

**PROTECTED LANDSCAPES AND MULTIPLE USE:
BLM'S NATIONAL MONUMENTS AND CONSERVATION SYSTEM**

by

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Abstract

On September 18th, 1996, President Bill Clinton stood on the south rim of the Grand Canyon and issued Presidential Proclamation No. 6920 creating the 1.7 million acre Grand Staircase-Escalante National Monument in southern Utah. Unlike past monuments created under the authority of the Antiquities Act of 1906, President Clinton's Secretary of the Interior Bruce Babbitt encouraged the President to leave management of the new National Monument within the Bureau of Land Management (BLM) instead of the National Park Service. President Clinton used the Antiquities Act to create thirteen additional BLM-managed National Monuments and oversaw the creation of five BLM-managed National Conservation Areas created as legislative alternatives to National Monuments. In 2000, Secretary Interior Babbitt consolidated these and other BLM-managed protected areas into the National Landscape Conservation System (Conservation System).

This thesis uses information gathered from document reviews, case studies, and interviews to explore the question, "How have BLM-managed National Monuments altered the focus of the conflict over the role of protected landscapes within multiple use management of BLM lands?" The creation of BLM-managed National Monuments changed the historical debate over the role of protected landscapes within multiple use management in four important ways. First, the debate became more localized and exposed BLM managers to a new, more sophisticated constituency. Second, the debate changed from a fight over whether these areas should be protected to a fight over how protected these areas should be given BLM's multiple use management mission. Third, the debate splintered into fights over specific definitions and resource decisions. Finally, the BLM's land use planning process allowed warring factions in the debate to channel their energy into administrative processes and allow a common vision for the management of the Monuments to begin to coalesce. The thesis concludes with a discussion of steps policy makers can take to ensure the Conservation System and its units become fully integrated into BLM's broader multiple use mission.

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Chapter I. Introduction and Study Methodology

“Multiple use as a concept of management works well as long as there are enough resources to go around, and uses are not mutually exclusive.”¹

- Dr. Steven L. Yaffee

Between the National Park Service, the National Wildlife Refuge System, the National Forest Service, and the Public Lands of the Bureau of Land Management (BLM), the federal government manages nearly 630 million acres of land (approximately 27% of the nation’s total land area). Each federal land management agency administers its land holdings under a unique management framework. Some agencies manage their lands to preserve natural and cultural resources while others manage for multiple use. Historically, lands identified for protection of natural resources were assumed to be exclusive of resource development. As areas with significant wildlife, cultural, historic, or scenic values were identified, these areas were withdrawn from multiple use management and set aside to protect these resources and values. The National Park Service and National Wildlife Refuge System stand as tangible evidence of this historical paradigm.

Lands remaining for development use often contained commodity producing potential for a multiplicity of actors including ranchers, loggers, and miners. The concept of multiple use was developed as an attempt to balance competing commodity producing uses. The term “multiple use” has two important components. First, the word “multiple” implies that the same land area can be employed for more than one purpose. The term

“use” suggests active development and utilization of resources. Thus, historically, the term “multiple use” was viewed solely through a commodity lens and was often characterized by proponents of development and exploitation of resources as the use of the same acre of land for more than one commodity purpose. When viewed from this perspective, non-commodity uses of land such as preserving wilderness character, wildlife habitat, and/or watersheds are considered antithetical to multiple use management. This situation gave rise to a long standing, zero sum conflict between forces advocating development of the public domain and forces advocating for preservation of the public domain.²

When Congress passed the Wilderness Act of 1964 and retained management of many of the newly minted Wilderness Areas within the US Forest Service (USFS), federal land managers were forced to consider how protected landscapes (i.e. non-commodity resources and values) fit into the multiple use and sustained yield management frameworks of the USFS. While the understanding and definition of multiple use have evolved over time to include many non-commodity uses and values, the evolution of this broader understanding of multiple use management has engendered significant conflict. The discourse surrounding many public land management decisions focuses on whether protecting non-commodity uses and values constitutes a violation of multiple use management. Both sides of the debate routinely claim to represent “true multiple use.” Public lands management is, at its essence, the management of the unavoidable conflict between two legitimate views on the purpose and future of America’s publicly held resources.

Research Question

This thesis explores how the creation of National Monuments managed by the Bureau of Land Management (BLM), the decision to move forward with the land use planning efforts for these Monuments, and the creation of the BLM's National Landscape Conservation System (Conservation System or NLCS) changed the focus of the historical conflict described above as it applies to the multiple use management of BLM lands.

Specifically, this thesis investigates the following research question:

How have BLM-managed National Monuments altered the focus of the conflict over the role of protected landscapes within multiple use management of BLM lands?

Far from being isolated events, the creation of BLM-managed National Monuments and the Conservation System are best understood within the context of the historical political debate over the multiple use management of BLM lands.

In exploring the central question of the thesis, other areas of the debate over the role of protected landscapes within the multiple use management of BLM lands are analyzed, including:

- The development of BLM's multiple use mission;
- Congress' past guidance to BLM regarding its multiple use mission;
- The role Secretary of Interior Bruce Babbitt played in changing the focus of this conflict;
- The Bush Administration's affect on BLM's management of National Monuments;
- The land use planning efforts for several BLM-managed National Monuments; and,
- The affect a presence or absence of political support for National Monuments and the National Landscape Conservation System has on local BLM managers.

The goal of this thesis is to provide readers with an understanding of how BLM-managed National Monuments and the National Landscape Conservation System fundamentally altered the focus of the long and sustained conflict over the role of protected landscapes within multiple use management of BLM lands. Exploring the overarching research question of the thesis through the more specific areas of the debate outlined above provides a much richer analysis than would be possible by analyzing any single portion of the controversy surrounding BLM-managed National Monuments or the Conservation System.

BLM and the National Landscape Conservation System

The Bureau of Land Management manages more federal land than any other land management agency – 258 million acres concentrated almost exclusively in the Western United States and Alaska (See **Appendix 1** for a map of BLM-managed lands). While BLM lands are often characterized as “the land nobody wanted” because much of the land encompasses semi-arid deserts and sagebrush steppe ecosystems, BLM landholdings also include high mountain peaks, old growth forests, rich riparian areas, mountain meadows, and arctic tundra. The vast majority of BLM’s landholdings, however, have historically been used for livestock grazing and minerals development. As the West’s population exploded over the past several decades, the open spaces provided by Public Lands (BLM managed federal land) have become increasingly important as sanctuaries for wildlife and locally important places to enjoy motorized and non-motorized recreation.

BLM lands are managed under the multiple use framework, but as the West’s population grew and its economy diversified, commodity and non-commodity uses, resource demands, and values have come into conflict. Calls for creating protected areas

on many BLM lands began to dominate the public discourse surrounding BLM's management during the 1990s. In 1996, President Clinton, in an attempt to secure reelection, seized on the power provided to the President under the Antiquities Act of 1906 and created the Grand Staircase-Escalante National Monument in southern Utah. In what was at the time a radical departure from tradition, President Clinton, at the behest of Secretary of the Interior Bruce Babbitt, left management of the new Monument with BLM rather than transferring it to the National Park Service, as had been done with every other National Monument previously created from BLM land. By the end of his tenure in office, President Clinton created thirteen additional BLM-managed National Monuments and oversaw the creation of five new BLM-managed National Conservation Areas (NCAs) which were created as legislative alternatives to National Monuments (see **Appendix 2** for a list of the National Monuments created during President Clinton's tenure and **Appendix 3** for a list of legislative alternatives to National Monuments).

Prior to leaving office, Secretary Babbitt administratively consolidated BLM protected areas by creating the National Landscape Conservation System. In all, the Conservation System encompasses more than 850 individual units and over 27 million acres of BLM land. The Conservation System includes all BLM-managed National Monuments, National Conservation Areas (and similar designations),^a Wilderness Areas, Wilderness Study Areas, Wild and Scenic Rivers, and National Historic and Scenic Trails (see **Appendix 4** for a map of the Conservation System).^b While these areas account for

^a For instance, the Steens Mountain Cooperative Management and Protection Area which is a case study unit for this thesis.

^b While this thesis focuses almost exclusively on BLM-managed National Monuments, it is important to remember that the Conservation System includes five other designations. While National Monuments may serve as the "Flagship Units" of the system, they are a component of rather than synonymous with the Conservation System.

little more than 10% of all BLM land holdings, the units included in the Conservation System, particularly the System's National Monuments, are often referred to as the "Crown Jewels" of the BLM.

Clair M. Whitlock, a former Idaho and Arizona BLM State Director argues, "The Bureau's problems and opportunities consist of its basic mission as prescribed by law and regulation, overlaid by initiatives of the current administration or some outside entity."³ While this statement was made in the 1980s, the BLM continues to operate within this same political framework. The findings presented in this thesis suggest that BLM's recognition of protected lands as an important component of multiple use management largely reflects the political support and commitment these areas are provided. When the Bush administration took control of the Interior Department in early 2001, the political support enjoyed by BLM managers of the new Monuments under the Clinton administration was replaced over the next eight years with open hostility, then neglect and indifference, and eventually tepid support, though nowhere near the same level of support provided by the Clinton administration and Secretary Babbitt. The effects this shift in support had on the development of management plans for BLM-managed National Monuments are highlighted and analyzed in this thesis.

Study Methodology

This section summarizes the research methods used to complete this study and discusses potential problems with the interview data collected. The findings of this study were synthesized from information gathered through a combination of research methods, including:

- Historical and contemporary document review;
- Case studies;

- Semi-structured interviews covering specific Monument planning processes; and,
- Semi-structured interviews covering general perceptions about the Conservation System.

Historical and Contemporary Document Review

In order to understand how the creation of BLM-managed National Monuments and the BLM's National Landscape Conservation System altered the focus of the debate over BLM's multiple use mission, an extensive review of texts, academic journal articles, historical and contemporary news articles, National Environmental Policy Act (NEPA) documents, and internal BLM communications (Instruction Memorandums and Technical Bulletins) was undertaken. These documents covered BLM's history, the history of the Antiquities Act, the rise of the Sagebrush Rebellion, the passage of the Federal Land Policy and Management Act (FLPMA), Interior Secretary Bruce Babbitt's confirmation hearings, Secretary Babbitt's initial actions as Interior Secretary, Babbitt's decision to encourage President Clinton to use the 1906 Antiquities Act to create BLM-managed National Monuments, as well as Interior Secretary Gale Norton's confirmation hearings and early decisions regarding BLM-managed national Monuments. Previously transcribed, third party interviews with Secretary Babbitt, Babbitt's recorded speeches, and his own writings are also analyzed to develop an understanding of how he argued BLM-managed National Monuments and the Conservation System fit into multiple use management of BLM lands. Analysis of these documents provides insight into the public discourse surrounding the creation of BLM-managed National Monuments and the BLM's National Landscape Conservation System and provides context for the case studies and interviews described below.

Case Studies

In order to complete this study, several National Landscape Conservation System units were selected as case studies. Case studies were used to provide examples of many of the issues discussed in the thesis including the process used to create the units, the presence of local conflict, specific resource decisions, and the difficulty BLM managers had in balancing competing demands. The purpose of these case studies was to understand common themes arising from the conflict over the creation and planning efforts for BLM-managed National Monuments. Thus, specific findings from these case studies are woven throughout the thesis rather than presented in separate chapters as in depth case studies.

Because of the great diversity of unit types within the Conservation System, a decision was made to focus almost exclusively on selecting National Monuments created under the authority of the Antiquities Act as opposed to including Wilderness Areas, Wilderness Study Areas, Wild and Scenic Rivers, or other Conservation System units.^c Because the goal of this study was to identify common themes between the units, units were chosen to ensure adequate variety existed between several categories of variables including:

- Physical attributes (size, location, ecosystem represented, etc.);
- Management attributes (% non-federal land, other management agencies, existing protective designation at time of unit designation,^d reporting relationship, etc.);
- Conflict attributes (designation process, local controversy, etc.); and,
- Other attributes (current stage in planning process, existing rights, etc.).

^c Wilderness Areas, Wilderness Study Areas (WSAs), etc. are also found within many of the Monuments and Conservation Area selected.

^d For instance, was the area an existing Area of Critical Environmental Concern (ACEC) prior to designation? Did the area already contain a Wild and Scenic River (WSR) or Wilderness Study Areas (WSAs) prior to designation as a National Monument?

Once these factors were considered, five National Monuments (out of the 14 BLM-managed National Monuments created by President Clinton under the Antiquities Act) were chosen as case studies. The five Monuments selected were:

- Grand Canyon Parashant National Monument (Arizona)
- Vermilion Cliffs National Monuments (Arizona)
- Upper Missouri River Breaks National Monument (Montana)
- Carrizo Plain National Monument (California)
- Canyons of the Ancients National Monument (Colorado)

While five units are listed above, these five units represent only four planning processes because the planning processes for the Grand Canyon Parashant and Vermilion Cliffs National Monuments were combined by BLM.^e

Oregon's Steens Mountain Cooperative Management and Protection Area (CMPA),^f a legislatively designated unit, was chosen for comparison purposes because much of the conflict surrounding the National Monument planning processes focused on the manner in which the units were created.

Finally, the BLM's first National Monument, the Grand Staircase-Escalante National Monument was also chosen as a case study for comparison purposes because its planning process was completed during the Clinton administration instead of the Bush administration. Similarities and contrasts between the creation and planning processes for the Grand Staircase and the other case study sites are highlighted throughout the study. (See **Appendix 4** for a map of the case study units)

Table 1 below provides a summary of the units selected as case studies and demonstrates the diversity between the units as they relate to the criteria outlined above:

^e The planning effort for the Grand Canyon-Parashant and Vermilion Cliffs National Monument also included the non-Monument portions of the Arizona Strip District Office.

^f Steens Mountain was considered as a potential National Monument, but was instead created legislatively.

Table 1 - Summary Table of Case Studies

Criteria	Grand Canyon-Parashant Nat. Mon.	Vermilion Cliffs Nat. Mon.	Upper Missouri River Breaks Nat. Mon.	Carrizo Plain Nat. Mon.	Canyons of the Ancients Nat. Mon.	Grand Staircase-Escalante Nat. Mon.	Steens Mountain Coop. Man. and Prot. Area
State	Arizona	Arizona	Montana	California	Colorado	Utah	Oregon
Unit Size (acres)	1,048,293 (808,724 BLM, 208,444 NPS)	293,679	495,451	246,048	182,422	1,885,800	496,136
% Non-Fed Land (State and Private)*	2.9	4.8	24.3	17.0	10.2	Significant at designation but now less than 1% due to land exchanges	13.7
Date Created	1/11/2000	11/9/2000	1/17/2001	1/17/2001	6/9/2000	9/19/1996	10/30/2000
Process**	Legislative Alternative Process (Failed - Presidential Proclamation)	Legislative Alternative Process (Failed - Presidential Proclamation)	Legislative Alternative Process (Failed - Presidential Proclamation)	Legislative Alternative Process (Failed - Presidential Proclamation)	Legislative Alternative Process (Failed - Presidential Proclamation)	Surprise	Legislative Alternative Process (Successful - Legislation)
Cooperative Management?	Yes - BLM and Nat. Park Service	No	No	Yes - BLM, California Game and Fish, and The Nature Conservancy	No	No	Yes - BLM, Private Land Owners, and State of Oregon
Existing Designation(s)?	Yes - Wilderness and ACECs	Yes - Wilderness and ACECs	Yes - WSAs, Wild and Scenic Rivers, and ACECs	Yes - WSA and ACEC	Yes - WSAs and ACECs	Yes - WSAs and ACECs	Yes - WSAs
Locally Controversial?	Controversial in Utah but not in Arizona	Controversial in Utah but not in Arizona	Yes	Not at time of designation, but the planning process has become controversial	Yes	Yes	Yes, but legislation was seen as a solid compromise
Administrative Authority	Arizona Strip District Office	Arizona Strip District Office	Lewistown Field Office	Bakersfield Field Office	San Juan Public Lands Center (Intrr Agency)	Utah State Office	Burns District Office
Reporting Relationship	Monument Manager Reports to District Office Manager	Monument Manager Reports to Field Office Manager	Monument Manager Reports to Field Office Manager	Monument Manager Reports to Field Office Manager	Monument Manager Reports to San Juan Public Lands Center Manager	Monument Manager Reports to State Director	Monument Manager is also the Field Office Manager and Reports to the District Office Manager
Vegetation/ Ecosystem Type	Mojave Desert to Ponderosa Pine	Red Rock Desert	Sagebrush Steppe	Central Valley	Pinion Juniper	Red Rock Desert	Sagebrush, Alpine, and Riparian Areas
Existing valid rights/privileges at time of designation?	Uranium Claims and Livestock Allotments	Uranium Claims and Livestock Allotments	Oil and Gas Leases, Livestock Allotments	Oil and Gas Leases, Livestock Allotments	Oil, Gas, and CO2 Leases, Livestock Allotments	Oil, Gas, and Coal Leases, Livestock Allotments	Livestock Allotments
Current stage in planning process (at time of interviews)	Final RMP/Proposed EIS complete	Final RMP/Proposed EIS complete	Final RMP/Proposed EIS complete	Draft RMP not yet published	Draft RMP complete	Record of Decision complete - Implementation well underway	Record of Decision complete - Beginning implementation
Single or multiple unit plan	RMP process included Grand Canyon-Parashant and Vermilion Cliffs National Monuments as well as the Arizona Strip Field Office	RMP process included Grand Canyon-Parashant and Vermilion Cliffs National Monuments as well as the Arizona Strip Field Office	Upper Missouri River Breaks Only	Initially started as part of Bakersfield RMP, but now a single plan	Canyons of the Ancients Only	Grand Staircase Only	Steens Mountain Only

* Monument Status only applies to Federal Lands within the Monument Boundaries

** The Processes used to designate these units are covered in detail in Chapter IV

Interviews

Four groups were interviewed for this study: 1) Current Monument managers and planners at the case study units discussed above;[§] 2) Current senior BLM managers; 3) Former senior BLM managers; and, 4) Representatives of user groups interested in Conservation System unit planning. What follows is a brief description of the interview protocol and a response to possible concerns with the interview data gathered.

Monument Managers and Planners were chosen as interviewees because they are most directly involved in the conflict over the role of protected landscapes within multiple use as it applies to BLM-managed National Monuments. Senior BLM managers were chosen as interviewees because they are charged with developing and implementing national and state office policies and guidance for the Conservation System. Because these individuals may not be as consumed with the day to day frustrations of individual planning processes as unit managers and planners, they may have a broader view of the opportunities and challenges provided by the Conservation System BLM-wide. Former senior BLM managers were chosen because they could provide unique insights into the creation of the Conservation System and its units. Finally, representatives of user groups were chosen because they are directly affected by BLM land use management decisions and have unique perspectives on BLM management of these areas.

The goal of these interviews was to identify common opportunities and challenges encountered by BLM managers and planners as they moved forward with developing

[§] The current manager and planner for the Grand Staircase-Escalante National Monument were not interviewed because the Grand Staircase was added as a case study unit after research was completed and was only added for comparison purposes. While no interviews were conducted with the current manager and planner for the Grand Staircase-Escalante National Monument, several of the interviewees worked on issues surrounding the Grand Staircase prior to moving to their current position and often brought up the Grand Staircase during interviews.

land use plans for Conservation System units. While reviewing historical and contemporary documents provided a rich context for understanding the debate surrounding the role of protected landscapes within the multiple use management of BLM lands, conducting interviews provided an opportunity to gain insight into how the creation of BLM-managed National Monuments and the Conservation System affected specific BLM lands, employees, processes, and constituent groups. In all, twenty interviews were conducted for this study - nine with Monument (or CMPA) Managers and Planners, seven with Senior BLM managers and staff, one with former BLM Director Tom Fry, and three with individuals representing advocacy organizations (Pam Eaton of The Wilderness Society, Brian Hawthorne of the Blue Ribbon Coalition, and Chuck Cushman of the Property Rights Alliance).^h

The protocols and questionnaires used to interview Monument Managers and Planners can be found in **Appendix 6**, Current Senior BLM Managers in **Appendix 7**, Tom Fry in **Appendix 8**, and advocacy organizations in **Appendix 9**.

The interviews described above comprise the qualitative research conducted for this study. Relevant sections of each interview were transcribed by the researcher and quotes and general impressions garnered from these interviews were included in appropriate places of the document. No quantitative analysis of the interviews, such as keyword coding, was conducted on the interview transcripts.

Two concerns with the data compiled during the interviews described above merit discussion. First, the interviewer had existing relationships with several of the interviewees. Second, the interviews did not include non-Conservation System BLM

^h All BLM staff members were offered and accepted confidentiality. Tom Fry, Pam Eaton, Brian Hawthorne, and Chuck Cushman waived confidentiality.

staff. What follows is a discussion of these concerns and the interviewer's response to these concerns.

First, all interviews were conducted by the author who previously worked for The Wilderness Society, a national non-profit conservation organization which was, and continues to be, intimately involved in management issues surrounding BLM-managed National Monuments and the Conservation System. As a result of this work, the author had existing relationships with six of the twenty individuals interviewed for the study including one Monument manager, one Monument planner, the District Office manager, two senior BLM managers, and Pam Eaton (the author's former boss) from the User Group set of interviews. In the case of BLM employees, the author's relationships were professional, though slightly adversarial in nature due to disagreements over previous management decisions. In addition to these previous relationships, two senior BLM managers presented the author with GoogleTM search results containing previous written statements by the author which were critical of BLM's management of National Monuments.

These existing relationships do not invalidate the findings of the interviews conducted for this study. Interviewees were not chosen because of prior relationships, but rather despite them. The interviewees were chosen because their positions afford them unique insights into the issues explored in this study, not because the author believed they would answer questions in a specific manner. Further, prior to conducting interviews with these individuals the author assured the interviewees that their responses would remain confidential and that the study was self-funded. However, it is possible that some of the interviewees may have felt pressure to respond in certain ways to some

of the questions and this fact deserves consideration when analyzing the findings of this study.

The second area of concern with the interview data is that no interviews were conducted with non-Conservation System BLM managers; therefore, it can be argued that the attitudes, perceptions, and beliefs of BLM managers presented in this study do not accurately measure those of BLM managers agency-wide. This is valid criticism; however, the intent of this portion of the research was to determine the opportunities and challenges arising during the planning processes for specific Conservation System units. Thus, the interviews conducted for this study are adequate to meet this purpose because those interviewed have greater first-hand knowledge of these opportunities and challenges than non-Conservation System BLM staff members.

Organization of the Thesis

The thesis contains six chapters including the introduction and methodology chapter. Chapter II provides a history of the BLM and focuses on the development of the conflict over the role of protected landscapes within the multiple use management of BLM lands. Chapter III discusses Interior Secretary Bruce Babbitt's tenure and highlights how Secretary Babbitt seized on the existing power provided by the Antiquities Act of 1906 to alter the balance of power in the debate over public lands. Chapter IV discusses Secretary Gale Norton's hostility towards the Monuments and analyzes her initial statements and decisions regarding planning for the new Monuments. Chapter V analyzes Secretary Norton's decision to allow planning to move forward for BLM-managed National Monuments and discusses how this decision changed the focus of the conflict over the role of protected landscapes within multiple use management of BLM lands. Finally Chapter VI provides recommendations on ways policy makers can

demonstrate political support for the Conservation System and remedy many of the challenges facing BLM managers highlighted in this thesis.

¹ Yaffee, Steven L. *The Wisdom of the Spotted Owl* (Washington DC: Island Press, 1984) 235.

² Yaffee, xx.

³ Whitlock, Clair M. in Muhn, James and Hanson R. Stuart. *Opportunity and Challenge: The Story of BLM* (US Department of Interior, 1988) 222.

Chapter II. Developing BLM's Multiple Use Mission

“We’re the agency of all sorts of contradictions. That’s not that surprising. The history of this agency reflects America’s history. Given multiple use, our conflicts in society get played out on our public lands.”

- Senior BLM manager¹

Before exploring how BLM-managed National Monuments altered the focus of the conflict over the role of protected landscapes within multiple use management of BLM lands, it is important to understand the conflict’s historical context. A sound appreciation of the development of BLM’s multiple use mission is vital to understanding why the creation of BLM-managed National Monuments and the BLM’s National Landscape Conservation System during President Clinton’s administration engendered such intense conflict.

Throughout the early history of the United States, public domain lands were seen as assets the nation could dispose of to private interests to raise capital to fund social programs and pay debts. As the public domain dwindled and the frontier closed, some lands were withdrawn from future homesteading and other public lands laws to satisfy calls for protecting scenic areas and timber resources. The lands remaining in the public domain were chiefly valuable to ranchers and miners and these powerful interests dominated the discourse surrounding public land policy decisions.

The BLM was created after the demise of the General Land Office and the Grazing Service in 1946. As demands for transfer to private interests waned, BLM lands

began to be managed under the framework of multiple use. Initially, BLM's definition of multiple use was seen almost exclusively through a commodity lens. BLM's multiple use mission evolved over time to include non-commodity uses and values and was codified in 1976 with the passage of the Federal Land Management and Policy Act (FLPMA). After FLPMA's passage, the debate between environmentalists and commodity interests over the role of protected landscapes as a component of multiple use found its expression in the populist Sagebrush Rebellion. While the Sagebrush Rebels were unsuccessful in meeting their objective of transferring federal lands to the states for management, the resulting power balance in the public lands debate played a major factor in the decision by the Clinton administration to use the Antiquities Act of 1906 to create BLM-managed National Monuments.

This chapter outlines the history of the conflict over the creation and evolution of BLM's multiple use mission. Section A describes the development of the public domain and the creation of the Bureau of Land Management. Section B describes the historical evolution of BLM's multiple use mission and ends with the codification of this mission through the passage of the Federal Land Policy and Management Act. Finally, Section C describes BLM's implementation of FLPMA, the Sagebrush Rebellion of the late 1970s and early 1980s, and ends with a discussion of the power balance in the public lands debate which existed after the Rebellion.

A: Public Domain Lands Before the BLM

“Unless the government shall grant head rights, ... these prairies, with their gorgeous growth of flowers, their green carpeting, their lovely lawns and gentle slopes, will for centuries continue to be the home of the “wild deer and wolf,” their stillness will be undisturbed by the jocund song of the farmer, and their deep fertile soil unbroken by his ploughshare. Something must be done to remedy this evil.”

*- Congressman Orlando B. Ficklin (D-IL),
1845²*

The Bureau of Land Management, the ultimate home of much of the public domain, has a history directly linked to the acquisition of the public domain, the disposal of a vast majority of the public domain to private interests by the General Land Office, the rise of the early environmental movement, and the creation of the Grazing Service.

Acquisition of the Public Domain

The argument over what to do with the land west of the original 13 colonies was one of the major issues that threatened to tear apart the young nation during and immediately after the American Revolution. A number of states held claim to western territories and ceding these lands to the nascent federal government was seen by many politicians as a submission of states’ rights. By 1802, however, all states with claims to western lands agreed to cede their land claims to the central government.^a The debate over what to do with these public domain lands did not end with federal control. Some politicians, including Alexander Hamilton (the first Secretary of the Treasury) believed federal lands would be best used as a source of revenue for the fledgling nation and advocated selling the land to the highest bidder to help pay off the national debt. Others, such as President Thomas Jefferson (architect of the Louisiana Purchase) argued federal

^a New York ceded its claims in 1781 followed by Virginia in 1784, Massachusetts in 1785, Connecticut in 1786, South Carolina in 1787, North Carolina in 1790 and finally Georgia in 1802 (Page 3, Opportunity and Challenge: The Story of BLM).

lands should be transferred to peasant farmers for a nominal fee, thereby ensuring expansion of the nation into the immense wilderness to the west of the original colonies.³

Every time new lands were annexed, acquired, or ceded to the growing nation, disagreements over the disposal of the lands surfaced. Extensive retention of land in federal ownership was never considered during the early years of the republic. The primary debate was over how and to whom the land holdings of the federal government should be transferred because land was the only liquid asset the government had which it could use to raise capital to pay for civil services. Because of the scope of the land holdings, the debates over what should be done with federal land were not merely academic. In the 65 years after Georgia finally ceded its western land claims in 1802, the United States added an additional 1.6 billion acres to the public domain.^b Including the territories ceded by the original 13 states, a full 81 percent of the entire land area of the United States was at one time public domain land.⁴ Thus, decisions regarding the disposal of public lands had far reaching social, economic, and political consequences.

The General Land Office - Disposal of the Public Domain To Private Interests

The power to dispose of the public domain is codified in Article IV, Section 3, Clause 2 of the US Constitution which states simply that Congress possesses the “power to dispose of and make all needful Rules and Regulations respecting the Territory and other Property belonging to the United States.”

^b Major additions to the public domain effectively ended in 1867, the year Secretary of State William Seward committed “Seward’s Folly” by purchasing the Alaska Territories from Russia. Prior to this purchase, the public domain was added to by among other acts and treaties the Louisiana Purchase in 1803, the Oregon Compromise with Great Britain of 1846 which gave the United States control of Washington, Oregon, Idaho and the western portion of Montana, and finally the cession of most of the southwestern United States (California, Nevada, Utah, and portions of Colorado, Arizona, and New Mexico) by the Mexican government as part of the treaty following the Mexican War in 1848.

In 1812, Congress created the General Land Office (GLO) within the Treasury Department to process land entries and disposals of the public domain brought about by the nation's many public land laws.^c From its inception in 1812 until it was combined with the Grazing Service in 1946 to form the Bureau of Land Management, the GLO transferred millions of acres to private individuals and companies including military veterans, homesteaders (primarily farmers and ranchers), mining interests, timber companies, and railroad entrepreneurs. These land transfers from federal to private ownership resulted from myriad public lands laws including large scale land sale laws, mining laws, homesteading laws,^d and grants to railroad companies. While Congress passed these laws, the administration of the land transfers fell to the General Land Office.

In addition to the transfer of public lands into private ownership, each state was allowed to retain some land under state jurisdiction, thus reserving the land from the federal public domain. States already in the Union were granted public land for the location of colleges and universities.^e After 1848, each state admitted to the union was granted two sections (1,280 acres) out of every 36 sections (one township), although Arizona, Utah, and New Mexico were each granted four sections out of every township at statehood.^f Finally, tribal reservations were carved out of the public domain and recognized as sovereign entities.^g

^c The GLO was eventually moved into the Interior Department in 1848 (Opportunity and Challenge: The Story of BLM pg. 9).

^d Homesteading laws were changed numerous times to account for the increased area necessary to homestead successfully in the arid conditions found on western lands.

^e The term "land grant institution" comes from this type of transfer of public ownership and was made possible by The Morrill Act of 1862 (Opportunity and Challenge: The Story of BLM pg 20).

^f In fact, the requirement for western territories to disclaim authority over the vast majority of the public domain as a requirement of statehood would, as will be shown later, become one of the central themes of

While it remained the policy of the United States government to dispose of its land holdings, land acquisition and retention became important components of the government's domestic economic policy. The government often held lands in federal ownership in times of low real estate prices so as not to further depress the market. Not all of the public domain economic policies taken by the federal government resulted in disposal of public lands. The Federal government also reacquired lands and/or mineral rights from poor farmers and ranchers during particularly difficult economic times. During the Great Depression, for instance, the federal government purchased either the mineral rights or the land itself from numerous farmers and ranchers in an attempt to stave off complete economic disaster.⁵ Further, some grants to railroad companies were ultimately reverted to the United States government because of failures by the companies to construct railroads on granted rights of way.^{6, h}

When discussing public lands today, it is important to understand that much of the land now managed by BLM was at one time available for disposal to private individuals and commodity interests; it simply was never homesteaded, patented, or acquired by other means. While today large-scale proposals to dispose of public lands to private

the Sagebrush Rebellion of the late 1970s and early 1980s that greatly impacted the debate over the role of protected landscapes in lands managed for multiple use.

^g The Department of Interior retained trust responsibility for minerals underlying many Native American Reservations, a situation which has led to numerous lawsuits and other legal challenges by tribes.

