

COMMENTS – 2006 & 2007

Environmental Quality Council Hearings

CHAPTER 2 WATER QUALITY RULES AND REGULATIONS

Resubmitted by

COAL BED NATURAL GAS ALLIANCE

August 26, 2008

FILED

FEB 10 2006

Terri A. Lorenzon, Director
Environmental Quality Council

**BIG HORN BASIN LOCAL SAGE GROUSE WORKING GROUP
217 ROAD 6EH, CODY, WY 82414**

February 7, 2006

Mr. Mark Gordon
Chairman
Environmental Quality Council
Herschler Building 1W
Cheyenne, Wyoming 82002

RE: Powder River Basin Resource Council Petition For Rulemaking

Dear Mr. Gordon:

The Big Horn Basin Local Sage Grouse Working Group (BHBLSGWG) supports continued surface discharge of conventional oil and gas produced water in the Big Horn Basin of Wyoming, as long as this water is not hazardous to human health and the environment. The BHBLSGWG recognizes the benefit of this produced water for wildlife beneficial uses (including greater sage grouse).

The BHBLSGWG has recognized the need for sufficient water sources in sage grouse habitat. We have determined that encouraging utilization of existing water sources, as well as developing additional water sources, is very important to the continued existence of sage grouse populations in the Big Horn Basin.

Conventional oil field water discharges have historically provided a significant and perennial source of water, for many areas of the Big Horn Basin. This is particularly true for the interior of the basin, where perennial water sources are limited. The interior of the basin is also an area where historical sage grouse populations appear to be in decline. In several drainages, this discharged water is an important source of irrigation for alfalfa and other grassy meadows. These fields and meadows provide an important food source for many populations of sage grouse, particularly in late summer and early fall. This is especially true in the lower Cottonwood and Gooseberry Creek drainages. These discharges also provide ribbons of riparian habitat and significant wetlands, which are beneficial to many species of wildlife and aquatic life.

The BHBLSGWG encourages the Environmental Protection Agency, the Wyoming Department of Environmental Quality, and other affected interests to consider this important sage grouse water source, when setting water quality standards for effluent dependant waters. Water quality standards should be set to protect human health and the environment. However, they should not be set at such strict limits, which will cause the elimination of these important historical water sources and associated uses. Wildlife and agriculture water standards need not be as restrictive as aquatic life or human consumption standards. This was the rationale in originally providing the beneficial use exemption under the Clean Water Act.

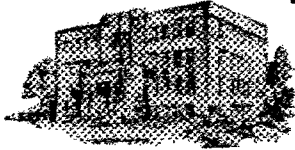
The Petition for Rulemaking being advanced by the Powder River Basin Resource Council (PRBRC) may result in elimination of historic surface discharge of produced water from conventional oil and gas fields in the Big Horn Basin. Loss of these historic water supplies will be detrimental to sage grouse and other wildlife in the Big Horn Basin. We urge the EQC to consider these historic, beneficial uses of discharge water in the Bighorn Basin as you decide if, where, and how any new rules are applied.

Sincerely,



Kathleen Jachowski
Chairwoman

Cc: John Corra - WDEQ
John Wagner - WDEQ
Todd Parfitt - WDEQ



HOT SPRINGS COUNTY COMMISSIONERS

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FILED

FEB 14 2006

Terri A. Lorenzon, Director
Environmental Quality Council

Date: February 16, 2006

To: Mark Gordon, Chairman
Environmental Quality Council of Wyoming
Herschler Building, 1 West
122 West 25th Street, Room 1714
Cheyenne, Wyoming 82002

Re: Comments from Hot Springs County Concerning the
PRBRC Petition to Amend Wyoming Water Quality Rule
Chapter 2, Appendix H

Dear Sir:

Hot Springs County desires to submit the following written comments concerning the Petition to Amend Wyoming Water Quality Rule, Chapter 2, Appendix H.

Summary:

Hot Springs County recommends that the petition submitted by the Powder River Basin Resource Council be denied due to an anticipated negative impact on the social/economic structure of Hot Springs County. It is our determination that the petition was narrowly focused upon the CBM industry in the Powder River Basin, and did not address the impacts of the petitioned changes on other industries, Counties and the State of Wyoming.

Hot Springs County asserts that various County, State and Federal regulations all require the utilization of social/economic impact studies when evaluating proposed State and/or Federal actions; and that, the PRBRC's petition was materially deficient by not including such social/economic impact studies.

Discussion:

- 1.) Hot Springs County, and at least three other "have not" Counties (such as Niobrara, Big Horn and Washakie) have not shared in the current " boom" in Wyoming and have extremely fragile economies. Hot Springs County actually lost population (-5.8% or 284 people) during the period 2000-2004 (see attachment A), has the oldest mean average age of any County in Wyoming and has a non-diverse economy based on several critical industries. Approximately 70% of the County's tax revenue is generated by the oil/gas industry which has been in decline for several decades (see attachment B).
- 2.) The economy of Hot Springs County is precariously dependent upon the agriculture, tourism, health care and oil/gas industries. None of the County's base industries is strong enough to endure further regulations, restrictions, loss of population, droughts, economic disruption, and other various influences which may negatively impact the industries.
- 3.) Hot Springs County, in order to legally adopt policies and goals addressing natural resources on State and Federal lands, passed the Hot Springs County Natural Resources Plan for State and Federal Lands after lengthy public hearings. The plan

contains certain specific policies and goals that relate to natural resource issues and the impact of management policies and regulations on the social/economic structure of the County (see attachment D).

- 4.) Hot Springs County asserts that enabling legislation (Wyoming Statute 35-11-302) for the Water Quality Division of the Department of Environmental Quality (see attachment E), requires:

(vi) In recommending any standards, rules, regulations, or permits, the administrator and advisory board shall consider all the facts and circumstances bearing upon the reasonableness of the pollution involved including:

- (A) The character and degree.....
- (B) The social and economic value of the source of pollution;”

- 5.) Hot Springs County asserts that Federal NEPA regulations require a detailed analysis of the social/economic impact of any Federal action, including any Federal action “connected” to a State’s actions. (see attachment C).
- 6.) As stated in (3), (4) and (5) above, County, State and Federal regulations all require an analysis of the effect of a State/Federal action upon the social-economic structure of the local population.
- 7.) Hot Springs County asserts that the PRBRC’s petition to Amend Wyoming Water Quality Rule, Chapter 2, Appendix H is narrowly focused and does not contain a social-economic analysis of the effect of the proposed amendment to the State in general and to the various Counties, including the small “have not” Counties such as Hot Springs County. It is the contention of Hot Springs County, that the petition is materially deficient by not including a social-economic analysis.
- 8.) Hot Springs County recommends that an independent, third party social economic study be commissioned for purposes of defining the social-economic impact of the proposed action on the Counties and the various industries within the Counties. The Hot Springs County Land Use Plan for State and Federal Lands, does in-fact require such a study(ies) :

“2.) As required by Federal statute, Hot Springs County shall require that both State and Federal agencies assess the effect of their actions on the economy, custom and culture of Hot Springs County by utilization of economic studies such as cost/benefit analysis, economic impact analysis, lowest cost alternatives, most economic benefit analysis and analysis of the economy of the County in order to protect its general economic health. Hot Springs County at its discretion, may be involved in this process.”

- 9.) Hot Springs County asserts that it is a legally established division of the State of Wyoming; and as such, The Hot Springs County Land Use Plan for State and Federal Lands is authorized by legislative action and has significant legal standings and must be considered by the Environmental Quality Council as it considers the petition. Hot Springs County Commissioners approved the plan on April 4, 2005 by Resolution 2005-03 (see attachment F).
- 10.) Hot Springs County is aware that other Counties in Wyoming have adopted similar plans (including Washakie and Fremont) and suggests that those legally adopted plans need to be considered also.

- 11.) Hot Springs County highly recommends the social/economic studies prepared by the University of Wyoming Department of Agriculture and Applied Economics. An example of a suitable economic analysis entitled Economic Impacts of Reductions in Federal Grazing in Fremont County, Wyoming, by David "Tex" Taylor, Tom Foulke, Jim Thompson, and Roger Coupal of the University of Wyoming is attached (see attachment G).
- 12.) Hot Springs County asserts that the USFS sufficiently considered the social/economic affect of their proposed action entitled Forest Plan Amendments for Grizzly Bear Conservation for the Greater Yellowstone Area National Forests: Draft Environmental Impact Statement, July 2004; and that, the University of Wyoming, Department of Agriculture and Applied Economics contracted for and prepared much of the data. Hot Springs County supports and recommends the utilization of best available science which the report represents.
- 13.) Hot Springs County and its residents participated in previous reviews of the discharge water issue in 1988. At that time a letter from the Thomas E. Enright, Area Manger, Cody Resource Area, Bureau of Land Management to John Wagner, Water Quality Division, Wyoming Department of Environmental Quality, dated November 03, 1988 (see attachment H) stated:
- "Our interest in water quality, from point source discharges, is primarily related to the surface discharge of water produced in conjunction with oil and gas production and the various beneficial uses to which this water is presently applied. In the Cody Resource Area, produced water is providing benefits to riparian vegetation, waterfowl and shorebird habitat, and drinking water sources for livestock and terrestrial wildlife. We view this produced water as an important benefit to our management of the public land."
- 14.) Hot Springs County participates in the Big Horn Basin Sage Grouse Working Group which has identified water improvements and usage of discharge water as being of paramount importance in sustaining sage grouse populations. A Hot Springs County water improvement project was awarded a \$15,000 grant (from a legislatively authorized \$500,000 appropriation for sage grouse projects) for spring improvements designed to improve wildlife watering resources. The County asserts that more restrictive water discharge standards would negatively affect the County's wildlife populations.
- 15.) Hot Springs County asserts that natural discharge water from the Big Springs at Hot Springs State Park and numerous smaller springs, is co-mingled with Class I water from the Big Horn River after it exits the Wind River Canyon; and that, the naturally occurring species in the Big Horn River from the point of co-mingling to the Montana State line, have adapted to highly mineralized water and therefore, are tolerant of discharge waters high in total dissolved solids and sulfates.
- 16.) Hot Springs County asserts that it is west of the 98th Parallel, is situated in a zone of semi-arid rainfall, and that highly mineralized water is commonly encountered both naturally and through man-made sources, and that discharge water high in total dissolved solids (tds) and sulfates is not uncommon or negatively perceived.
- 17.) Hot Springs County asserts that it has endured 4-5 years of continuous drought and that the County's agricultural operations are financially distressed by the enduring drought. The County also asserts that many of its agricultural operators are dependent upon surface discharge waters for livestock watering and irrigation.

- 18.) Hot Springs County asserts that most of the County's oil fields are old, aged oil fields commonly on secondary and/or tertiary recovery; and that, the County's oil production has experienced steady decline. The County also asserts that County government is financially dependent upon the aged oil fields for greater than 70% of the County's assessed evaluation.
- 19.) Hot Springs County asserts that it is actively involved in monitoring and mitigating water quality problems in the County – primarily through the activities of the Hot Springs Conservation District. The Hot Springs County Land Use Plan for State and Federal Lands recognized three pertinent water quality studies commissioned by the Hot Springs Conservation District during the period 1999-2005 (see attachment J). Several of the studies and reports were funded or partially funded with grant money from the Wyoming Department of Environmental Quality.
- 20.) Hot Springs County asserts that the surface water discharge problems in the Powder River Basin are a "localized" problem; and that, the petition presented by the PRBRC failed to recommend "localized" solution(s) such as water quality standards specific to the CBM industry. ~~It is the recommendation of Hot Springs County, that CBM surface water discharge standards be adopted specifically for the CBM industry which DO NOT impact the other industries and Counties in Wyoming.~~
- 21.) Hot Springs County asserts that it is the responsibility of the petitioning party, the PRBRC in this case, to pay for the required social/economic impact studies associated with its petition. The burden of producing the social/economic impact studies should not be borne by the Environmental Quality Council, the Department of Environmental Quality, affected industries, affected Counties and/or affected individuals.
- 22.) Hot Springs County asserts that The Hot Springs County Land Use Plan for State and Federal Lands contains a provision allowing for conductance of public hearings by the Board of County Commissioners in order to establish Findings of Facts and Conclusions of Law; and that, County input concerning the social/economic impact of surface water discharge on the County's general welfare can be further determined by such hearing(s); and that, the Environmental Quality Council also has the capability of conducting public hearings in the affected Counties; and that, joint hearings conducted by individual Counties and the EQC may be appropriate.
- 23.) With respect to the PETITION TO AMEND WYOMING WATER QUALITY RULE, CHAPTER 2, APPENDIX H, Hot Springs County is specifically opposed to ALL of the proposed changes indicated in Exhibit 1 to the petition and recommends against lowering of the water quality standards for:

Sulfates: currently 3000 mg/l and no change recommended

Total dissolved solids: currently 5000 mg/l and no change recommended

Barium: currently 1.0 mg/l and no change recommended

Hot Springs County also asserts that the actual, historic beneficial use of surface discharge water has been and should remain as year around discharge in order to meet the needs of the livestock industry, the needs of wildlife and the discharge needs of the oil/gas industry.

- 24.) Hot Springs County further asserts that Federal public land management regulations require the various public lands in Hot Springs County to be managed for multiple use, sustainable yield and increased productivity. Hot Springs County has adopted a "threshold" for the sustainable yield criteria in the Hot Springs County Land Use Plan for State and Federal Lands, which states:

“ Public lands are to be managed for sustainability and/or increase in all of the resources to include the social/economic affect on the County and its residents. To that end, no net loss in total economic activity, adjusted for inflation, shall be acceptable; and in order to meet this goal, mitigation measures are to be employed by State and Federal land managers.”

Hot Springs County asserts it ~~HAS NOT~~ been able to achieve sustainability of its economic activity, especially the oil/gas industry; and that, no further net loss in economic activity is tolerable; and further, the County desires to restore economic activity to historic levels.

- 25.) The Hot Springs County Land Use Plan for State and Federal Lands, has a provision in the Incremental Bureaucratic Regulations section on page 73, which requires:

“ 4.) As required by the Administrative Procedures Act, Hot Springs County shall require the various agencies to document that their decisions adequately took into account the health, safety, custom, culture and general welfare (including the economic impact) of their actions on the County.”


- 26.) The Hot Springs County Land Use Plan for State and Federal Lands states:

“Hot Springs County asserts that the County, at its discretion, has the right to be involved in all decision making and regulatory functions which have an effect on the county's economic stability, custom, culture and the well being of its citizens.”

The Hot Springs County Commissioners, at their regularly scheduled Board of County Commissioners on February 7, 2006, elected to formally participate in the decision making process relating to the petition to amend the surface water discharge standards, and requests full notification and involvement in the decision making process as a division of State government.

We request that these comments be entered into the public record concerning the PETITION TO AMEND WYOMING WATER QUALITY RULE, CHAPTER 2, APPENDIX H. In addition, we request that the entire Hot Springs County Land Use Plan for State and Federal Lands be recognized as extant and amended to the public records in its entirety as it relates to the PRBRC petition.

That you very much for the opportunity to publicly comment and submit written testimony concerning the petition to amend.


