreation, rangeland, timber, minerals, water shed and wildlife along with scenic, scientific and cultural values.

Multiple-use Management – The management of all of the various renewable surface resources of national forest lands, for a variety of proposes such as recreation, range, timber, wildlife and fish habitat, and watershed.

Non-Core Areas – Those areas outside of core areas but inside the sage-grouse habitat range.

Non-impairment management – The standard for determining whether to allow actions or activities on public lands that have been classified as wilderness study areas either by Congress or the Bureau of Land Management. The action or activity may be allowed so long as the impacts will not impair the areas suitability for wilderness or will not degrade the wilderness values so as to preclude its inclusion in the National Wilderness Preservation System.

No surface occupancy (“NSO”) – This term refers to a condition attached to a mineral lease which prohibits surface occupancy or development activities on the land. NSO is not a recognized term for other land uses or permits.

Objective – An objective is a site-specific statement of a desired rangeland condition. It may contain qualitative (subjective) elements, but it must have quantitative (objective) elements so that it can be measured. Objectives frequently speak to change. They may measure the avoidance of negative changes or the accomplishment of positive changes. They are the focus of monitoring and evaluation activities at the local level. Objectives may measure the products of an area rather than its ability to produce them, but if they do so, it must be kept in mind that the lack of a product may not mean that the standards have not been met. Instead, the lack of a

particular product may reflect other factors such as political or social constraints. Objectives often focus on indicators of greatest interest for the area in question.

Open Space – Any parcel or area of land or water that is essentially unimproved and is set aside, dedicated or reserved for public or private use for the enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space, provided that such areas may be improved with only those buildings, structures, streets, and off street parking and other improvements that are designed to be incidental to the natural openness of the land. An area of a lot either left in a natural state or receiving permeable vegetative landscape treatment such as ponds and lakes, either natural or manmade; and water features, grass shrubs, flowers, trees, ground cover, etc.

Prescribed burn – The deliberate use of fire to improve vegetation conditions or to reduce fuel loads in forests, grassland or rangeland areas.

Priority Habitat Management Areas – Areas that have been identified as having the highest conservation value to maintaining sustainable sage grouse populations. These areas include breeding, late brood-rearing, and winter concentration areas.

Public lands – The term “public lands” means “any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership, except-- (1) lands located on the Outer Continental Shelf; and (2) lands held for the benefit of Indians, Aleuts, and Eskimos.” 43 U.S.C. §1702(e).

Range – Rangelands, forests, woodlands and riparian zones that support and understory or periodic cover of herbaceous or shrubby vegetation amenable to rangeland management principals or practices. Land on which the principal natural plant cover is composed of native grasses, forbs, and shrubs that are valuable as forage for livestock and big game. Any land supporting vegetation suitable for wildlife or domestic livestock grazing, including grasslands, woodlands, shrublands and forest lands.

Range Condition – The current productivity of a rangeland relative to what the land could naturally produce based on the site’s soil type, precipitation, geographic location and climate.

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.).

Range Management – The art and science of planning and directing range use intended to use the sustained maximum animal production and perpetuation of the natural resources.

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, shrub lands, most deserts, tundra, alpine communities, coastal marshes and wet meadows.

The United States has 399 million acres of non-federal rangeland, about 30% of all non-federal rural lands, according to the 1992 National Resources Inventory. The BLM manages approximately 167 million acres of federal rangelands, and the Forest Service manages approximately 95 million acres of federal rangelands.

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

Recovery Plan – The ESA requires the USFWS to prepare a plan to improve the status of a listed species to the point where the species need no longer be listed. A recovery plan typically sets population goals, identifies tasks to reverse or arrest the decline of a species and criteria for delisting the species.

Recreation – An action or lack thereof, which results in relaxation, entertainment, and is enjoyed by those who participate.

Reintroduction Plan – Under the ESA, a reintroduction plan is a specialized recovery plan designed to restore a threatened or endangered species to its historical habitat. A reintroduction plan will document the habitat area to be occupied and specific management actions to be taken to ensure the successful reintroduction of the listed species. Alternatively, a reintroduction plan by a state wildlife agency will return fish, game or other wildlife to an area where they have been extirpated.