^h The result of this often sporadic and confusing, sometimes poorly managed system of land disposal and acquisition under the General Land Office was the creation of isolated tracts of public lands within otherwise privately held lands, or conversely, many small state or private inholdings within large blocks of public domain lands. The checkerboard legacy of these lands transfers continues to impact BLM's management today. Further, while many of these public land laws were nullified by the passage of the Federal Land Policy and Management Act in 1976, others, such as the General Mining Law of 1872, are still in effect and continue to affect BLM's management of the public domain.

interests cause enormous conflict,ⁱ disposal of land was an important component of domestic economic policy throughout the 19th and much of the 20th centuries. Further, the manner in which this divestiture took place helped to define the culture of the West. The myth of the independent Western rancher, farmer, miner and railroad man came to define the Western sense of identity. This myth, however, deserves some scrutiny. As early as 1936, *The Journal of Land and Public Utility Economics* published an article outlining the affects of the Homestead Act of 1862, The Enlarged Homestead Act of 1911, and the Stock-Raising Homestead Act of 1916 on Western settlement and sense of self identity.⁷

As Professor Renne points out in this early piece, the goal of settlement legislation was to get as much public land into the hands of ranchers and farmers as quickly as possible.⁸ The result of encouraging homesteading of public lands and allowing ever increasing sizes of homesteads was an unequal distribution in quality and size of homesteads. The best and most productive tracts were homesteaded early and homesteaders in each subsequent wave were forced to claim lands of lesser quality for ranching and farming, although the size of the homestead might be slightly larger. This situation led to a great deal of class conflict because whenever the economy began to falter or weather conditions made ranching or farming difficult, the later arriving homesteaders suffered the effects much more acutely. For example, in the area of the present day Upper Missouri River Breaks National Monument in north central Montana (one of the case study units for this thesis), less than half of the original homesteaders were able to stay on the land.⁹ Renne pointed out in 1936 that those, “individuals who

ⁱ Both President Reagan and President G.W. Bush submitted large scale land sales as part of their budgets during their time in office. Both proposals were defeated by near unanimous opposition in Congress.

still have their lands and are still farming or ranching, having weathered tax delinquency and mortgage foreclosure, other things being equal, are those with the better grades of land.”¹⁰ In fact, the class stratification resulting from the Homestead Act of 1862 was taught as an example of the dangers of private ownership to Soviet schoolchildren.¹¹ Only recently have historians such as Howard Zinn and Patricia Limerick begun to force Americans to take a deeper look at the reality surrounding early western settlement. Regardless, the myth of the early West as a place of freedom from government intervention, cooperation among neighbors, and the right to do as one pleased is pervasive among many rural Westerners today, and as will be seen throughout this thesis, a longing for this idealized state of operation is at the heart of many of the arguments against federal environmental action in the West.

The Rise of the Early American Conservation Movement and Its Affect on the Public Domain

Not all of the public domain was disposed of to private parties and states. Some lands were withdrawn from the public domain, set aside from future disposal, and managed intensely to protect scenic or timber resources. Thus, there was not a role for protected lands within the public domain because any land considered valuable to either the general public or private interests was simply taken out of the public domain and managed for other purposes.

The central theme of Roderick Frazier Nash’s Wilderness and the American Mind is that as the frontier closed, a wilderness preservation movement emerged.¹² The change of the American perception of wilderness from one of fear and an impediment to prosperity to one of awe and appreciation had profound impacts on the management of

the public domain. The argument over the role of protected landscapes in multiple use managed lands grew directly out of this paradigm shift.

Scenic lands had been identified on the public domain prior to the creation of Yellowstone National Park in 1872, but those lands were often given back to the states for management.^j When Congress created the 2.2 million acre Yellowstone National Park and withdrew the area from homesteading and mining, yet retained the management of the area with the federal government, this paradigm began to shift. Yellowstone set a precedent whereby lands identified by Congress as worthy of protection were withdrawn from the public domain and future disposal.^k

At the same time Congress began using its power to carve National Parks out of the public domain to protect scenic areas, Congress also delegated authority to the President to withdraw from disposal any public domain lands whose primary benefit was timber production with the passage of the Forest Reserve Law in 1891. Within two years of the Act, President Benjamin Harrison created a total of 18 million acres of timber reserves.^l

Finally, while Congress slowly reduced the size of the public domain by carving out National Parks and presidents withdrew millions of acres of land from disposal to private interests by creating new Forest Reserves, Congress also authorized the President to withdraw public lands from mining, other commodity uses, and settlement through the

^j For instance, the area which eventually became Yosemite National Park began as a land grant to the State of California in 1864.

^k While no longer part of the public domain, the management of new National Parks remained with the General Land Office until the creation of the National Park Service in 1916.

^l Not surprisingly, President Theodore Roosevelt was the most prolific user of the 1891 Forest Reserve Law – Roosevelt created 150 new forest reserves totaling more than 150 million acres. In 1905, the management of these lands and all subsequent forest reserves was transferred to the newly created US Forest Service

creation of National Monuments under the authority of the Antiquities Act of 1906. As this thesis shows, ninety years later the creation of BLM-managed National Monuments under the authority provided by this act changed the focus of the debate over the role of protected landscapes within multiple use management of BLM lands.

The Grazing Service – Land Retention and Grazing Allotments on Public Domain Land

While much of the best lands for agriculture, ranching, mining, timber production, and sightseeing were no longer in the public domain by 1920, two hundred million acres of land (not including the public domain lands of Alaska) remained. The vast majority of this land was found in what are now known as “The Eleven Western States.”^m This land was primarily used by cattle and sheep ranchers. While much of the land adjacent to private ranches was owned by the federal government, ranchers came to see this land as part of their ranch and used the land extensively without compensating the government. Because this land was often unregulated, the stage was set for what Garrett Hardin would later refer to as “The Tragedy of the Commons” in his essay by the same name published in the journal *Science* in 1968. In fact, unregulated public grazing lands are the “commons” Hardin used to illustrate a situation in which no user of the grazing commons has a direct interest in conserving the commons – a decision not to graze an additional animal simply allows another herder to graze an additional animal on the commons.ⁿ The result, as Hardin points out, is overcrowding, overgrazing, and resource depletion.¹³ While many western ranchers realized the situation was untenable, no individual rancher

^m Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. Note that Alaska is not included in these states as many public land laws are specific to Alaska.

ⁿ Interestingly, the public domain in the United States was no longer truly a “commons” at the time Hardin wrote “The Tragedy of the Commons” because of the passage of the Taylor Grazing Act in 1934.

had the right to exclude other ranchers from using any tract of land. In fact, the right of anyone to graze livestock on the public domain, outside of lands entered for homesteading, had no legal basis since Congress had never specifically authorized the use of public domain lands for grazing.¹⁴

Despite repeated congressionally-approved increases in acreage for homestead sites to accommodate grazing and the development by ranchers of self policing grazing districts, range conditions continued to worsen. As a result, Congress and President Franklin D. Roosevelt passed The Taylor Grazing Act in 1934.¹⁵ While the Taylor Grazing Act is routinely lambasted by environmentalists today for failing to adequately protect public lands from soil erosion and damage to riparian areas caused by livestock, it was at the time a radical departure from the policy of disposing of public lands to private interests and Congress' first direction to public domain land managers that conservation and a very limited form of multiple use were important components of effective public land management.¹⁶ The Act temporally withdrew 80 million acres of public land from consideration for disposal to allow ranchers and the Interior Department's newly formed Division of Grazing (eventually renamed the Grazing Service) to form Grazing Districts.^o Implementation of the Taylor Grazing Act also led to the creation of district grazing advisory boards, the precursor of today's Resource Advisory Councils (RACs). While the purpose of the Taylor Grazing Act of 1934 was to create a system of grazing allotments, the Taylor Grazing Act also included in its purpose the phrase, "to stop injury to the public grazing lands by preventing overgrazing and soil deterioration."¹⁷ When signing the Taylor Grazing Act, President Roosevelt stated that the act was, 'a great

^o This acreage was increased to 142 million acres in 1936 and eventually the acreage limitation was removed entirely from the Taylor Grazing Act.

forward step in the interests of conservation, which will prove of benefit not only to those engaged in the livestock industry, but also the nation as a whole.’¹⁸

Finally, the Taylor Grazing Act authorized the imposition of fees on ranchers grazing livestock on public land. After the Taylor Grazing Act, ranchers who secured allotments on public domain lands had to pay the federal government a fee charged by Animal Unit Months (AUM).^P Free use of most of the public domain by ranchers was no longer allowed and fights over the amount charged for these AUMs eventually led to the demise of the Grazing Service and the creation of the Bureau of Land Management (discussed in greater detail below).¹⁹

The affect of the Taylor Grazing Act on multiple use management was subtle. The GLO did not have a formal multiple use management mandate for the public domain at the time. The fact that the government committed to retaining a significant portion of the public domain for grazing was a very important development, yet these lands clearly had a dominant purpose as grazing land. Nothing in the Act, however, prevented miners from staking claims, the government from leasing the area for oil, or for hunters or other recreationists to use the land. Thus, it can be argued the Taylor Grazing Act was Congress’ first direction to public land managers that public lands should be managed for a limited form of multiple use.²⁰

Institutional Culture of BLM’s Parent Agencies

On May 16th, 1946, President Harry S. Truman officially merged the Grazing Service and General Land Office into a new Bureau of Land Management.²¹ The BLM’s early history is inextricably linked to the end of the General Land Office and the Grazing

^P One AUM is equal to the amount of forage needed to sustain one animal unit (one cow, one horse, or five sheep) for one month. Thus, if a rancher purchases six AUMs, he or she can graze one cow for six months or six cows for one month.

Service. After all, many of the first BLM employees simply changed the name of the organization they worked for while keeping the same general duties. Thus, it is important to briefly discuss the cultural identities of the General Land Office and Grazing Service before moving onto a discussion of the early development of BLM as a multiple use agency and the emergence of the conflict over the role of protected landscapes in multiple use managed lands.

It is fair to say that in some ways, the General Land Office and Grazing Service continued to manage the leftover lands – there was not a role for managing “protected landscapes” in either agency. As new scenic areas or lands chiefly dedicated to forestry were identified, these lands were withdrawn from the public domain and given to other, newly created agencies to manage.

The net result of the myriad public lands laws which acquired and disposed of the public domain and encouraged grazing and mineral exploration on unreserved public lands was to create a cultural identity in these agencies as managers of “the land nobody wanted.” In some regards, this sentiment was true. The amount of land left in the public domain had dwindled from some 1.8 billion acres in the mid 1800s to less than 800 million acres in the mid 1930s due to land transfers to individuals, states, and other federal land management agencies.²² This legacy continues to endure in the discussion of how to manage public lands. For instance, during the debate over the creation of the Colorado Canyons National Conservation Area^q in Colorado in the mid 1990s, the *Rocky Mountain News* included this description of the land BLM manages, “This is the land of

^q Colorado Canyons National Conservation Area was designated in 2000 and renamed McInnis Canyons National Conservation Area in 2005 after former Colorado Representative Scott McInnis.

the Bureau of Land Management -- the land nobody wanted, 8 million Colorado acres considered too homely to be a national park, monument or forest.”²³

While the cultural identities of the General Land Office and Grazing Service may have embodied “the land nobody wanted” tagline, the truth is these lands could probably more accurately be called the land everyone wanted, but nobody wanted to pay for. While much of the remaining public domain land had been bypassed by homesteaders and some commodity interests, ranchers and oil and gas developers continued to rely on the public domain for their livelihoods. They had very little interest in owning the land outright when they could benefit from its use at a fraction of the cost it would take to purchase the land.²⁴ More importantly, these interests had powerful allies in Congress who helped to ensure this favorable business climate endured. For instance, when the Grazing Service attempted to raise the cost of grazing an animal on the public domain from 5 cents to 15 cents in 1944,^r Congress responded by slashing the Service’s requested budget of \$1.6 million to \$200,000. The result was a reduction in the Grazing Service’s workforce from 250 to 86 personnel and the closing of 11 of the 60 grazing districts.²⁵

Thus, on the eve of the birth of the Bureau of Land Management, the General Land Office and Grazing Service were two separate agencies navigating over 3,500 sometimes overlapping, sometimes contradictory public land laws.²⁶ Further, the BLM was born to parents with a history of their most scenic and valuable lands being taken from them and a constituency of ranchers and mining interests who fought to keep them poor so that they could not act as effective impediments to the free use of the public domain. As one senior BLM manager stated during interviews, “Each agency seems to have a prominent program that defines its culture, traditionally. The Forest Service has

^r A similar proposal was defeated in 1941 as well.

forestry and we have livestock and mining.”²⁷ A focus on these two primary uses of the public domain during the BLM’s early years helped to define the debate over the role of protected landscapes in multiple use management of BLM lands as the agency matured.

B: History of BLM (1946 – 1976)

“The very title of the bureau raises a very big question mark in my mind. It seems to me that the very purpose to be subserved is to change the historical policy . . . from one of holding the public lands for transfer to ownership under private persons, to one of proprietary handling on the part of the United States government.”

- Senator Guy Cordon (R-OR), 1946²⁸

In 1946, the Bureau of Land Management served as little more than a repository for lands remaining in the public domain. The BLM was an agency without an official mission or organic legislation, constrained by the cultural legacies of its parent agencies and attempting to balance the demands placed on it by over 3,500 public lands laws. Starting in 1948 with the selection of Marion Clawson as BLM Director, the BLM developed into a multiple use agency. As the concept of multiple use evolved, the agency was forced to begin to deal with the debate over the appropriate role for protected landscapes within lands managed for multiple use. Realizing that the management of the public domain held the potential to greatly affect the economic and social landscape of the West, Congress provided BLM with guidance first through the Public Lands Law Review Commission (PLLRC) and eventually through passage of the Federal Land Policy and Management Act (FLPMA) in 1976.

Director Marion Clawson (1948 to 1953)

Bill Silcock, the BLM’s Director from 1971 through 1973 once quipped that in 1946, “The only thing BLM had to worry about was keeping the sheepmen and the cattlemen from each other’s throats.”²⁹ While quaint, this witticism hardly does justice to

the complex demands placed on the budding agency. The BLM was created shortly after the end of World War II and the lands BLM managed were expected to provide resources to sustain the post-War population and economic explosions. Further, a paradigm shift began to take shape immediately after BLM's creation. Public lands were no longer the sole domain of ranching and hard rock mining interests; other commodity users (oil, gas, electricity transmission, etc.) and even some recreationists (anglers, hikers, hunters, etc.) began to look to BLM lands. The BLM desperately needed guidance on how to accommodate these new, often disparate uses; however, Congress' continued opposition to the existence of the agency meant this guidance would have to come from within the agency itself. In 1948, Marion Clawson, a Harvard educated economist accepted a challenge from President Truman's Secretary of the Interior, Julius Krug, to "transform the BLM."³⁰

In transforming the BLM, Director Clawson restructured the BLM by forcing the agency to decentralize many of its decisions, forcing many of the holdovers from the General Land Office and Grazing Service to resign or retire, and creating BLM Regions.³¹ His biggest transformation, however, was to expand the existing limited form of multiple use management of BLM lands instituted by the passage of the Taylor Grazing Act in 1934 to become the central guiding management principle for BLM lands. Marion Clawson defined multiple use as,

"The system under which the same area of land is used simultaneously for two or more purposes, often by two or more different persons or groups. The same land may be used at one time for grazing, for timber production, for recreation, for watershed purposes, for mineral production, and for other uses."³²

Interestingly, Clawson also argued that protected landscapes fit within this definition of multiple use noting that while National Parks, "are often cited as outstanding examples of

single purpose use, even in these cases the land often has other uses as well.³³ His writing also included a discussion of the important role protected landscapes play in recreation, wildlife habitat protection, and watershed management. For the time being, however, lands identified for protection continued to be excluded from BLM management by being placed under the jurisdiction of other agencies once identified.

Clawson's inclusion of recreation and wildlife values in his definition of multiple use stands in stark contrast to that of Gifford Pinchot who created the concept of multiple use three decades earlier as the first director of the US Forest Service. Pinchot claimed that multiple uses should, 'always be decided from the standpoint of the greatest good of the greatest number in the long run'³⁴ and warned against the preservation of landscapes by arguing, 'There may be just as much waste in neglecting the development and use of certain natural resources as there is in their destruction.'³⁵ Clawson was not, however, a wild-eyed idealist. In 1949, for instance, he conceded that, 'It is doubtful if today any public land policy could be adopted which was unitedly and strongly opposed by the range livestock industry.'³⁶ Although forced from his directorship in 1953 by the incoming Eisenhower administration who accused him of being a socialist, "Clawson established a firm foundation upon which the Bureau's resource programs could build and the agency's developing multiple use ethic could grow."³⁷

While Clawson may have included non-commodity resources in his definition of multiple use, President Eisenhower's Secretary of the Interior, Douglas McKay did not. Upon being confirmed as Secretary, he stated his intentions for BLM lands clearly by stating simply, 'We're here in the saddle as an administration representing business and industry.'³⁸ The implication was clear. The public domain was to be managed for the

benefit of livestock and mineral interests, not for protection of the land or other natural resources or values (water quality, wildlife, recreation, etc.).

BLM After Clawson

From the end of Marion Clawson's directorship in 1953 to the passage of the Federal Land Policy and Management Act (FLPMA) in 1976, the BLM continued to struggle without an official mission while faced with a generally hostile Congress and increasing demands placed on it by a series of administrations. The result was an agency that in 1976, on the eve of the passage of FLPMA, continued to largely serve ranching and other extractive resource industries. As one interviewee for this study said, "BLM always used to be lampooned as the Bureau of Livestock and Mining."³⁹

This same time period, however, coincided with the third conservation wave in the United States that saw the passage of many important environmental regulations including the Clean Air Act (1963 and later amendments/extensions), the Wilderness Act (1964), the Wild and Scenic Rivers Act (1968), the National Environmental Policy Act (1969), and the Endangered Species Act (1973). While each of these statutes did not necessarily immediately affect management of BLM lands,^s BLM and its multiple use mission were not immune from public calls for greater environmental protection.

While the BLM would not receive an official multiple use mandate until 1976 with the passage of FLPMA, Congress sent sometimes contradictory signals to BLM about the management of its lands. On one hand, Congress passed legislation encouraging resource extraction under the Multiple Mineral Development Act of 1954 and the Multiple Surface Use Act of 1955.⁴⁰ On the other hand, Congress created the

^s The Wilderness Act of 1964 for instance, did not apply to BLM managed lands until the passage of FLPMA in 1976.

Nation's first National Conservation Area, California's King Range National Conservation Area in 1970, and left its management with the BLM.^{41, t}

Of paramount importance when discussing the role of protected landscapes within the multiple use management of BLM lands is the fact that BLM lands were omitted from consideration for Wilderness protection under the Wilderness Act of 1964. When asked about the laws application to BLM lands during a congressional hearing on the legislation, President Kennedy's (and Johnson's) Interior Secretary, Stewart Udall, stated, 'The public domain administered by the Bureau of Land Management is not involved in any way. I do not think it should be. I do not know anyone that intends that it should.'⁴² This is not to say that others, outside of the government, did not believe BLM lands were worthy of Wilderness protection. As early as 1926, wilderness advocate Robert Sterling wrote, 'There are other wildernesses than those in the National Parks and Forests. In the Public Lands, which still have greater area than the National Forests, will be found wilderness regions of charm and beauty.'⁴³ Further, the first versions of the Wilderness Act penned by Howard Zahniser included "other public lands" as worthy of protection.⁴⁴ In the end, however, BLM lands were omitted from inclusion in the Wilderness Act of 1964.^u

While the Interior Department testified against inclusion of BLM lands in the Wilderness Act, it supported the establishment of the Public Land Law Review Commission (PLLRC) and temporary legislation known as the Classification and Multiple Use Act of 1964 (CMUA).⁴⁵ The PLLRC was charged with reviewing the 3,500

^t It should be noted that Congress established multiple use as the guiding principle for management of the new National Conservation Area.

^u The Bear Trap Wilderness Area in Montana, created in 1984, was BLM's first Wilderness Area.

plus laws applying to the BLM's management of the public domain and making recommendations for future Congressionally created guidance. The CMUA^v provided BLM with a temporarily codified multiple use mission. The CMUA defined multiple use as a, "combination of surface and subsurface resources of the public lands that will best meet the present and future needs of the American people," and listed ten elements of multiple use including recreation and wildlife.⁴⁶ The CMUA expired in 1970 when the findings of the PLLRC were released, leaving BLM again without a statutory multiple use mandate and little guidance over the role of protected landscapes in the management of its lands.

The PLLRC Findings

The politics surrounding the Public Lands Law Review Commission findings, released in 1970, led directly to passage of the Federal Land Policy and Management Act (FLPMA) in 1976. The PLLRC largely resulted from a fight between Interior Secretary Stewart Udall and Colorado Democratic Representative Wayne Aspinall.⁴⁷ Secretary Udall had been instrumental in pushing through environmentally protective legislation; Representative Aspinall used his position as the chairman of the PLLRC to try to block many of Udall's initiatives.⁴⁸ Professor Crawley of the University of Wyoming argues that the PLLRC's work was largely a delaying tactic employed by Aspinall and other pro development forces to keep BLM lands from being managed under multiple use because they feared multiple use could be used to restrict commodity uses of the land in the future through the designation of protected lands.⁴⁹

^v The main purpose of the CMUA was for BLM to inventory its lands and make recommendations regarding retention or disposal of each tract of land. Those lands identified for retention were to be managed under the Act's definition of multiple use.

In 1970, the PLLRC released its findings and although the PLLRC held public hearings in 1966 and 1968,⁵⁰ environmental groups failed to focus attention on the PLLRC due to their focus on the Wilderness Act, the National Environmental Policy Act, and other environmental statutes.⁵¹ The PLLRC report, entitled “One Third of the Nation’s Land” was a voluminous but confusing document.⁵² For instance, it simultaneously called for retention and disposal of federal land and called for dominant and multiple use of retained lands.⁵³ The PLLRC’s process and findings immediately led to charges that it was little more than a wish list provided by pro-development interests. For instance, Life Magazine condemned the PLLRC report as being written by those, ‘who believe in the commodity approach ... and consequently it gallops headlong in the wrong direction.’⁵⁴ Similarly, Sports Illustrated pointed to the ‘little publicized hearings and highly secretive deliberations’⁵⁵ undertaken by the PLLRC in arguing that its findings were skewed to meet the demands of pro development forces.

Environmentalists found the report’s call for dominant use management of BLM lands to be the most glaring evidence that the PLLRC advocated on behalf of commodity interests. Under the dominant use provision, the PLLRC recommended BLM inventory its lands to identify the ‘highest primary use’ as well as ‘secondary uses that are compatible with the primary purpose.’⁵⁶ Thus, the report called for a reversal of the multiple use management of BLM lands that began with Marion Clawson and had been temporarily codified in the CMUA. One outraged environmentalist stated, ‘The dominant use principle, which stands out as a basic objective of the PLLRC report, is hopelessly lopsided and totally irreconcilable with environmental protection.’⁵⁷ Interestingly, the PLLRC listed Wilderness preservation as one of the potential dominant

uses of certain BLM lands and recommended reviewing BLM lands for Wilderness protection as quickly as possible.⁵⁸ Regardless of this caveat, environmentalists saw the PLLRC report as a threat to the management of BLM lands and made the goal of permanently codifying multiple use management of BLM lands a priority.

The Fight Over the Federal Land Policy and Management Act (FLPMA)

With the publication of “One Third of the Nation’s Land” in 1970, battle lines were clearly drawn between forces advocating for multiple use management of BLM lands and those advocating for dominant use management. In February 1971, Senator Henry Jackson (D-WA), an advocate of multiple use management, submitted a bill calling for multiple use management of BLM lands. In April 1971 Representative Aspinall introduced a bill calling for dominant use management.⁵⁹ Cawley suggests that the fight over FLPMA was not simply a struggle over the future of the BLM’s management regime, writing, “In a very real sense, the battle over FLPMA was as much about realigning patterns of influence within the policy arena as it was about defining BLM management policy.”⁶⁰ The fight over FLPMA lasted five years and eventually helped cost Representative Wayne Aspinall his congressional seat.⁶¹ What emerged from the fight, however, was legislation that continues to drive the management of BLM lands to this day. Further, FLPMA provides both sides in the debate over the appropriateness of protected landscapes in multiple use management with legislation they can use to support their argument.

C: Implementation of FLPMA (1976 – 1992)

“A great deal will depend, I think, on how the general public, or at least the public user of the federal lands, views the new law. Will those who want to drive their off-road vehicles anywhere and everywhere they choose pay any attention to the new law? Will ranchers, mining interests, the timber industry, and other firms interested in acquiring raw materials from the federal lands really endorse the new law and seek to work cooperatively with each other, with other users, and with the BLM and other public officials?”

*- Former BLM Director Marion Clawson,
1979⁶²*

As BLM moved forward with implementing the Federal Land Policy and Management Act (FLPMA), the conflict over the role of protected landscapes in lands managed for multiple use emerged in very visible ways. As this section shows, developing land use plans, prioritizing protection of lands identified as Areas of Critical Environmental Concern (ACEC), and placing lands into Wilderness Study Area (WSA) status engendered considerable conflict.

The forces opposing protected landscapes as a component of multiple use coalesced into a West-wide, grassroots movement known as the Sagebrush Rebellion. The support the Sagebrush Rebellion received from President Reagan’s Secretary of the Interior James Watt provided the movement visibility and legitimacy in the public lands debates of the late 1970s and 1980s. While the Sagebrush Rebellion’s stated goal of having federal lands turned over to the states for management was never realized, the rebellion was successful in providing commodity interests with a powerful voice in the future of public lands management. By 1993 when President Bill Clinton chose Bruce Babbitt as the Secretary of the Interior, the battle lines were clearly drawn between those advocating for unfettered access to the public domain and those calling for its protection.

FLPMA, Multiple Use, and Protected Landscapes

The findings of the Public Lands Law Review Commission (PLLRC) chaired by Representative Wayne Aspinall warned against continuing management of BLM lands under the multiple use doctrine. In fact, the commission's report was unambiguous about this point, stating,

“'Multiple use' is not a precise concept. It is given different meanings by different people, as well as different meanings in different situations. We have listened to statements from diverse interests who all commended the idea of multiple use, but it was apparent that they were supporting different basic positions.”⁶³

Regardless of the warning provided in the PLLRC report, the Federal Land Policy and Management Act codified multiple use as the guiding management principle for BLM lands. Thus, FLPMA's definition of multiple use is important in understanding how the agency viewed its mission after the passage of FLPMA. FLPMA defines multiple use as:

“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 non-renewable 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.”⁶⁴

This definition of multiple use reflects the understanding of the multiple use management in the 1960s and 1970s and includes many components, two of which are relevant to this thesis. First, the resources listed include commodity (timber, minerals,

etc.) and non-commodity (recreation, wildlife, etc.) values and resources. Second, this definition stresses that the combination of uses need not necessarily result in the greatest economic output. Noticeably absent from this definition, however, is guidance on how BLM managers should treat those uses which are necessarily exclusive of other uses within the same geographic area – that is, no guidance is given within the definition to explain how areas dedicated to intensive commodity use (i.e. oil and gas development) either complement or contrast with areas dedicated to protection (i.e. wilderness). The result is that each side of the debate over the role of protected lands within multiple use can point to this definition to support their position. Wilderness advocates can point to FLPMA’s definition and argue that protected lands are an important component of multiple use when BLM lands are viewed in their entirety, whereas commodity interests can point to this definition to argue that their particular commodity use must be allowed on each acre of BLM land.

Instead of rectifying these competing visions of public land management, Section 202 of FLPMA contained a requirement for BLM to maintain ongoing inventories of its landholdings aimed at identifying the various resources contained therein and develop land use plans, with public input, to decide how each area should be managed.⁶⁵ During this planning process, FLPMA requires BLM to prioritize the identification of Areas of Critical Environmental Concern (ACEC)^w and provide additional protection to these areas if required. The definition of ACECs provided in FLPMA does not bar development of any type within ACECs, so even these areas are not themselves exempt from fights over how they fit into multiple use.

^w It is important to note that ACECs are not included as a category within the National Landscape Conservation System, although individual units of the National Landscape Conservation System, such as Wilderness Study Areas and National Conservation Areas may include ACECs within their borders.

Finally, and most importantly, FLPMA contained a requirement for BLM to review its land holdings for possible inclusion in the Wilderness Preservation System. In 1962 during testimony on the Wilderness Act, Howard Zahniser, the Act's author, testified that, 'Perhaps the Bureau of Land Management may later find that some of the public domain under its jurisdiction is best suited for wilderness preservation.'⁶⁶ FLPMA provided the vehicle for this type of review. FLPMA required BLM to identify Wilderness Study Areas (WSAs) and manage them, "so as not to impair the suitability of such areas for preservation as wilderness."⁶⁷ The identification of WSAs, determining how these areas fit into multiple use management, and deciding what constitutes impairment of wilderness suitability have been nearly constant sources of contention since the passage of FLPMA and as will be shown later in this thesis, directly impacted the conflict over BLM-managed National Monuments in the late 1990s and early 2000s.

The Sagebrush Rebellion and BLM Management of Protected Landscapes

In 1979, the Nevada State Assembly passed legislation demanding that the federal government hand over all BLM lands in Nevada to the state. In the next couple of years, Arizona,^x New Mexico, Utah, and Wyoming all passed similar legislation.^y Analyzing the tensions which gave rise to this movement, commonly referred to as the Sagebrush Rebellion, is best understood as a reaction by commodity interests (grazing, timber, and mining) to the increased role of the federal government in public land decisions, culminating with the passage of FLPMA and its subsequent Wilderness reviews and land use planning efforts.

^x The Arizona State Legislature overrode a veto by then Governor Bruce Babbitt, a central figure in the conflict over BLM-managed National Monuments.

^y Because the US Constitution provides Congress with authority over federal land holdings, "Sagebrush Bills" were largely symbolic. However, as will be shown in this chapter, the Sagebrush Rebellion had a huge impact on the future management of BLM lands.

The basic tenet of the Sagebrush Rebellion was that federal land in the West should be handed over to the states for management. Sagebrush Rebellion arguments centered on the following logic:

- States would manage the land more efficiently;
- States would allow more grazing, mining, and logging and therefore allow more use of public land resources than the federal government; and,
- States should have control over land within their boundaries as opposed to the federal government.⁶⁸

Essentially, the Sagebrush Rebellion amounted to a rejection of FLPMA, protected landscapes as a component of multiple use management, and in many ways the evolution in the definition of multiple use. While ultimately unsuccessful in gaining their stated goal of gaining a transfer of federal lands to the states for management, the ideology developed, refined, and expressed during the Sagebrush Rebellion continues to affect federal land management in the West.

The movement quickly gained important and influential friends. For instance, president-elect Ronald Reagan sent the following telegram of support to a group of Sagebrush Rebels in Utah after the 1980 election, ‘Best wishes to all my fellow “Sagebrush Rebels.” My administration will work to ensure that states have an equitable share of public lands and their natural resources. To all, good luck and thanks for your support.’⁶⁹

The Sagebrush Rebels believed victory, a transfer of federal lands to the states, was at hand when President Reagan appointed James Watt as the Secretary of the Interior during his initial term. Ironically, despite his self identification as a Sagebrush Rebel,⁷⁰ James Watt proved to be the individual most responsible for quelling the rebellion.

Instead of seeking a transfer of public lands to the states, Watt instead instituted a “Good Neighbor” policy in which BLM would act as a partner with ranching and mineral interests.⁷¹ Watt laid out his plans for the “Good Neighbor” policy during his confirmation hearings stating, he would, ‘manage lands as a good neighbor . . . and let the sagebrush rebellion die because of friendly relations.’⁷² As a “Good Neighbor,” Watt promised ‘true multiple-use’⁷³ which by his definition included increased motorized recreation and oil and gas exploration.⁷⁴ Watt aggressively pushed to increase oil and gas leasing, fought against Wilderness protection and attempts to limit off road vehicle use, and eased grazing restrictions.⁷⁵ As Cawley explains, “Through Watt, their [the Sagebrush Rebels’] claims had come to dominate the policy agenda.”⁷⁶ In fact, a 1982 issue of Coalition Comments claimed, ‘Many of the goals of the Sagebrush Rebellion have been accomplished since James Watt became Secretary of the Interior.’⁷⁷

No portrait of James Watt would be complete without mention of his combative and bellicose personality and interactions with the press, environmentalists, and members of Congress. After insulting women and Native Americans in the span of a couple of weeks coupled with his public fights with members of Congress and environmentalists, James Watt stepped down as Interior Secretary in 1983.⁷⁸

In his resignation letter, Secretary Watt penned the following, “I leave behind people and programs – a legacy that will aid America in the decades ahead. Our people and their dedication will keep America moving in the right direction.”⁷⁹ While debate remains whether Watt’s vision for multiple use was in the “right direction,” for the next decade, his “Good Neighbor” policy greatly influenced the debate over the role of protected landscapes in lands managed for multiple use.

The political and physical landscapes of the West were greatly impacted by the Sagebrush Rebellion and the tenures of James Watt and his successors under both Presidents Reagan and George H.W. Bush. In Cawley's words, "The Reagan administration produced a stalemate in the public land policy arena."⁸⁰ From 1983 until 1993, when Bruce Babbitt became President Clinton's Interior Secretary, two important actions occurred which affected the debate over the role of protected landscapes on BLM managed lands. First, numerous BLM field offices undertook the land use planning process required by FLPMA. Second, and perhaps more importantly, BLM inventoried its lands for Wilderness resources and submitted its findings and recommendations to Congress.