Brad W. Basse, Chairman of the Hot Springs County Commissioners

ATTACHMENT "A"

State & County QuickFacts

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Hot Springs County, Wyoming

People QuickFacts	Hot Springs County	Wyoming
Population, 2004 estimate	4,598	506,529
Population, percent change, April 1, 2000 to July 1, 2004	5.8%	2.6%
Population, 2000	4,882	493,782
Population, percent change, 1990 to 2000	1.5%	8.9%
Persons under 5 years old, percent, 2000	4.8%	6.3%
Persons under 18 years old, percent, 2000	22.0%	26.1%
Persons 65 years old and over, percent, 2000	20.0%	11.7%
Female persons, percent, 2000	51.9%	49.7%
White persons, percent, 2000 (a)	96.0%	92.1%
Black or African American persons, percent, 2000 (a)	0.3%	0.8%
American Indian and Alaska Native persons, percent, 2000 (a)	1.5%	2.3%
Asian persons, percent, 2000 (a)	0.2%	0.6%
Native Hawaiian and Other Pacific Islander, percent, 2000 (a)	0.0%	0.1%
Persons reporting some other race, percent, 2000 (a)	0.6%	2.5%
Persons reporting two or more races, percent, 2000	1.3%	1.8%
White persons, not of Hispanic/Latino origin, percent, 2000	94.5%	88.9%
Persons of Hispanic or Latino origin, percent, 2000 (b)	2.4%	6.4%
Living in same house in 1995 and 2000', pct age 5+, 2000	54.2%	51.3%
Foreign born persons, percent, 2000	1.3%	2.3%
Language other than English spoken at home, pct age 5+, 2000	3.4%	6.4%
High school graduates, percent of persons age 25+, 2000	84.2%	87.9%
Bachelor's degree or higher, pct of persons age 25+, 2000	17.9%	21.9%
Persons with a disability, age 5+, 2000	956	77,143
Mean travel time to work (minutes), workers age 16+, 2000	14.6	17.8
Housing units, 2002	2,549	227,941
Homeownership rate, 2000	68.4%	70.0%
Housing units in multi-unit structures, percent, 2000	12.1%	15.2%
Median value of owner-occupied housing units, 2000	\$80,400	\$96,600

Households, 2000	2,108	193,608
Persons per household, 2000	2.25	2.48
Median household income, 1999	\$29,887	\$37,892
Per capita money income, 1999	\$16,858	\$19,134
Persons below poverty, percent, 1999	10.6%	11.4%

Business QuickFacts	Hot Springs County	Wyoming
Private nonfarm establishments with paid employees, 2001	205	18,453
Private nonfarm employment, 2001	1,510	178,299
Private nonfarm employment, percent change 2000-2001	-0.7%	2.1%
Nonemployer establishments, 2000	385	35,651
Manufacturers shipments, 1997 (\$1000)	NA	2,955,070
Retail sales, 1997 (\$1000)	20,352	4,530,537
Retail sales per capita, 1997	\$4,339	\$9,438
Minority-owned firms, percent of total, 1997	F	4.3%
Women-owned firms, percent of total, 1997	F	22.6%
Housing units authorized by building permits, 2002	3	2,045
Federal funds and grants, 2002 (\$1000)	37,391	3,666,151

Geography QuickFacts	Hot Springs County	Wyoming
Land area, 2000 (square miles)	2,004	97,100
Persons per square mile, 2000	2.4	5.1
FIPS Code	017	56
Metropolitan or Micropolitan Statistical Area	None	

(a) Includes persons reporting only one race.

(b) Hispanics may be of any race, so also are included in applicable race categories.

FN: Footnote on this item for this area in place of data

NA: Not available

D: Suppressed to avoid disclosure of confidential information

X: Not applicable

S: Suppressed; does not meet publication standards

Z: Value greater than zero but less than half unit of measure shown

F: Fewer than 100 firms

Source U.S. Census Bureau: State and County QuickFacts. Data derived from Population Estimates, 2000 Census of Population and Housing, 1990 Census of Population and Housing, Small Area Income and Poverty Estimates, County Business Patterns, 1997 Economic Census, Minority- and Women-Owned Business, Building Permits, Consolidated Federal Funds Report, 1997 Census of Governments

Last Revised: Thursday, 12-Jan-2006 13:36:51 EST

Census Bureau Links:

ATTACHMENT "B"

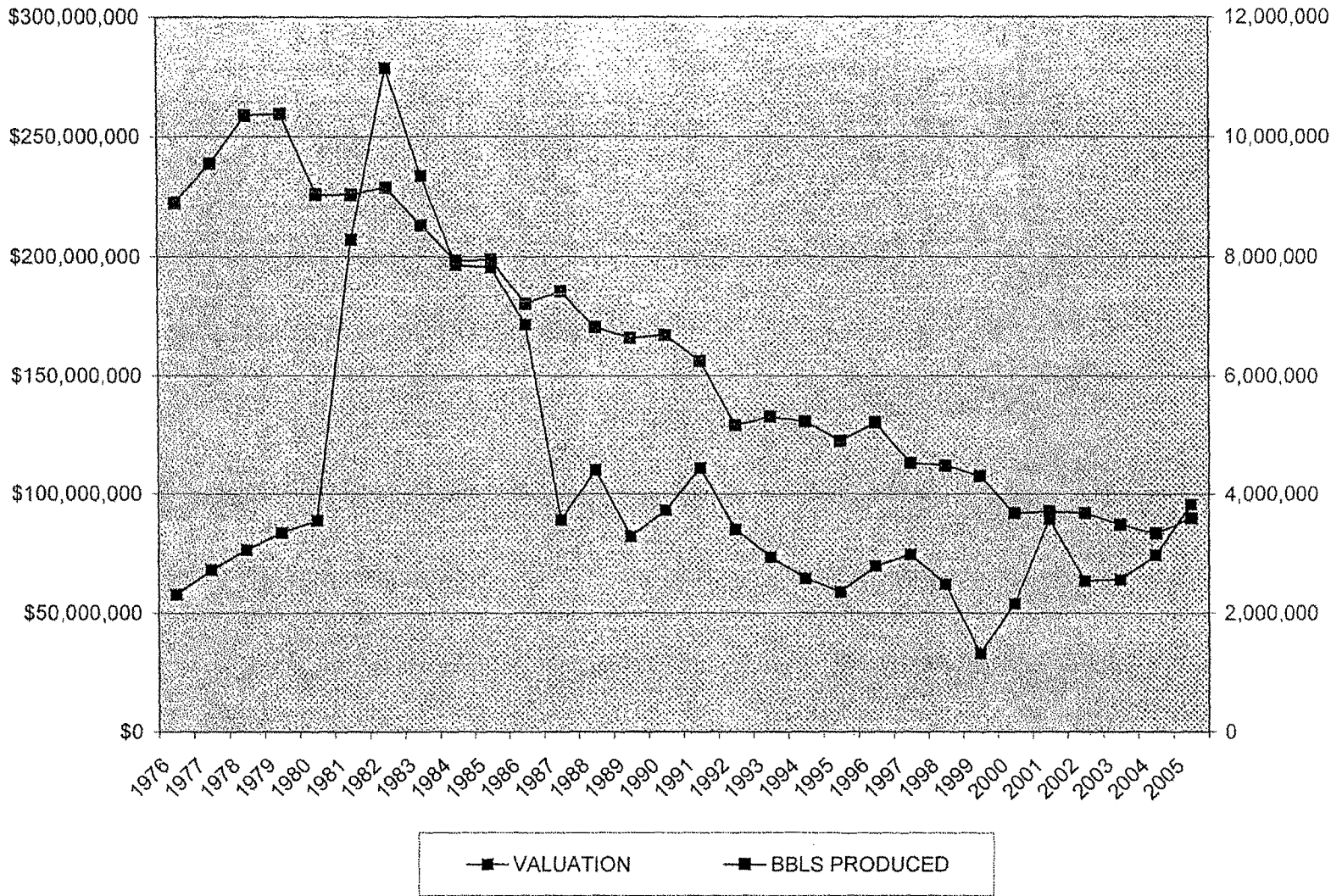
HOT SPRINGS COUNTY

TAX YEAR	COUNTY VALUATION	% STATE ASSESSED	% LOCALLY ASSESSED	% OIL PRODUCTION
1977	\$86,573,343	85.00%	15.00%	67.00%
1978	\$92,743,208	87.00%	13.00%	73.00%
1979	\$101,110,116	87.00%	13.00%	76.00%
1980	\$109,060,433	87.00%	13.00%	81.00%
1981	\$230,526,443	93.00%	7.00%	90.00%
1982	\$303,920,594	94.00%	6.00%	92.00%
1983	\$259,674,197	93.00%	7.00%	90.00%
1984	\$222,732,863	92.00%	8.00%	88.00%
1985	\$220,769,209	91.00%	9.00%	88.00%
1986	\$195,696,817	91.00%	9.00%	88.00%
1987	\$112,503,122	85.00%	15.00%	79.00%
1988	\$131,624,458	87.00%	13.00%	84.00%
1989	\$102,056,517	85.00%	15.00%	80.00%
1990	\$112,746,565	87.00%	13.00%	83.00%
1991	\$130,090,915	89.00%	11.00%	85.00%
1992	\$105,492,693	86.00%	14.00%	80.00%
1993	\$93,496,294	84.00%	16.00%	79.00%
1994	\$85,272,398	82.00%	18.00%	76.00%
1995	\$80,998,028	80.00%	20.00%	73.00%
1996	\$93,873,764	81.00%	19.00%	74.00%
1997	\$101,912,405	81.00%	19.00%	73.00%
1998	\$92,180,926	76.90%	23.10%	67.33%
1999	\$65,466,986	64.86%	35.14%	50.65%
2000	\$86,657,298	72.32%	27.68%	62.07%
2001	\$122,270,535	79.66%	20.34%	73.19%
2002	\$95,903,360	73.29%	26.71%	65.75%
2003	\$97,925,165	72.66%	27.34%	65.39%
2004	\$108,946,451	74.92%	25.08%	68.09%
2005	\$130,981,868	78.34%	21.66%	72.93%

OIL PRODUCTION HISTORY - HOT SPRINGS COUNTY

TAX YEAR	BBLs PRODUCED	% CHANGE	AVERAGE PRICE/BBL	VALUATION	% CHANGE
1976	8,896,667		\$6.49	\$57,725,554	
1977	9,547,962	7.32%	\$7.12	\$67,971,737	17.75%
1978	10,354,763	8.45%	\$7.37	\$76,367,740	12.35%
1979	10,378,229	0.23%	\$8.06	\$83,627,536	9.51%
1980	9,031,753	-12.97%	\$9.83	\$88,744,551	6.12%
1981	9,034,240	0.03%	\$22.94	\$207,246,019	133.53%
1982	9,149,952	1.28%	\$30.44	\$278,589,311	34.42%
1983	8,524,553	-6.83%	\$27.40	\$233,566,723	-16.16%
1984	7,931,758	-6.95%	\$24.81	\$196,430,483	-15.90%
1985	7,951,624	0.25%	\$24.57	\$195,430,483	-0.51%
1986	7,211,811	-9.30%	\$23.79	\$171,621,268	-12.18%
1987	7,418,211	2.86%	\$12.00	\$89,068,356	-48.10%
1988	6,818,222	-8.09%	\$16.14	\$110,023,854	23.53%
1989	6,640,726	-2.60%	\$12.36	\$82,065,553	-25.41%
1990	6,683,978	0.65%	\$13.93	\$93,077,391	13.42%
1991	6,242,841	-6.60%	\$17.76	\$110,860,513	19.11%
1992	5,151,956	-17.47%	\$16.49	\$84,883,047	-23.43%
1993	5,298,722	2.85%	\$13.86	\$73,453,927	-13.46%
1994	5,220,929	-1.47%	\$11.16	\$64,522,744	-12.16%
1995	4,897,253	-6.20%	\$10.45	\$58,902,441	-8.71%
1996	5,203,320	6.25%	\$12.63	\$69,679,768	18.30%
1997	4,519,343	-13.15%	\$16.86	\$74,607,535	7.07%
1998	4,477,360	-0.93%	\$14.31	\$62,068,613	-16.81%
1999	4,300,192	-3.96%	\$7.84	\$33,156,295	-46.58%
2000	3,671,203	-14.63%	\$14.75	\$53,788,718	62.23%
2001	3,704,342	0.90%	\$24.77	\$89,336,300	66.09%
2002	3,676,411	-0.75%	\$17.58	\$63,456,974	-28.97%
2003	3,481,067	-5.31%	\$18.48	\$64,035,288	1.54%
2004	3,330,188	-4.33%	\$22.35	\$74,181,518	15.85%
2005	3,590,217	7.81%	\$27.95	\$95,525,342	28.77%

OIL PRODUCTION 1976-2005



Budd-Falen Law Offices, L.L.C.

Karen Budd-Falen¹
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¹admitted in Wyoming
²admitted in Oklahoma
³admitted in Colorado
⁴admitted in Utah
⁵admitted in Montana

MEMORANDUM

CONFIDENTIAL

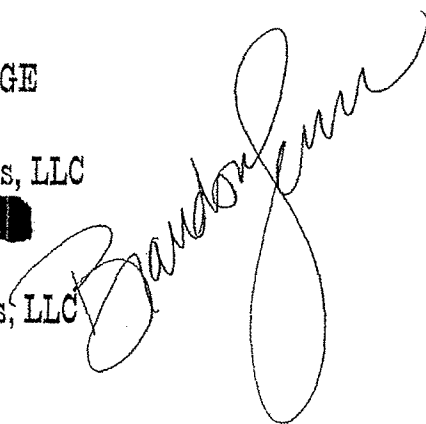
ATTORNEY-CLIENT PRIVILEGE

TO: Karen Budd-Falen, Budd-Falen Law Offices, LLC


FROM: Brandon L. Jensen, Budd-Falen Law Offices, LLC

DATE: February 8, 2005

RE: Application of the requirements of the National Environmental Policy Act ("NEPA") to non-federal projects.



QUESTION PRESENTED:

Whether the provisions of the National Environmental Policy Act ("NEPA"), specifically 42 U.S.C. § 4332(2)(C), requiring a statement on the environmental impact for "major federal actions significantly affecting the quality of the human environment," applies to non-federal (i.e. state agency) projects?

SHORT ANSWER:

There is no litmus test that exists to determine what constitutes a "major Federal action" under the National Environmental Policy Act such that a non-federal i.e. state or private project is required to have NEPA analysis. Each non-federal project requires a situation-specific analysis of the factors set forth in detail below. In general, those factors are (1) whether the project is federal or non-federal; (2)

February 8, 2005

Page 2

whether the project receives federal funding and (3) if the project is being undertaken by a non-federal entity, whether the connected federal agency must undertake "affirmative conduct" before the non-federal agency can act. (See also Conclusion section of this Memorandum).

I. NATIONAL ENVIRONMENTAL POLICY ACT ("NEPA")

Among the purposes of NEPA, 42 U.S.C. §§ 4321–4370f, are "[t]o declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man." See 42 U.S.C. § 4321. Accordingly, NEPA requires, to the fullest extent possible, that all agencies of the Federal Government:

[I]nclude in every recommendation or report on proposals for legislation and other *major Federal actions* significantly affecting the quality of the human environment, a detailed statement by the responsible official on —

- (i) the environmental impact of the proposed action,
- (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,
- (iii) alternatives to the proposed action,
- (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and
- (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

See 42 U.S.C. § 4332(2)(C) (emphasis added). NEPA requires all federal agencies to consider the environmental consequences of "major federal actions significantly affecting the quality of the human environment" by preparing an environmental assessment, and, in some cases, an environmental impact statement. See *id.*

NEPA is one of our most important tools for ensuring that all federal agencies take a "hard look" at the environmental implications of their actions or non-actions. See *Kleppe v. Sierra Club*, 427 U.S. 390, 410 n.21 (1976). However, unless a project involves a "*major federal action*," NEPA does not apply. See *Macht v. Skinner*, 916 F.2d 13, 16 n.4 (D.C. Cir. 1990).

NEPA is procedural in nature and does not require "that agencies achieve particular substantive environmental results," but it is "action-forcing" in that it compels agencies to collect and disseminate

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information about the environmental consequences of proposed actions that fall under their respective jurisdictions. See Marsh v. Oregon Natural Resources Council, 490 U.S. 360, 371 (1989). NEPA's focus is to ensure that the agency, in reaching its decision, will have available and will carefully consider detailed information concerning significant environmental impacts. See Goos v. Interstate Commerce Commission, 911 F.2d 1283, 1293 (8th Cir. 1990).

NEPA requires *federal agencies* – not states or private parties – to consider the environmental impacts of their proposed actions. See Macht v. Skinner, 916 F.2d at 18. “[F]or any major Federal action funded under a program of grants to States,” however, NEPA allows a state agency to prepare an Environmental Impact Statement for a federal agency if certain conditions are met. See 42 U.S.C. § 4332(2)(D). NEPA thus focuses on activities of the federal government and does not require federal review of the environmental consequences of private decisions or actions, or those of state or local governments. See Goos v. Interstate Commerce Commission, 911 F.2d at 1293. Regardless of whether the Environmental Impact Statement is prepared by a federal or state agency, the twofold purpose of NEPA is “to inject environmental considerations into the *federal* agency’s decisionmaking process,” and “to inform the public that the [*federal*] agency has considered environmental concerns in its decisionmaking process.” See Weinberger v. Catholic Action of Hawaii/Peace Education Project, 454 U.S. 139, 143 (1981) (emphasis added).