Research Natural Area (“RNA”) – A type of area of critical environmental concern or ACEC under BLM land use planning process where natural ecological and physical processes are allowed to occur and human activities are prohibited if they will interfere with the natural processes. Under Forest Service land use policy, a RNA is an area identified as a reference area to evaluate the impacts of management in similar environments, including areas for research and areas to be protected for biodiversity or threatened, endangered and sensitive species.

Resource Advisory Committee – As used in this Plan, the Resource Advisory Committee will refer to any committee established by the District to provide advice regarding various land and conservation issues. The term also refers to advisory committees established by the Bureau of Land Management to provide the BLM with advice regarding public land management issues, especially relating to livestock grazing pursuant to 43 C.F.R. Subpart 1784.

Rights-of-way – This term generally refers to “an easement, lease, permit, or license to occupy, use, or traverse lands” and such right may be created by federal or state statute, deed, contract or agreement, or permit. A right-of-way may also include: Any road, trail, access or way upon which construction has been carried out to the standard in which public rights-of-way were built within historic context. These rights-of-way may include, but not be limited to, horse paths, cattle trails, irrigation canals, waterways, ditches, pipelines or other means of water transmission

and their attendant access for maintenance, wagon roads, jeep trails, logging roads, homestead roads, mine to market roads, and all other ways.

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.

Riparian Area – An area along a watercourse or around a lake or pond.

“Riparian areas are ecosystems that occur along watercourses or water bodies. They are distinctly different from the surrounding lands because of unique soil and vegetation characteristics that are strongly influenced by free or unbound water in the soil. Riparian ecosystems occupy the transitional area between the terrestrial and aquatic ecosystems. Typical examples would include floodplains, stream banks, and lakeshores.” USDA NRCS.

“Riparian areas have one or both of the following characteristics: 1) distinctively different vegetative species than adjacent areas, and 2) species similar to adjacent areas but exhibiting more vigorous or robust growth forms. Riparian areas are usually transitional between [river or] wetland and upland.” US FWS.

Riparian landscapes occur in the saturated soils along the streams of the County. Riparian or streamside areas are a valuable natural resource and impacts to these areas should be avoided whenever possible. Riparian vegetation plays an important role in protecting streams, reducing erosion and sedimentation as well as improving water quality, maintaining water table, controlling flooding, and providing shade and cover.

Riparian Zone – Those terrestrial areas where the vegetation complex and micro climate conditions are products of the combined presence and influence of perennial and or intermittent water, associated high water tables and soils which exhibit some wetness characteristics. Normally used to refer to the zone within which plants grow rooted in the water table of these rivers, streams, lakes, ponds, reservoirs, springs, marshes, seeps, bogs and wet meadows. (BLM). “At the smallest scale, the riparian zone is the immediate water's edge where some specialized plants and animals form a distinct community. At a larger scale, the riparian zone is the area periodically flooded by high water, the stream banks and floodplain. At the largest scale, the riparian zone is the band of land that has significant influence on the stream ecosystem, and/or is significantly influenced by the stream.” Malcomb Hunter.

Significantly – This term is used in the National Environmental Policy Act regulations, 40 C.F.R. §1508.27, to define when a proposed action may significantly affect the human environment.

Significantly as used in NEPA requires considerations of both context and intensity:

(a) Context. This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant.

(b) Intensity. This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity:

(1) Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.

(2) The degree to which the proposed action affects public health or safety.

(3) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

(4) The degree to which the effects on the quality of the human environment are likely to be highly controversial.

(5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

(6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

(7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.

(8) The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

(9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.

(10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

Sagebrush Focal Areas – Areas identified by the USFWS that represent recognized “strongholds” for sage grouse that have been noted and referenced by the conservation community as having the highest density of sage grouse and other criteria important for the persistence of sage grouse.

Site Condition – This term describes existing soil, vegetation, wildlife and the physical site, in the context of precipitation and climate.