Resource Management Plans

Section 202 of FLPMA required BLM to develop Resource Management Plans (RMPs) to provide management direction for all BLM lands. While many BLM field offices had existing Management Framework Plans (MFPs) at the time FLPMA passed, many of these plans did not meet the requirements outlined in FLPMA. As a result, BLM undertook a massive planning initiative to develop RMPs for BLM managed lands. The Nevada State Office was charged with developing a planning process adequate to meet the requirements of FLPMA.⁸¹ The model created by the Nevada State Office was soon exported to other BLM resource areas. For the first time, BLM began developing integrated plans taking all potential and current uses of its lands into account, including livestock grazing, watershed conservation, motorized recreation, and energy development. These RMPs also included the designation of many areas as Areas of Critical Environmental Concern (ACECs). By 1993, most BLM resource areas were operating under RMPs, although MFPs remained in effect in some locations as fights

over the Wilderness Study Area (WSA) review, described below, consumed resources which might otherwise have been used to undertake RMP planning.

Wilderness Review of BLM Lands

Considerable resources were expended by BLM during the 1980s and early 1990s on reviewing its landholdings for possible inclusion in the National Wilderness Preservation System. Section 603 of FLPMA mandated that the Secretary of the Interior (i.e. BLM), “review those roadless areas of five thousand acres or more . . . and shall from time to time report to the President his recommendation as to the suitability or nonsuitability of each such area or island for preservation as wilderness.”⁸² In order to be designated as a WSA under Section 603 of FLPMA, the area in question had to comply with the following three criteria:

- Size - roadless areas of at least 5,000 acres of public lands or of a manageable size;
- Naturalness - generally appears to have been affected primarily by the forces of nature;
- Opportunities - provides outstanding opportunities for solitude or primitive and unconfined types of recreation.⁸³

Once designated as a WSA, the area was to be managed so as not to impair Congress’ ability to designate the area as Wilderness.⁸⁴

The process occurred in three stages. Starting in 1981, the BLM identified and managed 855 separate Wilderness Study Areas (WSAs) totaling 24.6 million acres.⁸⁵ BLM then prepared an Environmental Impact Statement (EIS) to determine which of these areas should be recommended as suitable for Wilderness designation by Congress. BLM released its EIS results in 1991 finding approximately 10 million of the 26 million acres suitable for protection as Wilderness.⁸⁶ However, because the non-impairment

standard outlined above applies to all WSAs regardless of whether the area was recommended as suitable, all WSAs continue to be managed so as not to impair their wilderness resources.^z In order to clarify the management of WSAs, BLM issued an Interim Management Policy (IMP) in 1979 to outline the types of uses allowed in WSAs during Congressional review.^{87,aa} As a result, many surface disturbing activities including oil and gas development and motorized recreation are restricted or not allowed in WSAs.⁸⁸

Every stage of the BLM's WSA review was saturated with conflict. Many environmentalists believed the original 26 million acres included in the WSA review was woefully inadequate. For instance, in Utah, environmentalists appealed to the Interior Board of Land Appeals (IBLA) to force BLM to reinventory its Utah lands after BLM's original inventory included less than 1 million acres of WSAs. After a court ordered reinventory, BLM included 3.2 million acres in Utah as WSAs.⁸⁹ Commodity interests were likewise upset with the WSA review process. Crawley argues that complaints over the wilderness review process were one of the main focuses of the Sagebrush Rebellion.⁹⁰

The EIS process was also a source of conflict. Of the 26 million acres identified as WSAs in 1981, only 10 million were recommended as suitable for Wilderness designation by BLM. Using the Utah example again, of the 3.2 million acres identified during the reinventory, BLM found 1.9 million acres suitable for designation as Wilderness.⁹¹ Utah environmentalists were outraged and in 1989 the first version of the Red Rock Wilderness Act was introduced in Congress, calling for the designation of 5.7 million acres of BLM Wilderness – a full 2.5 million acres beyond those identified as

^z Areas can be released from WSA management by acts of Congress.

^{aa} This guidance was updated in 1983, 1987, 1995, and portions were revoked in 2003.

WSAs by BLM and nearly 4 million acres more than BLM considered “suitable.”⁹² Similar “Citizen Wilderness Inventories” were developed in Colorado, Arizona, New Mexico and other states. Commodity interests, on the other hand, argued (and continue to argue) that areas not recommended as suitable for Wilderness designation by BLM should be uniformly released from continued management under the non-impairment standard. Over the years, various pieces of legislation have been introduced to either designate WSAs as Wilderness or to release all WSAs not designated by a specific date. However, to date, successful legislation has been much more local in focus and included designation and release of specific WSAs.^{93,bb}

The Bureau of Land Management – 1993

When Bill Clinton assumed the presidency on January 20th, 1993, the BLM was a very different agency from that of its parents, the General Land Office and the Grazing Service. The BLM had grown from a merger of these two agencies in 1946 to become a multiple use management agency, overseeing programs as varied as range conservation, oil and gas leasing, minerals management, recreation, wild horses and burros, and even Wilderness management. By 1993, the political discourse surrounding BLM management was no longer completely dominated by ranching and mining interests, yet the cultural legacy of these important constituents still greatly influenced BLM’s decisions.

While BLM’s land holdings included some protected areas by 1993, how these areas fit into BLM’s multiple use mission was ill-defined and remained extremely contentious. Battle lines were clearly drawn between commodity interests who argued

^{bb} In 1990, all BLM WSAs in Arizona were either designated as Wilderness or released from WSA protection as part of the Arizona Wilderness Act. Additionally, many WSAs in Colorado, California, and New Mexico have either been designated or released as part of various Wilderness bills.

Wilderness Areas, Wilderness Study Areas, and other BLM managed protected areas were anathema to multiple use of the land and environmentalists who argued these protected areas were important components of multiple use. While grazing continued in these protected areas, most commodity uses and motorized recreation (largely) did not. Thus, BLM land was either set aside for protection of natural resources or, subject to land use plans, available for intensive commodity use. The Sagebrush Rebellion of the late 1970s and early 1980s, while failing to realize its goal of having federal public lands turned over to the states, managed to create a power balance in public lands management where no single interest dominated the policy arena.

The conflict between these competing views of the future of the public domain was largely fought on the federal level within the halls of Congress and between administration officials and national environmental groups. Despite the congressional infighting, the BLM, as an agency, remained largely unknown by the American people because of its regional concentration. While national environmental groups lampooned the agency as the “Bureau of Livestock and Mining” and many commodity interests felt the BLM had overstepped its authority by placing large swaths of land in WSA status, the agency itself had little identity outside of the Western states. This would soon change with President Clinton’s selection of Bruce Babbitt as Secretary of the Interior.

¹ Interview WS05, 4/4/08, 39:46.

² Ficklin, Orlando B. *Statement of Rep. Ficklin* (Congressional Globe, 28th Congress, 2nd Session. 52 (1845)).

³ Muhn, James and Hanson R. Stuart. *Opportunity and Challenge: The Story of BLM* (US Department of Interior, 1988) 7.

⁴ Bureau of Land Management, *Business and Fiscal Resources* (US Department of Interior, 2006) 26 August 2008

<http://www.blm.gov/pgdata/etc/medialib/blm/wo/Business_and_Fiscal_Resources/2006_pls.Par.21111.File.dat/Part_1A.pdf>, Table 1-1.

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- ⁷ Renne, Roland R. "Western Land Policies and Recent Ownership Trends". *The Journal of Land & Public Utility Economics* (12.1 (1936): 33-43), 33.
- ⁸ Ibid.
- ⁹ "Upper Missouri River Breaks National Monument." *University of Buffalo*. April 20, 2005. 2 December 2007 <<http://ublib.buffalo.edu/libraries/eresources/ebooks/records/eff7431.html>>.
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- ¹⁷ 43 U.S.C. §§ 315-316o, June 28, 1934, as amended 1936, 1938, 1939, 1942, 1947, 1948, 1954 and 1976.
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- ¹⁹ Muhn, 48.
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- ²¹ Truman, Harry S. "Reorganization of Government: Order #3, 1946).
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- ²⁴ Cawley, R. M. *Federal Land, Western Anger: The Sagebrush Rebellion and Environmental Politics*. (Lawrence, KS: University of Kansas Press, 1993) 111.
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- ²⁶ Muhn, 54.
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- ²⁸ Cordon, Guy. "Statement of Senator Guy Cordon." *Congressional Record* (July 13, 1946).
- ²⁹ Pierson, Al. "Fifty Years of BLM: A Half-Century of Challenges and Change. *University of Wyoming Land and Water Law Review* (32, (1997): 345-353) 345.
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- ³⁸ Ibid.
- ³⁹ Interview WS06(a), 4/4/08, 12:20.
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- ⁵¹ Muhn, 117.
- ⁵² Muhn, 120 and Cawley, 35.
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- ⁵⁵ Ibid.
- ⁵⁶ Cawley, 35-36.
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- ⁵⁹ Cawley, 37.
- ⁶⁰ Cawley, 38.
- ⁶¹ Ibid.
- ⁶² Cawley, 41.
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- ⁶⁴ FLPMA, 43 U.S.C. §§1701, *et seq.*
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- ⁶⁹ “1980 Sagebrush Rebellion.” *Forest History Society*. November 4, 2004. 26 August 2008
<[http://www.foresthistory.org/Research/usfscoll/policy/States' Rights/1980 Sagebrush.html](http://www.foresthistory.org/Research/usfscoll/policy/States%20Rights/1980_Sagebrush.html)>.
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- ⁷¹ Ibid.
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- ⁷⁴ Ibid.
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- ⁷⁶ Cawley, 118.
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Chapter III. Altering the Balance of Power:
Secretary of the Interior Bruce Babbitt (1993 – 2001)

“There’s a radical idea here. It’s not the use of the Antiquities Act. It’s that the Bureau of Land Management can be responsible for National Monuments and NCAs; that was the new idea. With a couple of exceptions, up until Babbitt did what Babbitt did, we lost our best areas to the Park Service.”

- Senior BLM Manager¹

Bruce Babbitt was sworn in as the 47th Secretary of the Interior on January 22nd, 1993 after bruising confirmation hearings during which he promised not to act as an advocate for environmentalists’ concerns.² Further, he was forced to defend, and in some cases rebuke, critical statements he made previously about the Interior Department.³ One of the agencies in his department, the Bureau of Land Management, was slogging its way through a decade-long political power struggle resulting from the Sagebrush Rebellion. With the wilderness review process, as well as many of the management planning processes mandated by the Federal Land Policy and Management Act (FLPMA) recently completed, BLM’s multiple use mandate now included management of some protected lands including numerous Wilderness Study Areas, several National Conservation Areas, several segments of National Historic and Scenic Trails and a smattering of Wild and Scenic Rivers and Wilderness Areas. By the end of his tenure as Interior Secretary, Babbitt added another category of protected lands to BLM’s inventory: National Monuments.

Shortly after confirmation, Secretary Babbitt attempted to reform public lands grazing and mining; however, these initial attempts to alter the balance of power in the fight over public lands management failed. Rather than retreat, Babbitt focused instead on using an existing law, the Antiquities Act of 1906, to alter the power structure in the debate. In 1996, President Clinton used the Antiquities Act to create the Grand Staircase-Escalante National Monument in southern Utah, but left management of the new Monument with BLM rather than transferring it to the National Park Service. Much of the controversy surrounding the creation of the Grand Staircase centered on the secretive nature in which the Monument was created. In an effort to make the creation of additional Monuments more transparent, Secretary Babbitt altered his strategy and began announcing places in advance he believed were appropriate for Monument designation. Further, Babbitt announced he would entertain proposals for alternative designations such as National Conservation Areas, provided they provided protection on par with Monument designation.

Secretary Babbitt positioned these new BLM-managed National Monuments as flagships in a new system of BLM conservation lands. By doing so, Babbitt realigned and refocused the management priorities of the BLM. By the end of Secretary Babbitt's eight year tenure,^a environmentalists held a significantly strengthened position in the power struggle over America's public lands.

This portion of the thesis contains five sections. Section A outlines Secretary Babbitt's political and professional life prior to being named Interior Secretary as it relates to his understanding of multiple use. Section B explores Babbitt's inability to

^a Secretary Babbitt is tied with Stewart Udall as the second longest serving Interior Secretary. The longest serving Secretary was Harold Ickes, the Interior Secretary under Franklin Roosevelt and the last modern-day Interior Secretary from the East Coast.

institute proposed grazing and mining legislative reforms. Further, this section analyzes how these failures affected his decision to recommend to President Clinton that he use the Antiquities Act of 1906 to radically alter the power structure in the public lands management conflict. Section C includes a brief history of the Antiquities Act, discusses the decision by President Clinton, at the behest of Secretary Babbitt, to use the Antiquities Act to create the BLM's first National Monument, the Grand Staircase-Escalante National Monument in southern Utah, and analyzes the ensuing public outcry. Section D analyzes Babbitt's continued focus on the Antiquities Act post-Grand Staircase as a tool to further strengthen the position of environmentalists in the fight over public lands management. Finally, Section E discusses Secretary Babbitt's decision to consolidate various protected BLM lands by formally establishing the BLM's National Landscape Conservation System and highlights the rhetoric surrounding the National Monuments and Conservation System in the 2000 elections.

A: Bruce Babbitt – Before the Department of Interior

“Which Babbitt will be in charge of federal land policy? The one who served as Arizona governor and dealt pragmatically with agriculture and business interests? Or the one who more recently chaired the League of Conservation Voters and supported fundamental changes affecting the mining, ranching and timber industries?”

- Senator Larry Craig (R-ID) during Bruce Babbitt's Confirmation Hearing before the US Senate⁴

Bruce Babbitt was born in 1938 and grew up in a wealthy ranching family with BLM grazing allotments near Flagstaff, Arizona. According to one account, the Babbitt family so dominated northern Arizona's economic, social, and political power structure, “that even sheep on the range seemed to know who was boss and could be heard to bleat ‘Baaabbitt.’”⁵ Despite his family's strong ties to the ranching community, Bruce

Babbitt's father also had conservationist leanings – he helped found both the Arizona Wildlife Federation and the Arizona Game Protective Association.⁶

After high school, Bruce Babbitt attended the University of Notre Dame where he served as Student Body President and majored in geology. After graduating from Notre Dame, Babbitt was awarded a Marshall Scholarship and attended Great Britain's University of Newcastle where he earned a masters degree in geophysics. Finally, he received a law degree from Harvard University in 1965. A harbinger of things to come, Babbitt also became interested in politics during his school years, working in the civil rights and poverty alleviation movements of the late 1960s.⁷

After working in a Phoenix law firm for several years, Babbitt ran for and won the position of Arizona Attorney General in 1974. When the Arizona Governor stepped down in 1978 to accept an ambassadorship from President Jimmy Carter, Babbitt, a Democrat, was named Governor. The youngest individual to ever hold the position, Babbitt ran for and won the 1978 gubernatorial election and was reelected in 1982. In all, he served just under ten years (1978-1987) as Arizona Governor. In 1988, he launched an unsuccessful run for President.

During his time as Arizona Governor, Babbitt displayed a willingness to mediate cumbersome public processes involving disparate groups of stakeholders. For instance, in 1980 he helped develop a new plan for the State's groundwater that brought together commodity and environmental interests. *The Washington Post* characterized him as, "cerebral, shy and policy-oriented," though humorously "self-deprecating."⁸ Babbitt was also the only Governor to veto a Sagebrush Bill. In doing so, he referred to the entire movement as a "horse opera."⁹ Although overridden by the Arizona State Legislature,

his decision to veto Arizona's Sagebrush Bill made him a hero in the eyes of many in the environmental community. After his unsuccessful run for President, Babbitt returned to the private sector as an attorney and also assumed the presidency of the League of Conservation Voters (LCV).

His tenure as President of LCV, more than any other position, provides insight into Babbitt's perceptions of the BLM and its multiple use mission at the time of his appointment as Interior Secretary. As LCV president, Babbitt wrote that BLM was, "tainted by politics and incompetence in upper management and heavily influenced by mining and livestock constituencies," and that, "The next step in the evolution of public land use policy is to replace multiple use management with a new concept – dominant public use – that gives priority to recreation, wildlife and watershed uses." Dominant use, Babbitt argued, "would be a mandate to reconsider destructive resource exploitation that is of marginal economic importance."¹⁰ In a speech to the Sierra Club, he is quoted as having said, "Mining entry must be regulated, timber-cutting must be honestly subordinated to watershed and wildlife values, and grazing must be subordinated to regeneration and restoration of grasslands."¹¹ The quote which most concerned commodity interests upon learning of his appointment as Interior Secretary was the opening to one of LCV's annual report cards in which Babbitt wrote, "We must identify our enemies and drive them into oblivion."¹²

A Democratic congressional aid mused on the eve of Babbitt's confirmation hearings that, "Redirecting the sprawling Department of the Interior after 12 years of Republican rule would take a secretary with the heart and soul of an accountant, the resolve of a Marine and the thick skin of a rhinoceros."¹³ Babbitt was himself uneasy

about accepting the job of Interior Secretary. According to Babbitt, when asked by President Clinton to serve as Interior Secretary, he responded, "I've been quarreling with these same people and these same issues all of my life and I'm sick and tired of it and I know they're sick and tired of me. I'd like to move on."¹⁴ Regardless, on January 21st and 22nd, 1993, Bruce Babbitt sat before the Senate Energy Committee and answered questions about his views on public lands and multiple use management as part of his confirmation hearings to become the next Secretary of the Interior. As part of these sometimes heated hearings, he promised to, "accommodate both resource development and resource conservation,"¹⁵ and to give equal hearing to all sides of each issue prior to instituting new policies.¹⁶ Years later, when describing the multiple use management of BLM lands prior to his time as Interior Secretary, Babbitt wrote, "In practice, multiple use has proven to be little more than a new name for the old practice of according mining and grazing preferential access to public lands, with a footnote that the public remains free to hunt, fish, and camp amid the wreckage."¹⁷ Thus, at the beginning of his time as Secretary of Interior, Babbitt focused less on the role of protected landscapes within multiple use and instead decided to strike at the very heart of the multiple use philosophy by reforming the laws governing grazing and mining on public lands.

B: Grazing and Mining Reform Attempts

"If consensus doesn't work, so be it. It will be our job to make a decision. Consensus isn't a panacea. We're not going to have Paris Peace Accords in a grazing war that has been going on since 1906."

- Interior Secretary Bruce Babbitt (1993)¹⁸

In March 1993, Newsweek published an article entitled, "Bruce Babbitt's Interior Motives: A Lifelong Environmental Champion Fires the First Shots of the New War for the West." In the article, Babbitt laid out his vision for the "New West," including

drastically raising grazing fees on BLM lands, replacing the 1872 Mining Law with an updated and more environmentally responsible law, and rewriting the Endangered Species Act to focus on entire ecosystems rather than individual species. In the article, Babbitt confidently stated, ‘The mining, grazing and timber interests know the public verdict is in. Their opening position is it’s time to settle. They just want a say in what the final numbers are.’¹⁹ While attempts to reform land use in the West are often given to hyperbole, the article’s tagline of “the First Shots of the New War for the West” was far more prescient than Babbitt’s belief that ranching and grazing interests were prepared to negotiate changes to the existing policies governing their industries. While confident of success in 1993, by February 1994, Babbitt was forced to retreat on many of his public land initiatives.

Babbitt selected an outspoken, former lands commissioner and Wilderness Society board member from New Mexico named Jim Baca to assume the title of BLM Director and help institute his new vision for public lands management in 1993. Baca told *Sierra Magazine* (the publication of the Sierra Club), “I understand the way things work in politics. But I also understand that you have to stick your neck out to get things done. I’m not afraid to do that.”²⁰ Baca, along with Babbitt, quickly angered powerful Western commodity interests and their allies in Congress, quickly becoming favorite targets in this new “War on the West.”

John Leshy, the Department of Interior’s Solicitor General and a close confidant of Babbitt later admitted, “With the benefit of 20/20 hindsight this opening foray [mining and grazing reform] seems badly misplaced. In the great sweep of things, grazing and mining fees on public lands are hardly issues of the first rank.”²¹ While Leshy argues,

“Ending the subsidies for these traditional extractive industries was a powerful symbol for environmental groups who had worked hard to elect President Clinton, and seemed attainable,”²² reform, it turned out, was not attainable – at least not through the legislative process. After months of trying to institute meaningful reform on grazing and mining, the Clinton administration abruptly abandoned its support of Babbitt and Baca, and on February 3rd, 1994, Jim Baca stepped down as BLM Director amid pressure by Babbitt. Environmentalists were outraged. Carl Pope, the Executive Director of the Sierra Club said, “Whatever his reasons for firing Baca, Babbitt made a big mistake. He sent a signal to opponents of reform that will encourage them to resist further changes. He made his job--and our job--more difficult.”²³ Commodity interests, on the other hand, cheered Director Baca’s departure. Mike Fusco of the New Mexico Cattle Growers Association stated confidently, “One down, ninety-nine to go.”²⁴

Babbitt, attempting to play damage control, met with top environmentalists and tried to reassure them he would continue to fight for grazing and mining reform.²⁵ The incident; however, tarnished his credibility with the environmental movement. Despite his high profile attempts to strengthen the position of environmentalists in the fight for public lands, his efforts, at least with respect to grazing and mining, had failed miserably. In an essay about the politics of western public lands, the following was written about Babbitt’s early years, “At this writing (1995), it is clear that neither the optimism of the environmental community nor the pessimism of its opponents has been realized.”²⁶ It seemed as if the existing balance of power created by the Sagebrush Rebellion would continue to endure. During the 1994 elections, Republicans gained control of both

houses of Congress, effectively ending any legislative prospects of drastically changing mining and grazing policy.

C: Using the Power of Existing Laws: The Antiquities Act, Southern Utah, and BLM's First National Monument

“God’s handiwork is everywhere in the natural beauty of the Escalante Canyons and in the Kaiparowitz Plateau. In protecting it, we live up to our obligation to preserve our natural heritage.”

- President Bill Clinton (September 18, 1996)²⁷

“In all my 20 years in the U.S. Senate, I have never seen a clearer example of the arrogance of federal power. Indeed, this is the mother of all land grabs. And, the declaration by President Clinton is being made without so much as a by-your-leave to the people of Utah.”

- Senator Orrin Hatch (R-UT) (September 30, 1996)²⁸

John Leshy, Babbitt’s Solicitor General at Interior, wrote of the failure to secure grazing and mining reform that it, “cost the new Administration (and Babbitt) substantial political capital and credibility.”^{29,b} Babbitt later wrote, “Sorting through the wreckage [left by the mining and grazing reform attempts], we turned to look at laws already on the books to see how we might make better use of the authority we already possessed.”³⁰ One of the existing laws Babbitt and the Clinton administration honed in on was the Antiquities Act of 1906.

The Antiquities Act of 1906 – A Brief History

The Antiquities Act of 1906 has a long, and at times, contentious history. The Act states simply,

^b It should be noted that Babbitt did eventually persuade President Clinton to use Executive Orders to institute new Rangeland Health Standards, thus it can be argued that there was some reform of grazing on public lands.

“The President of the United States is hereby authorized, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments.”³¹

While the authors of this one page bill envisioned it would be used to protect small, archeological sites such as cliff dwellings in the American southwest, numerous Presidents, with the concurrence of the Supreme Court and at times the Congress have interpreted it to apply to protecting entire landscapes.³²

The first president granted the authority to create National Monuments, President Theodore Roosevelt, did not use the act to protect archeological sites initially, but instead used his authority under the act to withdraw Devils Tower, a geological formation in Wyoming. As Babbitt later wrote, “Serving up that language [the authority “to protect other objects of historic or scientific interest”] to Theodore Roosevelt was like offering a sardine to a cat.”³³ By the end of his presidency, Roosevelt used the Antiquities Act to create 18 National Monuments totaling approximately 1.5 million acres of federal land. Although several of the Monuments he created contained archeological sites, many did not.³⁴ The list of places protected as “objects of historic or scientific interest” by President Theodore Roosevelt include the Grand Canyon (now Grand Canyon National Park) and Mount Olympus (now Olympic National Park). The first legal challenge to a President’s use of the Act occurred over Roosevelt’s creation of the 800,000 acre Grand Canyon National Monument; the Supreme Court ruled the Antiquities Act provided the President considerable leeway in Monument designation and upheld its creation.³⁵ Thus, precedence was set that the Antiquities Act’s authority was not limited solely to protecting archeological sites, but also to protect large landscapes.

The Antiquities Act's next legal challenge came in 1943 when President Franklin Roosevelt used the Act to create a National Monument adjacent to Grand Teton National Park in Wyoming. While Congress eventually accepted the majority of the designation by including it within the boundary of an expanded Grand Teton National Park in 1950, the legislation doing so effectively barred future use of the Antiquities Act in Wyoming.³⁶

Given the conflict over the use of the Antiquities Act by Presidents Franklin and Theodore Roosevelt, it is somewhat surprising that the Antiquities Act was not one of the 2,500 laws repealed when the Federal Land Policy and Management Act (FLPMA) was passed in 1976. In fact, the only mention of the Antiquities Act in FLPMA is a statute barring Presidents from decreasing the size of an existing Monument under FLPMA's withdrawal provision.³⁷ Far from repealing the Antiquities Act, FLPMA instead reaffirmed the President's authority.

Perhaps the most controversial use of the Antiquities Act, prior to the Clinton presidency, was its use by President Jimmy Carter in December 1978^c when he created over 56 million acres of National Monuments in one day during the fight over the Alaska National Interest Lands Conservation Act (ANILCA).³⁸ While this bold exercise of executive power was popular with many members of the public in the lower 48, the final language in ANILCA, forced along by the Monument proclamations, effectively barred use of the Antiquities Act in Alaska without the consent of Congress.

Two common assumptions united all of the National Monuments created prior to 1996. First, after their designation, management of the new Monuments was transferred to the National Park Service. While most of the units were created out of General Land

^c President Carter was the only President between the passage of FLPMA and President Clinton to use the Antiquities Act. Presidents Reagan and George H.W. Bush did not designate any National Monuments under the authority granted to them by the Antiquities Act.

Office holdings (and later BLM lands) it was assumed that only the Park Service contained the knowledge, expertise, and competence to manage National Monuments. Second, and more importantly to a President badly in need of bolstering his environmental credentials after the failure to reform grazing and mining, no Monument created under the Antiquities Act had ever been overturned by a court of law. Thus, it was assumed that use of the Antiquities Act provided an opportunity to secure a guaranteed, concrete, and tangible “environmental win.” Secretary Babbitt and President Clinton would soon challenge the first assumption while relying on the second.

Creating the Grand Staircase-Escalante National Monument

According to Babbitt, during the summer of 1996, Dick Morris, Clinton’s “shadowy, backstage political consultant”³⁹ received results of a poll showing environmental issues had suddenly risen in importance to American voters. Morris believed an “October Surprise” outlining a bold new environmental initiative could shore up support for Clinton’s reelection bid by proving to environmentalists he was still committed to environmental issues, despite the Clinton administration’s inability to institute meaningful public lands grazing and mining reform.

According to John Leshey, over the 4th of July weekend of 1996, Babbitt was instructed to provide the President, “a confidential recommendation for how the spectacular resources of southern Utah might be protected through the Antiquities Act.”⁴⁰ Utah had been (and continues to be) one of the central fronts in the war over Wilderness protection on western public lands (see discussion around Wilderness Study Area Review in Chapter II), so an initiative protecting wilderness quality lands in Utah would serve as a bold reaffirmation of Clinton’s environmental credentials. Further, Clinton had come in a distant third behind Republican President George H.W. Bush and Progressive Party

nominee Ross Perot in Utah during the 1992 election, so there was little danger of upsetting a constituency who would otherwise vote him.

Babbitt quickly focused his search on the almost 2 million acres of BLM managed land between Bryce Canyon National Park, Capitol Reef National Park, the Dixie National Forest, and the National Park Service managed Glen Canyon National Recreation Area. Within several weeks of Clinton's request, Babbitt submitted a recommendation to the President to create the largest National Monument ever created in Lower 48 using the Antiquities Act. According to Leshey, the President accepted Babbitt's recommendation with very few changes⁴¹ and on September 18th, 1996, in front of approximately 2,000 onlookers, President Clinton stood on the south rim of the Grand Canyon (in Arizona) and created the 1.7 million acre Grand Staircase-Escalante National Monument in southern Utah.

Mixed Reactions to the New Monument

When word of President Clinton's creation of the Grand Staircase-Escalante National Monument reached environmental groups in Washington DC, they released brightly colored balloons in celebration. In Kanab, Utah, on the edge of the new Monument, school classes were canceled and enraged locals wearing black armbands attended a hastily organized town hall meeting at the local high school. In stark contrast to the brightly colored balloons being released in Washington DC, Kanab schoolchildren released 50 black balloons, one for each state to warn their fellow citizens, "that the president could unilaterally lock away their lands, too."⁴² Signs soon appeared reading "Shame on you Clinton" and "Why Clinton, Why? You're our President."⁴³

The reaction of Kanab residents may seem silly or even childlike to those unaware of the longstanding conflict over multiple use management of BLM lands, but

for those familiar with the conflict, the overwhelming negative reaction by locals is hardly surprising. The Grand Staircase-Escalante National Monument is comprised of three distinct areas – the Grand Staircase, the Kaiparowits Plateau, and the Escalante Canyonlands. These scenic areas had been considered for National Park designation as early as the 1930s,⁴⁴ but at the time of the designation, the area was being targeted by the Andalex Mining company, a Dutch-owned company who had begun plans to develop a coal mine on the Kaiparowits portion.⁴⁵ Because the land was managed by the BLM, numerous ranchers held grazing allotments and the area was also being eyed by oil and gas companies as well as a potential location for new coal fired power plants.⁴⁶ As mentioned earlier, the Grand Staircase-Escalante National Monument was wedged between two national parks, a Park Service managed National Recreation Area, and a National Forest. Local Utahns decried the addition of another protective designation in the area – past experience dictated that National Monuments often became National Parks. National Parks, history showed, usually eliminated traditional commodity focused multiple uses including grazing and mining, and when these uses ceased, so to did the economic benefits they entailed. That the new Monument “killed” the Andalex mine was proof positive in the minds of many locals that these areas would no longer be available for use by the traditional economic drivers of the area – mining, oil and gas drilling, and ranching.

Utahns also decried the sheer size of the Monument. They argued the new Monument was not, “confined to the smallest area compatible with proper care and management of the objects to be protected,”⁴⁷ as required by the Antiquities Act. To put the size of the Monument in perspective it is important to remember that it took President

Theodore Roosevelt 18 National Monuments to protect 1.5 million acres; President Clinton eclipsed this mark with one Monument.

Proponents of the Monument sought to diffuse the controversy surrounding the Monument by quoting past protests against some of Utah's other, earlier protected lands and showing how none of the dire predictions came true. For instance, proponents of the new Monument offered the following quote from the Vice President of the Utah Cattlemen's Association regarding the expansion of the Capital Reef and Arches National Monuments in 1969, 'I don't know whether this action is vindictive or not, but Utah certainly has a role other than being a playground for Easterners.'⁴⁸ This quote was offered to show that the controversy surrounding the Grand Staircase-Escalante National Monument was not unlike that surrounding these earlier Monuments in Utah and that far from being detrimental to the economy of southern Utah, the area could benefit economically (in the form of increased tourism) greatly from the designation of the Grand Staircase just as eastern Utah had benefitted from the expansion of the other two Monuments 25 years before.

Further, proponents pointed to the fight over Utah's wilderness and applauded the President's bold exercise of executive power. Less than a year before the creation of the Monument, Congress had been on the verge of passing legislation to designate 1.8 million acres of BLM-managed Wilderness in Utah. Far short of the 5.7 million acres proposed by Wilderness groups, national opposition to what was seen as a woefully inadequate Wilderness bill forced the Utah delegation to abandon the 1.8 million acre proposal.⁴⁹ Now, in the span of one day, President Clinton created a protected area as large as the Utah Congressional delegation's proposal (though much of it on different

lands), while not inhibiting the future creation of additional statutorily protected Wilderness in Utah. As the *High Country News* reported, the Monument did not require the approval of, “Congress, no mind-numbing or raucous public hearings, no mess: ‘Here Utah, have a monument.’”⁵⁰

Ultimately Clinton’s gamble paid off. While Utah seethed, his creation of the Monument was well received nationally helping Clinton capture the “environmental vote” and allowing him to easily sail to victory in the 1996 elections. The controversy over the new Monument, however, did not end with the November elections. After the elections, the Republican controlled Congress attempted to curb the President’s future ability to use the Antiquities Act through legislation entitled, “The National Monuments Fairness Act.” In the end, House Republicans were able to pass the bill; however, the companion bill failed to pass the Senate by one vote.⁵¹ While the legislation to curb future use of the Antiquities Act failed, Congress clearly voiced its displeasure over the manner in which the Monument was created.