II. MAJOR FEDERAL ACTIONS WHICH MAY ARISE FROM A NON-FEDERAL PROJECT

Federal agencies may be bound by NEPA to perform additional environmental review of non-federal projects, notwithstanding the fact that the project is not federally funded. According to the regulations promulgated by the Council on Environmental Quality (“CEQ”), situated in the Executive Office of the President, major federal actions “include actions with effects that may be major and which are potentially subject to Federal control and responsibility.” See 40 C.F.R. § 1508.18. These actions may be “entirely or partly financed, assisted, conducted, regulated, or approved by federal agencies.” See 40 C.F.R. § 1508.18(a).

The regulation, 40 C.F.R. § 1508.18, further provides that “major federal actions” tend to include the “[a]pproval of specific projects, such as construction or management activities located in a defined geographic area. Projects include actions approved by permit or other regulatory decision as well as federal and federally assisted activities.” See 40 C.F.R. § 1508.18(b)(4). These regulations are due substantial deference from reviewing courts. See Andrus v. Sierra Club, 442 U.S. 347, 358 (1979).

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The regulations clearly indicate that “major federal actions” need not be federally funded to invoke NEPA requirements. See 40 C.F.R. § 1508.18(a); see also Southwest Williamson County Community Association, Inc. v. Slater, 243 F.3d 270, 279 (6th Cir. 2001); Save Barton Creek Association v. Federal Highway Administration, 950 F.2d 1129, 1134 (5th Cir. 1992); Macht v. Skinner, 916 F.2d at 18; Historic Preservation Guild of Bay View v. Burnley, 896 F.2d 985, 990 (6th Cir. 1989); and Maryland Conservation Council, Inc. v. Gilchrist, 808 F.2d 1039, 1042 (4th Cir. 1986). Of course, federal funding is a significant indication that a project constitutes a major federal action; however, the absence of funding is not conclusive proof of the contrary. See Southwest Williamson County Community Association, Inc. v. Slater, 243 F.3d at 279; and Historic Preservation Guild of Bay View v. Burnley, 896 F.2d at 990.

In addition, it is apparent that a non-federally funded project may become a major federal action by virtue of the aggregate of federal involvement from numerous federal agencies, even if one agency’s role in the project may not be sufficient to create major federal action in and of itself. See 40 C.F.R. §§ 1508.25(a)(3) (noting that agencies “may wish to analyze these actions in the same impact statement.”); and 1508.27(b) (noting that “more than one agency may make decisions about partial aspects of a major [Federal] action.”); see also Maryland Conservation Council, Inc. v. Gilchrist, 808 F.2d at 1042 (holding that “[b]ecause of the inevitability of the need for at least one federal [agency] approval, . . . the construction of the [state] highway will constitute a major federal action.”). Thus, a federal agency’s argument that it was only involved in one aspect of the non-federal project’s design and approval process, does not necessarily serve to defeat a claim that the pervasiveness of federal activity required to complete the project converts the project into a “major federal action.” See Southwest Williamson County Community Association, Inc. v. Slater, 243 F.3d at 279.

III. STANDARDS FOR EVALUATING WHEN A NON-FEDERAL PROJECT BECOMES A MAJOR FEDERAL ACTION

As set forth above, NEPA requires *federal agencies* – not states or private parties – to consider the environmental impacts of their proposed actions. See Macht v. Skinner, 916 F.2d at 18. However, federal involvement in a non-federal project may be sufficient to “federalize” the project for purposes of NEPA. See *id.*

“[N]o litmus test exists to determine what constitutes ‘major Federal action.’” See Save Barton Creek Association, 950 F.2d at 1134. Federal courts have not agreed on the amount of federal involvement necessary to trigger the applicability of NEPA. See Village of Los Ranchos de Albuquerque v. Barnhart, 906 F.2d 1477, 1480 (10th Cir. 1990). In order to determine whether a

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non-federal project is or is not a "major federal action," within the meaning of 42 U.S.C. § 4332(2)(C), courts shall consider the following factors. First, whether the project is federal or non-federal; Second, whether the project receives significant federal funding; and finally, when the project is undertaken by a non-federal party, whether the federal agency must undertake "affirmative conduct" before the non-federal party may act. See Mineral Policy Center v. Norton, 292 F.Supp.2d 30, 54-55 (D.D.C. 2003), citing Macht v. Skinner, 916 F.2d 13 (D.C. Cir. 1990). No single factor of these three is dispositive, however, a non-federal project is generally considered a "major federal action" if it cannot begin or continue without prior approval of a federal agency. See Maryland Conservation Council, Inc. v. Gilchrist, 808 F.2d at 1042, citing Biderman v. Morton, 497 F.2d 1141, 1147 (2nd Cir. 1974); and Foundation on Economic Trends v. Heckler, 756 F.2d 143, 155 (D.C. Cir. 1985).

A. Federal vs. Non-Federal Projects

State and Private parties are not subject to NEPA. See Mineral Policy Center v. Norton, 292 F.Supp.2d at 54 n.29, citing Macht v. Skinner, 916 F.2d at 18. Accordingly, federal projects are, by definition, more likely to constitute "major federal action" than non-federal projects. See id.

B. Financial Assistance

"Typically, a project is considered a major federal action when it is funded with federal money." See Mineral Policy Center v. Norton, 292 F.Supp.2d at 5 n.30, citing Southwest Williamson County Committee Association v. Slater, 243 F.3d at 278; see also Indian Lookout Alliance v. Volpe, 484 F.2d 11, 16 (8th Cir. 1973) (stating that "any project for which federal funds have been approved or committed constitutes a major federal action bringing into play the requirements of NEPA.").

However, where the federal financial assistance to the planning process in no way implies a commitment by any federal agency to fund any project(s) or to undertake, fund or approve any action that directly affects the human environment, the non-federal project receiving the financial assistance is not a "major federal action." See Macht v. Skinner, 916 F.2d at 16-17 (holding that the Federal funding of preliminary studies is not the firm commitment that could transform an entirely state-funded project into major federal action affecting the environment within the meaning of NEPA); see also Atlanta Coalition on the Transportation Crisis, Inc. v. Atlanta Regional Commission, 599 F.2d 1333, 1347 (5th Cir. 1979) (holding that development of regional transportation plan is not major federal action). An adequate Environmental Impact Statement would, of course, be a necessary prerequisite for the expenditure of federal funds on the project itself. See id. at 17.

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In most cases in which a federal agency makes a direct grant for a non-federal project, the use of federal funds for the project is sufficient to bring it under NEPA if the federal financial commitment is clear. See Daniel R. Mandelker, NEPA LAW AND LITIGATION § 8:20 (2nd ed. 2004). However, a court may find a project is not federalized if federal funding is minimal. See id., citing Ka Makani 'O Kohala Ohana Inc. v. Department of Water Supply, 295 F.3d 955 (9th Cir. 2002) (federal funding 1.3% of project); and Friends of Earth, Inc. v. Coleman, 518 F.2d 323 (9th Cir. 1975) (federal funding 10% of project). Finally, a project is not federalized if a federal funding commitment has not been made. See id.

C. Federal Permits, Approvals, and Control

Federal participation sufficient to make a non-federal action "federal" arises most clearly when a federal agency takes an action that authorizes a non-federal entity to undertake an activity or a project. In order for NEPA to apply to non-federal projects, the federal agency must engage in some "affirmative conduct." See Mineral Policy Center v. Norton, 292 F.Supp.2d at 5 n.31, citing State of Alaska v. Andrus, 429 F.Supp. 958, 962-63 (D. Alaska 1977). Federal permits, leases, and other approvals in federal agency programs are the typical examples. "If . . . the agency does not have sufficient discretion to affect the outcome of its actions, and its role is merely ministerial, the information that NEPA provides can have no effect on the agency's actions, and therefore, NEPA is inapplicable." See Mineral Policy Center v. Norton, 292 F.Supp.2d at 5 n.31, citing Citizens Against Rails-to-Trails v. Surface Transp. Bd., 267 F.3d 1144, 1151 (D.C. Cir. 2001); see also Maryland Conservation Council, Inc. v. Gilchrist, 808 F.2d at 1042 (stating that a "non-federal project is considered a 'federal action' if it cannot begin or continue without prior approval of a federal agency."); South Dakota v. Andrus, 614 F.2d 1190, 1193 (8th Cir. 1980) (holding that "ministerial acts . . . have generally been held outside the ambit of NEPA's EIS requirement."); Minnesota v. Block, 660 F.2d 1240, 1259 (8th Cir. 1981) (stating that because "the Secretary has no discretion to act, no purpose can be served by requiring him to prepare an EIS, which is designed to insure that decisionmakers fully consider the environmental impact of a contemplated action."); and Sierra Club v. Hodel, 848 F.2d 1068, 1089 (10th Cir. 1988) (stating that the "EIS process is supposed to inform the decisionmaker. This presupposes he has judgment to exercise. Cases finding 'federal' action emphasize authority to exercise discretion over the outcome.").

1. Substantial federal participation

There are two alternative bases for finding that a non-federal project constitutes a "major federal action" such that NEPA requirements apply. First, when the federal decisionmakers have

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authority to exercise sufficient control or responsibility over the non-federal project so as to influence the outcome of the project. Second, when the non-federal project restricts or limits the statutorily prescribed federal decisionmakers' choice of reasonable alternatives. If either test is satisfied, the non-federal project must be considered a "major federal action." Both tests require a situation-specific and fact-intensive analysis. See Southwest Williamson County Community Association, Inc. v. Slater, 243 F.3d at 281.

a. Federal control or responsibility for outcome

If the federal participation in the project is substantial, then the state should not be allowed to move forward until all of the federal approvals have been granted in accordance with NEPA. See Macht v. Skinner, 916 F.2d at 18-19. For example, Maryland Conservation Council, Inc. v. Gilchrist, 808 F.2d 1039 (4th Cir. 1986), involved an attempt to enjoin construction of a county highway designed to pass through a state park. The court found that the county highway project involved "major federal action," because (1) the highway crossed a state park that had been purchased with a substantial federal grant; therefore, the county needed the approval of the Secretary of the Interior to convert the park land to other than recreational use; (2) the county needed a § 404 permit from the Army Corps to dredge wetlands; and (3) the county might need the approval of the Secretary of Transportation to use park land for a transportation project. See Maryland Conservation Council, Inc. v. Gilchrist, 808 F.2d at 1042. On these facts, the Fourth Circuit Court of Appeals held that the district court should have considered the motion to enjoin the county's construction until the federal officials complied with NEPA. See id. at 1043.

Importantly, the court in Gilchrist did not hold that the state had to comply with NEPA, because the approval of several federal agencies was a necessary precondition to the state project. Instead, Gilchrist held that because the state need permits and discretionary approval from several federal agencies in order to build a substantial part of the highway, the state could not construct any portion of the highway until the federal agencies had approved the project in compliance with NEPA.

Furthermore, in general, "a non-federal project is considered a 'federal action' if it cannot begin or continue without prior approval by a federal agency and the agency possesses authority to exercise discretion over the outcome." See Sugarloaf Citizens Association v. Federal Energy Regulatory Commission, 959 F.2d 508, 513-14 (4th Cir. 1992). The mere approval by the Federal government of an action by a state/private party, where that approval is not required for the non-federal project to move forward, will not constitute a "major federal action" under NEPA. See Mayaguezanos Por La Salud Y El Ambiente v. United States, 198 F.3d 297, 301-02 (1st Cir. 1999) (held that voluntary

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notification of the Coast Guard by shippers of nuclear waste pertaining to transit through territorial waters did not constitute major federal action; the United States has chosen not to regulate shipments of nuclear waste through its territorial waters – there are no requirements that it do so, nor is it immediately evident that it would have that authority if it so chose); see also Citizens Awareness Network, Inc. v. United States Nuclear Regulatory Commission, 59 F.3d 284, 292–93 (1st Cir. 1995) (found major federal action where a federal agency approved the release of funds from a trust held by the agency that were necessary for a project to go forward; the effect of this action was explicitly to permit the private actor to decommission a nuclear facility).

When the federal government has actual power to control a non-federal project (*i.e.*, the federal agency's action must be a legal condition precedent that authorizes the other party to proceed with the action), the project constitutes a "major federal action." See Ross v. Federal Highway Admin., 162 F.3d 1046, 1051 (10th Cir. 1998); Ringsred v. City of Duluth, 828 F.2d 1305, 1308 (8th Cir. 1987); and NAACP v. Medical Center, Inc., 584 F.2d 619, 628 n.15 (3rd Cir. 1978). If federal approval is the prerequisite to the action taken by the state/private parties, or if the federal agency possesses some form of authority over the outcome, then the non-federal project constitutes "major federal action." See Mayaguezanos Por La Salud Y El Ambiente v. United States, 198 F.3d at 301–02 (held no major federal action under NEPA, because United States was not assigned a role, nor had any control, over the shipment of nuclear waste through its territorial waters); see also United States v. South Florida Water Mgmt. Dist., 28 F.3d 1563, 1572 (11th Cir. 1994) (holding that the touchstone of a major federal activity constitutes a federal agency's authority to influence non-federal activity); and Save Barton Creek Association v. Federal Highway Administration, 950 F.2d at 1134 (stating that the "distinguishing feature of 'federal' involvement is the ability to influence or control the outcome in material respects.").

Moreover, the need for a federal license or approval could sometimes trigger NEPA, but not where the approval did not involve close scrutiny of the action or anything more than notice for safety purposes. See Citizens for Responsible Area Growth v. Adams, 680 F.2d 835, 839–40 (1st Cir. 1982) (held that construction of an airport hangar by private parties with private monies was not federal action for NEPA purposes, and that the mere appearance of the proposed construction on a federally approved Airport Layout Plan did not create sufficient federal involvement to require an Environmental Impact Statement).

Finally, if no federal agency has jurisdiction over the non-federal project, the federal agency lacks sufficient control or responsibility over the non-federal project to influence the project's outcome. See Southwest Williamson County Community Association, Inc. v. Slater, 243 F.3d at 284. Stated

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another way, whether an agency action or project is part of some other concededly "major federal action" depends largely on whether the agency exercises legal control over the allegedly non-federal action or project. See Goos v. Interstate Commerce Commission, 911 F.2d at 1294. In determining whether a federal agency exercises legal control, a court must consider whether some federal action "is a legal condition precedent to accomplishment of an entire non-federal project." See id., citing Winnebago Tribe v. Ray, 621 F.2d 269, 272 (8th Cir. 1980). A "major federal action" occurs when a federal agency has discretion in its enabling decision to consider environmental consequences and that decision forms the legal predicate for another party's impact on the environment. See id. at 1295, citing NAACP v. Medical Center, Inc., 584 F.2d at 633. In such a situation, it is fair to say that the agency has significantly contributed to the environmental impact. See id.

b. Restricting choice of reasonable alternatives

A state may not begin construction of any part of a project if the effect of such construction would be to limit significantly the options, or choice of reasonable alternatives, of the federal officials who have discretion over substantial portions of the project. See Macht v. Skinner, 916 F.2d at 19 (held that compliance with NEPA was not required where the only federal involvement was the issuance of a wetlands permit covering a maximum of 3.58 acres of the 22.5-mile project); see also Sierra Club v. Alexander, 484 F.Supp. 455, 572 (N.D. N.Y. 1980) (held that the court was empowered to enjoin private construction of shopping mall until Army Corps complied with NEPA where completion of the project will require Army Corps approval to re-channel 2,000 linear feet of creek and fill 38 acres of wetlands).