Special Land Use Designations – Refers to the classification or designation tracts of land by Congress or a federal agency to recognize and protect distinctive or unique characteristics. Designations by Congress are permanent and may include national monuments, national parks, national park preserves, national wildlife refuges, national recreation areas, national seashores, wild, scenic or Recreation Rivers, national forests and wilderness. The President may also establish national monuments, which are permanent unless modified by another President or Congress. Federal law may delegate the authority to various federal agencies to make special land use designations. The Interior Department Secretary may designate wildlife refuges; the Bureau of Land Management through its land use plans may establish special recreation areas, areas of critical environmental concern, resource natural areas, and until 1991, wilderness study areas. The Forest Service through its land use plans establishes special interest areas and research natural areas.

There are more than 40 recognized special land designations exist nationwide. Pursuant to this Plan, multiple use is not a special land designation, rather it is a concept and management practice for most lands in Sweetwater County not assigned a special land designation.

Species of Concern or Special Status Species – This term includes species that have been proposed for listing under the Endangered Species Act or have already been listed as threatened or endangered, as well as species that are on the candidate list published in the *Federal Register*. The term also includes any state-listed species or any “sensitive species” identified by the BLM State Director, which includes the above categories and might also include species undergoing downward trends due to changes in habitat capability or populations or which occupy specialized habitats.

Spill Over – This term refers to the movement of introduced or reintroduced wildlife into areas where they were not intended to be in the plan. The presence of such species will greatly limit land uses, especially when the species is protected under the ESA or other federal and state laws.

Split Estate – A tract of land where title to the surface estate is separate from title to some or all of the mineral rights. Split estates are common in the western United States, because private land conveyed under the homestead or stock raising homestead acts reserved the mineral rights to the United States. Under common law, the mineral estate is dominant and can be developed over the objections of the surface owner. Modern laws and case decisions have modified the rule but still recognize the right of the mineral owner to develop the mineral estate, even when the surface owner objects. If the United States owns the surface, it will require the mineral owner to reclaim the surface, secure permits to build roads and other facilities and post reclamation bonds. If the surface is owned by a private landowner, then federal reclamation laws do not apply but state laws will.

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, which produces these by-products.

Surface disturbing activity – Refers to development activities that involve the removal of vegetation, topsoil, or overburden where there is a physical change to the surface, such as activities associated with mineral or energy development, rights-of-way, road construction or reconstruction. It does not include incidental disturbances associated with the construction, reconstruction, or maintenance of fences or corrals or stock tanks, livestock or wildlife grazing, or recreation uses.

Sustainable Yield – The yield from a renewable resource that can produce continuously at a given intensity of management.

Sustained Yield – A “high-level” output of renewable resources that does not impair the productivity of the land. The continuation of a healthy desired plant community.

Takings in context of Endangered Species Act – Includes harm to a protected species when an act actually kills or injures wildlife. Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering. 50 C.F.R. §17.3.

Takings in context of property and right to compensation – A ‘taking’ of property is generally defined as to deprivation of the right of use and enjoyment of the property. The ownership of property is often described as a “bundle of sticks” which includes mineral rights, rights of access, rights to use the surface, and rights to use the fruits raised from the surface, such as crops or grass. When land use regulation by federal, state or local government interferes with one of those rights in the bundle of sticks, a taking occurs only if it deprives the owner of all of his bundle of sticks or “investment-backed expectations.” More recent decisions will find a taking when the deprivation is total but temporary or when the deprivation precludes an essential element of the property right, such as the right to exclude others. Federal land agencies enjoy a

much greater presumption of authority to limit the exercise of private property rights and successful takings cases more often involve disputes with a local government or state agency.

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.

Thoroughfare – Term means according to its derivation, a street or passage through which one can fare (travel); that is, a street or highway affording an unobstructed exit at each end into another street or public passage. If the passage is closed at one end, admitting no exit it is called a “cul de sac.”

Title V of FLPMA – In 1976, Congress repealed almost all laws granting rights-of-way for various purposes and established a single title under which rights-of-way would be granted across public lands for any purpose, including power transmission lines, roads and pipelines.