BLM Management of the New Monument

Because of the uproar over the creation of the Grand Staircase-Escalante National Monument, a very important facet of the new Monument failed to elicit much attention initially. Bucking 90 years of tradition, the Monument’s management was not transferred to the National Park Service. Instead, the BLM retained management of the Monument. The oft-maligned “Bureau of Livestock and Mining,” the former repository of “The Land Nobody Wanted,” the agency whose multiple use mission had been codified a mere 20 years prior by the passage of FLPMA now had management responsibility for the nation’s largest and most controversial National Monument.

According to Babbitt, it was his idea to leave management of the new Monument within BLM. He writes in Cities in the Wilderness that,

“It was time . . . to recognize that we were protecting landscapes, not making parks. And it would be crucially important to encourage the BLM to develop a conservation mission – something unlikely to occur if every new monument carved out of existing public lands were taken away from the BLM and given to the Park Service.”⁵²

Babbitt realized the symbolic power of leaving management of the new Monument with BLM, particularly given the existing power balance in the fight over public lands resulting from the Sagebrush Rebellion. When an interviewer asked him why he fought so hard to leave the management of the Grand Staircase with BLM, Babbitt responded, “By continually robbing the BLM of its crown jewels, we’re reinforcing this kind of defeatist image that the BLM is nothing but livestock and mining.”⁵³ He added, “Environmentalists have demonized the BLM over the years as a sort of doormat for the mining and grazing industry. If you spend all your time demonizing an agency, ultimately your predictions will come true.”⁵⁴ Given Babbitt’s statements, he clearly understood the potential of the Monument to change the culture of the BLM and refocus the BLM’s mission to more expressly include landscape protection.

There were also practical reasons for leaving management of the new Monument within BLM. The BLM was, and to a large degree remains, far less threatening to commodity interests than the National Park Service. Even Chuck Cushman, a leading private property rights advocate and ardent opponent of the concept of BLM-managed National Monuments conceded during his interview for this thesis, “These agencies have created a record for themselves that is not enviable when it comes to private property issues. Now BLM hasn’t been nearly as bad as the Park Service. The Park Service has almost uniformly been a hard ass.”⁵⁵ During another interview, a senior BLM manager

argued that Babbitt preferred BLM's management style over that of the Park Service stating,

“Babbitt had reservations about the way NPS manages places and with how they work with local communities. BLM had a good track record of working with local communities. Plus they wanted to keep multiple use in there so local communities didn't feel like, 'Here comes a Park.'”⁵⁶

Multiple use as a component of Monument management was also addressed by John Leshey who argues that by leaving management with the BLM, “The predominant management emphasis would be on conservation” yet “restrictions would be tailored to the local situation.”⁵⁷

Leaving management of the new Monument in the BLM was an adroit political move as well. According to Mark Squillace, “Babbitt believed he could win approval and widespread public support for a substantial number of new monuments by entrusting their management to the existing land manager.”⁵⁸ Leshey adds to this observation noting, “putting BLM in charge also made political sense because . . . BLM was a familiar face.”⁵⁹ Whatever his ultimate reasons for leaving management of the Grand Staircase with BLM, the Grand Staircase was destined to be simply the first of many new BLM-managed protected areas created during Babbitt's time as Interior Secretary.

Grazing, Mining, Off-Road Vehicle Use, and Hunting in the New Monument

Unlike the Monuments which came before it, the proclamation establishing the Grand Staircase-Escalante National Monument allowed for a wider range of uses. Grazing was allowed to continue, and although new leasing for minerals and patenting of new mining claims was forbidden, existing lease holders would be allowed to develop their leases as long as they did not damage the resources the Monument was designated to protect. ATVs and dirtbikes would be allowed in the new Monument, but motorized

and mechanized travel would be restricted to roads designated during the Monument's planning process. Finally, unlike National Park Service Monuments, hunting was allowed to continue within the Monument.⁶⁰ Because the Grand Staircase was destined to be the model upon which future BLM-managed National Monuments would be built, the decision to allow this wider range of uses within this particular protective designation held potential to help redefine the concept of multiple use itself.

D: The Process Argument and Additional Monuments

"Someone asked whether this concept of ecosystem-scale monuments should eventually be extended to encompass all significant portions of public lands. It was a provocative question."

- Bruce Babbitt (Cities in the Wilderness)

By President Clinton's last day in office he created or expanded 22 National Monuments under the authority of the Antiquities Act. Of these 22 new National Monuments, BLM remained the manager (or in some cases cooperative-manager) for 14. The uproar over the Grand Staircase designation initially made the creation of additional National Monuments unlikely. Babbitt, however, noted that the heart of the political controversy centered less around the actual creation of the Grand Staircase, but rather on the secretive nature of the process used to create it. Having analyzed this legitimate criticism, Babbitt outlined a new process for National Monument designation.

Upending "The Process" Argument – A New Process for Creating National Monuments

Babbitt writes in Cities in the Wilderness that the decision not to involve local governments, the state government, or the Utah congressional delegation during the planning for the creation of the Grand Staircase-Escalante National Monument was done to maximize the impact of the "October Surprise" nature of its creation. The surprise

nature of the Monument's creation has become almost legendary, although it is important to note that some reports suggest the State of Utah received warning of the impending proclamation several days before it occurred.^d

Regardless, Babbitt acknowledged that much of the outrage over the new Monument centered not on the Monument designation itself, but rather the process used to create it, noting, "The political problem, then, was not so much the idea of the monument, but the way we had cloaked the process in secrecy right up to the announcement."⁶¹ Leshey confirms this view, stating that Babbitt, "had taken careful note that the controversy provoked by the Grand Staircase focused almost exclusively on process – specifically, the lack of much advanced public notice or discussion – rather than on the substance of what was done."⁶²

By 1998, with much of the controversy over the creation of the Grand Staircase beginning to subside somewhat, Babbitt believed the time was right to create additional National Monuments. This time though, Babbitt argued, "Why not turn the process on its head – advance monument proposals in public and hold public hearings, spiking complaints of secrecy and using public support to blunt the opposition in Congress."⁶³ In November 1998, Babbitt visited the Uinkaret Plateau region of the Arizona Strip, the area north of the Grand Canyon and south of the Utah state line. This time, Babbitt announced to the press he was considering recommending to President Clinton that the president designate the area as a BLM-managed National Monument, similar to the

^d Officially, no member of the Utah State government was present at the Monument's creation. However, an interviewee for this thesis confided that Kathleen Clark (who would later serve as BLM Director under President Bush) from the Utah Division of Wildlife attended the ceremony. According to this interviewee, Clark attempted to gain entrance to the ceremony, was asked to leave, but ultimately allowed to stay. This interviewee believes Clark's indignation at the way she had been treated at the ceremony greatly impacted her treatment of personnel working at Grand Staircase while she served as BLM Director. (Interview WS310027, 7/31/2008)

Grand Staircase to the northeast. In what was to become a very politically adroit modus operandi, Babbitt caveated his announcement, stating he would also entertain and encourage a legislative proposal to protect the area, as long as the proposal provided protection on par with National Monument status.⁶⁴ Babbitt's trip to the Uinkaret succeeded in raising interest in protecting the area and polls showed that 70 percent of Arizonans favored protection for the Plateau. When the Arizona congressional delegation failed to develop what Babbitt deemed adequately protective legislation, he recommended President Clinton use the Antiquities Act to create the 1.1 million acre Grand Canyon-Parashant National Monument. On January 20th, 2000, President Clinton officially created the Monument.⁶⁵ This effort became a model for a number of new Monuments and resulted in the creation of twelve additional BLM-managed National Monuments (not including Grand Staircase and the Grand Canyon-Parashant National Monuments) created under the authority of the Antiquities Act, one congressionally legislated National Monument, and 4 legislatively created National Conservation Areas (or similar designations) before President Clinton left office.

This is not to suggest the process was not itself the center of debate. As one senior BLM manager stated during interviews, "There's no question that the designation of Grand Staircase, in terms of existing relationships, did huge damage. But lessons were learned, and the Monument process was better later on, to a degree."⁶⁶ Perhaps the most important part of this statement is the caveat, "to a degree." While Babbitt's "Legislation First Process" allowed input on how protected an area should be, the process angered many commodity interests because they felt it was unfairly skewed towards protection of some kind – that is, continued management as undesignated public land was not an

option. By holding the threat of Monument designation over the heads of local politicians, interest groups, and Congress, Babbitt greatly strengthened the hand of those advocating for protection of each area. Protection advocates knew if the process failed, they could rely on the power of the Antiquities Act to provide protection for the area. Commodity interests and others who did not want to see specific areas receive statutory protection (or additional protection), on the other hand, were forced to negotiate or accept the results – a new Monument. Chuck Cushman summarized his displeasure with the process during his interview stating simply,

“You’re not negotiating as willing sellers, willing buyers, willing users, willing regulators. To have the ultimate club by the federal government that if you don’t do something that’s satisfactory to us [the government], we’re going to impose a National Monument . . . we’ll do what we want anyway.”⁶⁷

Some locals opposing new designations felt compelled to negotiate; others refused. Some locals refused to negotiate simply because Babbitt had become such a polarizing figure in the West. As one long time BLM employee stated during interviews, “Babbitt is politically polarizing. And he’s an arrogant son of a gun,” adding, “I heard him bragging . . . that he came to town and said he was going to create a Monument and they were shaking in their boots, the locals were shaking in their boots.” Later in the interview, this same BLM manager argued Babbitt’s process instilled fear in many of the locals she deals with, stating simply, “The locals didn’t want a Monument. They feared a Monument.”⁶⁸ Other BLM managers pointed to this same distrust of Babbitt’s process. For instance, one senior BLM manager recalled his attendance at meetings where a new Monument was being discussed stating,

“I was at some of those public meetings and there was lots of distrust of the federal government. You heard people saying the government was bringing in black helicopters to spy on the locals, the whole nine yards. A

Monument, to these people, was the government's attempt to take away private property rights."⁶⁹

Range Magazine, a publication largely read by members of the livestock industry, summed up Babbitt's Monument process to its members this way,

"He [Babbitt] quickly established a pattern as familiar as a train robbery. First he would call a meeting among the local people affected, often members of his own Resource Advisory Councils set up as a sham of participation in policies of the Bureau of Land Management. Either come up with some legislation of their own that would designate what Babbitt wanted, he told them, or he would be back and take it anyway under the powers of the Antiquities Act."⁷⁰

The new process did, however, have a political advantage compared to the process used to create the Grand Staircase. As Leshey argues, "While unilateral executive action might have produced more glory for the President and the Secretary, Babbitt understood that, if sufficiently protective, legislation provided a firmer base for protection over the long run," adding, "In each situation [where legislation preempted use of the Antiquities Act] most of the key members of Congress with whom the final deals were cut with were Republican."⁷¹ BLM interviewees echoed many of the same attitudes about the new process. For instance, one BLM manager voiced his preference for NCAs instead of National Monuments stating, "It's probably better if it's legislation through Congress because then, as far as public representation, it's wider spread than just the President doing something."⁷² But another manager said that while she wished Congress and the administration could have developed a compromise for her Monument, "Compared to the draft legislation, the Proclamation we ended up with carries a stronger message and expectations. The legislation would have been minimalist."⁷³

Thus the "Legislation First Process" instituted by Babbitt after Grand Staircase had benefits as well as costs. Of the seven Conservation System case study units

analyzed for this thesis, a version of the process outlined above was applied to six: Grand Canyon-Parashant National Monument, Vermilion Cliffs National Monument, the Upper Missouri River Breaks National Monument, Carrizo Plain National Monument, the Steens Mountain Cooperative Management and Protection Area, and the Canyons of the Ancients National Monument (the Grand Staircase, as described above, was a surprise). In only one case, Steens, was the process successful in garnering locally agreed upon legislation.^e The history behind the creation of one of these units, the Canyons of the Ancients National Monument, is illustrative of the challenges Babbitt encountered when implementing the “Legislation First Process” described above. Further, the events surrounding the creation of the Canyons of the Ancients National Monument also demonstrate the power and influence environmental groups enjoyed in public lands protection debates during the Clinton administration.

Babbitt’s “Legislation First Process” in Action: Canyons of the Ancients National Monument

Interest in protecting the many ancient Puebloan ruins found in southwestern Colorado dates back to 1894 when the Salt Lake Tribune wrote in favor of protecting the area. Several ruins within the outline of what is now the Canyons of the Ancients National Monument, as well as additional ruins in nearby Utah, were designated as the Hovenweep National Monument in 1923 by President Harding using the Antiquities Act.^f The area was first considered for designation as a National Conservation Area in 1979,

^e One of the reasons the Steens negotiation was successful is because environmental groups agreed to set aside Monument status in order to create BLM’s first “Cow Free” Wilderness and several new Wild and Scenic River segments.

^f Hovenweep National Monument was enlarged by President Truman in 1951 and again by President Eisenhower in 1952. These areas are still managed by the National Park Service and are not included in the Canyons of the Ancients National Monument.

although the legislation failed to move forward. In 1985, BLM designated much of the present day Monument as an Area of Critical Environmental Concern (ACEC) during a Resource Management Plan (RMP) process.⁷⁴ Recognizing the special values found in the area, BLM established the Anasazi Heritage Center^g in 1988 to help highlight the area.⁷⁵

In early 1999, Secretary Babbitt announced he was considering recommending the area for National Monument designation and encouraged local, state, and national level politicians to provide a legislative alternative. In August 1999, after holding five public meetings, the Southwest Colorado Resource Advisory Council (RAC)^h delivered its recommendations to Secretary Babbitt on ways of protecting the area.⁷⁶ Upon receipt of the RAC's recommendations, Secretary Babbitt held three public meetings in southwestern Colorado to offer local citizens an opportunity to discuss ways of protecting the area.⁷⁷

Fearing that Babbitt would ask President Clinton to use the Antiquities Act to create a National Monument, Senator Ben Nighthorse Campbell (R-CO) introduced legislation to protect the area by creating a National Conservation Area in early 2000; however, Senator Campbell abruptly backed off his proposal in March 2000 stating there was "total absence of local consensus" on a legislative alternative to protect the area. He cancelled scheduled hearings on the legislation and at the same time, Rep. Scott McInnis (R-CO) also announced he would not push House companion legislation.⁷⁸ Campbell and

^g Anasazi is a term which means "ancient Puebloan." Ancient Puebloan is preferred by local tribes; however, BLM has not changed the name of the center.

^h RACs are councils of appointed individuals in specified BLM areas that advise BLM staff regarding resource issues. Each individual on the RAC represents a specific constituency of the BLM (ranching, mining, recreation, etc.).

McInnis insisted local consensus proved elusive because environmentalists fought the legislative proposal citing their belief that the legislation did not provide enough protectionⁱ and private property advocates rights fought the proposal because they felt it was too restrictive.⁷⁹ On the day Senator Campbell withdrew his legislation to protect the area, his spokesman explained the decision within the context of possible National Monument designation stating simply, “Some people said it went too far, others not far enough. Whoever thought it was a good plan didn’t speak up. We weren’t going to force it down anyone’s throat, the way the Clinton administration does with their public lands decisions.”⁸⁰ During the Reagan and George H.W. Bush presidencies, environmentalists may well have capitulated and accepted the National Conservation Area proposal, but with the virtual guarantee of a National Monument for the area as an alternative, the bargaining position of environmentalists was greatly strengthened.

During the last week of May, 2000, Secretary Babbitt recommended President Clinton use the Antiquities Act to create the Canyons of the Ancients National Monument.^j On June 9th, 2000, Vice President Al Gore (at the time a presidential candidate) announced during a visit to Washington State that President Clinton had created four new National Monuments, including Canyons of the Ancients.

Whether this example resembles a “sham of participation” as described in the Range Magazine article quoted above or an honest attempt to provide protection for a deserving landscape through legislation instead of the Antiquities Act, the fact remains

ⁱ Some environmental groups wanted the legislation to make approximately 20,000 acres of the area Wilderness, although The Wilderness Society wrote a letter in support of the legislation.

^j This same day, Secretary Babbitt recommended President Clinton use the Antiquities Act to create the Ironwood Forest National Monument, the Cascade-Siskiyou National Monument, and the Hanford Reach of the Columbia River National Monument (the US Fish and Wildlife Service’s only National Monument).

that the process failed (not surprisingly so) in this instance, and in many others, to produce a legislative solution. Because of Babbitt's personal and highly visible involvement in the designation of BLM-managed National Monuments, he remains a very polarizing figure in Western public lands management.

The Clinton/Babbitt Legacy

To state Babbitt was one of, if not the most, controversial Secretary of the Interior (James Watt included) is an understatement. Depending on perspective, he either, "combined experience, enthusiasm, and a commitment to environmental protection and restoration to pursue the radical improvement of public land management," as John Leshey argues, or he was an, "ideologue – an unyielding environmental protection zealot,"⁸¹ as his many detractors claim.

One thing is certain; Babbitt excited the President about protecting BLM landscapes. As Babbitt is fond of recalling, he kept a card outlining a running tally of Clinton's land protection achievements compared to Theodore Roosevelt's achievements. When he handed the card to President Clinton during a reception held to honor the Japanese Prime Minister, Clinton halted the reception line, studied the statistics, and gave Babbitt the go ahead to find additional landscapes worthy of protection. After securing a letter from the President soliciting additional recommendations, Babbitt had the political cover to begin instituting his process.⁸² And the process produced results.

The legacy left by Secretary Babbitt and President Clinton, both in acreage and number of units is impressive, even to their many detractors (See **Appendix 2** and **Appendix 3**). The BLM-managed National Monuments created by President Clinton encompass over 5.7 million acres of public land. In the five cases where the "Legislation First Process" managed to produce successful legislation, an additional 1.8 million acres

of public land were protected as BLM-managed National Conservation Areas (and like designations).

E: Consolidating the Gains: Creation of the National Landscape Conservation System

“The inescapable truth is this - for the BLM to keep its special areas within the agency and not ultimately have them transferred to others, the BLM must show it is committed to, and capable of delivering on the conservation part of its existing legal mandate.”

- Bruce Babbitt⁸³

By June of 2000, the BLM managed 7 National Monuments totaling over 3.5 million acres,^k 12 National Conservation Areas (or like designations) totaling almost 3.6 million acres,^l several million acres of Wilderness Areas, over 15 million acres of Wilderness Study Areas, 35 Wild and Scenic River segments totaling over 2,000 miles, as well as a several segments of National Historic and Scenic Trails.^m According to Tom Fry, Babbitt’s final BLM Director, “There was a growing recognition that the term ‘public lands’ didn’t properly identify what was out there,” adding, “It just made sense to put all these designations together in a system. Not to the exclusion of the rest of BLM, but to help highlight our really special areas.”⁸⁴

Fry approached Babbitt about the idea of creating a system consisting of all BLM specially designated areas and while Babbitt was interested in the idea, according to Fry, Babbitt was initially apprehensive to embrace the idea because he was not sure of the legality of creating the System. Fry and Babbitt continued to discuss the idea during long

^k Clinton created 5 additional BLM-managed National Monuments after June 2000.

^l These numbers include all National Conservation Areas, not just those created during Babbitt’s tenure as Secretary of the Interior.

^m All information calculated from tables found on www.blm.gov. Please note that the 25 million acre California Desert Conservation Area is not included in the NCA (and like designations) category, but National Recreation Areas are included. Further, 7 more National Monuments would be added by the end of the Clinton Administration as would 4 additional NCAs (and like designations).

drives and other times when they were alone.⁸⁵ The idea held great potential for increasing appropriations for BLM. Babbitt and Fry discussed how the US Fish and Wildlife Service's Refuge System had led to increased funding for that agency and wondered if a similar system could help BLM. As Fry put it, "The term BLM isn't an identity, and without an identity it's hard to get extra funding," adding, "We looked at the Refuge System as a model. There, they had an identity, which led to more local support, which ultimately led to more funding."⁸⁶ This reasoning is not lost on today's BLM managers. As one senior BLM manager put it, "Political types want to support something special as opposed to just increasing BLM's recreation budget."⁸⁷

During a drive to Albuquerque for a BLM Leadership Team Meeting on March 23rd, 2000, Babbitt and Fry once again discussed the possibility of creating a consolidated system for BLM's special areas. During his interview for this study, Tom Fry recalled, "The Secretary didn't have much to say. The next day, he announced we were going to have it. I was nicely surprised like everyone else."⁸⁸

Institutionalizing Babbitt's Vision for the BLM

On March 24th, 2000, Bruce Babbitt addressed BLM employees during an interactive town hall meeting in Albuquerque. During this talk, he warned BLM staff that if they failed to take management of National Monuments and other specially designated areas seriously, BLM would, "become a relic, a historical artifact, its most desirable lands carved up and parceled out to other land management agencies, with the remainder destined for the auction block of divestiture."⁸⁹

During this speech, Babbitt outlined his vision for a new system of protected BLM lands, stating,

“BLM must have at its core a system of specially protected and managed conservation units, including landscape monuments and National Conservation Areas. It is a system that both protects our own crown jewels and interprets them to the public. It is a system that stands proudly alongside parks and refuges as part of our national heritage.”⁹⁰

Near the end of his speech, Babbitt ordered BLM Director Tom Fry to create a new office for management of special areas, stating simply,

“In short, the BLM must reflect the importance of this growing part of its portfolio in the organizational management and structure. Accordingly today I am asking BLM Director Tom Fry to create an office of special areas to coordinate the management of the monuments, National Conservation Areas and other important conservation areas. It is time we formally recognized, in BLM's institutional structure, that you have a system of land that can be managed in a special way.”⁹¹

Less than three months later, BLM Director Tom Fry announced the creation of the Office of the National Landscape Conservation System to be located in BLM's Washington DC headquarters. The new system contained much more than the “landscape monuments and National Conservation Areas” called for in Babbitt's speech. The Conservation System included these two designations, as well as all BLM-managed Wilderness Areas, Wilderness Study Areas, Wild and Scenic Rivers, and National Historic and Scenic Trails.

The speech given by Babbitt in Albuquerque has come to be seen as a summary of his vision for the System. For instance, Pam Eaton, the Deputy Vice President for Public Lands at The Wilderness Society, an ardent supporter of the Conservation System, summarized the creation of the System this way,

“It was laid out as a challenge. Babbitt basically said, ‘You can either rise to the challenge and manage these special areas or we can do what we've always done and give them to the Park Service.’ There was no subtlety about that. It was very much laid out as a challenge. Either you [BLM] become a conservation agency or you can have everything with conservation values taken away from you.”⁹²

Multiple Use and the Conservation System

Babbitt was cognizant of how a formalized system of protected areas within BLM might be perceived by career BLM employees. The BLM's "old guard," the so called "FLPMA Babies" (BLM employees who came to the agency shortly after the passage of FLPMA and see themselves as defenders of the multiple use management concept) were likely to be wary of an expansion of BLM's mission. During his town hall speech, Babbitt cautioned, "Let me hasten to add that recognizing a system of conservation lands will not have a detrimental impact on how the BLM manages its other lands. Rather it recognizes that the BLM has a special opportunity and responsibility for areas that have been designated for conservation purposes."⁹³ He further stressed that each unit should continue to be managed as a separate unit, noting, "Each of these places is different, and each of the State Directors needs to provide leadership and accountability to meet the test of time."⁹⁴ Thus, while Babbitt stressed the commonalities the units shared, he believed the individual management plans for each unit should still reflect, to some extent, local conditions and preferences. He noted that grazing and hunting, for instance, should remain to the extent they did not cause damage to other resources.

National Monuments, the Conservation System, and the 2000 Presidential Election

The balance of power in the fight over BLM lands had shifted radically by Election Day 2000 compared to when Secretary Babbitt took over the Interior Department in January of 1993. While his initial forays into grazing and mining reform failed miserably, from this wreckage arose a new conservation system encompassing BLM's special areas, including a number of new National Monuments. The Antiquities Act of 1906 had been dusted off by the Clinton administration and boldly used to force by executive fiat that which had not been possible to achieve legislatively. By November

of 2000, Babbitt had moved aggressively to restructure and refocus BLM's land management mission towards conservation and away from resource extraction. The BLM's new Conservation System was intended to serve as the aspirational centerpiece of BLM's new management philosophy.

No longer the federal land management step child, Babbitt radically shifted the priorities of the BLM from focusing almost exclusively on mining, grazing, and oil and gas leasing to also include management of landscape Monuments. In doing so, he altered the existing power structure created two decades earlier by the Sagebrush Rebellion and greatly weakened the traditional power of the extractive industries over the management of BLM lands. As the *High Country News* wrote, many traditional interests, "were searching their souls," asking, "How had control over public land management been so easily wrested from their hands?"⁹⁵

Anger still exists within these user groups. Brian Hawthorne, Public Lands Policy Director for the Blue Ribbon Coalition, an off highway vehicle advocacy group claims, "The creation of the National Landscape Conservation System was a fairly significant blow to multiple use" and a "reneging, a step away from what was promised by FLPMA."⁹⁶ According to Chuck Cushman, "Bruce Babbitt created the National Landscape Conservation System in the dark of night at the end of his regime. There was no public process, no public input. He just did it by executive fiat" adding, "So the National Landscape Conservation System operates with a handicap from the get go."⁹⁷ Environmentalists, on the other hand, continue to credit Babbitt with creating an innovative land management system. For instance, Pam Eaton of the Wilderness Society countered Hawthorne and Cushman's sentiments stating, "The agency had a long time to

show leadership on protecting its lands, to say, ‘We have some special places.’ And they didn’t do it. So I think the vision and the leadership that Secretary Babbitt and President Clinton exerted was long overdue.”⁹⁸

During interviews for this thesis, BLM staff generally supported the manner in which Babbitt created the System (the same cannot necessarily be said for non-Conservation System BLM staff). For instance, one Senior BLM manager stated, “If Babbitt hadn’t created the System the way he did, it never would have happened. Was it the right way to do it? I don’t know if he had a choice.”⁹⁹ A more junior BLM staff member was less apologetic about the way Babbitt created the System, stating, “You gotta get this stuff any way you can. If you have to sneak your foot in through the back door to get it done, then so be it. Eventually it will be legitimized. If you went in through the front door and knocked, you could lose the whole thing.”¹⁰⁰

Despite all of the hand wringing and anger over the Monuments and the National Landscape Conservation System, BLM remained a multiple use management agency, although a significant shift in emphasis between commodity and non-commodity uses was taking shape. Yet while the agency now had management authority over numerous protected areas, the protected landscapes BLM managed allowed for many more uses within their boundaries than Park Service-managed National Monuments. Inherent in these additional uses was an acknowledgement that BLM Monument managers and planning teams would have much greater latitude in crafting management plans to reflect local conditions than Monuments managed by the Park Service. This fact gave environmentalists reason for pause. As the presidential election between Democratic Vice President Al Gore and Republican George W. Bush loomed, environmentalists

realized the next administration would have great influence over the management plans for the new Monuments. Many environmentalists felt confident a Gore administration would continue to prioritize conservation and protection over resource extraction, but the Bush campaign made it abundantly clear that they expected public lands to provide oil, gas, timber and livestock forage. Confirming environmentalists' fears, Republican Vice Presidential candidate Dick Cheney targeted the new Monuments during stump speeches in the West, arguing that the Clinton administration had simply designated monuments "willy-nilly all over the West."¹⁰¹ In August 2000, Cheney suggested Bush's administration, if elected, might rescind the new Monuments.¹⁰²

Thus, many in the environmental community worried the expanded mission of the BLM, not to mention the very existence of the new BLM-managed National Monuments and National Landscape Conservation System depended on the outcome of the 2000 Presidential election. Conversely, resource extraction interests and other opponents of the BLM's broadened mission, the new Monuments, and the Conservation System hoped a Bush administration would restore the focus of BLM's management to more traditional, commodity-based uses. Further, many hoped a Bush administration would dismantle the Conservation System and undesignate, modify or alter the allowable uses in many, if not all, of the new Monuments.

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Chapter IV. The Bush Administration and the National Landscape Conservation System

“The twenty-first century requires a system of protected areas on the public lands that allows for meeting conservation objectives as well as addressing the complexities of multiple uses and the needs of local communities.”

*- Elena Daly, Director of the National
Landscape Conservation System^{a,1}*

The Presidential election held on November 7th, 2000 between Texas Republican Governor George W. Bush and Democratic Vice President Al Gore ended without a clear winner. While much of the nation remained gripped by the ensuing drama involving George W. Bush’s brother (Florida Governor Jeb Bush), the Florida State Supreme Court, and ultimately the Supreme Court of the United States, environmentalists worried about what a Bush presidency would mean for many of the environmental gains realized during the Clinton presidency. Among these concerns for environmentalists was the future of the BLM’s new National Monuments and the National Landscape Conservation System.

On December 13th, 2000, five weeks after election night, Al Gore officially conceded the Presidency to George W. Bush during a nationally televised broadcast. Environmentalists braced themselves for what they believed would be a full frontal assault on the public lands agenda of the Clinton administration. Secretary Babbitt had

^a Elena Daly was the second NLCS Director and a 25 year veteran of the BLM. She held management positions at many levels within the BLM before being named as NLCS Director. She retired from the BLM in January 2009.

altered the existing balance of power in the public lands management debate during his tenure as Secretary of the Interior and by the end of President Clinton's second term, environmentalists clearly held the upper hand in the battle over America's public lands. The Monuments within the BLM's new National Landscape Conservation System served as powerful symbols of environmentalists' new advantage in the war for the West, and environmentalists feared the Monuments and the Conservation System would become targets of the new administration. Commodity interests on the other hand hoped the new administration would expand oil and gas drilling, ease grazing restrictions, overturn many of the new Monuments (or dramatically shrink them), and dismantle the Conservation System.

In a last minute attempt to shore up the Conservation System, President Clinton created five additional BLM-managed National Monuments totaling over 1 million acres on January 17, 2001, three days before his term in office ended.^b The Blue Ribbon Coalition (an off-road vehicle advocacy organization) and the Mountain States Legal Foundation, a legal firm founded by President Reagan's former Interior Secretary James Watt, immediately filed a lawsuit. Environmentalists feared that the Bush administration would not provide adequate legal defense for the Monuments, and intervened on behalf of the Department of Interior. Perhaps more importantly, these last minute designations allowed opponents to frame the entire Conservation System and all of the previously designated Monuments as last minute, eleventh hour abuses of executive power. In some respects, this is not an entirely undeserved criticism. Tom Fry, Babbitt's BLM Director,

^b Upper Missouri River Breaks (Montana) and Carrizo Plain (California) National Monuments, two of the case study units for this thesis were created on January 17, 2001. The others were Sonoran Desert (Arizona), Pompey's Pillar (Montana), and Kasha-Katuwe Tent Rocks (New Mexico) National Monuments.

left approximately a month before the final Monuments were created and admits, “There were two Monuments I was not even aware of that were proclaimed after I left. It was just a flurry.”²

President Bush chose Gale Norton, a former associate of James Watt to succeed Babbitt as Interior Secretary. Despite rhetoric during the campaign season about undesignating the Monuments and the institution of a planning freeze during the administration’s first year, Secretary Norton eventually decided to allow BLM to move forward with planning for the Monuments created under President Clinton. By abandoning threats to undesignate or drastically diminish the size of the Monuments, the Bush administration helped legitimize their designation, and by extension, the creation of the National Landscape Conservation System within BLM.

This portion of the thesis contains three sections. Section A analyzes President Bush’s selection of Gale Norton as Interior Secretary within the context of BLM-managed National Monuments and the fears her selection engendered in the environmental community. Section B discusses Secretary Norton’s initial statements and decisions regarding the future of the National Landscape Conservation System and analyzes how these statements and decisions set the tone for future Monument land use planning efforts. Finally, Section C analyzes Secretary Norton’s decision to move forward with planning for the new National Monuments, provides a brief explanation of the BLM’s planning process, and outlines Secretary Norton’s statements surrounding Monument planning and local involvement.

A: Secretary of the Interior Gale Norton

“The process in which those decisions were made is one that causes me concern. Many of those decisions were made through a top-down process without consulting the people who are most affected by those decisions.”

- Secretary Gale Norton during her Confirmation Hearings in 2001, in response to a question concerning President Clinton’s use of the Antiquities Act³

When President George W. Bush took over as the 43rd President of the United States on January 20th, 2001, the nation was solidly divided over the protracted election. Many pundits initially expressed confidence that President Bush would be able to unite the country despite the ugliness displayed on both sides of the political divide during the days following the election. After securing the presidency in mid-December, Bush’s transition team began vetting potential candidates for key cabinet posts, and many pundits believed he would fill these posts with an eye towards uniting the country. One of these nominees, Gale Norton to replace Bruce Babbitt as Secretary of the Interior, however, became an early symbol to Bush’s detractors that his claim of being a uniter was simply a campaign slogan.^c

Gale Norton: A Brief Biography

Gale Norton grew up in Kansas and attended the University of Denver for both a bachelor and law degree. After graduating from the University of Denver, Norton worked for Former Interior Secretary James Watt at the Mountain States Legal Foundation. Shortly before Watt stepped down as Interior Secretary, Norton was named as an Assistant to the Deputy Secretary of Agriculture (not in Watt’s department). Later, she became the Associate Solicitor in the Interior Department where she worked on

^c President Bush’s selection of John Ashcroft for Attorney General around the same time was likewise controversial.