If the federal decisionmakers' choices were limited by state/private actions, then the non-federal project would constitute a "major federal action," despite the agencies' lack of jurisdiction. See Southwest Williamson County Community Association, Inc. v. Slater, 243 F.3d at 284 n.13. Where there is no pressure on federal decisionmakers, however, then the absence of jurisdiction becomes the determinative factor. See id.

Moreover, non-federal actors may not be permitted to evade NEPA by completing a project without an Environmental Impact Statement and then presenting the responsible federal agency with a *fait accompli* (i.e., fact or deed accomplished, presumably irreversible). See Maryland Conservation Council, Inc. v. Gilchrist, 808 F.2d at 1042.

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2. Federal partnership/joint venture

It is well settled that non-federal parties may be enjoined, pending completion of an Environmental Impact Statement, where those non-federal entities have entered into a partnership or joint venture with the Federal Government to obtain goods, services, or financing. See Biderman v. Morton, 497 F.2d 1141, 1147 (2nd Cir. 1974). A joint venture between a state/private party and the Federal government to obtain goods or services from a Federal agency clearly constitutes a major federal action subject to NEPA. See Sierra Club v. Hodel, 544 F.2d 1036, 1044 (9th Cir. 1976) (holding that construction of hydroelectric power plant may be enjoined until federal agency prepared Environmental Impact Statement, because the Bonneville Power Administration federalized the project by contracting to construct a transmission line and supply power to the plant).

IV. CONCLUSION

No litmus test exists to determine what constitutes "major Federal action" under the National Environmental Policy Act. Federal courts have not agreed on the amount of federal involvement necessary to trigger the applicability of NEPA. However, the following guidelines may assist non-federal actors in determining whether a non-federal project is subject to the requirements of NEPA:

A. The Provisions Of NEPA Will Apply Under The Following Circumstances —

1. The non-federal project is entirely or partly financed, assisted, conducted, regulated, or approved by federal agencies;
2. The project receives significant federal funding;
3. The federal agency must undertake "affirmative conduct" before the non-federal party may act;
4. The project cannot begin or continue without prior approval of a federal agency;
5. The federal decisionmakers have authority to exercise sufficient control or responsibility over the non-federal project so as to influence the outcome of the project;
6. The non-federal project restricts or limits the statutorily prescribed federal decisionmakers' choice of reasonable alternatives;

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7. The federal agency possesses authority to exercise discretion over the outcome of the project;
8. The federal agency's action is a legal condition precedent that authorizes the other party to proceed with the project; or
9. The non-federal entities have entered into a partnership or joint venture with the Federal Government to obtain goods, services, or financing.

B. The Provisions Of NEPA Will Not Apply Under The Following Circumstances —

1. The federal financial assistance to the planning process in no way implies a commitment by any federal agency to fund any project(s) or to undertake, fund or approve any action that directly affects the human environment;
2. The federal funding is minimal;
3. The federal agency does not have sufficient discretion to affect the outcome of non-federal project;
4. The role of the federal agency is merely ministerial;
5. The approval by the Federal government of non-federal project, where that approval is not required for the non-federal project to move forward;
6. The approval did not involve close scrutiny of the non-federal project;
7. The federal agency lacks jurisdiction over the non-federal project;

These guidelines are not intended to be exhaustive, nor apply to any particular situation, but should provide sufficient guidance to determine whether a non-federal project may or may not be subject to the provisions of NEPA. Each non-federal project requires a situation-specific and fact-intensive analysis of the aforementioned factors.

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Chapter 4: Countywide Policies by Area of Concern

Sustainable Growth

General:

Hot Springs County generally does not enjoy a well diversified economy with agriculture, tourism, health care and mining/oil/gas extraction being the major industries in the County. Manufacturing and hi-tech industries in particular have poor representation in the County. Due to the wonderful scenery and hot springs, tourism is a major industry although quite seasonal in nature. Since almost 70% of the County's surface ownership is public lands, the agriculture and mining/oil/gas extraction industries are especially sensitive to policy changes and management decisions on the public lands within the County and to commodity prices in general.

Background:

Jobs in agriculture have dwindled over the last half century. The Hot Springs County agricultural industry is heavily dependent upon the availability of grazing leases on both State of Wyoming and Federal land within the County in order to sustain a viable industry. A recent study by the University of Wyoming Department of Agriculture, which assesses the effect of reduction of AUMs on federal lands in adjacent Fremont County, showed a significant negative effect on the County's jobs and net cash flow when AUMs were reduced (see Appendix "C"). Without the State and Federal leases, many of this County's agricultural operations would undoubtedly become unviable leading to shrinkage of the industry even more; and eventually, subdividing of the smaller tracts of private land for residential purposes.

For those portions of Hot Springs County falling within the Shoshone National Forest; that is, in the extreme western part of the County, the Multiple Use and Sustained Yield Act of 1960 directs the Secretary of Agriculture to manage the grazing, timber production, tourism and mineral resources to produce a sustainable yield of products and services, and for other purposes. It is one of the most important laws governing the management of the national forests.

Historically, the oil industry has been a leading employer in the County but has suffered as commodity prices fluctuate. At the time of this writing, the oil and natural gas prices are quite high thus leading to increased activity, increased assessed evaluations and a large budget surplus for the State of Wyoming. The natural gas industry has seen almost all of the increase in the recent drilling recovery, with oil well drilling lagging natural gas well drilling, due to uncertainties in the price of oil and lack of a national energy policy. The possibility exists that

some methane development may spread from the Powder River Basin to the Big Horn Basin in the near future which would help replace the dwindling oil production. The oil and gas industries in the County are almost totally dependent upon the availability of State and Federal leases in order to sustain production or replace reserves. Retraction of State or Federal lands in Hot Springs County from mineral leasing would have a devastating long-term effect on the economy and upon the assessed evaluation which the County depends upon in order to provide services.

The tourism industry in Hot Springs County is well established, focusing on the Wind River Canyon and mineral hot springs. In addition, the County has benefited from the establishment of the Wyoming Dinosaur Center in East Thermopolis which has provided a boost to the tourism industry in general. Further growth in the tourism industry could possibly be gained through improved infrastructure such as an updated airport. The scenic nature of public land in the County is certainly a tourism attraction along with the hunting and fishing opportunities afforded by the public lands, all of which require access.

One of the strongest industries in the County is the health care industry which is well represented by the Hot Springs County Memorial Hospital, Gottsche Rehabilitation Center, assisted living, nursing homes, mental wellness, and Big Horn enterprises which cares for the disabled. These are supplemented by many service organizations, businesses and volunteers. Since Hot Springs County has a rapidly aging population (defined as the oldest median age), which is the largest in the State on a percentage basis, it is again extremely important to have the facilities in place and well financed to serve the older and disabled population. Doing so requires an adequately funded County government, supported by tax revenue largely generated by the public lands in the County. In brief, multi-use of the public lands in a productive manner contributes greatly to the support of the health care industry and other vital aspects of the economy such as the school system.

Areas which are lacking in the economy are manufacturing, importing/exporting, logging, mining of rock products and minerals, and value added industries. An industrial park and airport relocation are needed in order to properly address these weaknesses.

Sustainable Growth Thresholds:

Webster's Dictionary defines *threshold* as " a level, point or value above which something is true or will take place and below which it is not or will not". In order to perpetuate the sustained growth of the County, the following thresholds are herein established:

GRAZING

For purposes of the BLM Grass Creek Resource Management Plan revision, table 5-4 the preferred alternative of the Final Grass Creek EIS, established a threshold for 2005 of 135,241 estimated long-term AUMs available for livestock use by the end of calendar 2005 on the public lands. This figure was for the entire four county resource area not Hot Springs County alone.

Therefore, the County recommends a threshold level for oil production in the Grass Creek planning area of 4,200, 000 barrels per year which requires the recovery of recently lost production during the course of the next RMP period, approximately 2006-2020. That is, an increase in production is required in order to re-establish the socio-economic base of the County. Again, the 4,200,000 barrel threshold level is combined figures for all counties in the planning area.

For the BLM administered Washakie Resource area precise production records were not readily available in the plan. However, the Final RMP provided good information on Minerals Management such as:

Approximately 117,800 acres (7 percent of the federal mineral estate) would be leased with a "no surface occupancy" restriction to protect important wildlife habitat, and cultural and recreation sites.

Approximately 953,500 acres (60% of the federal mineral estate) would be leased with seasonal restrictions to protect important wildlife habitat.

Approximately 520,500 acres (33 percent of the federal mineral estate) would be leased with other standard surface protection restrictions applied.

Since the County has been experiencing steadily declining oil/gas production, population loss, aging in place and is a distressed community, the threshold which the County establishes for the Washakie Resource area and the potentially combined Washakie/ Grass Creek RMP, is to reduce the total lease restrictions and land withdrawals as a mechanism of sustaining and/or reestablishing the all important mineral base of the County's economy. Therefore, the following threshold is proposed by Hot Springs County:

For purposes of the Washakie/Grass Creek Resource Management Plan revision(s), a net reduction of 20% in lease restrictions and land withdrawals is deemed essential by the County in order to sustain the custom, culture, general welfare, and socio-economic structure of Hot Springs County.

NATURAL GAS PRODUCTION

Hot Springs County is not a large producer of natural gas and has lost production in the period 1999-2004. Limited production, lack of deep plays, lack of transmission lines, and commodity prices have all influenced declining production. Until such time as the major gas/oil companies invest in exploratory deep drilling, the County will have insignificant production plagued by various problems. A natural gas threshold is difficult to establish and would best be related to number of exploratory wells drilled in the County.

The Grass Creek RMP/EIS of June 1996 projected a +5.87% increase in gas production across a 4 county management area; however, Hot Springs County's production is not

SW Bighorn mule deer	(9 hunt areas)	23,000 to 25,000
Basin mule deer herd unit	(hunt area 125,127)	2,900 to 3,300 minimum
Owl Creek/Meeteetse	(hunt area 116-120)	4,700 to 5,300 minimum

ELK: The County recognizes elk hunting and viewing as a major socio-economic factor in the County well established in the resident's and non-resident's custom and culture. Therefore, the County's management goal is to sustain elk populations at or near historically high numbers. As with the other ungulates, the County recognizes predator control as a valid method of increasing and/or sustaining elk herd populations.

So. Bighorn Elk herd	(6 hunt areas)	6,400 to 7,000 minimum
Gooseberry Elk herd	(hunt areas 62-64)	3,900 to 4,100 minimum

ANTELOPE: Historically, the County has supported antelope herd populations which are at or near historically high levels in order to sustain the hunting, viewing/eco-tourism industry. As with other ungulates, the County supports hunting licenses in order to control herd sizes on the high end and predator control in order to increase the beneficial take of antelope.

Copper Mtn. Pronghorn herd	(areas 76,114,115)	5,900 to 6,300 minimum
15 Mile Pronghorn herd	(areas 83,77,110)	3,900 to 4,200 minimum

GRIZZLY BEARS: The County recognizes that the grizzly bear constitutes a socially unacceptable species in the BLM administered Grass Creek Resource Management Area. The County asserts that the Grass Creek plan did not allow for grizzly occupancy and desires to maintain this provision in upcoming BLM RMP revisions. It is the County's belief that the presence of grizzly bears on the BLM lands within the County represents a threat to the health, safety and general welfare of the County's residents. Therefore, the County desires to establish the following threshold levels for grizzly bears in Hot Springs County:

BLM administered lands	0 grizzly bears
Shoshone National Forest	0 grizzly bears on grazing allotments
Washakie Wilderness Area (in Hot Springs Co.)	5-20 grizzly bears in the Washakie

BIG HORN SHEEP: The County recognizes the reintroduction efforts to establish healthy herd populations, supports the effort and recommends management techniques which benefit the herds by preventing substantial losses due to predators and disease. The County's goal is to encourage herd populations which benefit eco-tourism and limited hunter harvest. A recommended threshold herd size for the Game and Fish management area which includes the County is;

Incremental Bureaucratic Regulations:

Hot Springs County is concerned about the steadily increasing number of restrictions, mitigating measures and stipulations which State and Federal resource managers have put on grazing leases, mining operations, oil and gas production, timber harvesting, recreation and multiple use in general. The accumulative effect of the restrictions, mitigating measures and stipulations has reached the point in Hot Springs County where some components of the economy, particularly agriculture and the oil/gas/minerals industries, are threatened. In most cases, the accumulative regulations have been implemented without an economic analysis of the effect upon the County's economy and social structure including schools, hospitals, government and emergency services. Admitably, this is a very difficult problem to address. Hot Springs County asserts that the most reasonable method of addressing the issue is through economic analysis of the impacts of the various regulations on the County's economy whether the action is State or Federal in nature. Therefore, the County shall advocate the following remedial actions in order to protect the economy:

1. Establishment of a working group consisting of County, State and Federal representatives to seek solutions to the incremental regulations problem,
2. As required by Federal statute, Hot Springs County shall require that both State and Federal agencies assess the effect of their actions on the economy, custom and culture of Hot Springs County by utilization of economic studies such as cost/benefit analysis, economic impact analysis, lowest cost alternatives, most economic benefit analysis and analysis of the economy of the County in order to protect its general economic health. Hot Springs County at its discretion, may be involved in this process.
3. Hot Springs County shall generally require that the economic alternative which does the least damage to the economy or benefits the economy the most be implemented,
4. As required by the Administrative Procedures Act, Hot Springs County shall require the various agencies to document that their decisions adequately took into account the health, safety, custom, culture, and general welfare (including the economic impact) of their actions on the County,
5. Hot Springs County asserts that the County, at its discretion, has the right to be involved in all decision making and regulatory functions which have an effect on the County's economic stability, custom, culture and the well being of its citizens,
6. At its discretion, Hot Springs County asserts its right to be a "cooperating agency" in order to have direct input into the decision making process and be included in various working groups that determine matter of policy which affect the County,

- The County recognizes the need to participate in State and Federal land use planning processes in order to protect the health, safety and economy of the County and specifically to make sure the County's needs are communicated.
- The County recognizes that over-regulation has a negative effect on the economy and sets a goal of negotiating with State and Federal resource managers reasonable restrictions, mitigating measures, and stipulations on the various industries in the County.
- The County establishes a goal of implementing and periodically updating a Land Use Plan for State and Federal Lands in Hot Springs County and communicating the existence and provisions in the plan to State and Federal resource managers.
- The County establishes a goal of requiring the usage of cost/benefit, socio-economic and other economic studies when the County deems it necessary in order to determine whether or not a particular action is beneficial or detrimental to the economy of the County.

Public Policy:

1. As required by Federal law, public lands in Hot Springs County must be managed by multiple use principles in a manner which sustains and/or increases the productivity of the public lands. (see the Multiple Use and Sustained Yield Act of 1960)
2. Hot Springs County is opposed to public land withdrawals and land restrictions such as additional wilderness areas, wilderness study areas, primitive areas, restrictions on vehicular travel such as roadless areas, unreasonable seasonal restrictions on various industries and other designations which have the effect of withdrawing land from production and thereby impacting the economy.
3. The County will support diversification of the economy and efforts to recruit new businesses and industries to the area that do not hamper or hinder the custom, culture and general welfare of the County.
4. The County will actively work to improve infrastructure needs such as the airport and improve other infra-structure needs such as roads, water distribution and storage systems, emergency services, law enforcement and other vital services.
5. The County will encourage new infra-structure construction in semi-desert locations in order to protect the limited prime, irrigated bottom lands along the Big Horn River and the other major drainages in the County. Future dam site selections, the airport location, roads, powerlines, etc. will be closely reviewed.
6. Hot Springs County may seek cooperating agency status and participate in planning and scoping of management plans affecting the County.

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Pollution Control Act (33 USC § 1344 (a)), 72 ALR
Fed 703.

Actions brought under Federal Water Pollution

Control Act Amendments of 1972 (Clean Water
Act)(33 U.S.C. §§ 1251 et seq.) — Supreme Court
cases, 163 ALR Fed 531.

§ 35-11-302. Administrator's authority to recommend standards, rules, regulations or permits.