Tracea – In old English law, the track or trace of a felon, by which he was pursued with the hue and cry; a foot-step, hoof-print or wheel track.

Trails – A trace is pathway made by passage of man-animal routing of extended travel. Vestiges of an established pathway by which man has persistently walked or trailed game or sought the easiest traverse of land establishing right-of-way access of natural law by horseback, travois, etc.

Trailshed – This term refers to the elements of managing historic trails and includes the linear landscapes, visual resources or viewshed, historic context and the corridor of the trail itself.

Tread Lightly – A BLM program to encourage recreation users to avoid damage to natural resources by leaving no or little evidence of recreation use.

Undue and unnecessary degradation – This term applies to activities on public lands managed by the Bureau of Land Management which is required to ensure that surface activities do not cause ‘undue or unnecessary degradation.’ BLM defines those impacts as being greater than those that would normally be expected from an activity being accomplished in compliance with current standards and regulations and based on sound practices, including use of the best reasonably available technology.

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.

Visibility Protection Plan – A plan that implements the requirements of the Clean Air Act.

Visibility or Visibility Impairment – Visibility refers to amount or lack of haze that obscures the ability to see great distances. Visibility impairment measures the extent of haze composed of various air pollutants which manifest as a white or brown haze. This is a major issue with respect to national parks and wilderness areas, which are Class I air quality areas and are given the highest level of protection.

View – The sight or prospect from a particular point, typically an appealing sight.

Viewshed – The geographic area surrounding the visual area to be inventoried and managed.

Visual Condition Class – The Clean Air Act recognizes four air quality classes with Class I applying to national parks and wilderness areas and Class II applying to all other federal land areas, such as National Forests, National Wildlife Refuges, and public lands. Visual conditions are affected by particulates, emissions including ozone, sulfur oxide, nitrogen oxide, carbon dioxide and the chemical reactions caused by humidity and sunshine.

Visual Quality or Visual Resource Management Objective – Standards established in land use plans prepared by the Forest Service or the Bureau of Land Management to apply to specific land areas based on the scenic qualities and land uses. The land use plans may require modifications to facilities to reduce the visual impacts.

Visual Resource – A part of the landscape important for its scenic quality. It may include a composite of landforms, water features, cultural features, terrain, geologic features OR vegetative patterns which create the visual environment. 2. The visible physical features of a landscape. (BLM).

Visual Resource Management ("VRM") – The designation of BLM surface lands for visual resource protection and management as part of the land use planning process. The VRM classification takes into account scenic values, sensitivity based on land uses permitted and distance or remoteness. *See* BLM H8410-1.

Visual Resource Management Classes – The BLM handbook recognizes four VRM classes: Class I, to preserve nationally designated wilderness areas; Class II, to preserve scenic values, including areas of critical environmental concern, Class III, to permit some change in landscape character and Class IV, to allow moderate to major changes in the landscape.

Waste – Refuse; worthless or useless matter.

Water – All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems and all other bodies of water above or below ground which are partially or wholly in the state, border on the state or are within the jurisdiction of the state. Private waters that do not combine or have a junction with natural surface or underground waters are not included (for example, and isolated farm pond that does not infiltrate to ground water or connect to surface water). All springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State are subject to its jurisdiction.

Watershed – The total land area, regardless of size, above a given point on a waterway that contributes runoff water to the flow at that point. It is a major subdivision of a drainage basin. The United States is generally divided into 18 major drainage areas and 160 principal river drainage basins containing about 12,700 smaller watersheds. The entire region or land area that contributes water to a drainage system or stream, collects and drains water into a stream or stream system or is drained by a waterway (or into a lake or reservoir). More specifically, a watershed is an area of land above a given point on a stream that contributes water to the streamflow at that point. A region or area where surface runoff and groundwater drain to a common watercourse or body of water. The area drained by a river or river system enclosed by drainage divides. An area of land that drains to a single water outlet. A watershed is also known as a sub-basin.