National Park and US Fish and Wildlife Service issues. From 1991-1999, she served as the Colorado Attorney General and immediately prior to being selected as Interior Secretary, Gale Norton worked as the Senior Counsel for a private law firm representing developers.⁴

Secretary Norton's Confirmation Hearings

Norton's selection as Interior Secretary was greeted with nearly unanimous outrage by the environmental community, particularly because of her past association with James Watt. Playing off her connection to Watt, the Sierra Club labeled her, "James Watt in a skirt."⁵ Eighteen environmental groups coalesced in resistance to her nomination, making their opposition known by taking out a full page advertisement in several national newspapers depicting only half of her face and claiming she was a "fringe" nominee who was so far to the right she was "off the page."⁶ The raucous opposition to her nomination led to prolonged confirmation hearings which began with the following statement by Senator Jeff Bingaman (D-NM),

"For over 20 years, she has consistently championed the interests of the individual over the public, the states over the federal government. These past positions may have been understandable for a lawyer representing her clients, the attorney general of a western state, or a Republican Senate candidate. They are disturbing in a nominee for the Secretary of the Interior."⁷

Norton's defenders, including then Republican Governor of Colorado Bill Owens, argued the personal attacks on Norton were unfair, stating, "What I really hope is that we don't take this fine person, and tear her apart through this process."⁸ Norton was repeatedly forced to address her ties to President Reagan's controversial former Secretary of the Interior James Watt during the confirmation hearings. One of the major strategies employed by the coalition of environmental groups was to link Norton to Watt, warning

Norton was nothing less than the second coming of the embattled former Secretary.

During confirmation hearings, Norton distanced herself from Watt stating,

“I don't know everything that Jim Watt thinks about issues. I have only, really, spoken with him once in the last 10 years. I am not in constant communication with him on discussion of policy issues. I think we might have issues in common, but in the 20 years since I worked at Mountain States Legal Foundation at the same time Jim Watt did, I've had a lot of different experiences.”⁹

Despite the contentiousness surrounding her nomination, Gale Norton was confirmed as the 48th Secretary of the Interior by a vote of 74-25 on January 30, 2001.

Norton's confirmation passed with unanimous consent from Senate Republicans – all 25 votes against her nomination came from Democrats. Senator Barbara Boxer (D-CA) warned that she and the other Democrats who voted against Norton intended to keep a close eye on her, stating, “My concerns cannot be dissipated by nice, warm, fuzzy statements made before a committee. I wasn't born yesterday.”¹⁰

Just like her predecessor eight years prior, Secretary Norton's reign as Interior Secretary began after bruising confirmation hearings. Whereas Secretary Babbitt tried to distance himself from his work with environmentalists prior to his confirmation hearings, Norton tried to distance herself from commodity interests and off road vehicle advocates. However, once her confirmation hearings were over, Norton, not unlike her predecessor, moved aggressively to institute her vision for public lands. While Babbitt quickly moved to reform grazing and mining in his early days as Secretary, Norton quickly moved to make oil and gas development as well as motorized recreation priorities in the Interior Department within months of taking over.

Babbitt and Clinton used the Antiquities Act to create or expand 14 BLM-managed National Monuments in order to alter power structure resulting from the

Sagebrush Rebellion during their time in the White House. Norton and the Bush administration now looked to these same Monuments to realign the balance of power in the debate over the role of protected landscapes within multiple use management. During the Presidential campaign, Governor Bush and his Vice Presidential Nominee routinely railed against the “Clinton Monuments,” claiming repeatedly that they might undesignate them.¹¹ Many environmentalists cringed at the thought that the future of these National Monuments and the BLM’s new National Landscape Conservation System were now in the hands of Secretary Norton.

B: The Administration’s Initial Communications Regarding National Monument Management

“The West was concerned about those decisions in large part because there was no consultation with the people whose lives were most affected by land withdrawals by the Clinton administration ... at this time I have no position on what the incoming administration will be doing as to those designations.”

- Gale Norton during a press conference announcing her nomination as Interior Secretary, December 29, 2000¹²

Fundamentally, the battle over public lands is about managing conflict. Legitimate but divergent claims exist on both sides of the protection/use divide, so it is unlikely that the “war” between these two camps will ever fully subside. Yet, in its April 10, 2000 issue, the *High Country News* optimistically published an article claiming, “The war between extractive interests and the environmental movement for control of the Interior West’s public land is drawing to a close.”¹³ The article went on to explain how national environmental groups had succeeded in making Americans aware of the public lands of the Interior West and encouraged Americans to view these lands as not simply a regional or local concern, but rather as an issue of great national importance. Environmentalists, the article argued, were successful in defining public lands as,

“simultaneously pristine and trashed”, both a “virgin and a whore . . . the Hope of America – a vast Statue of Liberty holding out its arms to the cramped masses . . . and . . . a helpless heroine lashed to the tracks of heedless Western development.”¹⁴ At the article’s publication date eight months prior to the 2000 elections, this prediction seemed plausible. Babbitt’s time as Interior Secretary had drastically altered the power structure in the battle over Western public lands and there was a temporary lull in the conflict as each side grappled with understanding this new paradigm. Bush’s election and his subsequent selection of Gale Norton as Interior Secretary, however, signaled a renewal of hostilities, and both the extractive industries and environmentalists braced for fights on many fronts. The fight over what to do with the BLM-managed National Monuments and the BLM’s new Conservation System became one of the flashpoints in this new chapter in the fight over America’s public lands.

Secretary Norton’s Initial Messages Concerning the New Monuments

Upon assuming the position of Interior Secretary, Gale Norton laid out her vision for public land management under a program she called The Four Cs - Consultation, Communication, Cooperation, and Conservation.¹⁵ In line with these principles, on March 28th, 2001, Norton sent a letter to state elected officials affected by the new National Monuments. In the letter, she asked, “Are there boundary adjustments that the department should be considering? Are there existing uses inside these monuments that we should accommodate?”¹⁶ While seemingly benign sounding in nature, environmentalists believed the letter signaled a desire by the Bush administration to undercut the protections provided to the new Monuments by the proclamations through a combination of shrinking the Monuments and allowing more grazing, mining, and oil and gas leasing. The Wilderness Society and other national environmental groups created

email action alerts asking their members to write Secretary Norton demanding she not modify the boundaries of, or allowable uses within, the new Monuments.¹⁷

On May 2, 2001, the BLM's Office of the National Landscape Conservation System released Instruction Memorandum (IM) 2001-134 which required BLM State and Field Offices to acknowledge receipt of any responses to Norton's March 28th letter.¹⁸ The implication was clear to BLM staff: the Bush administration was dedicated to incorporating local and state input on the appropriateness of the designation of the Monuments before moving forward with planning for their management.

Secretary Norton's letter to state and local politicians was hardly the only development which concerned environmentalists. Adding to environmentalists' fears was a legal opinion, presented by the Bush administration in court which argued that the Antiquities Act allows subsequent Presidents to modify the boundaries and uses (e.g. allow oil and gas leasing to continue) within previously established Monuments.¹⁹ Further, the Bush energy policy, released on May 17th, 2001 hinted, according to the *High Country News* that, "Monument managers can expect not only more [oil and gas] drilling on and near the public lands, but also more pipelines, power plants, and electric transmission lines."²⁰ One day after unveiling his energy policy, Bush signed Executive Order 13212 which read, in part, "Increased production of energy...is essential to the well-being of the American people" and therefore it is "the policy of this administration that executive departments and agencies – shall take appropriate action to expedite (energy production) projects."²¹ Environmentalists worried what this Executive Order meant for the new Monuments and other BLM lands they hoped would eventually be included in the new Conservation System as statutory Wilderness.

Waiting to Begin Planning

Perhaps the most important signal conveyed to BLM staff regarding the future and importance of the new National Monuments during the first year of Norton's tenure as Interior Secretary was a lack of authority to begin planning. As the *High Country News* put it later,

“As various interested parties waited, the BLM and its parent Interior Department did...well, nothing. A few quasi-official meetings were cancelled because there was nothing to discuss. The elaborate planning process required under the law could not begin until Department of Interior said ‘go.’ So nothing began.”²²

This news report coincides with what many BLM employees stated during interviews. For instance, a senior BLM manager said, “You can’t do anything until you do a plan, so they [Monument Managers] were kind of dead-ended during [Norton’s] review [of the appropriateness of the Monuments].”²³ When asked what impact the planning freeze had on BLM employees assigned to develop land use plans for the new Monuments, one Senior BLM interviewee said, “I think what Secretary Norton was asking during the review process was basically, ‘Have these things [Monuments] done so much harm that we need to do away with them?’”²⁴ In another *High Country News* article, Gary Slagel, the interim manager of Montana’s Upper Missouri River Breaks National Monument,^d said simply, ‘We’re always hearing rumors, but we don’t know what they mean. We’re not getting the information we need.’²⁵ While some BLM interviewees expressed that Norton’s reviews were typical of incoming administrations, others believed it was done to send a message to BLM and local governments that these Monuments were not going to be a high priority for the Bush administration.

^d Gary Slagel is now the Monument Manager of the Upper Missouri River Breaks National Monument.

One interviewee, however, said while she believed Norton intended to use the planning freeze to send a message to BLM employees that the Monuments were not going to be a priority for her the way they were for Secretary Babbitt, the strategy may have backfired stating, “We spent all that time collecting data and doing resource inventories. We didn’t just sit around and wait for her to tell us to start. We did what we could and when she finally let us start, we already had a lot of information.”²⁶

Finally, adding even further to environmentalists’ fears was Norton’s public statements that there simply was not enough money to carry out planning processes for all of the new Monuments,²⁷ leading some to believe the Bush administration planned to neglect planning for some (or all) of the new Monuments and hope the Monuments would simply atrophy out of existence.

Interim Guidance and Its Affect on Monument Planning

While BLM staff waited for further guidance on developing long term land use plans for the new Monuments, BLM Director Kathleen Clark^e did provide field staff with updated guidance called, “Interim Management Policy for Bureau of Land Management National Monuments and National Conservation Areas” through IM 2002-008, published on October 4, 2001. This guidance instructed Monument and NCA Managers to,

“Maintain existing management policies, designations, and allocations except where changes are necessary to comply with the legislation or Proclamation and protect the objects of scientific and historic interest within the national conservation area or monument.”²⁸

This IM also established BLM policy on roads, off road vehicle use, and livestock grazing within National Monuments and NCAs.^f In many cases, the decisions made

^e See Note, Page 72 (Chapter III) for a discussion of Kathleen Clark.

^f See Chapter V for further discussion of these issues.

under the Interim Management Guidelines served as the baseline for the new planning efforts, and as the Environment News Service reported at the time, “Leading conservation groups note that interim management guidelines at the monuments have led to increased oil and gas drilling, mining and use of dirt bikes and off road vehicles in sensitive monument areas.”²⁹

C: Monument Planning

"It's important that we begin the process of developing plans for managing these national treasures. While I share concerns about the way in which these monuments were created, it's our job now to see that we develop land use plans in an open, inclusive, and comprehensive way."

- Secretary Gale Norton in remarks to the Western Governors' Association, April 24, 2002³⁰

With this announcement, the Bush administration abruptly backed away from its previous statements about “undesignating” the Monuments or radically altering the size of the Monuments by executive order. No official statement was given as to why the Bush administration decided to move forward with planning for the new Monuments, although two possible reasons emerged as likely explanations.

First, the legality of using the Antiquities Act to diminish the size of previously designated Monuments, without the consent of Congress, is unclear, and Congress had shown little interest in revisiting the issues of Monument boundaries or allowable uses. As early as September 2000 (during the Presidential campaign), Vice President Cheney’s press secretary admitted the Monuments were, in his words, “hard eggs to unscramble,”³¹ because of the Constitutional issues surrounding modification of Monument boundaries without approval by Congress. In only one instance did Congress become involved in the debate over allowable uses within a Monument and environmentalists supported the

legislation.^g With environmentalists intervening in lawsuits regarding the new Monuments, legal attempts to overturn the Monuments also became much more challenging.

A second possible explanation of why the Bush administration and Secretary Norton backed off from their strident opposition to the BLM-managed Monuments may have had more to do with political reality rather than legal uncertainty. The *High Country News* summed up the decision to move forward with planning and leave the Monuments intact by asking, “So how is it in his [President Bush’s] interest to pick yet another fight with the conservation community, even over one of the esoteric environmental issues? It isn’t.”³² Pam Eaton, Deputy Vice President for The Wilderness Society’s Public Lands Campaign agrees, pointing out that the environmental community could have used dismantling the Monuments and the Conservation System to garner support as they fought the Bush administration’s aggressive energy policy.³³

Whether the decision to move forward with planning for the new Monuments demonstrates a political realization by the Bush administration that environmental interests maintained a level of residual power provided to them during the Babbitt years or simple apathy on the issue is difficult to determine. Whatever the reasoning behind it, the Bush administration’s decision to retain the National Monuments created by President Clinton and move forward with planning for the management of the Monuments opened a new chapter in the conflict over the role of protected landscapes within multiple use. Environmentalists, off road vehicle advocates, local and state governments, ranchers, the

^g President Clinton expanded the Park Service’s Craters of the Moon National Monument in Idaho, adding a large portion of BLM managed land and retaining the management of this portion of the expanded Monument within BLM. Unfortunately, it was unclear whether the existing ban on hunting in the Park Service portion extended to the new BLM portion of the Monument. Congress passed legislation affirming the right to hunt in the expanded portion of the Monument. (*High Country News*, April 23, 2001)

oil and gas industry, and other users of public lands turned their attention, some groups begrudgingly so, away from the fight over the designation of the Monuments and instead towards the Resource Management Plan (RMP) planning processes for each Monument.

Perhaps owing to the Bush administration's early statements and actions regarding the Monuments, the decision to move forward with planning did not in itself assuage the fears of environmentalists. The environmental community became convinced Secretary Norton and the Bush administration would use the land use planning processes to make the Monuments little more than "paper Monuments." Melanie Griffin, the Sierra Club's public lands director summed up the environmental community's fears saying simply, 'You don't have to undesignate a monument to destroy it.'³⁴

Resource Management Plans: A Brief Overview

It is important to understand what Resource Management Plans (RMPs) are, the process BLM uses when developing RMPs, and why these processes are important to users of public lands in order to understand how these processes fit into the larger debate over the role of protected landscapes within multiple use.^h Simply put, RMPs are master land use plans, required by FLPMA, that guide every resource decision for a given area of BLM managed land for 15-20 years.ⁱ In total, there are 162 RMPs guiding the management of the 258 million acres of federal land managed by the BLM.³⁵ Instruction Memorandum (IM) 2000-062, requires each BLM-managed National Monument to have a stand-alone RMP.³⁶

^h See **Appendix 10** for a flow chart of the RMP Process provided by The Wilderness Society's BLM Action Center.

ⁱ Decisions outside of these approved guidelines require additional environmental review and are often referred to as RMP Amendments.

The RMP process has traditionally been led by local BLM managers (with significant input from the BLM's Washington DC and State offices); however, BLM is also required to offer consultation to effected Native American tribal, state, and local governments. RMPs are completed under guidance contained in the Federal Land Policy and Management Act (FLPMA), the National Environmental Policy Act of 1969 (NEPA), the BLM's Land Use Planning Handbook, as well as other BLM internal guidance.³⁷ Secretary Norton's 4 Cs and her letters to affected state officials required the process to be much more collaborative in nature, although little guidance appears to have been promulgated to direct BLM staff on how this collaboration was meant to be accomplished. The existing, formalized RMP process, however, requires BLM to seek public comments and participation at various stages throughout the process. For instance, BLM encourages public input during the scoping phase, the stage in the process when BLM decides which issues the RMP will address (minimum of a 30 day public comment period). They also seek public input on the Draft RMP in which BLM provides the public with several alternatives for future management and identifies its preferred alternative (minimum 90 day public comment period). These alternatives must include a "No Action Alternative" which represents the current management regime without any changes and several other alternatives. These alternatives usually include some which emphasize conservation of natural resources, others which emphasize resource extraction, and others which try to balance these competing demands. Often, the balancing alternative is identified in the draft plan as the "agency preferred alternative," and ultimately some variation of this alternative is usually selected as the proposed plan. The goal of advocacy groups working on BLM land use planning is to pull the BLM's final

choice of management alternatives as close as possible to either the extraction or conservation alternative, depending of course on the goals of their organization.³⁸ BLM encourages stakeholders to attend public meetings and workshops to discuss their concerns with RMPs in addition to providing substantive, formal comments.³⁹

Typical resource decisions contained in RMPs include grazing (number of allotments, Animal Unit Months (AUMs – number of animals allowed on each allotment)), vegetation treatments, oil and gas leasing (which areas may be leased in the future including leasing stipulations), off-road vehicle area designations (open, closed, limited), recreation management, protection of cultural artifacts, and identifying future research priorities.⁴⁰ The RMP process usually takes 2 to 3 years, although as can be seen in the comparison table found in **Table 1** (pg 10), many of the RMPs for the BLM-managed National Monuments are not yet complete eight years after the bulk of the units were designated and seven years after planning began for most units (at the time of this writing). Complicating matters from a resource and time perspective is the fact that BLM set a goal in 2001 of updating all 162 RMPs by 2011.⁴¹

Why RMPs are Important

The importance of engaging in the RMP processes for BLM-managed National Monuments was not lost on the environmental community. Gene Karpinski, the executive director for the US Public Interest Research Group was quoted as saying, ‘The Bush administration has chipped away at protections for our national monuments since they took office; let’s hope that the planning process doesn’t mark the beginning of a full fledged assault on these national treasures.’⁴² The Sierra Club’s president, Carl Pope echoed Karpinski’s caution stating, ‘Although the ball is finally rolling on national monument management, we fear it might be rolling in the wrong direction.’⁴³

Because RMPs will provide management direction for the Monuments for over a decade, every decision contained in each of these thousand-plus page documents can have a dramatic effect on the character and uses (or non-uses) of the land within Monument boundaries. Thus, these planning processes, as will be discussed in the next chapter, have served as the battle grounds between conservation and commodity interests. Every decision is analyzed by each participant in the process, and charges of bias, arbitrariness, and capriciousness are routinely leveled against BLM staff. While these planning processes are often characterized as being contentious and polarizing, each participant in the planning processes realizes the importance of the processes for National Monuments within the context of the fight over the role of protected landscapes within multiple use.

Monument Planning, Conflicts, and Local Involvement

By leaving the Monuments and Conservation System intact, Secretary Norton and the Bush administration helped solidify the importance of protected landscapes within the multiple use management of BLM lands, in effect closing further debate on whether BLM should continue to manage protected areas. By moving past the fight over the designation of the Monuments, the conflict now shifted to the BLM's planning process and centered instead on what BLM management of the new Monuments should look like. The proclamations (and legislation for the NCAs and like designations) grandfathered in more resource uses than traditional National Park Service managed-Monuments, yet these lands were designated to protect conservation values.

BLM staff now had the unenviable task of deciding how to manage these Monuments within this seemingly contradictory framework. The BLM's historical role as managers of grazing and mineral development convinced many environmentalists the

BLM would skew management towards ranching, off road vehicle use, and where protected by existing valid rights, mineral development, particularly given Secretary Norton's ties to commodity interests. Pam Eaton of The Wilderness Society summed up her organization's concern and goals for the planning process:

“Drawing a circle around an area and calling it protected is not enough, especially for an agency that doesn't have a strong history of conservation management. So we think it's really important to help the agency, and the public, to figure out what it means for the BLM to be a conservation agency and manage these lands for conservation purposes.”⁴⁴

Commodity and motorized recreation advocates, on the other hand, hoped to protect their interests through the RMP process as well. Chuck Cushman of the Property Rights Alliance explains the planning process as,

“A fundamental battle between the environmental community which wants to see the land closed off and not used, locked up, and the people who I represent, the users of the land, the people who recreate on the land or use it for commodity purposes.”⁴⁵

Secretary Norton also encouraged local and state governments to become involved in the planning process, writing to western governors, “After reviewing all of the comments on each monument, I believe most of the issues can be addressed through the management planning process, which will include comprehensive public input.”⁴⁶ The implication was clear: BLM's Resource Management Plan process was expected to mediate the disparate positions of the major actors in this conflict.

¹ Daly, Elena and Geoffrey B. Middaugh. “The Antiquities Act Meets the Federal Land Policy and Management Act.” In *The Antiquities Act: A Century of American Archeology, Historic Preservation, and Focus Conservation*. (Tucson: University of Arizona Press, 2006) 230.

² Interview with Tom Fry, 7/1/08, 01:53.

³ “Transcript of Gale Norton's Senate Confirmation Hearing.” Senate Energy and Natural Resources Committee. January 18, 2001.

⁴ “Gale Norton Biography: Secretary of the Interior, 2001-2006.” *The White House of George W. Bush*. 20 November 2008 <<http://www.whitehouse.gov/government/norton-bio.html>>.

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- ⁵ Hudson, Audrey. "Interior Choice Irks Environmentalists; Would Seek Multiple Use of Public Land." *The Washington Times*. January 18, 2001. Lexis Nexis Search The Washington Times
- ⁶ Kranish, Michael. "Transfer of Power: Secretary of the Interior; Norton Sidesteps Nettle Some Issues." *The Boston Globe*. January 19, 2001. Lexis Nexis Search The Boston Globe
- ⁷ "Transcript of Gale Norton's Senate Confirmation Hearing."
- ⁸ Ibid.
- ⁹ Ibid.
- ¹⁰ Scully, Megan. "Gale Norton Confirmed as Interior Secretary." *States News Service*. January 30, 2001.
- ¹¹ Bovee, Kirsten. "Monuments Caught in the Crosshairs." *High Country News*. April 23, 2001.
- ¹² Hansen, Brian. "Bush Taps Watt Protégé for Interior." *ENS*. 10 November 2008 <<http://www.mapcruzin.com/news/neWS12,5/6/083100a.htm>>.
- ¹³ Marston, Ed. "Beyond the Revolution." *High Country News*. April 10, 2000.
- ¹⁴ Marston.
- ¹⁵ Scarlett, P. Lynn. "A New Approach To Conservation: The Case For The Four C's." *Natural Resources and Environment* (17 (Fall 2002): 111).
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- ¹⁷ "Stand by Your Lands." *The Wilderness Society*. 10 September 2008 <http://www.wilderness.org/standbylands/national_monuments_action.htm>.
- ¹⁸ Bureau of Land Management. Instruction Memorandum 2001-134.
- ¹⁹ Bovee.
- ²⁰ Nijhuis, Michelle. "Energy Play Eyes the Rockies." *High Country News*. June 4, 2001.
- ²¹ Bush, George W. Executive Order 13212.
- ²² Margolis, Jon. "New Monuments: Planning by Numbers." *High Country News*. May 13, 2002.
- ²³ Interview WS26, 7/16/08, 07:34.
- ²⁴ Interview WS05, 4/4/08, 32:14.
- ²⁵ Nijhuis.
- ²⁶ Interview WS12, 5/6/08, 03:57.
- ²⁷ Binkly, Gail. "Monument Status Could Wreck Ruins." *High Country News*. April 23, 2001.
- ²⁸ Bureau of Land Management. Instruction Memorandum 2002-008.
- ²⁹ Environment News Service. "Bush Management May Put New Monuments at Risk." *Environment News Service*. April 24, 2002. 10 November 2008 <<http://www.ens-newswire.com/ens/apr2002/2002-04-24-01.asp>>.
- ³⁰ Ibid.
- ³¹ Davis, Tony. "Bush Camp Backpedals on Toppling Monuments." *High Country News*. September 25, 2000.
- ³² Margolis.
- ³³ Interview with Pam Eaton.
- ³⁴ Bovee.
- ³⁵ "Overview". Land Use Planning. BLM. BLM. 2007. 2 December 2007 <<http://www.blm.gov/planning/overview.html>>.
- ³⁶ Bureau of Land Management. Instruction Memorandum 2000-062.
- ³⁷ "Policy". Land Use Planning. BLM. BLM. 2007. 2 December 2007 <<http://www.blm.gov/planning/policy.html>>.
- ³⁸ Culver, Nada. "Planning Training Slideshow". Training Center. The Wilderness Society. 2006. 2 December 2007 <<http://www.wilderness.org/OurIssues/BLM/ActionCenter/TrainingCenter.cfm?TopLevel=BLMAActionCenter>>.
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- ⁴⁰ Culver, 2006.
- ⁴¹ "Planning Initiative". Land Use Planning. BLM. BLM. 2007. 2 December 2007 <<http://www.blm.gov/planning/initiative.html>>.
- ⁴² Environment News Service.

⁴³ Ibid.

⁴⁴ Interview with Pam Eaton, 6/26/08, 05:37.

⁴⁵ Interview with Chuck Cushman, 6/27/08, 02:38.

⁴⁶ Environment News Service.

Chapter V. Monument Planning and Multiple Use

“When you have to protect resources and allow for multiple uses, that’s a hard deal for the local manager.”

- Monument Manager¹

When Secretary Norton decided to allow land use planning to proceed for the Monuments created by President Clinton, an important new chapter in the battle over the role of protected landscapes within multiple use began. BLM staff quickly realized nearly every decision they made in these planning processes would be scrutinized from all sides of every issue. While the wilderness review process undertaken in the 1980s after the passage of FLPMA was contentious at the national and state BLM office levels, local BLM staff were not necessarily used to the kind of intense scrutiny they were about to receive during the planning processes for the Monuments.

Planning for the new Monuments and NCAs energized a new, vocal constituency with different visions for the management of the land than BLM’s traditional constituents. The land use planning process quickly devolved into smaller, yet very intense fights. These battles were waged over specific definitions and resource decisions and BLM land managers were left scrambling to adapt their existing land use planning process to the unique issues of planning for BLM-managed National Monuments. While these processes were cumbersome, slow, and rife with conflict, interviewees hinted that beneath the rancor a commonly held vision for the management of these areas may be beginning to slowly emerge.

This chapter of the thesis explores four ways in which the decision to move forward with planning changed the focus of the debate over the role of protected landscapes within multiple use management of BLM lands. Section A explores how the planning process changed the venue of the debate and exposed local BLM managers to increased scrutiny from a new set of constituencies. Section B explores the difficulty BLM managers had in trying to understand the often competing frameworks provided by the Proclamations and the Federal Land Policy and Management Act (FLPMA) when determining the appropriate levels of use and protection for these areas given BLM's multiple use mandate. Section C argues that the overarching debate splintered into intense fights over specific resource definitions and decisions. Finally, Section D suggests the land use planning processes provided disparate factions in the conflict an opportunity to focus their energy into deliberative processes which may be allowing a common vision surrounding the management of the Monuments to begin to emerge.

A: Venue and Constituency Changes

“We’re dealing with the multiple use versus protected area conflict on a very real level right now in this Monument.”

- Monument Manger

As this thesis shows, the debate over the role of protected areas within the multiple use management of BLM lands has a long history and is closely tied to national political discourse. The decision to move ahead with planning for the Monuments created by President Clinton fundamentally altered this debate by largely shifting the location of the debate from the national level to local BLM offices responsible for the management of the new Monuments. This is not to say the debate is no longer fought at the national level. Environmentalists and commodity interests continue to attempt to gain influence on the debate at the national level, but the decision to move ahead with

planning for the Monuments opened up a new, more localized front in the debate. While Babbitt helped to “nationalize” the BLM through the designation of protected areas, the debate now shifted to local planning processes. This section discusses how this change in venue exposed local BLM managers to a new set of constituents whose previous interaction with BLM had largely been at the national level. This new constituency had a very different vision for the management of the Monuments from BLM’s historic, local, commodity focused constituents.

Increased Scrutiny

When describing how Resource Management Plans (RMPs) for Conservation System units are different from plans for non-System public lands almost every BLM manager, regardless of rank within the organization, identified increased participation on the part of the public. As one senior BLM manager said, “Monuments get strong scrutiny from both their proponents and detractors.”² Another senior manager said simply, “For Monuments and NCAs, we have a different set of interest groups,”³ and yet another added, “The NLCS constituencies are different than you might see for RMPs on other BLM lands. National groups like to work on ‘National Areas’ because they [Monuments and NCAs] have a higher status.”⁴ Before the Monuments, the main interests that provided public comment on BLM land use plans were local ranchers, miners, and other commodity users.^a The Monuments increased the national awareness of BLM lands and introduced a new set of interests to BLM’s land use planning process.

^a This is not to suggest that environmental and recreational groups were completely absent in the BLM’s land use planning process prior to Monument designations. However, their engagement in BLM land use planning issues before Monuments tended to focus on national policy issues instead of local BLM land use plans.

While this increased participation was generally identified as an opportunity by BLM managers, many also indicated that working with new constituencies, particularly environmental and cultural resource protection interests, was very challenging. One of the common themes that emerged during interviews was an understanding on the part of BLM managers that the Monuments and NCAs increased the public's awareness of BLM lands, and with this new awareness came increased scrutiny on the BLM's planning for the units. Tom Fry, the BLM's Director under Secretary Babbitt from 1996 to 2000 commented that one of the main reasons he and Babbitt created the Conservation System was to build a new constituency for the BLM, one that would help bring it wider exposure and new funding. Interviews with BLM staff confirmed that this new constituency has appeared, but it appeared with expectations that the BLM would manage these specially designated lands in a markedly different way from how they had managed the land prior to designation. As one manager put it, "These Monuments have given new groups a voice in public land management which they didn't always feel they had. A lot of interest is being shown by groups advocating for preservation."⁵

Local and National Interest in the Planning Effort

Another common theme that emerged from interviews with BLM staff was the difficulty in finding a balance between responding to national and local concerns in the management of the Monuments. On the one hand, Secretary Norton instructed BLM's planning for the new Monuments to be a, "model of how to involve the people who live and work closest to these Monuments."⁶ On the other hand, national environmental groups participated (and continue to participate) in the processes at a level of sophistication that was new to the BLM. Almost every Monument manager and planner commented on the level of detail provided in formal comments submitted by

environmental groups (though many disagreed with some of the main positions taken by the groups in these comments) and their ability to organize around the Monument planning processes. Part of this sophistication comes from the fact that many environmental groups participated in planning processes for multiple Conservation System units, providing them an opportunity to view decisions made during individual planning processes within a much broader context. Environmental groups came to see the Monument planning processes as opportunities to create a more unified vision for the Conservation System. As Pam Eaton of The Wilderness Society said, “We work on particular Monuments where there are opportunities to address key policy questions for the System in addition to focusing on specific Monuments where our organization has been working to protect an area for some time.”⁷ While nearly every manager displayed a desire to keep management decisions at the local BLM office level, there was also an understanding that, as one manager put it, “We should be managing these areas fairly, or relatively, consistently across the Bureau.”⁸

This increased scrutiny, particularly on the part of environmentalists, greatly increased the number of comments BLM received during the planning process. For instance, the Draft RMP for the Upper Missouri River Breaks National Monument in Montana generated over 67,000 comments, the Canyons of the Ancients National Monument Draft RMP generated over 20,000 comments, and the planning process for the Grand Canyon-Parashant and Vermilion Cliffs National Monuments generated still thousands more. Many of these comments were form letters developed by The Wilderness Society, the Sierra Club, the Audubon Society, The National Trust for Historic Preservation, and other national environmental and cultural resource advocacy

groups. Members of these organizations submitted letters from around the country, not necessarily from within the area or even state in which the Monument is located. Many managers commented on how receiving comments from interests outside of the community most directly affected by the Monument plan was something they had never seen before in their careers in BLM. As one BLM manager said, “The planning process gave us some wide exposure. Even if people will never come to this Monument, they’re still interested in how it is managed.”⁹

Balancing the need to be responsive to its local, traditional, and often less vocal commodity-based constituents (particularly ranchers) yet still appease the demands placed on the BLM by national groups proved to be challenging to BLM managers. As one BLM manager said, “It’s a balancing act. Yes you have to deal with the locals who live there, but these are national designations. Finding that balance is hard.”¹⁰ Another BLM manager said her main job was to answer, “What does this piece of ground mean locally, but also what does it mean nationally? How does it fit into the larger System?”¹¹

Western Communities

Several BLM managers, particularly in places where the designation of a Monument was especially controversial, identified the difficulty they and their peers had working for BLM in small communities in the West. As one senior BLM manager said, “When you work for BLM, you’re bearing the brunt of the anger. You live in a small community.”¹² One planner stated her discomfort with local anger over the Monument planning process even more clearly stating,

“I’ve gotten to the point where I don’t want to tell people what I do. I had a lady say to me in the grocery store, ‘I bet you feel like you have a target on your back.’ As a planner I feel like, come on, get over that, we have to get a plan done for the Monument. But I’ve learned to come up with

creative ways of telling people what I do without saying what I do. I want to fit into the community I live in.”¹³

While not a universal theme, this story displays the disparate demands being placed on BLM managers as they work to develop plans for the Monuments. It was apparent during interviews that there is recognition by many BLM managers that the West’s demographics are changing, and with this demographic shift, the demands placed on BLM lands are shifting from commodity uses to recreation. One planner said, “Public lands are changing. Ranchers can’t just come in and demand things anymore.”¹⁴ A senior BLM manager echoed this sentiment, noting the similarity of the shift from a focus on oil and gas and ranching to recreation and land protection on BLM and Forest Service lands stating, “The same thing is happening to the Forest Service that is happening to BLM. The public is demanding more protection of the land and of species. Timber isn’t as dominant as it once was for the Forest Service either.”¹⁵

The decision to move forward with planning for the BLM-managed National Monuments created by President Clinton fundamentally altered the focus of the debate over the role of protected lands within BLM multiple use management. It changed the venue of the conflict and introduced local BLM offices to a sophisticated new voice that had previously largely overlooked BLM land use planning.