(a) The administrator, after receiving public comment and after consultation with the advisory board, shall recommend to the director rules, regulations, standards and permit systems to promote the purposes of this act. Such rules, regulations, standards and permit systems shall prescribe:

(i) Water quality standards specifying the maximum short-term and long-term concentrations of pollution, the minimum permissible concentrations of dissolved oxygen and other matter, and the permissible temperatures of the waters of the state;

(ii) Effluent standards and limitations specifying the maximum amounts or concentrations of pollution and wastes which may be discharged into the waters of the state;

(iii) Standards for the issuance of permits for construction, installation, modification or operation of any public water supply and sewerage system, subdivision water supply, treatment works, disposal system or other facility, capable of causing or contributing to pollution;

(iv) Standards for the definition of technical competency and the certification of operating personnel for community water systems and nontransient noncommunity water systems, sewerage systems, treatment works and disposal systems and for determining that the operation shall be under the supervision of certified personnel. Prior to recommending these standards to the director, the administrator shall consult with affected municipalities, water and sewer districts, counties and treatment operators;

(v) Standards for the issuance of permits as authorized pursuant to section 402(b) of the Federal Water Pollution Control Act [33 U.S.C. § 1342(b)] as amended in 1972, and as it may be hereafter amended;

(vi) In recommending any standards, rules, regulations, or permits, the administrator and advisory board shall consider all the facts and circumstances bearing upon the reasonableness of the pollution involved including:

(A) The character and degree of injury to or interference with the health and well being of the people, animals, wildlife, aquatic life and plant life affected;

(B) The social and economic value of the source of pollution;

(C) The priority of location in the area involved;

(D) The technical practicability and economic reasonableness of reducing or eliminating the source of pollution; and

(E) The effect upon the environment.

(vii) Such reasonable time as may be necessary for owners and operators of pollution sources to comply with rules, regulations, standards or permits;

(viii) Financial assurance requirements for plugging, abandonment, post-closure monitoring and corrective actions, if required, for any underground injection facility for hazardous wastes as defined in Title 40 of the Code of Federal Regulations, Part 146, Subpart G;

(ix) Standards for housed facilities where swine are confined, fed and maintained for a total of forty-five (45) consecutive days or more in any twelve (12) month period and the feedlot or facility is designed to confine an equivalent of one thousand (1,000) or more animal units. If any county adopts a land use plan or zoning resolution which imposes stricter requirements than those found in subparagraph (C) of this paragraph, the county requirements shall prevail. These standards shall include:

(A) Financial assurance for accidents and closure requirements for facilities which contain treatment works;

(B) Waste and manure management plans to prevent pollution of waters of the state, to minimize odors for public health concerns, pathogens and vectors capable of transporting infectious diseases and to specify land application requirements;

(C) Setback requirements which will restrict the location and operation of structures housing swine and lagoons within:

ATTACHMENT "F"

2005 -03

RESOLUTION

WHEREAS, the Hot Springs County Board of County Commissioners ("the Board") is charged under State law with promoting the health, safety, morals, convenience, order, prosperity and general welfare of the present and future inhabitants of Hot Springs County, Wyoming; and

WHEREAS, the Board has participated in and kept apprised of the progress being made toward meeting the immediate and future needs of the County's residents by gaining input from multiple sources for information, sought appropriate legal advise and input from professionals; and

WHEREAS, the Board has determined that the best interests and the general welfare of this County will be served by revising the Land Use Plan adopted by the County in 2002. The statutory pre-requisites for adoption of revisions to the aforesaid plan have been completed, and the Board has been fully advised in the premises from the County's Planning Commission's certified Revised Plan; including review of the said Revised Plan by outside legal counsel.

NOW THEREFORE;

Be it resolved and enacted; The Board finds and concludes the revisions to the Land Use Plan adopted by the County in 2002 are in proper form and have been drafted in accordance with W.S. §18-5-202; and

Be it further resolved and enacted; The Board finds and concludes pictures, maps and graphs are not substantive to the public policies adopted in these revisions, but rather are illustrative of and are in support of those policies. Therefore, the Board will determine the pictures, graphs, and maps as part of its determination and decision for publication of this Revised Comprehensive Plan.

Be it finally resolved and enacted; ~~The Board adopts and ratifies the attached "Hot Springs County Natural Resource Plan For State & Federal Lands"~~, which consists of the certified plan adopted by the Hot Springs County Planning Commission with changes and updates contained in that certain comparison presented to the Board and made a part of these proceedings; the same to be put in final form for publication and distribution so it can become effective as of May 1, 2005.

APPROVED AS TO FORM:

Office of the Hot Springs County Attorney

By: _____
Dan Caldwell , County Attorney

BY THE BOARD OF COUNTY COMMISSIONERS FOR HOT SPRINGS COUNTY,
WYOMING;

Brad W. Basse

Brad W. Basse, Board Chairman

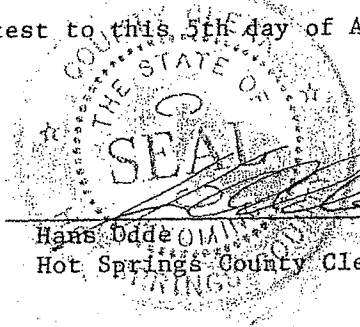
John P. Lumley

John P. Lumley, Vice Chairman

Charles N. Stump Jr.

Charles N. Stump Jr., Commissioner

Attest to this, 5th day of April, 2005



Hans Odde
Hot Springs County Clerk

Economic Impacts of Reductions in Federal Grazing in Fremont County, Wyoming

By

David "Tex" Taylor

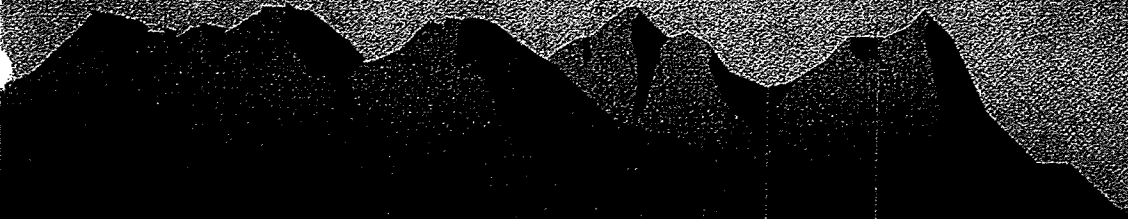
Tom Foulke

Jim Thompson

Roger Coupal

Department of Ag and Applied Economics

University of Wyoming



Overview for a "Typical" Wyoming "Public Lands"
Cow-Calf Operation

- Reductions in federal grazing AUM's have been made or are being proposed.
- Reductions in federal grazing AUM's have a greater negative financial impact than many people/agencies realize.
- Negative financial impacts of reductions are due to "interaction" effects with private grazing AUM's and other ranch resources.
- For the "typical" 300 cow-calf operation assumed in this study, with a 50% reduction in federal AUM's, "annual net cash income" would decline by 97%, or to nearly zero. Net equity would decline from about 89% to about 63%.
- Given these negative financial impacts a "rational" operator would sell-out or pursue a drastically changed type of business.

Impact of Federal Grazing Reductions on Wyoming
Ranches by Larry Van Tassell and James W.
Richardson, 1998.

Assumptions

- 300 cow-calf operation in Washakie and Big Horn Counties, WY.
- Data acquired thru interviews with four area ranchers.
- 2,200 deeded acres located adjacent to National Forest.
- Grazing leases held with USFS, BLM and State.
- Farming operations consisted of alfalfa and natural hay harvesting and use on ranch.
- Ranch assets were valued at \$938,719, with long-term loans of \$127,855, for an equity ratio of 89%.

Assumptions (cont'd)

- Impacts calculated for a 25%, 50%, and 100% reduction in federal grazing.
- Grear (1994) and Taylor et al. (1992) both found that while the reliance of ranchers on forage from federal land grazing can appear relatively unimportant when calculated on an acreage or AUM basis, they become quite important when calculated on a seasonal dependency basis. The rigidity of seasonal forage availability means that the optimal use of other forages and resources are impacted when federal AUMs are not available (Torell et al. 2002).

Assumptions (cont'd)

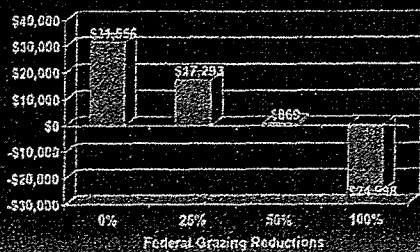
- 3 Perspectives to be considered in evaluating economic importance of federal grazing:
 1. Consider Fed. AUM's only
 2. Consider Fed. AUM's and their effect on private forage.
 3. Consider Fed. AUM's and their effect economic viability of ranch.

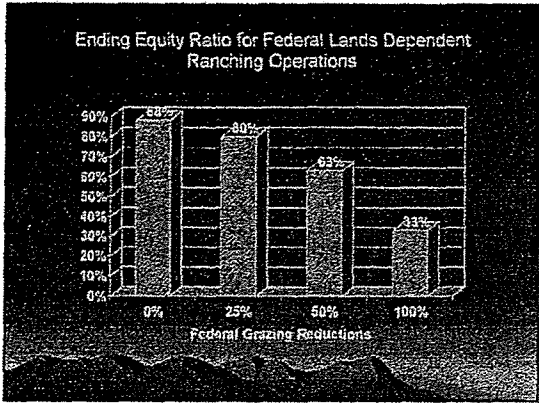
Table . Impact of Federal Grazing Reductions on Wyoming Ranches

	0%	25%	50%	100%
Cows	300	261	221	144
AUM's/Cows	16	16	16	16
Total AUM's	4,800	4,176	3,536	2,304
Fed AUM's	1,943	1,458	972	0
Ratio	1.29	1.29	1.30	1.28
Average Annual Net Cash Income	\$31,556	\$17,293	\$865	-\$24,998
Ending Equity Ratio	66	60	63	53

source: Ventress and Richardson (1998)

Average Annual Net Cash Income for Federal Lands Dependent Ranching Operations





Calculation of Community Level Impacts using Input/Output Model for Fremont County (These Figures are Draft Only)

Background and Assumptions for Fremont County

- 355 of 569 "commercial" ranches and farms in Fremont County are livestock grazing operations. This is 62% of Commercial operations in the County.
- Livestock grazing is dominant land use in Fremont County. There are 886,716 acres of private land in county.
 - 789,095, or 89%+, acres are Agricultural land
 - 631,000+ Acres, or 60%, is Rangeland
 - Private Rangeland represents 3/4 of total private land

Background and Assumptions for Fremont County (cont'd)

- 261, or 74%, of livestock grazing operations hold grazing permits
- These 261 ranches manage a total of over 898,000 acres, including private, state, and federal leases
- Loss of all BLM Grazing would reduce annual net income for a typical ranch in Fremont County from about \$34,695 to _____ without BLM Grazing

(From UW LFP model)

Table . Economic Impacts for Perspective 1
(No Interactive Effect)

Direct Impact	\$35.56 ⁽¹⁾
Total Impact	\$75.45
Labor Earnings	\$14.47
Employment	0.001016

Source: Fremont County Input/Output Model
(1) 10 year average

Table . Economic Impacts for the 3 Perspectives

	BLM AUMS Only Per AUM	Total AUMs Per AUM	Economic Viability Per AUM
AUMs	1	1.5	2.5
Direct Impact	\$35.56	\$53.34	\$89.90
Total Impact	\$75.45	\$113.18	\$189.63
Labor Earnings	\$14.47	\$21.71	\$36.18
Employment	0.001016	0.001524	0.002540

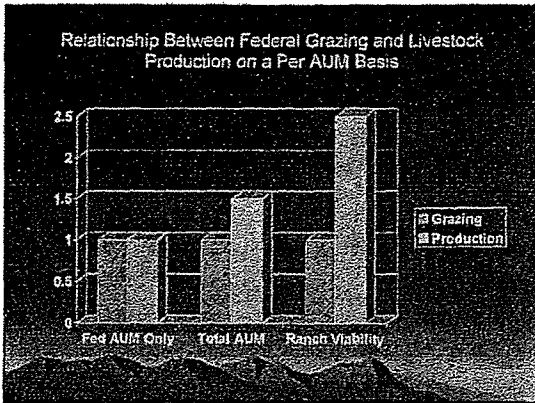


Table . Economic Impact of BLM AUMs in Fremont County

	BLM AUMs Only	Total AUMs	Economic Viability
AUMs	272,600	409,900	681,500
Direct Impact	\$9,602,696	\$14,704,044	\$24,506,740
Total Impact	\$20,667,670	\$30,851,505	\$51,419,175
Labor Earnings	\$3,944,522	\$5,916,783	\$9,861,305
Employment	277	416	692

Surveys of Attitudes Toward Grazing

- Wallace et al. (1996). Survey of visitors to Uncompahgre National Forest in Colorado.
 - 14 percent = opposed grazing
 - 27 percent = grazing is ok
 - 40 percent = grazing acceptable, but mgmt should be improved
 - 19 percent = no opinion
- Wallforst et al. (2003). Survey of Idaho residents in 4 counties
 - 80 percent = for grazing, or neutral
 - 20 percent = were definitely opposed
- So, 75 to 80% of public can accept grazing with "appropriate" management.

Observations and Conclusions

- Economic impacts of grazing reductions is more negative on individual ranches *and communities* than many people or Agencies realize.
- A 50% reduction in grazing on BLM lands in Fremont County could put a significant number of ranchers out of business.
- The best available survey data suggests that 70% to 80% of public are not opposed to grazing if it is managed "appropriately".

ATTACHMENT "H"



United States Department of the Interior

TAKE PRIDE IN AMERICA

BUREAU OF LAND MANAGEMENT
CODY RESOURCE AREA
P.O. BOX 518
CODY, WYOMING 82414

9194
(190)

- C. F. Childers
R. F. Meabon
F. M. Irugh
M. E. Blakley
Returns to BLM

November 03, 1988

Mr. John Wagner
Water Quality Division
Wyoming Dept. of Environmental Quality
Herschler Bldg., 4th Floor West
Cheyenne, WY 82002

Dear Mr. Wagner:

We understand that the Wyoming Department of Environmental Quality, Water Quality Division, is in the process of drafting new "Wyoming Surface Water Quality Standards" for EPA review and approval. The Bureau of Land Management, Cody Resource Area, would appreciate an opportunity to review and comment upon any proposed changes to the existing standards.

Our interest in water quality, from point source discharges, is primarily related to the surface discharge of water produced in conjunction with oil and gas production and the various beneficial uses to which this water is presently applied. In the Cody Resource Area, produced water is providing benefits to riparian vegetation, waterfowl and shorebird habitat, and drinking water sources for livestock and terrestrial wildlife. We view this produced water as an important benefit to our management of the public land.

If you should have any questions regarding our interest in the new regulations, or the beneficial uses of produced water in the Cody Resource Area, please contact Thor Stephenson or Eric Greenquist of my staff.

Sincerely,

Thomas E. Enright
Thomas E. Enright
Area Manager

CC: Marathon Oil Company

ATTACHMENT "J"

near the water plant or via the South Thermopolis Water and Sewer District, the Red Lane Water and Sewer District and the Lucerne Water and Sewer District, the later also supplies the incorporated Town of Kirby. Thermopolis provides potable (treated) water to the Town of East Thermopolis, which draws its untreated irrigation water from the Big Horn River. Likewise, potable water for Hot Springs State Park is supplied by the Town of Thermopolis.

Protection of water quantity and quality has enjoyed an elevated concern level in the County to such an extent that the Hot Springs Conservation District initiated the "Hot Springs County Groundwater Study – Phase I" in 1999. The June 2000 Final Report established the Hot Springs Protection Area Map and recommended ten (10) Best Management Practices (BMPs) which can be employed to protect groundwater resources. The protection area was established in order to monitor and protect the hot springs for which Hot Springs State Park and the Town of Thermopolis are widely known. (See Appendix C)

More recently, Phase II of the Hot Springs County Groundwater Study was completed in June of 2004, it was prepared for the Hot Springs Conservation District, submitted to the Board of County Commissioners and the DEQ. It entailed thorough sampling of 52 domestic use water wells in various parts of the County. (See Appendix C)

The surface water quality study entitled "*Final Report: Owl Creek Water Quality Study*" was submitted in July 2004. According to the document: "The purpose of this water quality study was to assess baseline water quality in the middle and lower Owl Creek drainage basin, particularly for fecal coliform bacteria levels at various sites. This study also sought to obtain additional water quality data for Owl Creek for parameters such as total suspended sediment (TSS), turbidity, total dissolved solids (TDS), dissolved oxygen, and select cations and anions during the course of the sampling year 2003-2004.