Weed – Any plant growing where it is not desired; a plant out of place, or unwanted plants, which, may be growing in a magnitude of situations.

“**Declared weed**” – Any plant, which the board and the Wyoming Weed and Pest Council have found, either by virtue of its direct effect, or as a carrier of disease or parasites, to be detrimental to the general welfare of persons residing within a district.
W.S. 11-5-102 (viii).

Noxious weed – A weed that is recognized as a threat to native plants due to its invasive character.

Wetlands – Permanently wet or intermittently water-covered land areas, such as swamps, marshes, bogs, muskegs, potholes, swales and glades. Areas that are inundated by surface or ground water with a frequency sufficient to support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, wet meadows, river overflows, mud flats and natural ponds.

Although federal agencies, states and text book authors vary in the way in which they define wetlands, in general terms, wetlands are lands where water covers the soil or is present either at or near the surface of the soil or within the root zone, all year or for varying periods of time during the year, including during the growing season. The recurrent or prolonged presence of water (hydrology) at or near the soil surface is the dominant factor determining the nature of soil development and the types of plant and animal communities living in the soil and on its surface. Wetlands can be identified by the presence of those plants (hydrophytes) that are adapted to life in the soils that form under flooded or saturated conditions (hydric soils) characteristic of wetlands (NAS 1995; Mitsch and Gosselink 1993). There also are wetlands that lack hydric soils and hydrophytic vegetation, but support other organisms indicative of recurrent saturation (NAS 1995).

The federal regulations implementing Section 404 of the Clean Water Act define wetlands as:

Those areas that are inundated or saturated by surface or ground water (hydrology) at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation (hydrophytes) typically adapted for life in saturated soil conditions (hydric soils). Wetlands generally include swamps, marshes, bogs, and similar areas (40 C.F.R. §232.2(r)).

Jurisdictional wetlands, which are regulated by the U.S. Army Corps of Engineers ("US COE" or "Corps") under Section 404, must exhibit all three characteristics: hydrology, hydrophytes and hydric soils (US ACOE 1987). It is important to understand that some areas that function as wetlands ecologically, but exhibit only one or two of the three characteristics, do not currently qualify as Corps jurisdictional wetlands and thus activities in these wetlands are not regulated under the Section 404 program. Such wetlands, however, may perform valuable functions.

Another federal agency, the U.S. Fish and Wildlife Service defines wetlands as: lands that are transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water, and that have one or more of the following attributes:

1. At least periodically, the land supports predominantly hydrophytes;
2. The substrate is predominantly undrained hydric soil; and
3. The substrate is non-soil and is saturated with water or covered by shallow water at some time during the growing season of each year (Cowardin *et al.* 1979).

This definition differs from the EPA and U.S. Army Corps of Engineers definition used for jurisdictional wetlands, which requires that all three attributes (hydrophytes, hydric soils and hydrology) be evident. The 1987 Corps of Engineers Manual on wetland delineation does not consider unvegetated aquatic sites such as mudflats and coral reefs or vegetated shallow water to be wetland areas, whereas the Cowardin classification does (US ACOE 1987).

Wilderness Act of 1964 – Congress established the National Wilderness Preservation System to protect and preserve those areas deemed to be wilderness, which is defined as:

A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this chapter an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) 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 (4) may also

contain ecological, geological, or other features of scientific, educational, scenic, or historical value. 16 U.S.C. §1131(a).

Wilderness Area – Tracts of land designated by an act of Congress to be part of the National Wilderness Preservation System.

Wilderness Study Area or WSA – An area of land identified by Congress or a federal agency pursuant to Congressional direction to be evaluated for its suitability for designation by Congress as part of the National Wilderness Preservation System. With respect to public lands managed by the Bureau of Land Management, it refers to tracts of public lands determined to meet the definition of wilderness based on the wilderness inventory and review conducted by the Bureau of Land Management pursuant to Section 603 of the Federal Land Policy and Management Act, 43 U.S.C. §1782. A WSA typically meets the definition of wilderness in that it is “an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) 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 (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.” 16 U.S.C. §1131(c).