B. Protection and Multiple Use in BLM-managed National Monuments

“FLPMA gives us a multiple use mandate with a conservation component. These designations specifically give us a conservation mandate with a multiple use component. That’s an emphasis issue.”¹⁶

-Senior BLM Manager

Secretary Babbitt’s decision to leave management of the Grand Staircase-Escalante National Monument with BLM instead of transferring it to the National Park Service marked a paradigm shift in American conservation. Had the Grand Staircase

been transferred to the Park Service, as had been done with every other Monument during the previous 90 year history of the Antiquities Act, the management of the Monument would likely have led to predictable outcomes: a reduction and eventual phasing out of livestock grazing, a banning of hunting, visitor centers within the boundaries of the Monument, an upgraded (i.e. paved) transportation system, drastically reduced off-road vehicle use, well marked (and likely some paved) trails, and numerous interpretive displays. These management prescriptions fall squarely in line with the National Park Service's mission, "to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations," as required by the Park Service's Organic Act. By leaving management of the Monument, and thirteen subsequent Monuments with the BLM, Secretary Babbitt and President Clinton created a new type of protected area where BLM land managers, not statutes such as the Park Service Organic Act or the Wilderness Act, were charged with determining appropriate levels of protection and allowable commodity uses (subject to the Proclamation and FLPMA).

By moving forward with planning for the Monuments, the Bush administration legitimized BLM management of National Monuments and in effect ended any remaining debate about undesignating them or transferring their management to the Park Service. It is important to remember that many of the areas now managed by the BLM as National Monuments and National Conservation Areas had previously been considered for National Park designation. To some in the environmental community, continued BLM management of these areas was too great a price to pay simply to have the area

designated as a National Monument or National Conservation Area. For Off Highway Vehicle (OHV) advocates, ranchers and other commodity interests, and many local governments, continued BLM management of the area did not necessarily assuage fears of what a specially designated area would mean for their use of the area. While these sentiments did not necessarily end when the BLM moved forward with planning, the debate largely shifted from a fight over whether these areas should be protected and if so, who should manage them, to a debate over what level of protection they should receive given BLM's multiple use mandate.

Monument Management: Protection and Use

When the Bush administration allowed planning to move forward for the National Monuments, BLM managers were forced to answer the question, "What levels of protection and use are appropriate in BLM-managed National Monuments?" Managers and planners looked to the recently completed RMP for the Grand Staircase-Escalante National Monument as a model, yet doing so was somewhat problematic. The political and financial circumstances under which the RMP for the Grand Staircase was completed were drastically different than those for the newer Monuments. The first Monument Manager for the Grand Staircase was provided a \$5 million budget and a 20-person planning team, including advisors from the National Park Service.¹⁷ Further, the Grand Staircase planning team could rely on political cover from high ranking Department of Interior officials who wanted to see the new Monument succeed. While the Bush administration allowed planning for the new Monuments to proceed, there was little hope that the Grand Staircase model could be fully replicated. As Pam Eaton of the Wilderness Society said,

“Instead of a model that could be used to guide the management of the new challenges presented by the NLCS, the Grand Staircase became the thing you never pointed to and never talked about, because if you did, you were sure to bring the wrath of the political appointees.”¹⁸

BLM staff most familiar with the planning effort for the Grand Staircase agreed with Eaton’s assessment. For instance, one senior manager commented, “The Staircase went from being the poster child to being the bastard child.”¹⁹ One Monument manager who felt the Grand Staircase was a good model and would have liked to base her planning effort on the Grand Staircase planning process, noted that financial and staff limitations made this difficult, stating, “The Grand Staircase, that’s the poster child right? They have a whole separate staff. I have one wildlife biologist and he doesn’t even work just on the Monument.”²⁰

While managers and planners for the new Monuments did not enjoy the same level of financial and political support afforded those working on the Grand Staircase, the management decisions made in the plan for the Grand Staircase did help set some precedents in determining appropriate levels of protection and use in the Monuments that these managers and planners could look to for guidance. The *High Country News* summarized the management of the Grand Staircase as, “Though grazing, recreation, and most other uses would be more closely watched than they had been, any additional restrictions would be based on existing laws.”²¹ Because the Grand Staircase plan was completed in 1999, BLM managers could use some of the sideboards developed during the Grand Staircase RMP process as guides in their own efforts.

Monument managers and planners for the new Monuments moved ahead with planning without strict guidance from the Washington Office or the political cover enjoyed by the Grand Staircase planning team. Not surprisingly, interest groups from

preservation, recreation, and commodity perspectives quickly realized the planners, Monument managers, and the processes they were undertaking would determine what level of protection and use would be allowed in each Monument. While the Grand Staircase may have set some precedents for the level of protection and use allowed in BLM-managed National Monuments, these interests realized the management of each Monument could still be greatly influenced through the local planning processes. Thus, while national advocacy groups continued to fight for and against the National Landscape Conservation System at the congressional and administration levels, they also poured resources into trying to influence the management of individual units during each RMP process.

Rectifying FLPMA and the Presidential Proclamations

The first step in defining the level of protection and use allowed in the Monuments was determining how the requirements of FLPMA and the Presidential Proclamations (or legislation) fit together. In fact, the challenge and opportunity which engendered the most hope, passion, anger, and frustration by BLM managers at all levels of the organization during interviews was trying to rectify the requirements of the Presidential Proclamations (or enabling legislation in the case of the Steens Mountain CMPA and other legislatively created units) and the requirements of FLPMA during the planning processes. Interestingly, the hope, passion, anger, and frustration demonstrated over this issue had many targets. Some managers pointed to a lack of guidance from senior BLM management and the internal culture of the agency. Some pointed to what were perceived as unrealistic expectations by members of the public on both the commodity and preservation side of the debate. Still others pointed to unclear or confusing language in the Proclamations.

While many of the managers found rectifying protection of Monument Objects and the multiple use management of BLM lands as required by FLPMA challenging, they also identified it as one of the biggest opportunities provided by the planning processes. For every manager who said, “It’s really hard for the agency to walk the fine path there between allowing uses and protecting the resources,”²² another said, “I think rectifying FLPMA and the proclamations is an incredible opportunity.”²³ Often, single BLM managers identified this conflict as both one of the primary challenges and opportunities provided by the planning efforts in the same interview.

Because the plain language of the Presidential Proclamations and FLPMA are not necessarily mutually supportive, each side in the struggle over Monument management could point to language in either (or sometimes both) FLPMA or the Proclamation to support their particular view of the appropriate level of protection and/or use. As one planner said,

“From the comments I’ve seen on the plans, some people quote FLPMA and therefore they say you have to allow all these multiple uses. Then another letter comes in and says the Proclamation trumps FLPMA and you have to protect all these values. We try to say, ‘Well, it’s not one or the other. We use both; we’re under the management guidelines of both.’ Everyone will use whatever tool they have to make their point.”²⁴

This quote, perhaps more than any other, demonstrates how the debate over the role of protected landscapes in multiple use management of BLM lands changed as a result of moving ahead with planning. Prior to the planning processes for these Monuments, BLM’s management of protected areas (i.e. Wilderness and Wilderness Study Areas) was guided by a single statute or strict guidance (i.e. the Wilderness Act or the Interim Management Policy). Instead of being able to rely on strict, written, and already litigated guidance, local managers and planners had to navigate two potentially conflicting sets of

guidance and determine the appropriate level of use and protection for their particular Monument.

Hybrid Monuments

Difficulty in determining the proper level of protection and use given the disparate demands placed on the BLM by those advocating for preservation and those advocating for unfettered commodity and recreation use of the Monuments led one senior BLM manager to summarize the Monuments as, “a kind of hybrid between regular BLM land and a Park Service Monument.”²⁵ This characterization is helpful when placing BLM-managed National Monuments on a use/protection spectrum for all categories of public land, but the distance between regular BLM land and a Park Service Monument is cavernous. Further, BLM managers and planners operating in this spectrum are constantly bombarded with charges of moving too close to one of the ends of the spectrum. As one BLM planner said, “There are portions of the public that want to push us to the outside,”²⁶ adding, “Everyone has expectations that this is going to Nirvana for their particular interest.”²⁷

Many senior BLM managers agreed with the sentiments of this planner. When discussing the demands placed on Monument managers by commodity interests, one senior BLM manager said, “There’s pressure on the Monument manager. If it appears to be too restrictive the folks who opposed the Monument will say, ‘See, there you go. Just like we said it would happen.’ So it becomes a self-fulfilling prophecy.”²⁸ Another senior manager said getting preservation advocates to understand these Monuments are still working landscapes was particularly challenging stating, “To those who say, ‘Ok, now it’s designated so everything must stop we always say, ‘These are still working

landscapes. That was part of the concept,” adding, “But people’s perceptions of what these Monuments should be are hard to get past.”²⁹

Challenges in Finding a Balance: Case Study Examples

Specific examples where BLM managers struggled to rectify the multiple use management requirements of FLPMA with the management direction provided in the Monument proclamations (or legislation in the case of the Steens Mountain CMPA) abound in these processes. What follows are brief descriptions of specific examples of this tension found in the case studies. Importantly, these case studies demonstrate the multiplicity of issues Monument managers and planners were forced to deal with.

1. Grand Canyon-Parashant and Vermilion Cliffs National Monuments (Arizona):

The proclamation for the Vermilion Cliffs National Monument reads, in part,

“Some of the earliest rock art in the Southwest can be found in the monument. High densities of Ancestral Puebloan sites can also be found, including remnants of large and small villages, some with intact standing walls, fieldhouses, trails, granaries, burials, and camps.”³⁰

Similarly, the proclamation for the Grand Canyon-Parashant National Monument reads, in part,

“Archaeological evidence shows much human use of the area over the past centuries. Because of their remoteness and the lack of easy road access, the sites in this area have experienced relatively little vandalism. Their good condition distinguishes them from many prehistoric resources in other areas. Prehistoric use is documented by irreplaceable rock art images, quarries, villages, watchtowers, agricultural features, burial sites, caves, rockshelters, trails, and camps.”³¹

Archeologists have long considered transportation routes to be one of the biggest challenges to the protection of cultural sites because they provide access to would be looters, yet BLM-managed National Monuments remain open to motorized recreation under the provisions of FLPMA, so balancing the need to protect cultural sites while

maintaining motorized access became a central fight in these planning processes. In response to these concerns, BLM maintained that looters prefer to loot away from roads because the chance that they will be seen conducting illegal operations is lessened. Peter Bungart, an archeologist retained by a coalition of environmental and cultural resource advocacy organizations disagreed, incredulously stating in his official protest of the plans for these two Monuments,

“In several instances the BLM maintains that road access helps to protect sites from vandalism, asserting that looters prefer sites away from roads so that they can avoid detection. I have seen many sites over the years that have been ravaged by vandalism that sit in plain view of roads, and it is my sense that one could spend a week looting a site along a primitive road in some of the remote parts of the Monuments and not encounter another person. I think there are very few archaeologists or agency personnel that believe that road access is good for cultural resource sites.”³²

2. Upper Missouri River Breaks National Monument (Montana):

At the time of its designation, the Upper Missouri River Breaks National Monument contained within its boundaries 43 existing oil and natural gas leases, totaling approximately 43,000 acres. The proclamation for the Monument attempted to address this issue, stating,

“The Secretary of the Interior shall manage development on existing oil and gas leases within the monument, subject to valid existing rights, so as not to create any new impacts that would interfere with the proper care and management of the objects protected by this proclamation.”³³

From a legal standpoint, it is very difficult for federal agencies to impose significant new restrictions on previously granted leases because lease holders can file a takings claim under the 5th Amendment to the US Constitution which prohibits the taking of private property by the government without compensation. Thus, allowing development of leases while simultaneously not creating new impacts on the landscape becomes an almost impossible task for local BLM managers. Fortunately for BLM managers,

addressing this issue beyond the planning efforts has not been necessary. According to Monument Manager Gary Slagel, “There has been little push to develop those tracts to date.”³⁴

3. Carrizo Plain National Monument (California):

The issue of grazing on the Carrizo Plain National Monument garnered national headlines when Marlene Braun, the Monument Manager at the time, committed suicide in 2005 and addressed the issues surrounding grazing extensively in her suicide note. The proclamation for the Carrizo Plain National Monument addressed the issue of grazing, but the language mirrors the standard language found in most of the proclamations and simply instructs BLM to manage grazing in accordance with existing laws and regulations.³⁵ Braun favored allowing Taylor Grazing Act allotments to expire and replace them with free use permits which would allow BLM to set stocking rates each season as opposed to guaranteeing stocking rates for ten year periods.³⁶ Braun’s boss at the time, Bakersfield District Office Manager Ron Huntsinger, supported a continuation of the Taylor Grazing Act permit system and claimed he was brought in, “to fix this plan.”³⁷ Braun and Huntsinger clashed repeatedly and Braun faced the prospect of stiff penalties for insubordination at the time of her death.

The LA Times later wrote, “What began as a policy dispute – to graze or not to graze livestock on the fragile Carrizo grasslands – became a morass of environmental politics and office feuding that Braun was convinced threatened both her future and the landscape she loved.”³⁸ Beyond simply a tragic event, Braun’s suicide also brings into stark focus the difficulty BLM managers had in trying to balance the demands of

providing protection in accordance with the proclamations and balancing the multiple use mandate of FLPMA.

4. Canyons of the Ancients National Monument (Colorado):

The Canyons of the Ancients contains the highest density of cultural resource sites in the United States. The Monument also contains significant fluid mineral reserves including naturally occurring CO₂ deposits which can be used to help recover oil reserves from declining oil fields.^b Over 80% of the Monument was leased for fluid minerals at the time of its designation. The proclamation for the Monument addresses the fluid mineral estate issue stating,

“Because most of the Federal lands have already been leased for oil and gas, which includes carbon dioxide, and development is already occurring, the monument shall remain open to oil and gas leasing and development; provided, the Secretary of the Interior shall manage the development, subject to valid existing rights, so as not to create any new impacts that interfere with the proper care and management of the objects protected by this proclamation; and provided further, the Secretary may issue new leases only for the purpose of promoting conservation of oil and gas resources in any common reservoir now being produced under existing leases, or to protect against drainage.”³⁹

While restoration of native plants and wildlife habitat may be possible after drilling operations are complete, restoration of cultural resources is oxymoronic. That is, with cultural resources, once they are disturbed, they cease to be cultural resources, so restoration is for all intents a moot point. Thus, BLM attempts to balance development with protection of cultural resources becomes nearly impossible. Further, the same takings issue found in the Upper Missouri River Breaks National Monument exists.

^bCO₂ gas is piped to the Permian Basin in Texas where the gas is pumped into existing oil fields. The pressure from the gas forces additional oil out of rocks. This excess oil is then recovered through existing wells.

5. Steens Mountain Cooperative Management and Protection Area (Oregon):

The Steens Mountain CMPA is the only case study where Babbitt's "Legislation First Process" successfully produced legislation. This success, however, came with a cost. The legislation establishing the Steens Mountain CMPA includes the following 13, sometimes contradictory, purposes:

- (1) To maintain the cultural, economic, ecological, and social health of the Steens Mountain area in Harney County, Oregon.
- (2) To designate the Steens Mountain Wilderness Area.
- (3) To designate the Steens Mountain Cooperative Management and Protection Area.
- (4) To provide for the acquisition of private lands through exchange for inclusion in the Wilderness Area and the Cooperative Management and Protection Area.
- (5) To provide for and expand cooperative management activities between public and private landowners in the vicinity of the Wilderness Area and surrounding lands.
- (6) To authorize the purchase of land and development and nondevelopment rights.
- (7) To designate additional components of the National Wild and Scenic Rivers System.
- (8) To establish a reserve for redband trout and a wildlands juniper management area.
- (9) To establish a citizens' management advisory council for the Cooperative Management and Protection Area.
- (10) To maintain and enhance cooperative and innovative management practices between the public and private land managers in the Cooperative Management and Protection Area.
- (11) To promote viable and sustainable grazing and recreation operations on private and public lands.
- (12) To conserve, protect, and manage for healthy watersheds and the long-term ecological integrity of Steens Mountain.
- (13) To authorize only such uses on Federal lands in the Cooperative Management and Protection Area that are consistent with the purposes of this Act.

Reading through these multiple purposes, conflicts between purposes become readily apparent. For instance, it is likely that promoting “viable and sustainable grazing and recreation operations” (Purpose 11) could easily conflict with Purpose 12 which aims to “conserve, protect, and manage for healthy watersheds.” Further, Purpose 5 which encourages cooperation between BLM and stakeholders has received less than glowing reviews. For instance, Andy Kerr, a member of the team which helped develop the legislation, wrote the following in a report commissioned by the Western Governors Association,

“As for the goal of the Steens Act to foster cooperation, such has not occurred. There is no more communication today between conservationists and ranchers than prior to the Act, and a general ambivalence, if not disdain, towards the BLM by some stakeholders continues. While there have been individual acts of cooperation between BLM and some players, a general feeling of mistrust prevails over SMAC meetings, where people continue to huddle with like-minded persons.”⁴⁰

Thus simultaneously meeting the intent of the Steens Mountain legislation and the Federal Land Policy and Management Act has proven challenging, even for BLM managers responsible for units not created by the Antiquities Act.

As can be seen above, the issues presented to Monument managers and planners were complex and contentious. Whether the issue was managing motorized recreation in the Vermillion Cliffs, or managing oil and gas development in the Canyons of the Ancients, or grazing in Carrizo Plain, BLM managers and planners were asked to make difficult decisions without clear guidance on balancing protection and use. That many of these planning efforts ended in administrative protests is hardly surprising.

C. The Fight Over Definitions and Specific Resource Decisions

“We have people come in and say, ‘We were told when this Monument was created that there wouldn’t be any changes.’ We don’t know who would have told them that, because of course there are going to be some changes.”

- Monument Planner⁴¹

Attempting to find balance between protecting Monument resources and allowing multiple use to continue proved very challenging for local BLM managers and planners. Because the debate is so overwhelming when taken in its entirety, the conflict is often expressed as smaller, more concentrated fights over specific definitions and resource decisions. When Secretary Norton allowed planning to move forward for the Monuments created in 2000 and 2001 the BLM had to adjust its land use planning process to include many site specific requirements in order to comply with the Presidential Proclamations. In doing so, the debate moved from a large overarching debate concerning the appropriateness of protected landscapes within multiple use management into numerous smaller fights over very specific definitions and resource decisions.

Decision Making and the RMP Process

One issue with Secretary Norton’s statement that the planning processes for the Monuments would be a, “model of how to involve the people who live and work closest to these Monuments,”⁴² was that BLM’s Resource Management Plan (RMP) process is not necessarily designed to make site specific decisions, and with increased participation, there was increased expectations on the part of the public that BLM would make specific decisions. As the BLM’s Land Use Planning Handbook states, RMPs are, “designed to guide and control future management actions and the development of subsequent, more detailed and limited scope plans for resources and uses.” That is, RMPs were initially designed to provide aspirational goals for management, with site specific activity plans

pursuant to these goals developed at a later time. The Proclamations (or enabling legislation) required BLM to develop transportation plans as part of their RMPs for each Monument. Transportation planning, previously considered an activity level plan,^c was now required to be included in the RMP. Many BLM managers suggested that transportation planning as part of the RMP caused a snowballing effect whereby more and more activity level planning decisions became integrated into the RMP. As one Monument manager said, “Our land use plans are supposed to be fairly broad, general. But with these units there seems to be a drive towards making implementation decisions in the RMP.”⁴³

While many managers and planners bemoaned this requirement, the plain language of the Presidential Proclamations required BLM to develop transportation plans. Some version of the following language is found in nearly every Proclamation:

“For the purpose of protecting the objects identified above, all motorized and mechanized vehicle use off road will be prohibited, except for emergency or authorized administrative purposes. The Secretary of the Interior shall prepare a transportation plan that addresses the actions, including road closures or travel restrictions, necessary to protect the objects identified in this proclamation.”⁴⁴

The requirement to conduct transportation planning as part of the RMP process had profound impacts on the debate over protected landscapes within the multiple use management of BLM lands. Instead of simply defining the overall management guidelines for the Monuments, advocacy groups realized BLM’s definition of the terms “road” and “Monument Objects” would have enormous impact on the level of use and

^c Activity plans are subsequent plans that guide BLM decisions on specific resource issues. According to BLM’s Land Use Planning Handbook, “Upon approval of the land use plan, subsequent implementation decisions are put into effect by developing implementation (activity-level or project-specific) plans. An activity-level plan typically describes multiple projects in detail that will lead to on-the-ground action. These plans traditionally focused on single resource programs (habitat management plans, allotment management plans, recreation management plans, etc.)” (BLM Land Use Planning Handbook H 1601-1)

protection the Monuments received. Further, decisions regarding protection of “wilderness character” and what the term “existing uses” implied would likewise greatly impact the physical character of the Monuments. Defining these terms became the focus of advocacy groups and the agency because these definitions would determine the overall management character of the Monuments, and by extension, the National Landscape Conservation System.

Conflicting Views on Strict Definitions and Guidance

While the BLM managers and planners interviewed for this study agreed that the Proclamations required transportation planning to be concurrent with and integrated into the RMP for each unit, opinions varied widely on which management level of BLM should be responsible for developing the definitions for key terms used in plans and whether strict definitions were advisable in the first place. Before discussing the specific definitions which became the focus of advocacy groups, it is important to acknowledge these disparate views.

Interestingly, there did not appear to be one group who favored strict definitions over the other. That is, those closest to this conflict, the Monument managers and planners, did not necessarily support strict definitions more or less than BLM managers at other levels within BLM. Often, planners disagreed with their Monument Managers on this issue and even within the BLM’s Washington Office, opinions varied greatly on the desirability of strict definitions and the need for strict guidance.

Those advocating against strict, System-wide definitions argued a lack of definitions gave local BLM managers greater leeway to craft plans which were responsive to local conditions. Those advocating this position often presented their argument in terms of preventing micro-management and retaining agency discretion and

control over the process. For instance, one senior BLM manager said, “I tend to believe that not having strict definitions gives more autonomy to local managers. I have great trust and confidence in our people. They will figure it out. They are very dedicated to responsible land management.”⁴⁵ A Monument manager agreed stating, “Not having strict definitions gave us the latitude to develop a plan that works for us.”⁴⁶

Other BLM managers found the lack of clear, strict definitions and guidance frustrating because it caused local managers to spend time and resources fighting over these terms instead of moving forward with making decisions. For instance, one senior BLM manager said, “A lack of definitions doesn’t help a manager. It just provides more questions that he or she has to answer.”⁴⁷ A planner agreed, stating, “Lots of times guidance comes down but it’s so vague and we’re dealing with such site specific issues that the application of this vague guidance leaves more questions than answers. That’s frustrating.”⁴⁸

Further, these planning processes did not occur in a vacuum. The planning processes were undertaken at the same time the Bush administration (and in some cases the courts) periodically changed guidance on the creation of new Wilderness Study Areas during the BLM’s land use planning process and the recognition of Revised Statute (R.S.) 2477 Rights of Way claims by county governments. Because these decisions and the resulting changes in guidance affected the BLM’s general land use planning process, they became acute challenges to BLM land managers and planners developing RMPs for Monuments and NCAs where public scrutiny was particularly intense. This continuously changing and evolving guidance became a source of frustration for many local managers and planners. As one manager put it, “The terminology kept changing throughout the

process. We tried to incorporate those changes the best we could.”⁴⁹ This manager discussed later in the interview how constantly changing and vague guidance caused the planning process to take considerably more time.^d

Because the planning processes were conducted (and continue to be conducted) under vague, incomplete, and changing guidance and definitions, these planning processes were forced to act as arbiters in fights over specific definitions. What follows is an analysis of the fights over the specific definitions for “road” and “Monument Objects” that advocacy groups focused on because of their impact on the overall management vision for individual units and the Conservation System. Further, BLM’s guidance (or lack thereof) on the issues of protection of wilderness character and existing uses is discussed.

The Definition of a Road

As described above, the Monument Proclamations prohibit the use of motorized and mechanized vehicles “off road.” While benign sounding in nature, the definition of what constitutes a road, for the purposes of the prohibition on “off road” travel, engendered significant controversy during the planning processes. While the difference between a “trail,” a “way,” or a “road” may appear to be simply a matter of semantics, the definition of this term was seen by environmentalists and cultural resource advocates as one of the most important aspects of defining the management vision for the Monuments.

Because these areas were withdrawn from further mineral development and fluid mineral leasing (subject to valid existing rights), environmentalists and cultural resource

^d In many ways, incorporating new guidance became a kind of vicious circle in which planners and managers were forced to halt the process to incorporate new guidance and during this lull, additional guidance would come out causing them to further delay and so on.

advocates saw the threats posed by off highway vehicles (OHVs, e.g. dirt bikes, ATVs, Jeeps, etc.) as the single biggest threat to the ecological and archeological integrity of the new Monuments. Numerous studies have outlined negative environmental impacts of OHVs including soil erosion, dust and noise pollution, destruction of cultural resource sites, introduction and spread of invasive species, etc. Yet many of these areas were used extensively by OHV enthusiasts prior to designation. Further, OHV recreation is seen by local governments and businesses as both an important local form of recreation and a source of economic development (i.e. tourism).

Thus, BLM's decisions concerning OHV recreation became the center of considerable debate. Central to this debate, because of the prohibition on "off road" travel, was BLM's definition of a road. Environmentalists argued BLM should apply the definition it used when undertaking the Wilderness Study Area (WSA) reviews in accordance with FLPMA's Section 603 Wilderness review provision. This definition, taken from the House Report language accompanying FLPMA's requirement to study "roadless areas" for possible inclusion in the Wilderness Preservation System (i.e. WSAs), states,

"The word "roadless" refers to the absence of roads which have been improved and maintained by mechanical means to insure relatively regular and continuous use. A way maintained solely by the passage of vehicles does not constitute a road."⁵⁰

Were BLM to use this definition, OHV use would be greatly reduced on the Monuments because many of the existing trails were user-created two-tracks. In stark contrast to the definition above, these trails were created and maintained exclusively by

the repeated passage of vehicles.^e Off highway vehicle advocates, on the other hand, insisted the intent of the Proclamation was not to drastically reduce OHV use, but simply to prohibit use off of trails (i.e. a prohibition on what is commonly known as cross country travel). Further, many OHV advocates argued (and continue to argue) their use is more benign than it has been portrayed and therefore falls within the general conservation focus of the Monuments. For instance, Brian Hawthorne of the Blue Ribbon Coalition argues, “This isn’t strip mining. It’s trail use.”⁵¹

Both sides of this debate realized the definition of road contained in BLM’s RMPs would have a profound impact on the management character of each Monument. Therefore, both sides made this a central focus of their advocacy efforts around the planning processes. Had these units been left with the Park Service for management, there would have been little question that OHV use would have been greatly restricted.^f With BLM’s “hybrid Monuments” there was a realization that OHV use was going to continue at a greater level than in Park Service managed Monuments (but likely at a level lower than existed prior to Monument designation). As one senior BLM manager stated, “That’s a different paradigm, to have a conservation area with OHV use.”⁵²

Realizing this debate would engender considerable conflict, each BLM office proceeded to define this term as part of their planning effort. This led to wildly different definitions. For instance, in the Upper Missouri River Breaks Draft RMP, BLM managers used a definition opposite of that used during the WSA review, defining a road as, “A linear route segment that can be created by the passage of vehicles (two-track)”.⁵³

^e It should be noted that in many cases, if not most, the creation of these trails was perfectly legal. Until quite recently, the vast majority of BLM land was “open” to cross country OHV use.

^f Off Highway Vehicle use is allowed in several National Parks but cross country travel is restricted.

At the time of the interviews for this thesis, managers were responding to numerous administrative protests of their Final RMP, many of which focused on travel management decisions. Managers conducting the planning processes for the Grand Canyon-Parashant and Vermilion Cliffs National Monuments attempted to sidestep the issue by making “route” decisions instead of “road” decisions. They defined a route as, “any motorized, non-motorized, or mechanized transportation corridor. Corridor may either be terrestrial or a waterway. “Roads”, “trails” and/or “ways” are considered routes.”⁵⁴ Because they left many trails and ways open to motorized use, environmental groups litigated the Record of Decision.^g

The lack of a definitive definition for a road led to considerable conflict within the planning processes. As one manager said, “We took a tactic of using a very vague and liberal definition of road to test the waters. What we found is that everyone pretty much hated our definition.”⁵⁵ One senior BLM manager, who was clearly frustrated with BLM’s inability to provide managers with a definition for road, suggested the only way to resolve this issue was for the courts to determine the correct definition.⁵⁶ Existing litigation may ultimately decide this issue as BLM moves ahead with implementing its RMPs. If courts rule BLM acted within the intent of the Proclamations by leaving routes open to motorized use that do not meet the definition provided for in the legislative history of FLPMA, then the RMPs developed for these Monuments can continue to be implemented. If not, then BLM will have to revisit their transportation management decisions. At this writing, this issue remains contentious and unresolved.

Defining Monument Objects

The Antiquities Act provides the President the authority,

^g The case was not decided at the time of this writing.

“To declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments.”⁵⁷

John Leshy, Secretary Babbitt’s Solicitor General argues that the Proclamations used to create the BLM National Monuments were, “the most detailed and descriptive ... in history,”⁵⁸ in regards to outlining the “objects of historic or scientific interest” (commonly referred to as Monument Objects). All of President Clinton’s Proclamations contain the following phrase,

“NOW, THEREFORE, I, William J. Clinton, President of the United States of America ... do proclaim that there are hereby set apart and reserved as ... National Monument, for the purpose of protecting the objects identified above ...”⁵⁹

While the phrase above helped protect the designation of the Monuments from legal challenges, it also directs BLM to manage the Monuments to protect “the objects identified above.” Preceding this phrase in each Proclamation is a discussion of the unique values and resources found within that particular Monument. When moving forward with developing plans to protect “the objects identified above,” BLM managers had to decide which parts of the descriptions provided were simply background, which portions were introduction material, and which parts identified Monument Objects. As one BLM manager said, “Nowhere in the plan does it say, ‘The following is a Monument Object.’ The lack of a definition for Monument Objects was very difficult.”⁶⁰ A senior BLM manager agreed, stating,

“What’s a Monument Object? In the case of archeological sites, is it individual sites or a community of sites? Are we talking about individual species named in the Proclamation or the habitat of that species? These are the questions our managers have to answer, and they aren’t easy to answer.”⁶¹

The reason the definition of Monument Object is so important is because this definition can have profound impacts on the framework used to develop the plan for each Monument. The types and intensity of uses allowed in a Monument could vary widely based on the interpretation of what constitutes a Monument Object. While the travel management portion of the fight over the Monument plans probably garnered the most attention, environmentalists and cultural resource advocates made protection of Monument Objects the center piece of their advocacy efforts around the Monuments for this very reason. For instance, in their scoping comments for the Carrizo Plain National Monument, a coalition of environmental groups wrote the following:

“The Proclamation for Carrizo Plain National Monument identifies the significant resources that merit National Monument status and calls for their protection. These resources include the landscapes of these areas, as well as numerous sensitive and endangered plants and animals, and many archaeological, geological, historic, cultural, and scientific attributes.”⁶²

After listing specific plant and animal species identified in the Proclamation, these comments go on to argue the Carrizo’s landscape must be managed so as to protect these Monument Objects, stating,

“Importantly, the Proclamation recognizes that landscapes are a significant aspect of protecting the Monument’s objects. The Proclamation states: ‘Full of natural splendor and rich in human history, the majestic grasslands and stark ridges in the Carrizo Plain National Monument contain exceptional objects of scientific and historic interest . . . providing crucial habitat for the longterm conservation of the many endemic plant and animal species that still inhabit the area. The monument offers a refuge for endangered, threatened, and rare animal species.’ The Proclamation clearly states that the Monument is created ‘for the purpose of protecting the objects identified above.’”⁶³

In short, these comments argue that any activity which harms the objects for which the Monument was created should not be permitted to continue. Were the management regime suggested here applied to the Monument, the impact on uses such as grazing, off

highway vehicles, and, in the case of Carrizo Plain National Monument, oil drilling (oil companies own portions of the mineral estate underlying the Monument) would be acute. These comments, which generally mirror environmentalist comments on other Monument planning efforts include recommendations for specific management decisions to ensure that management of the Monument protects the Monument Objects.