A number of interdisciplinary entities exist to address water resource issues impacting Hot Springs County. Some of them are as follows:

- Wyoming Department of Environmental Quality
- Wyoming Water Development Commission
- Wyoming State Engineer's Office
- Wyoming Game and Fish Department
- Wyoming Oil and Gas Commission
- U.S. Bureau of Reclamation
- U.S. Bureau of Land Management
- United States Forest Service
- U.S. Department of Agriculture
- U.S. Bureau of Indian Affairs
- Hot Springs County Conservation District
- Owl Creek Irrigation District
- Lucerne Irrigation District
- Hot Springs County Natural Resources Planning Committee

Hot Springs County Natural Resources Plan for State and Federal Lands

An Addendum to the Revised Hot Springs County Land Use Plan of 2002



**Prepared under the Direction of the
Hot Springs County Board of County Commissioners:**

**Brad W. Basse, Chairman
John P. Lumley, Vice Chairman
Charles N. Stump Jr., Commissioner**



April 5, 2005

APPROVED VERSION

Prepared by the Hot Springs County Natural Resource Planning Committee:

Randy Wahler, Chairman

DeLoyd Quarberg, Vice chairman

Lee A. Campbell, Secretary

Jack Baird

Larry Bentley

Matt Brown

Toddi Darlington

Carl Dockery

Greg Herold

Dee J. Hillberry

Steve Jones

Lisa Kimsey

John LeRoux

John R. Long

Dorothy Milek

Lorraine Quarberg

Ed Shaffer

Ray Shaffer

Terry Wilson

John Winter

Dan Wychgram

Robert Wyss

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RESOLUTION

WHEREAS, the Hot Springs County Board of County Commissioners (“the Board”) is charged under State law with promoting the health, safety, morals, convenience, order, prosperity and general welfare of the present and future inhabitants of Hot Springs County, Wyoming; and

WHEREAS, the Board has participated in and kept apprised of the progress being made toward meeting the immediate and future needs of the County’s residents by gaining input from multiple sources for information, sought appropriate legal advise and input from professionals; and

WHEREAS, the Board has determined that the best interests and the general welfare of this County will be served by revising the Land Use Plan adopted by the County in 2002. The statutory pre-requisites for adoption of revisions to the aforesaid plan have been completed, and the Board has been fully advised in the premises from the County’s Planning Commission’s certified Revised Plan; including review of the said Revised Plan by outside legal counsel.

NOW THEREFORE;

Be it resolved and enacted; The Board finds and concludes the revisions to the Land Use Plan adopted by the County in 2002 are in proper form and have been drafted in accordance with W.S. §18-5-202; and

Be it further resolved and enacted; The Board finds and concludes pictures, maps and graphs are not substantive to the public policies adopted in these revisions, but rather are illustrative of and are in support of those policies. Therefore, the Board will determine the pictures, graphs, and maps as part of its determination and decision for publication of this Revised Comprehensive Plan.

Be it finally resolved and enacted; The Board adopts and ratifies the attached “Hot Springs County Natural Resource Plan For State & Federal Lands”, which consists of the certified plan adopted by the Hot Springs County Planning Commission with changes and updates contained in that certain comparison presented to the Board and made a part of these proceedings; the same to be put in final form for publication and distribution so it can become effective as of March 17, 2005.

APPROVED AS TO FORM:

Office of the Hot Springs County Attorney

By: _____
Dan Caldwell , County Attorney

BY THE BOARD OF COUNTY COMMISSIONERS FOR HOT SPRINGS COUNTY,
WYOMING:

Brad W. Basse, Board Chairman

John P. Lumley, Vice Chairman

Charles N. Stump Jr., Commissioner

Chapter 1

Overview, Goals and Objectives

Definition:

A comprehensive land use plan is a document that generally helps guide the type, location, and appearance of community growth and change. The plan represents the goals, policies, and intentions of the local government, which adopts it. Comprehensive land use plans provide policies and recommendations, which give direction to local government officials in making subsequent decisions. It is an authoritative resource that leaders may consult and rely on in determining a cohesive, coherent, approach to such issues as land use, transportation and communications, law enforcement, cultural, archaeology, paleontology, natural resources, public land uses, economic development, and intergovernmental cooperation.

Background:

The State of Wyoming has provided specific enabling legislation to prepare and amend a land use plan. The comprehensive plan is the anchor used to formulate the rest of the plan to promote the public health, safety, morals and general welfare of the unincorporated areas of the County. W.S. §18-5-202(b). This Natural Resources Plan for State and Federal Lands, is an integral part of the comprehensive plan and is intended to diagram, or “blueprint” the expectations the County has for itself, providing guidance for development and change on the public lands. It is a countywide plan directly applicable to all of Hot Springs County, and indirectly applicable to the municipalities, and other local governmental and quasi-governmental units within the County. Within the plan are maps, graphs and references to authoritative sources that cannot be reproduced herein, but which are a valuable resource and explanatory material crucial to effective implementation of this plan.

In 1978, the County first adopted a Land Use Plan (for private lands) for the unincorporated parts of the County excluding tribal land. The original 1978 plan has been revised several times, to include a revision in 1991, and the latest revision adopted in November of 2002; and subsequently, amended in 2004 to include the Hot Springs County Sewage Disposal System. This document, the Hot Springs County Natural Resources Plan for State and Federal Lands, is the latest amendment to the standing Land Use Plan. **Approval of this plan (the Natural Resource Plan for State and Federal Lands) by the Hot Springs County Commissioners resulted in a Comprehensive Land Use Plan which therein incorporates private, State and Federal lands within the County, while excluding tribal lands.**

Since a comprehensive plan seeks to define community goals based on a combination of scientific data, the desires of the public, and the wishes of private property owners. Its function is to make policy recommendations. Although a local government may adopt a plan, that plan is not self-actuating and steps to implement the plan must be taken. One of those steps may be

adoption of a resolution, which is the tool local government uses to assure the “status quo” and maintain those values and policies reflected in the comprehensive plan.

Hot Springs County belongs to an economic development district (“EDD”), known as the Yellowstone Development District. For the County to qualify for project funding from the Economic Development Administration (“EDA”), it must belong to an EDD and the Yellowstone Development District, in turn, is obliged to adopt a Comprehensive Economic Development Strategy (“CEDS”) every five (5) years setting forth various anticipated projects that might need funding. Hot Springs County participated in the CEDS process, but not as part of the adoption of this Natural Resources Plan for State and Federal Lands. The two are not to be confused. This Natural Resources Plan for State and Federal Lands has not been created as local support for the CEDS, but it may overlap and contain elements of the CEDS which pertains to public lands; as follows:

1. Describes the problems, needs, potential and resources of the County;
2. Presents the County’s vision and goals;
3. Sets the strategic direction for an action plan;
4. Establishes the priority programs and projects for implementation; and
5. Outlines the standards for evaluation and update of the process.

A CEDS draws from a regional economic development perspective, while the Natural Resources Plan seeks to establish County policy, in regards to public lands, to further the health, safety and general welfare. The Natural Resources Plan is written to complement the CEDS, and in the event of a conflict of priorities or policy, the conflict will be resolved at the discretion of the Board of County Commissioners.

Purposes:

The purpose of this plan, the Natural Resources Plan for State and Federal Lands, is to meet the State and Federal requirements for the County to have a current plan in place in order to participate in the larger scope, State and Federal planning processes. Law requires agencies to coordinate their management activities in a manner consistent with Hot Springs County’s Comprehensive Plan. Federal laws governing land management, mandate coordination with the County by the lead agency. (see Appendix B for applicable federal laws)

Wyoming law, on the other hand, requires that the State Land Use Commission must “Cooperate with federal agenciesin a manner to assure that no federal intervention or control shall take place in the initial or continuing local land use planning process” (W.S. 9-8-202(a)(xii)). The law is clear on the following facts:

- Hot Springs County is required to have a land use plan (W.S. 9-8-101 et seq.)
- The State is required to prevent Federal interference or control in Hot Springs County’s land use efforts (W.S. 9-8-202(a)(xii))
- The Federal agencies are required to coordinate their actions with Hot Springs County. 40 C.F.R. § 1506.2

The implications for the health, safety and general welfare of County residents and visitors is the driving force behind the Natural Resources Plan for State and Federal Lands set forth herein. Therefore, Hot Springs County is taking this action for the following purposes applicable to public lands.

1. To establish a more consistent and defensible position with regards to State and Federal decision making processes.
2. To manage economic and demographic change.
3. To provide a sound basis in public policy to update outdated land use regulations.
4. To make local government more efficient and attuned to taxpayer needs and expectations.
5. To provide for and protect the custom, culture and economic well being of Hot Springs County.
6. To build on the work done in the 2002 Land Use Plan as revised and amended.

As one can see throughout this document, the Natural Resources Plan does not abandon public policies adopted in the 1978, 1991 and 2002 Land Use Plans, but builds on and adapts those policies to meet today's needs and concerns. For instance, the Natural Resources Plan seeks to use information from the 1978, 1991 and 2002 Land Use Plans, and additional information gained since, to describe the custom and culture of the community, and create a guiding force in public land management decision-making. **The 2002 Land Use Plan repealed previous plans by stating " All existing resolutions and regulations are hereby repealed. This includes all prior versions of the Hot Springs County Land Use Plan."**

Hot Springs County Landownership Fact Sheet

Landowner	Acres	Square Miles	% of Total Acres
United States Government			
National Park Service	0.00	0.00	
Forest Service	48,640	76.0	
Fish and Wildlife	0.00	0.00	
Bureau of Land Management	518,000	809.4	
Bureau of Reclamation	1,365	2.1	
State of Wyoming			
State Lands Commission	21,095	129.6	
Recreation Commission	1,069	1.7	
Game and Fish	12	0.00	
Local Government			
Other Lands – Tribal (1)			
	242,837	379.4	
Total Public	894,898	379.4	69.15
Total Private	399,183	623.7	30.85
Surface Water	6,509	10.2	
TOTAL LAND	1,294,080	2,022.0	100.00

- (1) A substantial portion of Hot Springs County is tribal or Indian owned land; of these lands, the largest part is reservation land but some is off-reservation land. Regardless, the land is not assessed by the County for property tax purposes. Un-audited figures from the Assessor's files, show the following distribution of Indian owned land :

Reservation lands	226,987.91	acres
Off-reservation	<u>15,331.60</u>	acres
Total	242,319.51	acres

Hot Springs County Demographic Profiles

<u>Population Profile</u>	<u>1990 Data</u>	<u>2000 Data</u>
Rural	1,283	1,379
Town of Thermopolis	3,257	3,172
Town of East Thermopolis	210	274
Town of Kirby	59	57
Total Population	4,809	4,882
Median Age	38.4	44.2
Seniors – 65 and Older (%)	19%	20%
School Enrollment (3 yrs & older)	1,227	1,043
High School Graduates (25 yrs & older)	76.1%	84.2%
Bachelor Degree or Higher (25 yrs & older)	14.3%	17.9%
In Labor Force (16 & over)	2,336	2,472
Persons Per Square Mile	2.4	2.4
<u>Economic Profile</u>	<u>1990 Data</u>	<u>2000 Data</u>
Average Household Size	2.38	2.25
Median Household Income (1999)	24,500	29,887
Average Earnings Per Job	(Est) 21,000	19,086
Per Capita Income	21,447	23,393
<u>Housing Profile</u>	<u>1990 Data</u>	<u>2000 Data</u>
Total Housing Units	2,429	2,536
Occupied Housing Units	1,943	2,108
Owner-Occupied Units	1,303	928
Median Home Value	53,400	80,400
Renter-Occupied Units	640	630
Median Rent Paid	219	365

Hot Springs County Agriculture Facts Sheet

<u>Agriculture Profile</u>	<u>1990 Data</u>	<u>2000 Data</u>	<u>2002 Data</u>	<u>2004 Data</u>
Number of Farms and Ranches		147	147	
Acres in Farms and Ranches		944,200	944,200	
Average Size of Farm or Ranch		6,423	6,423	
Acreage Assessed as Agricultural Use		388,200	388,200	
HSC Agriculture Valuation		4,060,569	4,518,652	5,163,522
% Ag/HSC Valuation		4.69%	6.86%	4.75%
Value of Livestock Inventory		22,200,000	16,900,000	
Value of Crop Production		2,400,000	3,500,000	
Total Value		24,600,000	20,400,000	
Commodity Rankings (Wy. County)				
All Cattle		21	21	
Breeding Sheep		19	21	
Barley		10	10	
Oats Grain		18	12	
Dry Beans		8	8	
Corn Grain			8	
All Hay		22	20	

Hot Springs County Mineral Production Facts Sheet

<u>Mineral Profile</u>	<u>1990 Data</u>	<u>2000 Data</u>	<u>2002 Data</u>	<u>2004 Data</u>
Oil				
BBLs Produced	6,683,978	3,671,203	3,676,411	*3,330,188
Average Price/BBL	13.93	14.75	17.58	22.35
Valuation	93,077,391	53,788,718	63,456,974	74,181,518
% of HSC Valuation		62.07%	65.75%	68.09%
Natural Gas				
MCF Produced	452,833	538,145	535,203	*294,113
Valuation		360,118	397,884	266,645
% of HSC Valuation		0.42%	0.41%	0.24%
Hard Minerals				
Valuation		87,985	45,152	86,098
% of HSC Valuation		0.10%	0.05%	0.08%

* Production thru Sept. 2004

The Planning Philosophy

The Hot Springs County Natural Resources Planning Committee (NRPC) prepared the Hot Springs County Natural Resources Plan for State and Federal Land , which, when combined with the Revised Land Use Plan of 2002 prepared by the Hot Springs County Planning and Zoning Commission, espouses a philosophy that:

- Encourages input and participation from all citizens of Hot Springs County throughout the process,
- Represents a consensus of the widely differing interests and concerns within the County,
- Develops new approaches and techniques that avoid the problems of traditional land use planning.

Community Custom and Culture:

The custom and culture of Hot Springs County is defined by the activities and values of the residents, past, present and future, which derive their well-being and subsistence from natural resources. These values and activities are what made Hot Springs County unique. Hot Springs County recognizes custom and culture is based on traditional values and activities subject to gradual continuous changes by various influences incurred by succeeding generations. Therefore, the Hot Springs County Comprehensive Land Use Plan must continue to be a “work in progress” reflecting changes as they occur. Public policy is set accordingly to either promote or dissuade how those changes affect our custom and culture.

Integral to the values and activities that create well-being and provide subsistence is the land. Public lands, and the rights and privileges residents have come to rely on in all of the public lands, are central to the custom and culture of Hot Springs County, as follows:

- Agriculture (farming, irrigation, livestock grazing, etc.)
- Recreation and Tourism (motorized and non-motorized transport and activities, including but not limited to hunting, fishing, water and land sports, hiking, wildlife viewing, etc.)
- Industry (mining, power production, oil/gas production and exploration, timbering, etc.)
- Water (agricultural, industrial, recreational, domestic uses, power and general water resource development and conservation)
- Intangible Values (historical and cultural sites, open space values and access to open space, aesthetic values, conservation, entrepreneurial values, etc.)
- Transportation. Communications & Utilities (the County’s infrastructure)

Hot Springs County, through a series of community assessments, surveys, reports and public meetings, has determined what makes it unique – its custom and culture. The history of the County is set forth elsewhere; however, it was the historical events, which brought farmers,

ranchers, miners and the energy companies that molded and formed the custom and culture the community enjoys today. For instance, the boom and bust cycles common to the western states, impacted Hot Springs County ; both positively and negatively.