Wildlife – Populations, variety, and distribution of birds, mammals, reptiles, amphibians, invertebrates and plants.

Woodland Products – Harvestable items from Piñon – Juniper woodlands. These include fuel wood, posts, pine nuts and Christmas trees.

Woody – Consisting of wood plants such as trees or bushes– *i.e.* sage brush.

Wood Fiber Production – The growing, tending, harvesting and regeneration of harvestable trees.

**SWEETWATER COUNTY CONSERVATION DISTRICT
LAND AND RESOURCE USE PLAN AND POLICY
GLOSSARY OF ACRONYMS**

AFO/CAFO OPERATION	ANIMAL FEEDING OPERATION/CONFINED ANIMAL FEEDING
ACEC	Area of Critical Environmental Concern
Ag	Agriculture
AML	Appropriate Management Level
AMP	Allotment Management Plan
ANILCA	Alaska National Interest Lands Conservation Act
APA	WYOMING ADMINISTRATIVE PROCEDURES ACT
ARPA	Archaeological Resources Protection Act
AUM	Animal Unit Month
BLM	UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT
BMP	Best Management Practice
CBM	Coalbed Methane
CEQ	Council on Environmental Quality
CRC	Colorado River Compact
DPC	Desired Plant Communities
EA	ENVIRONMENTAL ASSESSMENT
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
ESA	Endangered Species Act
FLPMA	FEDERAL LAND POLICY AND MANAGEMENT ACT OR THE "BLM ORGANIC ACT"
GIS	Geographic Imaging System
GR/RS/SCJPWB	Green River/Rock Springs/Sweetwater County Joint Powers Water Board
GRBAG	Green River Basin Advisory Group
GRBP	Green River Basin Plan
HMA	Herd Management Areas
LRAC	Land and Resource Advisory Committee
LRUP	LAND AND RESOURCE USE PLAN AND POLICY
NEPA	National Environmental Policy Act
NRA	National Recreation Area
NRCS	NATURAL RESOURCES CONSERVATION SERVICE
NRHP	NATIONAL REGISTER OF HISTORIC PLACES

RMP	Resource Management Plan
SCWP	Sweetwater County Weed and Pest
SWCCD	Sweetwater County Conservation District
UGRBJPWA	Upper Green River Basin Joint Powers Water Agreement
USDA	United States Department of Agriculture
USFS	United States Forest Service
USFWS or FWS	United States Department of the Interior, Fish and Wildlife Service
USGS	United States Department of the Interior, United States Geological Survey
WACD	WYOMING ASSOCIATION OF CONSERVATION DISTRICTS
WDA	Wyoming Department of Agriculture
WDEQ or DEQ	Wyoming Department of Environmental Quality
WGFD	Wyoming Game and Fish Department
WHIP	Wildlife Habitat Incentives Program
WSA	Wilderness Study Area
WSGA	Wyoming Stock Growers Association
WWDC	Wyoming Water Development Commission
WWGA	WYOMING WOOL GROWERS ASSOCIATION

PUBLIC COMMENTS AND RESPONSE

The District provided for a public comment period which ended on December 22, 2010. The responses to the public comment follow.

Comment #1:

The commenter opposed the LRUPP provisions as to livestock grazing as part of the custom and culture on the grounds that "Livestock grazing is not necessary to the economy of Sweetwater County, and agriculture in general pays for less than 1.0% of the taxes in Sweetwater County and even less if you subtract the subsidies provided to the industry."

Response: The Wyoming legislature recognizes the conservation district's role in supporting agriculture activities. Wyo. Stat. 16-11-101. Response: The District is established to support and promote agriculture, which includes livestock grazing.

The concept of custom and culture is based on historical land uses as well as current land uses. Livestock grazing is an important part of the county's history. Custom and culture is not based on the generation of tax revenue.