The issue, according to BLM managers, is that the Proclamations allow for a great degree of interpretation when deciding what constitutes, “the objects identified above.” As one BLM planner said, “Interpreting the proclamation becomes part of the planning process.”⁶⁴ Another added, “The proclamations could have looked more at definition and intent. It’s open to interpretation; sometimes too much.”⁶⁵

Wilderness Character as a Monument Object

The Proclamation establishing the Upper Missouri River Breaks National Monument contains the following three statements:

- The area remains remote and nearly as undeveloped as it was in 1805.
- The Bullwacker area of the monument contains some of the wildest country on all the Great Plains, as well as important wildlife habitat.
- Remnants of this rich history are scattered throughout the monument, and the River corridor retains many of the same qualities and much of the same appearance today as it did then.⁶⁶

The Proclamation establishing the Canyons of the Ancients National Monument contains the following three statements:

- This area, with its intertwined natural and cultural resources, is a rugged landscape, a quality that greatly contributes to the protection of its scientific and historic objects.
- The complex landscape and remarkable cultural resources of the Canyons of the Ancients National Monument have been a focal point for archaeological interest for over 125 years.

- The natural resources and spectacular land forms of the monument help explain why past and present cultures have chosen to live in the area. The geology of the monument evokes the very essence of the American Southwest.⁶⁷

The Proclamations for the Carrizo Plain, Grand Canyon-Parashant, and Vermilion Cliffs National Monuments likewise make reference to undisturbed and spectacular landscapes. Environmentalists (Wilderness advocacy groups in particular) honed in on these portions of the Monument Proclamations and made protection of wilderness character the focal point of their advocacy efforts surrounding Monument planning. Protection of wilderness character flows directly from the fights over the definition of road and Monument Objects. The rationale is that if wilderness character is a Monument Object, then motorized trails and other human infrastructure, which are generally prohibited in statutory Wilderness, should not be allowed in the portions of the Monuments with wilderness character.

Unlike road and Monument Object, the definition of wilderness is clearly defined in the Wilderness Act of 1964 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 Act 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 focus, 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.”⁶⁸

While wilderness character is clearly defined by the Wilderness Act, protection of wilderness character on BLM lands has been a constant source of conflict since before the passage of FLPMA and guidance on how areas with wilderness character should be managed became central areas of contention in the Monument planning processes.

Section 603 of FLPMA provided a fifteen year time period for BLM to review its land holdings and make recommendations to Congress about which lands should be included in the Wilderness Preservation System (see WSA discussion in Chapter II). This process was completed in 1993. However, Section 202 of FLPMA requires BLM to keep up to date inventories of the various values present in their lands and provide for protection of resources; wilderness is included as one of these values. Thus, under Presidents Reagan, H.W. Bush, and Clinton, BLM maintained it had authority to create new WSAs under the Section 202 provision. While these “Section 202 WSAs” were not afforded protection under the Section 603 non-impairment clause, in practice, these WSAs were generally managed in accordance with the Interim Management Policy for WSAs.^h In all, approximately 500,000 acres of WSAs were created in this manner.

In 1996, the State of Utah sued Secretary Babbitt after he ordered BLM to reinventory its land holdings in Utah for possible WSA status. While the court ruled in favor of Babbitt on 7 of the 8 complaints brought against him, the case was never closed and in April 2003, the State of Utah amended its remaining, open complaint, and settled the case with Secretary Norton. As part of the settlement, Secretary Norton changed BLM’s policy to prohibit the creation of new WSAs. Environmentalists were outraged and have since litigated the settlement.

^h Section 202 WSAs continue to be managed so as not to impair Congress’ ability to designate these areas as Wilderness, but they are not managed to the same standard of non-impairment outlined in the Interim Management Policy for WSAs.

As BLM managers moved forward with planning for the new Monuments, the wilderness character issue became a major challenge. Unfortunately, due to the politically explosive nature of the issue, little guidance on how to deal with the wilderness character issue came from Washington. As one Washington Office BLM official said, “The wilderness character issue is a huge challenge for our people on the ground. We have not been good about clearly defining what that means and how to deal with it in planning,”⁶⁹ adding, “There’s a tension back here in the Washington Office about the wilderness issue.”⁷⁰ When asked if the Washington Office encouraged State Offices to provide guidance, another senior official in the Washington Office stated, “No. We actively discouraged State Offices from putting out guidance on wilderness character.”⁷¹

Despite active discouragement from the Washington Office, the State Director in Arizona provided guidance to her managers in the form of Instruction Memorandum No. AZ-2005-007. This guidance required BLM managers (in all BLM jurisdictions within Arizona, not just Monuments) to inventory their lands for wilderness character as part of the RMP planning process and consider providing additional protection for these areas, though not necessarily as strict as had been provided by the Interim Management Policy for WSAs. Further, these areas were not legally protected WSAs, and while they could be mapped and protective management decisions could be developed, no acronyms were to be created or names given to the areas. This guidance resulted in BLM managers for the Grand Canyon-Parashant and Vermilion Cliffs National Monuments providing some

level of protection of wilderness characteristics for 215,345 acres⁷² and 37,556 acres⁷³ respectively.ⁱ

However, in most cases State Directors did not provide guidance to local managers on how to deal with the contentious wilderness character issue which caused a great deal of frustration for managers and planners. As one manager put it, “The Washington Office was completely absent on the wilderness character issue.”⁷⁴ Another manager stated, “The wilderness character issue was very confusing. We scrambled to get the plan done because we heard another change was coming.”⁷⁵ Yet another resented the fact that local offices, not the State or Washington Office had to develop a definition, stating, “We had to do some real defining in the plan on the wilderness character issue.”⁷⁶

The lack of central guidance on how to deal with wilderness characteristics in the planning process resulted in a varied and inconsistent approach to managing this resource across the different Monuments. Further, with the legal challenges to the Utah settlement working their way through the courts, there was little incentive on the part of managers to move forward on the issue. The result of this stalemate was that this debate quickly dominated the discourse of the management of the Monuments and, if environmentalists are successful in litigation, future amendments to the finished plans.

Existing Uses in the Monument

Tom Fry argues these Monuments were never meant to be set aside solely for the protection of natural resources, stating,

“BLM Monuments are different than the Park Service ones. They are managed for multiple use. The idea is to look for the values you want to

ⁱ It should be noted that both of these Monuments also contain congressionally designated Wilderness Areas and the acreage provided does not include designated Wilderness Areas. Further, the plan reads, “Formal allocations are not made for areas where wilderness characteristics are to be maintained, nor are these acres designated as Wilderness Study Areas (WSAs) in this Approved Plan.”

protect and then figure out what's necessary to protect these values. After looking at the values, can other uses be compatible with them?"⁷⁷

The Proclamations, in addition to providing information about the values found in the Monuments also provided some management guidance on existing uses. For instance, in many of the Monuments, grazing was allowed to continue by the following standard language,

“Laws, regulations, and policies followed by the Bureau of Land Management in issuing and administering grazing permits or leases on all lands under its jurisdiction shall continue to apply with regard to the lands in the monument.”^{78,j}

Further, hunting was allowed to continue and the Monuments were created “subject to valid existing rights” which included oil and gas leases in some Monuments, water rights, and private property. However, the proclamations did not specify how BLM should proceed when these existing uses conflicted with protection of Monument Objects. Instead, like the wilderness character issue and the definitions of road, local BLM staff were left to interpret the intent of the proclamation. And as one Monument manager put it, “A lot of it is where you want to put your inflections in the proclamation. If you want, you can focus on valid existing rights or protecting the object of the Monument.”⁷⁹

Because the Monuments were created subject to valid existing rights and the Fifth Amendment of the US Constitution prevents the taking of private property, BLM managers did not have the authority to simply nullify existing oil and gas leases. Grazing, however, is legally defined as a privilege, not a right, so reducing grazing in order to protect the Monument Objects could be considered, yet the proclamations required grazing to continue to be managed under existing law. This put BLM managers

^j Two notable exceptions merit mention. The Proclamation for the Sonoran Desert National Monument prohibited grazing south of Interstate 8 and the Proclamation for the Cascade-Siskiyou National Monument required BLM to complete a grazing study before continuing to allow grazing.

in a difficult position. In many cases, grazing is a legitimate threat to natural and cultural resources, but the question became, does BLM have the authority to restrict grazing in the Monuments? As one senior BLM manager put it during interviews, “What does existing use mean? How restrictive can you be? It’s pretty clear you have to allow these uses to continue. The problem is there’s no guidance on to what extent you have to let it continue.”⁸⁰ While the fluid mineral leases in the Upper Missouri River Breaks and Canyons of the Ancients are legally defined valid existing rights, BLM can require companies to meet new requirements prior to developing the lease.⁸¹ Thus, the issue becomes not whether BLM can restrict grazing, off highway recreation, and/or fluid mineral development, but to what extent they can do so without violating the Proclamation’s requirement to maintain existing uses.

Further complicating this issue is that any restriction of uses reinforced the arguments of those opposing the Monuments’ designations. For instance, Chuck Cushman commented,

“I’ve never seen a plan from BLM or the Forest Service that has given us more mining, more grazing, more timber, or less regulation of private property. So we don’t have to wonder whether this is gonna hurt us, all we’re doing is arguing about how much it’s gonna hurt us. So in the case of the NLCS [Monument planning], if it walks like a duck, and quacks like a duck, it’s a duck. And consider the source. It was set up by Bruce Babbitt who had a stated goal of getting rid of ranchers and other users on public lands. So no one feels sanguine or secure.”⁸²

Brian Hawthorne of the Blue Ribbon Coalition agreed stating, “I defy you to find one RMP for an NLCS unit that increased OHV opportunities. You won’t find it. We’re just fighting for what is left.”⁸³ Like the protection of wilderness characteristics, the lack of guidance from the Washington Office on the issue of protecting existing uses resulted in inconsistent approaches across the different plans.

Lack of Definitions and Guidance: Affect on Planning

The planning processes for the case study units are at different stages, although most are completed or nearing completion. The requirement to make implementation level decisions concurrently with RMP development while simultaneously failing to provide clear definitions and guidance on important issues in the planning process caused these plans to take considerably longer than other BLM planning efforts. One BLM manager found the little guidance provided to be ineffective stating, “There’s a disconnect between the proclamation, what the intent was and the guidance coming from the Washington and State office. The state of confusion involved them all.”⁸⁴

The vast majority of BLM managers interviewed for this study felt the planning process allowed BLM to make important decisions that should have been made years before. As one senior BLM manager said, “It allows BLM to address some longstanding issues in each of these areas we’ve previously been unable to address.”⁸⁵ A Monument manager agreed, stating “Quite honestly, this planning effort gave us the ability to make decisions that frankly should have been made a long time ago.”⁸⁶ Finally, a Monument planner, in a moment of hyperbole said, “We had a long way to go on grazing. We were managing out there the way we have since 1900.”⁸⁷

The net result of these planning efforts is that the flagship units of the National Landscape Conservation System, its Monuments and NCAs, have very different management approaches. While it may be desirable for the Monument plans to reflect local conditions, the failure to provide needed guidance to Monument managers and planners made for highly inefficient planning. Further, many managers resented the lack of information and felt they were made to look foolish. One senior BLM manager expressed her empathy for the managers in the field stating, “The whole community

looks at you for answers on these issues, and you're stuck there looking helpless and stupid. You look like a lame duck; an idiot as a manager.”⁸⁸ While it can be argued that ambiguity is inherent in many public land planning efforts, many planners and managers expressed a belief that the ambiguity seen in the planning efforts for Conservation System units was an outgrowth of a lack of political support for the Conservation System from Secretary Norton and the Bush administration.

D. A Hidden Common Management Vision

“The planning efforts give us an opportunity to reach out to our supporters and our detractors and get them involved so the vision can achieve consensus.”

- Senior BLM Manager⁸⁹

While cumbersome, inefficient, and fraught with conflict, the RMP planning processes provided opportunities for groups with disparate views on the future of the Conservation System to focus their energy into an administrative decision making process. None of the interest group representatives and very few of the BLM managers demonstrated confidence in, or approval of, the BLM's current land use planning process. However, the vast majority of complaints levied against the process are germane to BLM's land use planning process in general as opposed to specifically for Conservation System units. In many cases, the deficiencies pointed to by BLM managers and interest group representatives were simply ongoing problems with BLM's land use planning process that were exacerbated by increased participation and heightened public awareness for the Monument processes. Thus, this portion of the thesis does not explore issues with the BLM's general land use planning process. Instead, it explores the unique role BLM Advisory Councils played in reaching common visions for the management of the

Monuments and the common desire by all interviewees that these Monuments and NCAs not become ancillary National Park Service units.

Advisory Councils and Consensus

Secretary Norton demanded the planning processes for these Monuments and NCAs be completed under her Four C Principles - Consultation, Communication, Cooperation, and Conservation. As mentioned earlier, Secretary Norton instructed BLM to make these processes a, “model of how to involve the people who live and work closest to these Monuments,”⁹⁰ a requirement very much in keeping with her Four C Principles. The BLM’s Resource Advisory Council (RAC) model was quickly looked to as a possible tool to help ensure local, diverse voices were heard in the planning process.^k For some of the Monuments analyzed for this thesis, existing RACs were asked to advise Monument managers and planning teams on the development of their RMPs.^l For others, Monument Advisory Councils or MACs were set up for individual Monuments.^m The Advisory Council model has a long history in BLM. Prior to the passage of the Taylor Grazing Act in 1934, local ranchers developed boards to help mediate competing demands for the grazing commons. After the Taylor Grazing Act passed, these informal grazing boards became officially recognized Grazing Boards which advised BLM managers on grazing allocations. As time passed and the demands for BLM lands became more complex, the Grazing Boards were eventually replaced with Resource Advisory Councils with members representing recreation, grazing, minerals, and wildlife

^k Resource Advisory Councils (RACs) consist of individuals representing various public lands user groups such as ranchers, motorized recreational vehicle enthusiasts, mineral developers, and environmentalists.

^l Grand Canyon-Parashant, Vermilion Cliffs, and Upper Missouri River Breaks National Monuments.

^m Carrizo Plain and Canyons of the Ancients National Monuments and the Steens Mountain Cooperative Management and Protection Area. The MAC for the Steens Mountain is known as the SMAC.

interests. RACs are chartered under the Federal Advisory Committee Act (FACA) which means they operate under a strict legal framework. In many cases, existing RACs provided recommendations to BLM prior to Monument or NCA designation on what types of existing uses should be protected (see discussion of the process surrounding the creation of the Canyons of the Ancients National Monument in Chapter III). Further, as discussed below, when planning for the Monuments moved forward, some BLM managers looked to these Advisory Councils to provide guidance and recommendations on the management direction of the new Monuments.

Monument managers and planners pointed to the Advisory Councils (whether local Monument Advisory Councils (MACs) or larger RACs) as both an opportunity and a challenge in the planning process, yet in general, most felt the input from RACs or MACs was beneficial. Those operating under RACs felt that sometimes the detached focus of a RAC, which is concerned with BLM lands in a geographic area much larger than just the Monument or NCA, made keeping the RAC up to date with the planning process challenging; however, most were concerned that a MAC would act as another layer of bureaucracy and did not necessarily support the idea of the establishment of a MAC for their Monument. Conversely, some managers and planners with MACs felt that the MACs became too involved in the planning and began to see their roles not as advisors but rather as decision makers. Thus, one model did not necessarily surface as a better model for future Conservation System units.

While each model appears to have drawbacks, in general, the information and advice provided by the RACs and MACs was seen as beneficial by Monument managers and planners because it allowed managers to get a sense of the major issues of concern

for each group participating in the planning process. As one planner said, “The Advisory Council is really just another name for stakeholders,”⁹¹ adding, “A lot of the advocacy opinions funneled through the Advisory Council.”⁹² Another planner pointed to the role the Advisory Council played in helping to mediate disparate views, stating, “The Advisory Council let people interact and find out about the other views and interests in the Monument beyond just their own.”⁹³ While MACs and RACs served important roles in educating members of the public about opposing visions for the management of Monuments, they also helped BLM identify areas where consensus was reached, and therefore helped BLM make decisions. As one Monument manager put it, “When both the environmentalists and the user sides of the Advisory Council came to a consensus on an issue, we did it. As long as it was legal, moral, and we could afford it, we did it.”⁹⁴

While many managers and planners appreciated the input of the RACs and MACs, some were frustrated with the lack of guidance they and the Advisory Councils were given concerning the appropriate role of the Advisory Council in BLM planning. Some felt the Advisory Councils focused too much on specific details while others felt the Advisory Councils overstepped their authority by assuming they held a de facto veto power over BLM decisions. That being said, the Advisory Councils were at least partially beneficial to BLM managers because when the Advisory Councils were able to agree on a specific management recommendation, BLM managers could point to this consensus as evidence that they had met Secretary Norton’s demand to meet the Four C Principles.

A Common Vision for Monument Management

While little consensus on specific management decisions made by BLM managers for individual units appears to exist, perhaps the most encouraging finding during the

research for this thesis is that a common vision does exist for the management of the Monuments, at least among those interviewed for this study. Unfortunately, because the fights over specific resource decisions and definitions consumed these groups and the BLM, this common vision for the management of the Monuments has failed to fully emerge in the discourse surrounding the planning processes for the Monuments. While this failure is currently a missed opportunity, it holds potential to act as a catalyst for consensus around the management of the Monuments and other Conservation System units. No interviewee wanted to see these areas become ancillary National Parks. This is not to say that these landscapes are any less deserving of protection than those managed by the Park Service. As one Monument manager said, “These landscapes are tremendous, and sure, you can think of these as National Park quality, but I think it’s a bold step for the Bureau to take a different track on these lands.”⁹⁵

Many interviewees suggested the Conservation System is a new way of protecting special areas. As one senior BLM manager commented during interviews,

“With Muir and Pinchot we talked about conservation by saying, ‘Ok, we’re going to draw a line around this. That’s conservation.’ The NLCS is conservation for the 21st century where the line is a whole lot blurrier.”⁹⁶

Many interviewees suggested the Conservation System fills an important niche in conservation by protecting areas that also hold potential for commodity use. As Tom Fry said, “These Monuments have a place within the overall structure of public use management. In these areas, you need to provide protection for the values, but there’s also an ability to allow for much more varied uses.”⁹⁷

The Conservation System represents a new paradigm in American conservation efforts, one that is very different from the National Park model. This new paradigm holds immense potential for BLM managers to develop a unified vision for the system

which explicitly differentiates the system from the National Park Service. When contrasting the National Park Service with BLM-managed National Monuments, one Monument manager stated,

“Nobody wants this to be a place where they have signs up interpreting everything. They want it to be a place where you discover it for yourself. You know, maybe people can’t find the hiking trail because there’s no sign. Well, honestly, we don’t care because this is supposed to be a place of self-discovery. We love how wild this place is. Let’s not put a sign at every trail head or at every turn in the trail.”⁹⁸

BLM has begun moving forward with developing partnerships with local gateway communities for sighting unit visitor centers and has no plans for undertaking extensive paving of access roads or spending considerable resources on extensive interpretive displays. Further, the vast majority of Conservation System units remain open to hunting, some level of motorized recreation (where appropriate and well managed), dispersed camping, and other uses which are generally not allowed in Park Service Units. Wilderness advocate Pam Eaton agreed that motorized recreation is an appropriate use within many Conservation System units, but added, “It’s really important for BLM to tell people where they can and can’t go driving and how they can use these Monuments in a way that respects the very purpose for which they were created.”⁹⁹

The planning processes for these Monuments, while saturated with conflict, hold the potential to help define the character of the Conservation System. This fact was not lost on Monument managers and planners, many of whom indicated they would like to retire in the area where they work. One manager was unambiguous in this point, stating,

“When I’m long retired, I’m going to be thankful that these lands aren’t managed by the Park Service with a gate around them. We allow dogs off leash. You can’t even bring a dog into most National Parks. You can hunt here. You can’t do that in a National Park.”¹⁰⁰

Even Pam Eaton of The Wilderness Society and Brian Hawthorne of the Blue Ribbon Coalition, representatives of organizations who constantly battle one another over land management decisions share a common vision of not wanting to see the Monuments become ancillary National Parks. For instance, Hawthorne said, “Our members aren’t after a park-like experience. There’s a tradition of exploration out there on BLM lands, and that’s what we want to maintain.”¹⁰¹ Similarly, Eaton commented, “The BLM continues to play a unique role in providing experimental and recreational opportunities for the public compared to the other land agencies.”¹⁰² While it is doubtful that Eaton and Hawthorne would agree completely on what BLM management of the Monuments should look like, that a similar vision exists may mean that compromise is not impossible.

¹ Interview WS16, 5/13/08, 27:11.

² Interview WS05, 4/4/08, 5:10.

³ Interview WS25, 7/10/08, 09:06.

⁴ Interview WS06(a), 4/4/08, 34:32.

⁵ Interview WS06(b), 4/4/08, 36:12.

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⁷ Interview with Pam Eaton, 6/26/08, 06:42.

⁸ Interview WS16, 5/13/08, 36:53.

⁹ Interview WS13, 5/6/08, 30:19.

¹⁰ Interview WS27, 7/31/08, 11:08.

¹¹ Interview WS26, 7/16/08, 07:46.

¹² Interview WS27, 7/31/08, 52:00.

¹³ Interview WS20, 6/23/08, 17:02.

¹⁴ Interview WS12, 5/6/08, 54:20.

¹⁵ Interview WS06(a), 4/4/08, 31:55.

¹⁶ Interview WS26, 7/16/08, 17:19.

¹⁷ Nijhuis, Michelle. “Change Comes Slowly to Escalante Country.” *High Country News*. April 14, 2003.

¹⁸ Interview with Pam Eaton, 6/26/08, 31:10.

¹⁹ Interview WS27, 7/31/08, 28:44.

²⁰ Interview WS16, 5/13/08, 04:36.

²¹ Nijhuis.

²² Interview WS06(a), 4/4/08, 1:10:00.

²³ Interview WS27, 7/31/08, 32:47.

²⁴ Interview WS20, 6/23/08, 22:46.

²⁵ Interview WS05, 4/4/08, 19:54.

²⁶ Interview WS20, 6/23/08, 03:30.

²⁷ Interview WS20, 6/23/08, 07:55.

²⁸ Interview WS06(a), 4/4/08, 57:40.

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- ⁴² Margolis.
- ⁴³ Interview WS11, 5/6/08, 37:11.
- ⁴⁴ Clinton, Bill. "Proclamation 7374: Establishment of the Vermilion Cliffs National Monument."
- ⁴⁵ Interview WS26, 7/16/08, 34:19.
- ⁴⁶ Interview WS16, 5/13/08, 31:51.
- ⁴⁷ Interview WS05, 4/4/08, 23:48.
- ⁴⁸ Interview WS20, 6/23/08, 23:54.
- ⁴⁹ Interview WS11, 5/6/08, 24:40.
- ⁵⁰ H.R. Rep. No. 94-1163 at 17 (1976)).
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- ⁸¹ Interview WS25, 7/10/08, 08:40.
- ⁸² Interview with Chuck Cushman, 6/27/08, 20:20.
- ⁸³ Interview Brian Hawthorne, 6/26/08.
- ⁸⁴ Interview WS20, 6/23/08, 14:33.
- ⁸⁵ Interview WS26, 7/16/08, 07:54.
- ⁸⁶ Interview WS19, 6/23/08, 31:30.
- ⁸⁷ Interview WS20, 6/23/08, 35:40.
- ⁸⁸ Interview WS27, 7/31/08, 20:46.
- ⁸⁹ Interview WS05, 4/4/08, 06:37.
- ⁹⁰ Margolis.
- ⁹¹ Interview WS17, 5/13/08, 05:05.
- ⁹² Interview WS17, 5/13/08, 15:17.
- ⁹³ Interview WS20, 6/23/08, 05:14.
- ⁹⁴ Interview WS16, 5/13/08, 14:07.
- ⁹⁵ Interview WS13, 5/6/08, 03:36.
- ⁹⁶ Interview WS26, 7/16/08, 17:50.
- ⁹⁷ Interview with Tom Fry, 7/1/08, 12:54.
- ⁹⁸ Interview WS16, 5/13/08, 14:23.
- ⁹⁹ Interview with Pam Eaton, 17:42.
- ¹⁰⁰ Interview WS16, 5/13/08, 38:58.
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- ¹⁰² Interview with Pam Eaton, 6/26/08, 18:24.

Chapter VI – Conclusion and Recommendations for the Conservation System

“The system is closely associated with the challenges of the changing West and a changing Western economy. The decline of ranching and mining in the West is an economic issue, a cultural issue, and a values issue. And a lot of these units are seen as the death knell for those uses [ranching and mining]. And it shouldn’t be that way. We are not the death knell. In fact, in some places we might be the salvation.”¹

- Senior BLM manager

This thesis explored the research question,

How have BLM-managed National Monuments altered the focus of the conflict over the role of protected landscapes within multiple use management of BLM lands?

The answers to this question are inextricably linked to BLM’s culture and history, the development and changing demographics of the West, the divide between local and national interests, and the political support provided the BLM is provided. Because of its multiple use management mission, BLM finds itself in a constant struggle between disparate political forces with one side calling for unfettered access to public resources and another advocating for protection of landscapes. During the agency’s early history, ranching, mining, and other commodity interests dominated policy discussions surrounding public lands management. As the conservation movement gained influence, it began to demand that portions of the public domain be protected. After the Federal Land Policy and Management Act (FLPMA) passed, BLM became the target of the Sagebrush Rebellion, a movement which rejected the idea of protected landscapes as a component of multiple use management. The Sagebrush Rebellion created a decade long

power structure in which no single interest dominated the policy arena. This situation began to change in 1993 with President Clinton's selection of Bruce Babbitt as Interior Secretary. The balance shifted dramatically beginning in 1996 when President Clinton, at the urging of Secretary Babbitt, used the Antiquities Act of 1906 to create the Grand Staircase-Escalante National Monument in Utah and left management of the new Monument with BLM.

President Clinton and Secretary Babbitt continued to strengthen the power of environmentalists in the debate by creating 13 additional BLM-managed National Monuments and overseeing the creation of five new BLM-managed National Conservation Areas. In 2000, Babbitt administratively consolidated all of the protected areas managed by BLM into the National Landscape Conservation System. The Monuments, NCAs, and Conservation System stood as tangible evidence of new power environmentalists wielded in the conflict over the management of America's public lands. When Vice President Al Gore lost the presidential election to George W. Bush in November 2000, many environmentalists feared the Monuments and the Conservation System would become targets of the Bush administration which had strong ties to commodity interests.

While the Bush administration's initial statements appeared to give credence to these fears, Secretary Norton instead relied on the BLM's land use planning process to try to restore the pre-Babbitt balance of power by failing to provide guidance on important issues. When Secretary Norton allowed planning to move forward for the Monuments created in President Clinton's last year in office, the focus of the debate over the role of protected landscapes in the multiple use management of BLM lands changed

in four important ways. First, the venue of the debate changed from a national-level debate over the appropriateness of protecting these areas to BLM's local land use planning processes. During the RMP efforts, BLM managers were exposed to new and more sophisticated constituencies. Second, the debate changed from a fight over whether these areas should be protected, and if so, by which agency, into a fight over the appropriate levels of protection and use for these Monuments given BLM's multiple use mission. Third, the debate devolved into fights over specific definitions (roads and Monument Objects) and resource decisions (protection of wilderness character and maintenance of existing uses). Whether the Bush administration was unable or unwilling to undesignate the Monuments, the lack of guidance provided to local BLM managers nonetheless indicated a lack of political support for the Conservation System and made the planning efforts far more challenging for BLM managers and planners. Finally, the processes allowed the warring factions in the debate to funnel their differences through BLM's Advisory Councils and allow a common vision for the management of the Monuments to begin to coalesce, although the contentiousness surrounding many of the issues in the planning processes are preventing the full emergence of this common vision.

The Conservation System represents a fundamentally distinct approach to protecting landscapes and occupies an important niche within the spectrum of American conservation. By prioritizing the protection of specific values while still allowing for compatible commodity uses, the Conservation System challenges BLM to reconsider what the concept of multiple use management entails, both as it applies to the agency's land holdings in aggregate and to specific landscapes. The focus of the debate over the role of protected landscapes within the multiple use management of BLM lands has

changed radically as a result of the National Monuments, National Conservation Areas, and the Conservation System. Before the Monuments were designated, the debate centered on whether protected landscapes were an appropriate component of multiple use. The debate now centers not on whether these areas are appropriate, but instead on how protected these landscapes should be.

The Conservation System Today

This thesis focused on the creation of BLM-managed National Monuments and the Conservation System's early years under Secretary Norton. Secretary Norton left the Department of Interior in 2006. After Norton's departure from the Bush administration, the Conservation System began to enjoy some support within the administration. In 2007, BLM Director Jim Caswell posted a question on his blog which asked, "What can we do today to ensure the National Landscape Conservation System (NLCS) reaches its potential?"² The response to his question was so overwhelming that he charged BLM's 2008 Antelope Leadership Team with developing a report to make recommendations to strengthen the Conservation System.

Now, the Conservation System is poised to become a permanent, legislative fixture within BLM.^a Undoubtedly, some of the support for the Conservation System comes from the fact that, as one senior BLM manager put it, "The Monuments never became the threat people thought they would become."³

In less than a decade, the Conservation System managed to gain support from a bi-partisan Congressional Caucus, over 80 environmental and recreation groups have

^a Legislation which would have made the National Conservation System a permanent part of BLM passed the House of Representatives during the 110th Congress (after passing a vote to recommit) but failed to receive a vote in the Senate. The Senate in the 111th Congress passed the permanence legislation in January 2009, and the House is expected to pass the legislation later in the session.

coalesced into the Conservation System Alliance, and several former Secretaries of the Interior and other influential former government officials helped create the Conservation System Foundation, an organization whose mission is, “To protect, restore and expand the Conservation System through education, advocacy, and partnerships.”⁴ Further, the Conservation System is, for all intents, safe from the kind of formal dismantling once advocated immediately after its creation. As the next administration takes control of the Interior Department, the Conservation System is beginning to be institutionalized within BLM; however, the policies the new Interior Secretary develops for the National Landscape Conservation System will play an enormous role not only in the future of the National Landscape Conservation System and its units, but also on the debate over the role of protected landscapes within the multiple use management of BLM lands. As a new administration takes control of the Interior Department, potential exists to provide BLM managers within the Conservation System political and financial support as well as much needed guidance.

Recommendations and The Need for Political Support for the Conservation System and its Units

The following recommendations (generated from political and organizational perspectives) are premised on the belief that the Conservation System will become permanent and continue to be housed within BLM. While some members of the public still take issue with the intent of the Monuments and/or their management by BLM, these recommendations are structured assuming a permanent system overseen by BLM. What follows are policy recommendations based on the interviews and document reviews completed for this thesis. Their intent is to contribute to the development of the BLM’s Conservation System.

It would be overly simplistic and perhaps naïve to suggest the only challenge facing the Conservation System and its units is a lack of political support. Further, the concept of political support is itself somewhat vague and ill-defined. Yet the findings of this thesis suggests that the political environment in which Conservation System unit managers and planners operated in under the Bush administration was significantly less supportive than the political environment under the Clinton administration. Whereas the planning effort for the Grand Staircase-Escalante National Monument was completed in three years and was undertaken by 20 handpicked resource specialists with a significant budget, planning efforts undertaken during the Bush administration have dragged on for many years and were undertaken by significantly smaller staffs with much smaller budgets. Further, while the planning staff at the Grand Staircase could rely on political cover from a supportive administration when making controversial decisions, planning staffs under the Bush administration were either not provided necessary guidance, given vague or conflicting guidance, and were in some cases actively discouraged from formulating guidance of their own.

Thus, providing political support encompasses a host of possible expressions. First, administration officials can demonstrate support for the Conservation System and its units by highlighting the System's mission within BLM. Second, policy makers can provide much needed planning guidance so that new Conservation System units can benefit from the lessons learned by planning teams over the past eight years and manage these conflicts more effectively. Finally, the administration can provide adequate funding for the implementation of plans for existing units.

1. Highlighting the Mission of the Conservation System within BLM

The mission of the National Landscape Conservation System is, “to conserve, protect and restore nationally significant landscapes recognized for their outstanding cultural, ecological and scientific values.” While the interviewees for this thesis were all well aware of the National Landscape Conservation System and its mission due to their work directly involving the System and its units, the Conservation System does not necessarily enjoy the same recognition throughout the Bureau. For instance, the BLM’s Antelope Leadership Team draft study found that those not directly tied to the system had a low awareness of the program and its role within BLM.⁵ Several of the interviewees for this thesis also identified a lack of recognition of the Conservation System within the broader BLM as a significant challenge to its long term success. These findings suggest that one result of the Bush administration’s “benign neglect” for the Conservation System over the past eight years is that the System is not necessarily viewed within the agency as an integral part of BLM.