The greatest outside influence on the County has been and will continue to be the State and Federal governments. State and Federal government agencies jurisdiction over public lands and irrigation water sources is fundamental to the County's economic structure. The Federal government's program of "payments in lieu of taxes" (PILT), farm subsidies, social security benefits, and other such programs cannot be relied on as consistent revenue sources. In spite of the precarious nature of these programs, State and Federal policies resonate at every level and reach even the remote corners of the County. Finally, the presence of so many State and Federal employees and offices represents a major sub-culture, and economic stimulus.

Goals:

- The goal of the Natural Resources Plan is to involve citizens and County government in establishing guidelines and criteria for future utilization of the public lands on an on-going basis.
- The Board of County Commissioners is not generally concerned about where specific lands are located in the County, but rather how and when land uses will affect residents.
- Community perceptions and the physical capabilities of the land (such as geography, geology, soil conditions, drainage patterns, etc.) rather than population projections will guide primary use planning.
- The Natural Resources Plan will also provide a tool to reduce public cost and mitigate private conflicts.
- The Natural Resources Plan is intended to maintain historic land use patterns, custom and culture, on public land, as a means of stabilizing existing economic uses and keeping the character of the County intact.

Public Policy:

1. Hot Springs County will strive to turn around adverse economic trends occurring in recent years. The County intends to maintain and encourage a moderate sustainable growth rate and continue to support existing positive economic factors.
2. At its discretion, Hot Springs County will seek to become a member of land use planning projects for State and Federal lands in order to effectively protect the County's custom, culture and general welfare.

3. Hot Springs County recognizes that the productivity of the public lands in the County is directly related to the County's economic well being and, at its discretion, will directly participate in land use planning functions intended to enhance the productivity of the public lands.
4. Hot Springs County residents will continue to adhere to the multiple use concepts for public lands to sustain social, cultural and economic values that we hold dear to our western heritage.
5. Hot Springs County recognizes its right to request that a new NEPA decision be made if the County finds that a NEPA document is outdated or in error.

Chapter 2: History

The Beginning:

Seven new Wyoming counties were created on February 9, 1911. They were Hot Springs, Campbell, Goshen, Lincoln, Niobrara, Platte and Washakie. Governor Carey appointed Nate P. Wilson, a harness maker; C. E. Blonde, a rancher; and Charles Anderson, a founder of Andersonville as the first commissioners. On January 6, 1913 the first elected county officials began organization of the County. Those first officers were: Hosea Hantz, Clerk and Ex-Officio Clerk of District Court; Victor T. Johnson, Prosecuting Attorney; Scott Hazen, Sheriff; M.E. Congdon, Treasurer; Joseph Magill, Assessor; George Short, Road Supervisor; Nellie L. Wales, Superintendent of Schools; Lew M. Gay, Coroner; Mark B. Woolery, Surveyor. (see Appendix "C" , reference no. 11)

Geography and Geology, and Climate:

Hot Springs County includes an area of 1,294,080 acres or approximately 2,100 square miles. The largest portion of these lands, forty percent (40%), is administered by the Federal Bureau of Land Management and Forest Service. Private ownership consists of thirty percent (30%) and twenty percent (20%) is included in the Wind River Indian reservation. The remaining ten percent (10%) is owned by the State of Wyoming. (see page 10)

The Federally or State managed lands and resources located in Hot Springs County have historically been used for grazing, mining, timber harvest, oil and gas development, and land recreation. The earliest commerce in the County was resource-based on such activities as ranching, fur trapping, gold and coal mining, oil drilling, timbering, and as a health and tourist resort. The commerce of towns within the County has been directly affected by those activities which took place on public lands.

The County lies in the southern curve of the Big Horn Basin, both a topographic and geologic structural basin. Hemmed in on all sides by physical barriers, the entire Basin was slow to develop. Mountains form three sides of Hot Springs County: the Big Horns to the east, the Owl Creek Mountains to the south and the Absaroka Range to the west. The Washakie Needles in the Owl Creeks contain the highest point in the County, 12,495 feet; the lowest point is 4,268 feet north of the Town of Kirby (where the Big Horn River flows into Washakie County).

The economic development of Hot Springs County has been determined primarily by geologic features such as 1.) oil and gas, 2.) coal, 3.) dinosaur fossils, and 4.) the mineral hot springs.

The oil and gas industry has been and continues to be the dominant economic factor in the County providing 65-75% the entire tax base. The geologic formations of most importance are the Paleozoic Madison, Tensleep and Phosphoria formations which produce black asphaltic oil

and the Mesozoic Frontier Formation which produces green sweet crude oil. Primary production, relying on native reservoir pressures for flowing and pumping wells have largely been exhausted. Primary techniques recover only about 25% of oil in place leaving up to 75% behind. Virtually all of the County's oil fields are on secondary recovery using water flood techniques to maintain reservoir pressures and flush the oil to producing wells. Secondary recovery can produce up to about 45% of oil in place at higher production costs. Tertiary techniques have not been widely used in the County but could play a major role in future recovery of oil.

Coal played a significant role in the early years of the County's development. Gebo was the largest town in the County with several thousand residents during the early 1900's. Shallow sources of coal in the Cenozoic formations have been exploited.

The discovery of significant fossilized dinosaur remains in the Jurassic Morrison Formation has provided a new economic force for the Town of Thermopolis. Based on a major fossil locality being dug just southeast of town, the Wyoming Dinosaur Center has been developed as both an academic and tourist attraction to the area. Private funding of this enterprise has resulted in the creation of local jobs and is a magnet for tourists as both a destination target and for tourists passing through the County on their way to Yellowstone National Park. This geologic horizon, located about twenty feet below the Cloverly Formation, should be considered prospective for additional discoveries in the area. In the event of discovery on public lands, it would be important that this economic resource be exploited in a controlled but logical manner for the economic good of the County.

The outstanding geological feature, the one which gave the County its name, is the group of mineral hot springs near Thermopolis. Here the main spring pours out approximately 3,500,000 gallons of 135 degree Fahrenheit water a day. The springs have been a major draw and benefit to the people because of their recreational and therapeutic benefits. Many local events are related to the springs and to the State Park which is based here because of their presence. Keeping access to the Park free is recommended for the benefit of tourists and locals.

Wildlife, Insects and Weeds:

Big game found in the County in huntable populations include elk, bighorn sheep, mule and whitetail deer, and antelope. Moose are found in the western end of the County. Large predatory animals include, but are not limited to the following animals, coyotes, weasels, mink, bobcats, grizzly and black/brown bears, fox, mountain lions, and wolves. Small animals range from beaver and rabbits to skunks, white-tailed prairie dogs, and raccoons. The area provides habitat for a large number of birds of prey. Many are migratory. Year round raptors include bald eagles, golden eagle, prairie falcon, and a variety of hawks and owls. Upland game birds include both the native sage and blue grouse and imported species such as chukar, Hungarian partridge, turkey and pheasants. Canada geese have been increasing rapidly in the County and ducks winter over on the Big Horn River, especially below the hot springs. In 1979 the Big Horn River Habitat and Recreation Management Plan was implemented. This is a cooperative effort between the Wyoming Game and Fish Department and the Bureau of Land Management and is aimed at improving the quality and quantity of riparian habitat for wildlife along the river. Crows are among the rapidly increasing bird species migrating and/or wintering in the County.

Fishing is found in mountain streams, the Big Horn River and a few small reservoirs. Although it is not within the boundaries of Hot Springs County, Boysen Reservoir contributes greatly to the fishing resources in the area.

Hot Springs County citizens traditionally used public lands and waters according to the land use and land disposal acts of State and Federal government. Subsistence hunting, fishing, and trapping from the earliest occupation of man, have evolved into continued subsistence and sport hunting and trapping, sport fishing and major recreational activities such as trail riding, camping, nature appreciation activities and vehicular recreation on public and private lands in the County, providing support for the commerce base of the County.

In recent years movement out from traditional grounds has taken place by various species of wildlife. Rock chucks (yellow bellied marmots), formerly found only in rural areas are now commonly seen in Thermopolis and Hot Springs State Park. Raccoons, fox and squirrels, at one time rare in the County, are now common. White tail deer have been seen increasingly in the past five to ten years. Populations of mule deer have increased dramatically within the Thermopolis and East Thermopolis town limits, leading to agitation on the part of some gardeners for control of their numbers.

Predator control was historically used to protect livestock resources, but it also helped the growth of game animal herds and bird populations which were very low around the turn of the century.

Wildlife diseases, some introduced and some natural to the area, are of great concern both economically and as human health issues. They include plague, West Nile virus, chronic wasting disease, brucellosis, rabies and tularaemia.

When necessary, control of insect and weed pests has been a government and private effort since the 1920's. Grasshopper and Mormon cricket infestations have periodically occurred. Noxious weeds in the County include but are not limited to salt cedar, leafy spurge, Russian olive, loco, larkspur, white top, knapweed and puncture vine (goat's heads). (see Appendix "F" for the complete State list).

Prehistoric Occupation by Man:

Proof of prehistoric occupation of Hot Springs County, such as the Legend Rock Petroglyph site on Cottonwood Creek, is found throughout Hot Springs County. Here extensive drawings have been pecked and scratched into a rocky rim along the creek. There are scattered sites of early habitation on public and private lands.

Hot Springs County in History:

Historic Indian tribes known to have hunted and camped within County boundaries include Blackfeet, Crow, Gros Ventre, Sioux, Cheyenne, Arapaho and Shoshone. John Coulter in his famous winter trek of 1807-08 came from Montana through the Big Horn Basin and over to the Wind River. He is credited with being the first white man through what is now Hot Springs

County. While fur trappers continued to travel by horseback and boat through the area, Jim Bridger's trail at the eastern end of the County accessed the basin for wagon travel in 1864.

With the Fort Bridger Treaty of 1868, the Shoshones were allotted the vast Wind River Reservation in central Wyoming. The northern boundary was the South Fork of Owl Creek and Owl Creek itself; the eastern boundary ran due south from the mouth of Owl Creek to the crest of the Sweetwater-Popo Agie Divide; the line then ran west to the Wind Rivers and north to Owl Creek.

A ten-mile square at the hot springs was taken out of the reservation by an 1896 treaty, and later a one-mile square was set aside primarily as a health reserve. Again, in 1904, the northern portion of the reservation was opened to homesteading and mineral exploration, including acreage in what would become Hot Springs County.

Chief Washakie had been the dominant figure in the Shoshone culture during the last part of the 1800s and until his death in 1900. Sharp Nose was the chief of the Arapaho in the same time period. The only major Indian-White battle in the County was near the extreme eastern countyline. Washakie and his Shoshones, the cavalry stationed at Fort Washakie, and civilians fought a marauding band of Arapahoes. Two years later, in 1878, the Arapaho, with no reservation of their own, were placed on the Shoshone's reservation as a "temporary" measure, despite the Shoshones vigorous protests. It became a permanent home for the Arapaho. It was not until 1938 that reparations were made to the Shoshones for this loss of their land to the Arapaho.

In 1941 land that was not homesteaded after the 1904 treaty was returned to the tribes. At that time the Padlock Ranch was sold to the Arapahoes in a complex transaction, which also included the Shoshones.

Acts of Congress which lead to the settlement of the West included the Homestead Act of 1862 (160 acres), the Desert Land Act of 1877 (640 acres of land could be taken up, but before it could be patented it had to be irrigated), the Carey Act of 1894 (states planning irrigation projects to water arid lands would receive one million acres of Federal land. Wyoming was the first to take advantage of this), and the Homestead Act of 1916 (640 acres were allowed, but the federal government reserved the mineral rights) which lead to the problem we now face with split estates. Vacant, unreserved, and unappropriated lands were withdrawn by executive order after the passage of the Taylor Grazing Act in 1934.

White settlement of Hot Springs County began with J. D. Woodruff who built the first cabin in the Big Horn Basin on Owl Creek. He also brought in the first herd of cattle. His holdings became the headquarters of the huge Rocky Mountain Cattle Company (Embar and Mill Iron). The Padlock/Arapaho ranch started below this and numerous small holdings were soon settled all the way down Owl Creek. Over in the Gooseberry/Grass Creek area was the LU/Dickie Ranch. Early settlers on upper Cottonwood were Vede Punteney and Warren Martin, both former Embar hands. (see Appendix "B" for applicable references)

The mountainous western end of the County, due to altitude and soil conditions, was suitable only for stock grazing, timbering, dude ranching and hunting. Much of it lies within the Shoshone National Forest. On the eastern end, only stock raising became a main agricultural industry, with the Hayes/Picard and the Sheep Queen, Lucy Moore, ranches being among the first.

Beef cattle and horse-raising (draft, freight, stage and saddle horses) formed the first livestock industry. Although opposed by some cattle ranchers, sheep people moved into these ranges also. After the first period of bitter feelings and warfare, some ranches began to run both cattle and sheep.

The winter of 1886-87 brought about a great change in the agricultural industry. The days of the open range were numbered and most ranches began raising supplemental feed. Settlement accelerated on the valley floors where crops could be raised. Hog raising, dairying, bee keeping, fox farming, poultry raising, field crops and garden produce have also been money makers for Hot Springs County agriculturists.

Water, of course, is the key to agricultural pursuits—it is the key to life.

Wyoming water rights are based on a first come, first served plan. The earliest water right, 1880, in the Big Horn Basin was filed at what is now the Ray Shaffer ranch on lower Owl Creek. The hot mineral springs used for health and recreation and the federal dam projects of Anchor and Boysen have all affected the economy of the County.

The semi-arid to arid climate (with 9-11 inches of rain annually) has made adequate water supplies extremely important to Hot Springs County. These supplies have affected the historical settlement and will determine future settlement.

Air quality has always been of the highest standards in Hot Springs County, except for incidents such as fire. A majority of residents of the County have gone on record at various times as being opposed to cultivating any type of industry which would affect this quality. It is not only important to the health of the citizens but to the economy due to aesthetic values sought by locals, tourists and visitors.

Near the mouth of Owl Creek was one of the first towns in the County, Thermopolis. Across the river were the buildings of Andersonville, a hangout for outlaws as well as lawmen. Thermopolis was moved upriver across from the springs in September 1897. It was incorporated in 1899. A second town grew up on the east side of the river, just off the Hot Springs Reserve. East Thermopolis was proposed for incorporation as early as 1910, but was not incorporated until 1947. The other incorporated town in the County is Kirby. Kirby for many years was the hub of railroad activities in the southern Big Horn Basin since a roundhouse was located there, along with stockyards, which were also sited at Lucerne and Thermopolis.

Wherever there were post offices and stage stops in the earliest days usually small stores and sometimes other amenities sprang up. Included in this category were Ilo on Grass Creek; Middleton, Owl Creek; Holt in the southeastern end of the County and Lucerne in the

northcentral. Roads came into these centers from the south via Blonde and Mexican Passes on the west side of Wind River Canyon or Birds Eye, "D" or Bridger Pass on the east. Early roads followed the river in from the north. Staging, carrying the mail and then freighting became important businesses during a time when the road over Blonde Pass was the main road between Lander, Meeteetse, Cody and later Red Lodge, Montana.

Two unincorporated coal company towns, Gebo and Crosby, were laid out in the northcentral part of the County after the turn of the century. Oil camps included Hamilton Dome, Grass Creek and Black Mountain.

The railroad was the beginning of a new era for the County. By 1913 the longest gap in the railroad system between Montana and Colorado on the Chicago, Burlington and Quincy was closed when the railroad was run through Wind River Canyon. Finally in 1924 auto traffic was also moving through the canyon.

Agricultural income and taxes began to take second place to the extraction of non-renewable resources.

Due to major litigation between the Federal government and Sam Gebo and his partners over mining claims, coal mining got off to a slow start at Gebo after it was discovered in 1906. Work at Crosby started about the same time. Minor strip mining has been on-going since the 1970's.

Lumbering was an important adjunct to the coal mining industry for timber support within the mines. In the earlier days, both cottonwood and pine were used in mining, construction of homes, outbuildings, and business structures.

Besides coal, mining in the County has included rock quarrying, bentonite and sulfur. Much of the building in downtown Thermopolis was done with native rock. Sulfur was mined west of Thermopolis from the turn of the century until just after World War I.