Comment #2:

I oppose any reference to the, "Taylor Grazing act". This act was written by ranchers for ranchers with no input from the public. In fact this act should be abolished and re-written to reflect modern times. The reference to custom and culture is another use by agriculture to maintain their subsidized uses of public lands. The custom and culture of Sweetwater County is Mining and Oil and Gas extraction not grazing. Ranching produces very few Jobs, and is a subsidized use of the public's lands to support a handful of agriculture producers of which the majority are hobby ranchers that derive the majority of their income from other jobs.

Response: The Taylor Grazing Act remains part of the federal statutory system that applies to public lands throughout the western United States. 43 U.S.C. §315. History demonstrates that the law was not written by ranchers for ranchers but was adopted by Congress despite strong opposition from western ranchers. The Taylor Grazing Act has in fact been revised for 'modern times' including significant revisions in 1976 with the Federal Land Policy and Management Act ("FLPMA"). The LRUPP recognizes mineral development as an important part of the county's custom and culture. LRUPP at 70.

Comment #3.

A Land use board should be formed with members from the public, who will decide what the best use of the public's lands are, and if there are any land use decisions they should be made in a forum open to the residents of Sweetwater County. Sweetwater County should petition the BLM to set aside AUMs for the use of wildlife at a minimum equal to the number allocated to livestock.

Response: The 2005 LRUPP was adopted after hearings in several Sweetwater County communities, including Eden, Bairoil, Rock Springs / Green River, Farson, Wamsutter and Superior.

Historically, the allocation of AUMs for livestock on public lands was based on half of the available forage being available for wildlife. Additional AUMs were allocated for wildlife in the 1960s. Livestock numbers have since decreased.

Comment #4:

“There should also be set enforceable fines established for livestock trespass in cases of grazing in the wrong allotment or leaving livestock on the range longer than the permit states.”

Response: This comment exceeds the jurisdiction of the District. BLM alone has jurisdiction to enforce livestock grazing rules on public lands. There are fines established by regulation.

Comment #5:

The commenter believed that the plan was inadequate due to lack of concrete policies and too much ‘flag-waving rhetoric.’

Response: The District appreciates the comment but without specifics, it is not possible to make changes. Under Wyoming law, the District does not have enforcement authority so the plan and policy is intended to provide policy guidance for the District Board members that can be used in formulating comments on specific projects, regulations, or proposals and for participating as a cooperating agency.

Comment # 6: The written comments by the Bureau of Land Management ("BLM") were submitted more than two weeks after the deadline. While the District could have discarded the comments as untimely, the Board voted instead to review them. The following addresses the material comments and the changes made in the LRUPP.

- a. Page 5, suggest rewording this sentence to clarify if the intent is for all federal agencies to provide notification of NEPA actions. Also include the SWCCD notifications to those agencies of related actions and activities.

The paragraph was revised for clarity.

- b. Typographical error.

Corrected.

- c. Page 16. Text is confusing regarding agency implementation of the Information Quality Act.

The text is revised for clarity.

- d. Page 18. Suggested wording: Ensure that land management decisions are based on sound management principles and best available data.

SWCCD does not support the change because it would change the policy substantively. The policy is written to dissuade the federal agencies from using data solely because it is available. The Information Quality Act was adopted to end reliance on poorly developed, biased data solely due to its availability.

- e. Are these the only instances (FLPMA or R&PP)? What about other land ownership or managing entities?

The policy is addressing public land management policies. FLPMA repealed all but a few federal land laws granting interests in land and replaced it with general sales and land exchange authority.

- f. Suggested wording: Increasing limits on access have the potential to limit or impact the local economy.

Text is edited. Restricting access has the potential to limit or adversely affect the local economy.

- g. The passage of FLPMA in 1976 repealed 43 USC 932 in its entirety. The BLM recognizes public rights-of-way by issuing rights-of-way through the process mandated by FLPMA Title 5. Current BLM policy has temporarily suspended all work pertaining to recognizing rights that existed before FLPMA.

SWCCD is aware that FLPMA repealed R.S. 2477. FLPMA also expressly preserved all R.S. 2477 rights-of-way that predated October 21, 1976. 43 U.S.C. §1701, n.701 (a).