Administration officials can move to increase internal awareness of the Conservation System in several ways. **First, policy makers can promulgate guidance that clearly explains the Conservation System’s role in BLM’s broader multiple use management mission.** As one senior BLM manager stated,

“We haven’t done a good job talking about this issue. The Multiple Use Act envisions a big spectrum of uses that includes both the concept of conservation generally, and a variety of specific uses. So conservation, within the spectrum of uses, is one part. So it [the NLCS] might define the conservation portion of multiple use throughout the Bureau, as opposed say, to the oil and gas mission. So it provides balance. But across all the units, specific uses are also present in many, if not most of those units.”⁶

Thus, the administration should frame the Conservation System as meeting two separate, but equally important components of multiple use management. First, the conservation focus of the System acts as an important “multiple use” within the aggregate of all BLM lands. Second, the individual units of the Conservation System do, in fact, allow for multiple commodity uses including grazing and some oil and gas development.

Second, administration officials can promulgate guidance clearly outlining the multiple benefits provided by the Conservation System as opposed to simply focusing on the multiple uses allowed or restricted within its units. As one senior BLM manager stated,

“Sometimes when people talk about multiple use they mean it like the Act originally was written and the way I was trained, and sometimes they mean it only for commodity things. So if we’re only talking about multiple use through commodity uses, then we’ll have a problem.”⁷

Thus, while it is important to acknowledge that multiple commodity uses do indeed occur within Conservation System units, it is also vital to highlight the non-commodity benefits which flow from the System and its units. Conservation System units are important locally and nationally for recreation, ecosystem restoration, and research sites. The new administration can seize on these benefits to raise the profile of the System within BLM.

Third, policy makers can promulgate guidance which encourages BLM managers to view the Conservation System as a scientific, management, and policy laboratory. BLM has recently come under fire by the public, including many conservative western Republicans for its aggressive oil and gas program. BLM could use already leased Conservation System units (where oil and gas development will likely occur) to develop innovative management processes which could then be exported to the broader BLM to make the management of non-Conservation System unit BLM lands

more sustainable. BLM managers are beginning to understand the potential the Conservation System holds to influence BLM management of other lands. As one senior BLM manager said,

“The NLCS hasn’t been articulate enough in what we bring to the oil and gas mission of BLM. We are part of BLM and so whatever the Bureau’s goals are our goals too. We [the Conservation System] can help industry develop Best Management Practices (BMPs) for leased NLCS units that don’t damage those resources. We can become the pilot areas.”⁸

The Conservation System can likewise be used to help BLM develop sustainable grazing and other resource use regimes. Administration officials can encourage BLM to view the Conservation System as an important internal program where new ideas and research in resource protection, use, and management can be field tested. These studies and management trials must, of course, be conducted in a manner which protects the resources of the units; however, the Conservation System holds the potential to help develop BMPs for many resource uses that can help elevate the conservation portion of the BLM’s existing multiple use mission throughout the Bureau.

A final way in which the administration can highlight the Conservation System, its units, and its mission within BLM is to elevate the Director of the National Landscape Conservation System in BLM’s Washington DC Office to an official Assistant Director to the BLM Director. While the position currently acts as an assistant directorship, elevating the position to an official assistant directorship would send a powerful message to BLM staff that the Conservation System is an important component of the BLM’s broader multiple use mission. Further, placing the Conservation System Director at the same level as the Assistant Director for Minerals and Realty Management would help foster communication between the Conservation System and the rest of BLM, thereby increasing the chances the Conservation System and

its units would begin to be considered for pilot projects and development of BMPs which could then be exported to the broader BLM.

2. Provide Guidance and Support for New Conservation System Unit Planning Efforts

The National Landscape Conservation System and its units hold the potential to act as laboratories for new land use planning processes. Nearly every BLM manager displayed a desire to make the BLM's RMP process more collaborative. For instance, one senior BLM manager said, "When you sit down with folks and say, 'What are your issues?' you immediately set up an adversarial situation. I don't like that. We ought to be doing planning collaboratively,"⁹ adding later, "We need a process where the groups talk to each other, not to us. The minute we become the intermediary, we set up an adversarial relationship."¹⁰

"Collaborative Planning" has become the latest in a series of buzzwords surrounding natural resources management, so it is not surprising that many managers suggested BLM's land use planning needed to become more collaborative in nature without specifying how this collaboration would be different from the BLM's existing advisory councils. However, the fact that every planning effort looked at in this thesis ended with numerous protests and/or litigation suggests BLM's existing RMP process is failing to manage conflict successfully. The planning processes for future additions to the Conservation System clearly hold the potential to help develop a less confrontational, more problem-solving and consensus seeking alternative to the BLM's existing land use planning process. This new land use planning process could then be exported to the broader BLM once proven effective. **Policy makers can help foster collaborative**

planning by directing BLM to develop guidance on collaborative land use planning and providing the agency with sufficient funds to conduct this type of planning.

The Need for Comprehensive Planning Guidance

When asked what he would do differently if he could start the planning efforts over for the National Monuments created by President Clinton, a senior BLM manager stated simply,

“I would do everything differently. I would stop and put together a comprehensive set of guidance documents on how to consider all of our resources. I’d change the planning regulations so they were tighter and more specific to what we wanted in terms of outcomes.”¹¹

While the planning efforts for Conservation System units being completed (or already completed) may represent lost opportunities for changing BLM’s internal guidance, the existing lack of guidance should be remedied moving forward and be drawn from what can be learned from these already completed processes. As a new administration with fewer ties to commodity interests takes control of the Department of Interior, much needed guidance on wilderness character, roads and transportation planning, protection of Monument Objects, and existing uses should be provided to BLM staff. These regulations should be developed with input from the field, particularly from current and former Monument managers and planners who most directly dealt with the existing guidance (or lack thereof).

3. Funding For Plan Implementation

Every Senior BLM manager, Monument manager, and Monument planner said funding for the land use planning efforts was adequate, but they also universally expressed deep concern that once planning was completed, funding would not be available for implementing the plan. This same concern was raised in the Antelope

Team's draft report, which found, "When asked about the future of the NLCS, the majority of those interviewed responded that it was largely dependent on funding."¹²

Administration officials can help assuage these fears by ensuring BLM managers receive adequate funding to implement the plans they developed. Budgets are often viewed as a sign of political importance, so an increased budget request by the new administration for the Conservation System will be viewed as show of political support.

Impacts on Agency Morale and Credibility

Many Monument managers and planners expressed fear that if funding was not provided to implement the plans developed for the Monuments, the BLM would lose credibility with members of the public. For instance, one senior BLM manager who tied funding to enforcement suggested a lack of enforcement (caused by a lack of funding) would lead BLM to, "completely lose its credibility."¹³ A Monument planner agreed, stating, "After the plan, there is no budget. You don't want to set yourself up to say you'll do something and then not do it because there's no money. We get burned in the end."¹⁴

Most of the BLM managers interviewed expressed pessimism that the plans they were developing (or had completed) would be fully funded, yet some remained hopeful. For instance, the planner quoted above stated, "Ultimately I have to believe that what I'm doing as a planner is going to make a difference on the ground. So I'm hoping for funding for implementation."¹⁵ **If the past resources committed to these planning efforts are to make noticeable differences in the management of these areas, it is absolutely vital that BLM managers analyze the costs associated with implementing these plans and request funding based on these analyses.** Given the current national economic troubles, this will be a daunting task. Administration officials should provide

additional guidance (if needed) to encourage BLM managers to identify new, external sources of revenue and funding for RMP implementation where federal funding is insufficient. However, these external partnerships should only act as stop gaps until the Conservation System is provided base funding at realistic levels.

Individual Line Item for the Conservation System

For the first time, the President's FY09 Budget for BLM contains a separate line item for the National Landscape Conservation System. Prior to the FY09 Budget, the Conservation System was funded by siphoning off appropriated funds to existing programs such as recreation, wildlife, etc. While generally thought of as a positive development, some BLM managers suggested the new line item was little more than a new name for existing funds. Stated another way, while the Conservation System now has dedicated funding, this funding was created by drawing down the amounts allocated for other, existing programs. Some managers expressed concern that the Conservation System would be accused of as one manager put it, "robbing the rest of BLM."¹⁶

While budgets will be tightened as a result of the current economic downturn, policy makers can provide guidance to BLM managers allowing them to access existing Interior Department program funding, thereby increasing the Conservation Systems potential funding sources. For instance, the Healthy Lands Initiative has dedicated funding that the Conservation System and its units could use this funding to help implement plans and make other improvements. Further, the administration could allow Conservation System units to serve as locations for offsite mitigation projects within districts and field offices with robust oil and gas development.

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- ¹ Interview WS26, 7/16/08, 10:15.
- ² Benkosky et al. "Views on Achieving the Potential of the BLM's National Landscape Conservation System (NLCS)." *BLM Leadership Academy*. (Draft Report: May 2008) 1.
- ³ Interview WS26, 7/16/08, 17:00.
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- ⁶ Interview WS25, 7/10/08, 26:15.
- ⁷ Interview WS25, 7/10/08, 28:57.
- ⁸ Interview WS26, 7/16/08, 36:30.
- ⁹ Interview WS26, 7/16/08, 04:20.
- ¹⁰ Interview WS26, 7/16/08, 27:10.
- ¹¹ Interview WS25, 7/10/08, 1:01:28.
- ¹² Benkosky et al., 2.
- ¹³ Interview WS27, 7/31/08, 57:18.
- ¹⁴ Interview WS20, 6/23/08, 24:52.
- ¹⁵ Interview WS20, 6/23/08, 24:52.
- ¹⁶ Interview WS14, 5/9/08, 44:19.

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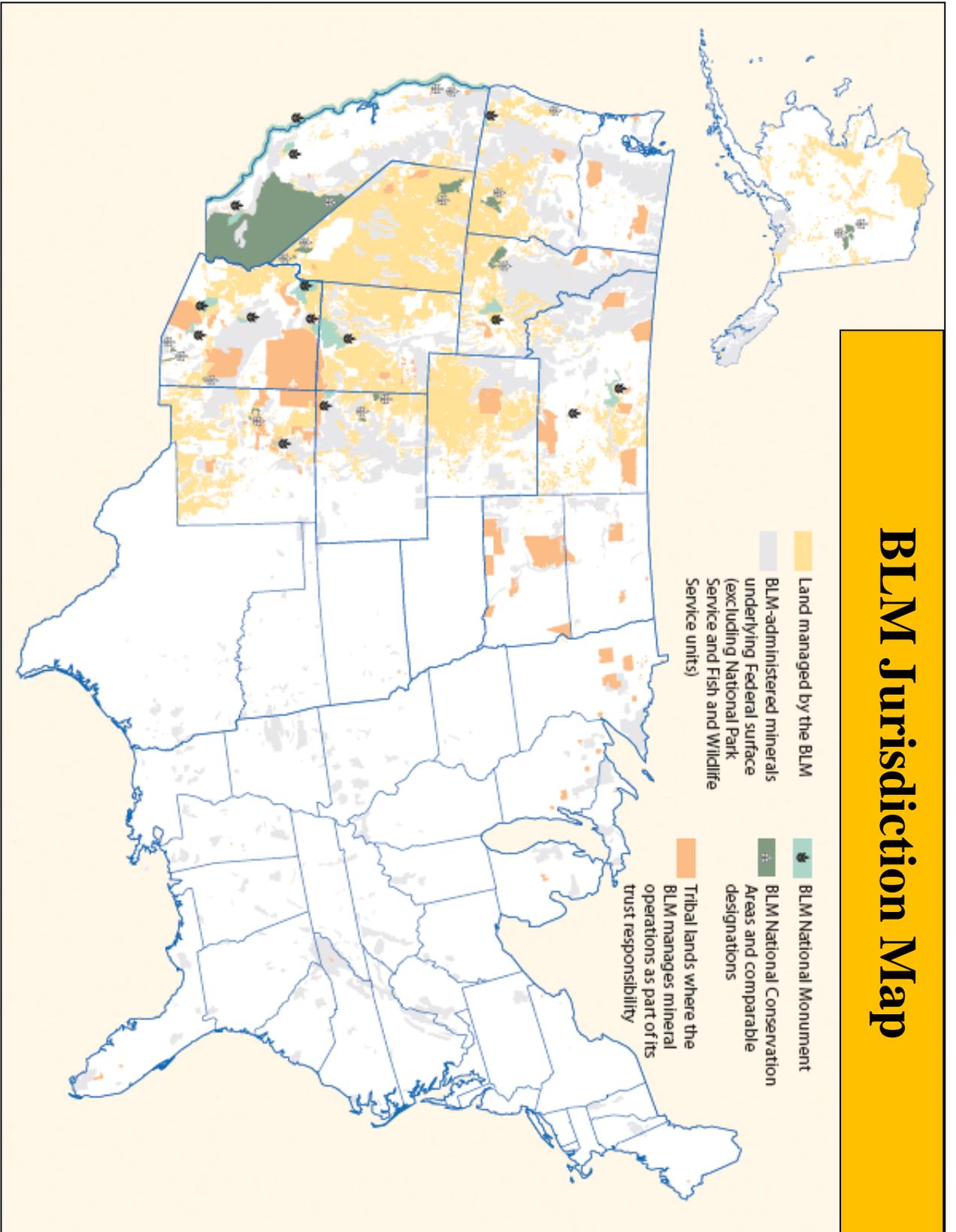
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Appendix 1 – Map of all BLM Lands

BLM Jurisdiction Map



Map available at: http://www.blm.gov/wo/st/en/res/Direct_Links_to_Publications.html

Appendix 2 – List of BLM-managed National Monuments Created by President Clinton

State	National Monument	BLM Acres	Other Federal Acres	State Acres	Private Acres	Total Acres	Proclamation #	Date of Designation
Arizona	Agua Fria	71,100	0	0	1,444	72,544	7263	1/11/2000
Arizona	Grand Canyon-Parashant	808,724	208,444	23,205	7,920	1,048,293	7265	1/11/2000
Arizona	Ironwood Forest	129,022	0	54,697	6,012	189,731	7320	6/9/2000
Arizona	Sonoran Desert	486,603	0	3,867	5,867	496,337	7397	1/17/2001
Arizona	Vermilion Cliffs	279,558	0	13,438	683	293,679	7374	11/9/2000
California	California Coastal	883	0	0	0	883	7264	1/11/2000
California	Carrizo Plain	204,107	0	9,273	32,668	246,048	7393	1/17/2001
Colorado	Canyons of the Ancients	163,892	0	0	18,530	182,422	7317	6/9/2000
Idaho	Craters of the Moon	273,847	465,835	8,321	6,860	754,863	7373	11/9/2000
Montana	Pompeys Pillar	51	0	0	0	51	7396	1/17/2001
Montana	Upper Missouri River Breaks	374,976	0	38,760	81,715	495,451	7398	1/17/2001
New Mexico	Kasha-Katuwe Tent Rocks	4,124	0	521	757	5,402	7394	1/17/2001
Oregon	Cascade-Siskiyou	52,947	4	0	32,222	85,173	7318	6/9/2000
Utah	Grand Staircase-Escalante	1,870,800	0	0	15,000	1,885,800	6920	9/19/1996
Totals:		4,720,634	674,283	152,082	209,678	5,756,677		

Appendix 3 – List of BLM-managed National Conservation Areas Created during President Clinton’s Presidency

State	Name	Designation Type	BLM Acres	Other Federal Acres	State Acres	Private Acres	Total Acres	Public Law/E.O.	Date of Designation
Arizona	Las Cienegas	National Conservation Area	35,280	0	6,720	0	42,000	PL 106-538	12/6/2000
California	Santa Rosa - San Jacinto Mountains	National Monum	86,400	64,400	44,300	76,900	272,000	PL 106-351	10/24/2000
Colorado	McInnis Canyons[1]	National Conservation Area	122,300	0	0	1,865	124,165	PL 106-353	10/24/2000
Nevada	Black Rock Desert High Rock Canyon Emigrant Trails	National Conservation Area	799,165	0	0	16,513	815,678	PL 106-554, PL 107-63	12/21/2000
Oregon	Steens Mountain	Cooperative Mar	428,156	0	1,070	66,910	496,136	PL 106-399	10/30/2000
Totals:			1,471,301	64,400	52,090	162,188	1,749,979		

Appendix 4 – Map of the National Landscape Conservation System

Appendix 5 – Map of the Case Study Units

Case Study Units



Appendix 6 – NLCS Unit Manager Protocol and Questionnaire

Interview Protocol (Monument Managers and Planners)

Semi-structured interviews were conducted with current Monument managers and planners at case study units during May and June 2008. Nine interviews were conducted with local BLM staff members – five with Monument (or CMPA) managers and four with Monument (or CMPA) planners.^a Eight of the nine interviews were conducted in person at BLM offices and one interview was conducted by telephone. All Monument (or CMPA) personnel contacted agreed to be interviewed. Consent forms were signed prior to conducting interviews and all interviews were digitally recorded with the interviewee's knowledge and consent. All interviewees were offered and chose to accept confidentiality. While it would have been preferable to talk to the Monument (or CMPA) planner and manager for each unit, existing staff vacancies prevented this from occurring.

All Monument (or CMPA) managers and planners were interviewed using the NLCS Unit Manager protocol found below. The NLCS Unit Manager protocol contains three sections: Section 1 covers the interviewee's background with BLM and past interaction with the Conservation System; Section 2 covers the planning effort for the unit under the interviewee's jurisdiction; and, Section 3 covers the interviewee's perception of the Conservation System as a program within BLM.

The interviews were semi-structured in that interviewees were asked a predetermined series of open-ended questions; however, the protocol allowed the

^a Many of the managers and planners interviewed also had additional duties outside of their roles for the individual units.

interviewer to ask additional questions covering relevant topics if necessary. The questions asked interviewees to explain whether they considered certain variables in the planning process to be opportunities or challenges in developing a land management plan for individual units.

Questionnaire – Current NLCS Unit Managers

Section 1 – General Background Information and Interaction with NLCS Units

- (1) Please briefly outline the positions you have held during your career in the BLM.
- (2) In what ways did your past positions interact with the National Landscape Conservation System?
- (3) What was your position and role at BLM during the RMP development/implementation process for this NLCS unit?
- (4) Besides the planning effort for this NLCS unit, what other BLM RMP development/implementation processes have you been involved in?
- (5) What is the reporting relationship (Monument Manager to Field Office/District/State)?

Section 2 – NLCS Unit Planning

- (1) In what ways was your approach to the RMP development/implementation process for this NLCS unit different from other BLM RMP efforts you have been involved in? In what ways was it largely the same?
- (2) What would you say are/were the 2 or 3 biggest opportunities provided by the planning/implementation effort for this NLCS unit? Were these opportunities different than the opportunities which arise during RMP efforts in general or were these opportunities unique to the RMP process for this NLCS unit?
- (3) What would you say are/were the 2 or 3 biggest challenges provided by the planning/implementation effort for this NLCS unit? Were these challenges different than the challenges which arise during RMP efforts in general or were these challenges unique to the RMP process for this NLCS unit?
- (4) Now I would like to ask you about specific facets of the planning/implementation process that we have not yet covered. I would like you to tell me what opportunities and challenges arose when you encountered these variables and to what degree these opportunities/challenges are unique to NLCS units compared to RMPs for other BLM

lands. (I will explore these topics with individual depending on their responses to questions 2 and 3 above).

- a. Directives (RAC, State Office, Washington Office, Field/District Office Directives, NLCS Office etc.).
- b. Manner in which Unit was created (Legislation, Presidential Proclamation, etc.) and local engagement prior to creation
- c. Engagement of local and/or tribal governments
- d. Multiple-use vs. Dominant-use
- e. Funding level
- f. Advocacy Groups both local and national (OHV, Wilderness, Grazing Interests, Mineral Interests, etc.)
- g. Presence or Absence of Legal Definitions (roads, Wilderness character, Monument Objects, etc.)
- h. Other Priorities within BLM (Uses and between Levels within BLM)
- i. Enforcement Capacity

(5) Are there any other opportunities or challenges you encountered that we have not yet discussed?

(6) Were any of the opportunities or challenges particularly surprising to you? Were there any that you anticipated that did not arise?

(7) Were you to start the RMP development/implementation process again, what would you do differently? What would you do the same?

Section 3 – The NLCS as a program within BLM

I would now like to shift the conversation from planning to the NLCS as a program within BLM in more general terms.

(1) What is your opinion of the NLCS in general?

- (2) How do you feel about the manner in which the NLCS was created?
- (3) What differences, if any, has the NLCS made within the BLM? If you identified differences within the BLM attributable to the NLCS, are these differences lasting?
- (4) What part of the NLCS program do you think has been the most successful? What part of the NLCS program has been the least successful?
- (5) What specific recommendations for change, if any, would you like the NLCS to implement? Are there any aspects of the program you would absolutely not change?
(Structural, Vision, Policy requirements, etc.)
- (6) Are there issues or concerns around developing and implementing RMPs for NLCS units or the NLCS in general you feel I failed to address with these questions?

Appendix 7 – Current Senior BLM Employees Protocol and Questionnaire

Semi-Structured Interview Protocol (Current Senior BLM Managers)

Semi-structured interviews were conducted with current BLM senior staff between April and July 2008. Seven interviews in this grouping were conducted – one with a current District Office Manager, three with senior members of a BLM State Office, and three with senior managers of the BLM’s Office of the National Landscape Conservation System in Washington DC. All interviews of current BLM managers took place in BLM offices.

Consent forms were signed prior to conducting interviews and all interviews were digitally recorded with the respondents’ knowledge and consent. All BLM employees were offered and chose to accept confidentiality.

All current senior BLM employees were interviewed using the Current Senior BLM Employees protocol included below. The Current Senior BLM Employees protocol contains three sections: Section 1 covers the interviewee’s background with BLM and past interaction with the Conservation System; Section 2 covers the manager’s perception of planning efforts (if any) under the interviewee’s jurisdiction; and, Section 3 covers the interviewee’s perception of the Conservation System as a program within BLM.

The interviews were semi-structured in that interviewees were asked a predetermined series of open-ended questions; however, the protocol allowed the interviewer to ask additional questions covering relevant topics if necessary. The questions asked interviewees to explain whether they considered certain variables in the

planning process to be opportunities or challenges in developing a land management plan for individual units.

Questionnaire – Current Senior BLM Employees

Section 1 – General Background Information and Interaction with NLCS Unit planning Efforts

- (1) Please briefly outline the positions you have held during your career in the BLM
- (2) In what ways did your past positions interact with the National Landscape Conservation System?
- (3) In what way does your current position interact with the National Landscape Conservation System?
- (4) In what ways, if any, does your current position interact with planning efforts for NLCS units?
- (5) Who reports to you and who do you report to?

Section 2 – NLCS Unit Planning

- (1) In what ways do you think the BLM's approach to the RMP development/implementation process for NLCS units is different from other BLM RMP efforts? In what ways is it largely the same?
- (2) In talking with NLCS Unit Managers/Planners, what would you say have been the 2 or 3 biggest opportunities provided by the planning/implementation effort for NLCS units? Were these opportunities different than the opportunities which arise during RMP efforts in general or were these opportunities unique to the RMP process for NLCS units?
- (3) Likewise, in talking with NLCS Unit Managers/Planners, what would you say have been the 2 or 3 biggest challenges provided by the planning/implementation effort for NLCS unit? Were these challenges different than the challenges which arise during RMP efforts in general or were these challenges unique to the RMP processes for NLCS units?
- (4) Now I would like to ask you about specific facets of planning/implementation processes that we have not yet covered. I would like you to tell me what opportunities and challenges managers and planners have identified when/if they encountered these variables and to what degree these opportunities/challenges are unique to NLCS units compared to RMPs for other BLM lands. (I will explore these topics with individuals depending on their responses to questions 2 and 3 above).

- a. Directives (RAC, State Office, Washington Office, Field/District Office)

Directives, NLCS Office etc.). Did your office provide any guidance to NLCS unit planning teams? If so, what topics did they cover? If not, do you wish you had and what topics do you wish you had covered?

- b. Manner in which Unit was created (Legislation, Presidential Proclamation, etc.) and local engagement prior to creation
- c. Engagement of local and/or tribal governments
- d. Multiple-use vs. Dominant-use
- e. Funding level
- f. Advocacy Groups both local and national (OHV, Wilderness, Grazing Interests, Mineral Interests, etc.)
- g. Presence or Absence of Legal Definitions (roads, Wilderness character, Monument Objects, etc.)
- h. Other Priorities within BLM (Uses and between levels within BLM)
- i. Enforcement Capacity

(5) Are there any other opportunities or challenges you think managers/planners encountered that we have not discussed?

(6) Were any of the opportunities or challenges we discussed above particularly surprising to you? Were there any that you anticipated that did not arise?

(7) Were you to start the RMP development/implementation process for NLCS units again, what would you do differently? What would you do the same?

Section 3 – The NLCS as a program within BLM

I would now like to shift the conversation from planning to the NLCS as a program within BLM in more general terms.

(1) What is your opinion of the NLCS in general?

(2) How do you feel about the manner in which the NLCS was created?

(3) What differences, if any, has the NLCS made within the BLM? If you identified differences within the BLM attributable to the NLCS, are these differences lasting?

(4) What part of the NLCS program do you think has been the most successful? What part of the NLCS program has been least successful?

(5) What specific recommendations for change, if any, would you like the NLCS to implement? Are there aspects you would absolutely not change?
(Structural, Vision, Policy requirements, etc.)

(6) Are there issues or concerns around developing and implementing RMPs for NLCS units or the NLCS in general you feel I failed to address with these questions?

Appendix 8 – Former Interior/BLM Employee Protocol and Questionnaire

Semi-Structured Interview Protocol (Former Senior BLM Managers)

One Semi-structured interview was conducted with a former BLM Director during July 2008. This interview was with Tom Fry who was the BLM Director when the Conservation System was created but is no longer a BLM employee. The interview with Tom Fry was conducted in the offices of the National Offshore Industries Association (NOIA) building in Washington DC. Tom Fry was interviewed because of his direct involvement with the creation of the National Landscape Conservation System during his time as BLM Director under Secretary Babbitt. Mr. Fry agreed to waive confidentiality.

Tom Fry was interviewed using the Former Interior/BLM Employee protocol found below. The Former Interior/BLM Employee protocol contains three sections: a background section, a perception of current planning efforts section, and a perception of the Conservation System as a program within BLM section.

The interview was semi-structured in that Mr. Fry was asked a predetermined series of open-ended questions; however, the protocol allowed the interviewer to ask additional questions covering relevant topics if necessary. Mr. Fry was asked to explain whether he considered certain variables in the planning process to be opportunities or challenges in developing a land management plan for individual units.

Questionnaire – Former Interior/BLM Employees

Section 1 – General Background Information and Interaction with NLCS Unit planning Efforts

- (1) What is your current position?
- (2) What positions did you hold at Interior/BLM during your career?
- (3) In what ways did these positions interact with the NLCS?
- (4) Do you still follow BLM and NLCS issues?

Section 2 – NLCS Unit Planning

- (1) At the time, what did you think were the advantages and disadvantages of leaving management of the new National Monuments within BLM?
- (2) What are your current thoughts on this decision?
- (3) In what ways, if any, did you expect BLM planning efforts to be different for NLCS units as compared to other BLM planning efforts? In what ways did you think they would be the same?
- (5) What would you say are the 2 or 3 biggest opportunities provided to BLM managers when undertaking planning/implementation efforts for NLCS units? Are these opportunities unique to NLCS units or do you think they also arise in BLM RMP efforts in general?
- (6) What would you say are the 2 or 3 biggest challenges provided to BLM managers when undertaking planning/implementation effort for this NLCS unit? Are these challenges unique to NLCS units or do you think they also arise in BLM RMP efforts in general?
- (7) How has BLM's reaction to these opportunities and challenges mirrored or differed from how you expected BLM to react?
- (8) When the NLCS Office was created, what role, if any, did you expect the NLCS Office to play in RMP development and implementation for NLCS units?

Section 3 – The NLCS as a program within BLM

I would now like to shift the conversation from planning to the NLCS as a program within BLM in more general terms.

- (1) What is your opinion of the NLCS in general?

(2) In what ways has the NLCS achieved the goals you had for the NLCS when it was created?

(3) In what ways has the NLCS failed to achieve the goals you had for the NLCS when it was created?

(4) What differences, if any, has the NLCS made within the BLM? If you identified differences within the BLM attributable to the NLCS, do you think these differences are lasting?

(5) What part of the NLCS program do you think has been the most successful? What part has been least successful?

(6) What specific recommendations for change, if any, would you like the NLCS to implement? Are there aspects of the program you would absolutely not change?
(Structural, Vision, Policy requirements, etc.)

(7) Are there issues or concerns around developing and implementing RMPs for NLCS units or the NLCS in general you feel I failed to address with these questions?

Appendix 9 – User Group Protocol and Questionnaire

Semi-Structured Interview Protocol (User Groups)

Semi-structured phone interviews were conducted with individuals representing three distinct user groups of Conservation System units. Pam Eaton of the Wilderness Society, Brian Hawthorne of the Blue Ribbon Coalition, and Chuck Cushman of the Property Rights Alliance were interviewed during June 2008. Numerous attempts were made to contact individual ranchers impacted by National Monument designations; however, this effort was ultimately unsuccessful. All three of the individuals selected for interviews have been involved with public lands advocacy issues for many years and have been directly engaged in both legislative and administrative issues surrounding the Conservation System and its units.

The three individuals listed above agreed to waive confidentiality and were interviewed using the User Group protocol found below. All interviews were conducted over the telephone and were digitally recorded with the respondent's knowledge and consent. The User Group protocol includes three sections: background information on past planning efforts on BLM lands and past engagement with the Conservation System, current planning process participation, and perceptions of the Conservation System as a program within BLM.

The interviews were semi-structured in that interviewees were asked a predetermined series of open-ended questions; however, the protocol allowed the interviewer to ask additional questions covering relevant topics if necessary. The

questions asked interviewees to explain whether they considered certain variables in the planning process to be opportunities or challenges in developing a land management plan for individual units.

Questionnaire – User Groups

Section 1 – General Background Information and Interaction with NLCS Unit planning Efforts

- (1) Please briefly outline the positions you have held during your career and how they have interacted with public lands policy and planning.
- (2) In what ways did your past positions interact with the National Landscape Conservation System?
- (3) In what way does your current position interact with the National Landscape Conservation System?
- (4) In what ways, if any, does your current position interact with planning efforts for NLCS units?

Section 2 – NLCS Unit Planning

- (1) Which NLCS Unit RMP effort(s) has/have your organization participated in?
- (2) What key resources or opportunities were you concerned with (i.e. why did your organization choose to engage in this process)?
- (3) In what ways do you think the BLM's approach to the RMP development/implementation process for NLCS units is different from other BLM RMP efforts? In what ways is it largely the same?
- (4) In what ways did you interact with BLM during the planning process? (comments at different planning stages, personal meetings, public meetings, etc)? Which of these interaction forums did you find to be most valuable? Which did you find to be least useful?
- (5) What would you say are the 2 or 3 biggest opportunities provided to BLM managers when undertaking planning/implementation efforts for NLCS units? Are these opportunities unique to NLCS units or do you think they arise in BLM RMP efforts in general?
- (6) What would you say are the 2 or 3 biggest challenges provided to BLM managers when undertaking planning/implementation effort for this NLCS unit? Are these

challenges unique to NLCS units or do you think they arise in BLM RMP efforts in general?

(7) How has BLM's reaction to these opportunities and challenges mirrored or differed from how you expected BLM to react?

(8) Do you feel that your input was valuable to BLM during the RMP process? How did BLM's final decisions mirror or fail to include your input in the process?

(9) What aspects of the BLM's planning process for NLCS units would you keep the same? What aspects would you change?

Section 3 – The NLCS as a program within BLM

I would now like to shift the conversation from planning to the NLCS as a program within BLM in more general terms.

(1) What is your opinion of the NLCS in general?

(2) How do you feel about the manner in which the NLCS was created?

(3) What differences, if any, has the NLCS made within the BLM? If you identified differences within the BLM attributable to the NLCS, are these differences lasting?

(4) What part of the NLCS program do you think has been the most successful? Which part of the program has been least successful?

(5) What specific recommendations for change, if any, would you like the NLCS to implement?

(Structural, Vision, Policy requirements, etc.)

(6) Are there issues or concerns around developing and implementing RMPs for NLCS units or the NLCS in general you feel I failed to address with these questions?

Appendix 10 – Flow Chart of BLM’s Resource Management Planning Process