Title V rights-of-way are not the same as RS 2477 rights-of-way and are not a lawful substitute. Since the Tenth Circuit held BLM has no regulatory authority over R.S. 2477 rights-of-way, suspension of reviewing RS 2477 rights-of-way cannot preclude their use by the public.

The Norton RS 2477 Policy remains in effect, because it represents implementation of the decision by the Tenth Circuit in *Southern Utah Wilderness Alliance v. Bureau of Land Management*, 425 F.3d 735 (10th Cir. 2005). The Norton Policy also revoked the Babbitt R.S.

2477 policy which had imposed a moratorium on evaluating the merits of any public land roads that were said to have arisen in accordance with R.S. 2477.

- h. Page 30: Would this be better stated if it reflected the goals identified on page 2, lines 7-8 "...a broad mandate to assist, promote, and protect public lands and natural resources, soil, water, and wildlife resources..."

SWCCD did not make any change because the discussion addresses energy and mineral resources, which are principal multiple uses under FLPMA.

- I. Should this not also include private lands? In the checkerboard, private lands action also affect state and federal lands. Cooperative management might be reflected here.

SWCCD did not accept the change. The context is focusing on impediments to energy development. Those rarely occur on private or state lands, the latter being managed to maximize revenue.

- j. Page 33: Suggested wording: "encourage" instead of "enforce"

Change made in a later draft.

- k. Could a proactive goal be included? Should a goal be to work with all involved to promote healthy vegetation and habitats to reduce potential?

- l. Page 38. What about private and State water right claims?

Private and state water rights are property rights, no change needed.

- m. Page 50. This is a responsibility of the Army Corps of Engineers.

COE and EPA have overreached their regulatory authority when declaring land as wetlands and preventing the farmer or rancher from developing the land. These waters are rarely connected with interstate water and should never have been classified as 'waters of the United States.'

- n. The BLM cannot jeopardize resources based on surface disturbance. FLPMA's standard is 'undue and unnecessary degradation.' Nothing in the policy suggests that BLM must jeopardize surface resources.

- o. Page 65. The BLM has an "appropriate management response" policy.

SWCCD is aware of the BLM AMR. But it is not applied to public lands where there are no residents or where there are no major structures. Livestock range improvements are not protected as a rule.

- p. Page 65. Both "let it burn" and "blanket fire suppression policy" are used, leaving the reading uncertain of the SWCCD's position on this topic.

Text distinguishes between past fire suppression policies and more recent 'let it burn' or restoring role of fire in the ecosystem policies.

- q. The policy is two growing seasons rest from livestock grazing after wildfire or prescribed burns on BLM-managed land. The purpose of this policy is to protect the public's investment in achieving the desired vegetation management goal and to maintain consistency throughout the BLM.

SWCCD is aware of the policy but notes that newer RMPs introduced three growing seasons of rest. The point is each site should be evaluated individually instead of a one-size-fits-all approach.

- r. If the purpose of a prescribed burn were to reduce invading juniper subalpine fir, or any undesirable species, why would the SWCCD suggest that "seed trees be reserved"?

Policy clarified to be limited to desirable species.

- s. Any changes or closures in winter range should be based on the habitat and the issues affecting it. Regulations may need to be changed as habitat and conditions change.

SWCCD has observed that on numerous occasions BLM does not make independent habitat decisions but accepts what WGFD requests. In many cases the habitat designations are very large and not based on evidence or data provided to the public. Kemmerer for example flatly refused to document habitat, claiming the data belonged to WGFD.

- t. Suggested wording: site-specific basis to meet the health of vegetation communities.

Change made with addition of rangeland health standards.

- u. The Green River RMP states that there will be a ¼ mile setback.

SWCCD LRUPP also reflects that provision.

- v. Carbon sequestration text appears deleted on page 83, lines 26-27; please delete from Glossary.

Done

- w. Suggested wording: "...Policy shall be a guide for following and implementing FLPMA requirements for public land management.

Change not made. FLPMA generally requires BLM to use rulemaking to implement FLPMA.
43 U.S.C. §1740.