The oil industry started five miles east of Thermopolis in 1904 at what is now the Warm Springs field. Through careful management in the last 25 years, this field is still operating today. The discovery well was sunk at Grass Creek in 1908. Again, litigation over State and Federal leases held up production until 1914; however, since then the field has been a major producer. Hamilton Dome's "discovery" well was the first Chugwater oil discovery in Wyoming. The well broke loose and shot oil 150 feet into the air in November of 1919. It broke out three times altogether before they got the "gusher" stopped. The field is still producing. Other oil fields in the County, including but not limited to, are Black Mountain, Waugh Dome, Corley, Gebo, Little Sand Draw, Murphy Dome, Wagon Hound, Wild Horse, Zimmerman Buttes, Kirby, Enos, Lake, Little Grass Creeks, Golden Eagle and Little Buffalo Basin.

Post World War II: Recent History:

Major changes since World War II in Hot Springs County include electrical and telephone lines, water pipelines to rural areas, oil/gas development and fiber optic lines. Most of these lines cross public lands and have changed ways in which we live. The technology of radar and satellites has

brought drastic changes. Many of these developments lead not only to right-of-way issues, but also brought up the issue of aesthetics.

Oil/gas production is still the number one industry. Satellite industries to the oil/gas business have played important roles in the County. Agriculture and tourism are the next two largest industries. (see pages 12 and 13 for agricultural and oil/gas statistics).

To date no other major industries have started to replace the tax base of oil/gas/mineral production and agriculture in the County. Tourism/Recreation/Health has contributed to the economic stability of the County. Museums, including the Wax/Dancing Bear, Dinosaur and County Museums have been and continue to be drawing-cards to the community. Gottsche Rehabilitation Center, the Hot Springs County Memorial Hospital, and the Wyoming Pioneer Home, were built in the state park to take advantage of the hot mineral springs water.

Preservation of water sheds remains a crucial issue in Hot Springs County. The construction of Boysen and Anchor dams has played an important role in the economy of the County. Although Anchor has not lived up to its full potential, it has changed the agricultural usage of water on Owl Creek and the Lucerne Valley. Water availability has historically been the driving force for homesteading and development in the County.

In 2004, government and subsidized services at all levels make up the greatest payroll entities in the County. These include schools, agencies for education and employment for special people of all ages, the hospital, senior citizen center, low income housing, the Wyoming Pioneer Home, a counseling center, a nursing home, the Extension Service, the Soil Conservation Service, and Weed and Pest among others.

Chapter 3: Public Land

Local Controls/Local Benefits

Introduction:

This Chapter is limited to the County's positions regarding public land. When speaking of "public land", the reference is to real property owned or controlled by an agency or bureau of the either the State or Federal government. Over sixty eight percent (68%) of the land which makes up the County is "public land". These positions are not intended, nor should they be interpreted, as a position(s) toward private property issues, or rights of private property owners dealing with County regulations. The County's custom and culture has been significantly influenced by the relationship of the citizenry to public land, and the economic benefits that derive from public land. For instance, the Payments in Lieu of Taxes program ("PILT") was devised to offset negative repercussions caused by so much land being in public hands, but PILT has never been fully funded. To this point, the County tax base has been sufficient to operate, primarily due to the oil industry with 65-75% of the taxes being paid on oil/gas facilities and production generated by old fields.

This section of the County's Natural Resources Plan is intended to identify and establish local public policy standards for the management of public land. The County finds public land management practices are both relevant and substantive to its custom and culture, it's economy, it's environment, its quality of life, and its ability to protect and enhance local resources in spite of potentially detrimental outside influences.

The County recognizes the importance of public land to the quality of life in the community, the County intends that policies and practices established pursuant to the Natural Resources Plan endeavor to maximize the County's influence on decisions made by State and Federal land managers regarding public land for local public benefit. To that end, the Natural Resources Plan identifies the issues, background, and action steps recommended by Hot Springs County related to land use planning on State and Federal lands. The information, goals and policies were all arrived at through extensive public input. The County will endeavor to continue gathering public input as various issues arise, change and evolve with time.

Authority:

The County's decision to incorporate these policy statements into its Natural Resources Plan for State and Federal Lands, relies on the National Environmental Policy Act process ("NEPA"), W.S. §18-5-208, President Bush's Executive Order for Facilitation of Cooperative Conservation of August 26, 2004, and such other authoritative legislation and precedent, which invite local participation in State and Federal decision-making processes. These issues involve, but are not limited to the following categories:

- ❖ land management

- ❖ wildlife protection
- ❖ environmental issues
- ❖ roads and highways
- ❖ water and irrigation projects
- ❖ flood control
- ❖ resource development
- ❖ plant and animal damage control
- ❖ peripheral land use
- ❖ economic stability

Goals:

- As required by Federal statute, Hot Springs County expects and relies on State and Federal authorities for appropriate and timely notice of anticipated changes to policies or management.
- As required by Federal statute, Hot Springs County expects to assert the maximum amount of influence allowed by law regarding any public land issues, and expects its contributions to management and regulatory decisions be accounted for and recognized as intended.
- Hot Springs County supports State and Federal authorities to either implement or allow augmentation of water resources, protect access to public lands, and educate the public on the contributions multiple uses make to the local economy.
- Hot Springs County expects State and federal authorities to comply with existing management policies and processes. Upon information and belief, Hot Springs County has concluded past management practices may have strayed from or otherwise ignored written management policies and processes. Hot Springs County cannot by itself monitor compliance with all policies and processes, but it is the County's objective to review any deviations coming to its attention.
- At its discretion, Hot Springs County expects to participate in State and Federal actions impacting public land in a way best calculated to achieve optimum effect; including but not limited to, requests for cooperating agency status. The County will recommend how State and Federal agency action might enhance and benefit local custom and the community's culture; thus providing sustainable continuity of local interests.
- Hot Springs County expects State and Federal officials to respect private improvements as contributions to the sustainability of local custom and culture. To this end, the County's objective is to educate public land users regarding these improvements, and

promote more efficient and effective measures that allow owners of these improvements to make repairs and enhance the usability of these improvements.

- Hot Springs County expects State and Federal officials to help protect cultural and natural resources on public lands from vandalism.

Public Policy:

1. Hot Springs County will support traditional multiple land uses as a means to maintain continuity in the local economy, and assure the sustainability of existing agricultural, recreational, and industrial interests while maintaining or improving the present environmental quality of life. By supporting traditional multiple uses, the County intends local custom and culture will be maintained and given continuity thereby mitigating potential negative social and economic impacts on the community in the process.
2. Hot Springs County will oppose material changes in land uses, which hamper or otherwise negatively impact traditional land uses. The County intends to avoid undue social distress, dislocation, and hardship brought on the community by such changes.
3. Hot Springs County will endeavor to forge cooperative agreements and maintain existing cooperative agreements with various agencies, bureaus, and administrations to assure the greatest possible communication and exchange between and among stakeholders to public land. Hot Springs County intends that cooperative agreements will be relied on and acted on regularly with consistency.
4. Hot Springs County will enforce mandates that require State and Federal authorities to consider the social, cultural, and economic needs of the local human environment in any regulatory action impacting local custom and culture.
5. The County will insist regulatory action cite the impacts to the local economy, local custom and culture, the human environment and provide how such action is consistent with new, revised or supplements to the County's land use plans (as required by the National Environmental Policy Act).

Multiple Use

Definition:

“ Multiple use “ means the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic rest 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 balance and diverse resource uses that takes into

account the long-term needs of future generations for renewable and nonrenewable resources, including but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output. Multiple use recognizes the custom and culture of the local community.

In addition to requiring Federal lands be managed for “multiple use,” MUSYA also required that Federal lands be managed for sustained yield. MUSYA defines “sustained yield of the several products and services” as “the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of various renewable resources of the national forests without impairment of the productivity of the land.” 16 U.S.C. § 531(b).

Background:

There is a direct tie between multiple use and the custom and culture of Hot Springs County. Multiple use concepts are integral to the County’s custom and culture. Hot Springs County residents are directly and indirectly dependent upon public land and the land’s intrinsic resources for their livelihoods and their quality of life. It follows that the viability and sustainability of the local economy is dependent upon management for multiple use.

Public Policy:

1. It shall be the policy of Hot Springs County to support multiple use of public land. The County opposes management initiatives which restrict or limit existing and potential uses. The County will inform public land managers of any negative impacts on the livelihoods and/or quality of life of Hot Springs County residents which arise from public land management mandates, regulations and laws.
2. Hot Springs County will utilize cooperative agreements, NEPA, FLPMA, NFMA, MUSYA, the Wyoming Wilderness Act, broad-based legal precedent for appropriate and timely notice of anticipated changes in land use management of public land so it can provide essential information and exert the maximum amount of influence on land use management decisions negatively impacting multiple use issues.
3. The County will support the improvement of the productivity of the public lands in the County to include not only the existing industries of agriculture, mineral production, timbering, tourism and health care, but also the condition of the wildlife and plant communities on the public lands.

Access

Definition:

Access is a means of approach, entrance, or passage; ingress and egress. Activities linked to local culture and custom, which need access follow:

- Agriculture (farming, irrigation, livestock grazing, etc.)

- Recreation and related tourist activities (motorized and non-motorized transport and activities, including but not limited to hunting, fishing, water and land sports, hiking, wildlife viewing, etc.)
- Industry (mining, power production, utility corridors, oil and gas production/exploration, and timbering)
- Water (agricultural uses, industrial uses, recreational uses, power, domestic uses, and general water resource development and conservation)
- Intangible Values (historical and cultural sites, open space values and access to open space, aesthetic values, conservation, entrepreneurial values)
- Weed, pest and predator control.

In addition, the County itself relies on access to fulfill its statutory mandate to protect the health, safety and general welfare of people within its jurisdiction; including but not limited to, fire protection, search and rescue, flood control, the human environment, and law enforcement.

Background:

Local culture and custom is closely tied to access of public land. It is important to the sustainability of the livestock industry in Hot Springs County that grazing areas, and the stock trails that connect them, be open and accessible. For instance, livestock “trailed” from one grazing area to another must access not only the grazing areas on either end of that process, but also those lands in between. Historical use of stock trails and grazing areas has fluctuated over the years, depending on market prices, weather conditions, etc., but the need for access availability has remained constant, and continues to be relied upon by County residents.

Hot Springs County, on information and belief, asserts State and Federal officials have engaged in a continuing effort to limit, restrict or otherwise curtail access. This effort has been done informally, or through a bureaucratic incremental process that did not give due consideration to local interests. Even when proper notice was given, local officials were not provided enough information to form a good understanding of the implications and consequences, which could result – loss of access.

Hot Springs County relied on and acted on its rights under RS 2477 in recognizing various roadways. Unfortunately, the process for prioritizing and identifying roadways pursuant to RS 2477 was not completed. The County intends doing so with adequate funding and personnel resources. Hot Springs County has also relied on protections for existing roads and trails contained in the Wyoming Wilderness Act.

Public Policy:

1. It shall be the policy of Hot Springs County that the County supports retention of existing access to public land, and will oppose management initiatives, which restrict or limit access or might impact the livelihoods and/or quality of life of Hot Springs County residents.
2. Hot Springs County relies on its cooperative agreements, RS 2477, the Wyoming Wilderness Act, NEPA, ANILCA, and broad-based legal precedent, which all assure continued access of public land, and place the burden on State and Federal officials to prove by sound scientific means why access must be curtailed.

3. As required by Federal statute, Hot Springs County expects and relies on State and Federal agencies to provide appropriate and timely notice of anticipated changes to access or management of public land that impacts access. This will allow the County the time to make an informed decision on any proposed change. Hot Springs County intends to exert such influence allowed by law to maximize access to public land.
4. Hot Springs County asserts that State and Federal officials need to respect access to public land as contributing to the sustainability of local custom and culture. Toward this end, the County supports an effort to (a.) identify and perfect stock trails, roads, and rights-of-way protected by law, (b.) educate public land users regarding access issues, and (c.) promote more efficient and effective regulatory measures that allow continued access through repairs and maintenance on existing roads.
5. Hot Springs County expects that State and Federal officials work with the County to finalize perfection of the County's rights under RS 2477 and the Wyoming Wilderness Act, including assistance in obtaining the funding for the County to complete this project.

Agriculture

Definition:

Agriculture is the science, art, or occupation concerned with cultivating land, raising crops, feeding, breeding, and raising animals; it is the commercial production of food or fiber.

General:

Livestock grazing, irrigated farming and other intensive agriculture are integral to this community's ability to remain viable with a diverse, sustainable economy. The acceptance of this tenet is central to a strategy for the protection and preservation of local agricultural lands. Productive farmland has been developed only after a great deal of work, money and commitment. Just as each acre of ground in production contributes to the profitability of a single farm or ranch, so too does each acre contribute to the economic viability of the community as a whole. The steady decline in the number of self-sustainable farms and ranches is a response to social and economic forces beyond local control. The community needs to be aware of the consequences, direct and indirect, should these trends continue.

Agricultural lands contribute to landscape and scenic beauty, available wildlife habitat, and provide recreational opportunities for residents and visitors alike for hunting, fishing, snowmobiling and other tourist related activities. Agriculture is invaluable as an employer, as a source of affordable food and raw materials, as a provider of open space, as an environmental steward benefiting associated ecosystems, and as a component to sustainable County economy.

The County is determined to preserve and protect its range and farmland resources. A general policy statement to this effect was made part of the 1978 Hot Springs County Land Plan, and this

Plan seeks to amplify that policy through various supportive goals and policies related to public lands. If ag families are to make the investment, and take the risks necessary to keep agricultural business viable, government policies must support and create a climate of confidence for the future of the agricultural industry.

Background:

Our culture is shaped by our relationship to the land. The Fact Sheet attests to the County's present position as a ranking producer of agricultural products. It is agriculture that had a major influence in bringing the railroad, and was the original cause for settlement at the beginning of the Twentieth Century. Despite past successes, there are no assurances past actions will control unplanned growth and other environmental pressures, which may jeopardize or impede the agricultural industry in the future.

Agriculture is the productive use of land. Recent studies show that agriculture contributes much more in taxes than it demands in services. When good husbandry is practiced it also contributes to the preservation of valuable open space, critical wildlife habitat, and protection of natural resources for multiple use.

There are in excess of 848,000 acres (federally managed lands) currently used for livestock grazing in the County. These lands represent 69% of the total acres in the County, the majority of which are used for livestock production. It is clear that the livestock industry is vital to the local economy. Historically, the reduction of permitted grazing on public lands, unless for misuse or overgrazing, has had and will continue to have disastrous economic impact on individual ranches, and collectively on the County itself (see Appendix C for the study "Economic Impacts of Reduction in Grazing in Fremont County"). Therefore, continued grazing use of federally managed land is vital if the livestock industry is to survive. The expectation for continuation of the livestock industry in the County is essential to support economic stability and to preserve the custom and culture of the citizens.

The Taylor Grazing Act of 1934, 43 USC § 315, was passed primarily to provide for stabilization of the western livestock industry; and the Act is still sound law. The Act authorizes the Secretary of Interior to establish grazing districts in those federally managed lands, which were "chiefly valuable for grazing and raising forage crops." The Secretary is authorized to act in a way that would "promote the highest use of the public lands." 43 USC § 315. The Act authorizes the Secretary to issue grazing permits on a preferential basis with preference to those "land owners engaged in the livestock business", "bonafide occupants or settlers," or "owners of water or water rights," 43 USC § 315(b). The secretary was authorized to take action to stabilize the livestock industry, which is recognized, as necessary to the national well-being.

The Act also recognizes the property interests of a permittee in the form of an investment-backed expectation in § 315(b). That Section provides that no preference would be given to any person whose rights were acquired during the year 1934 except that the Secretary could not deny the renewal of any such permit "if such denial will impair the value of the grazing unit of the permittee, when such unit is pledged as security for any bonafide loan."

The Federal Land Policy and Management Act of 1973, 43 USC § 1701 et seq., did not limit, restrict or amend the purposes and provisions stated in the Taylor Grazing Act, Section 1071 stated the policy of Congress as follows:

“ The Congress declares that it is the policy of the United States that

(2) the national interest will be best realized if the public lands and their resources are periodically inventoried and their present and future use is projected through a land use planning process coordinated with other Federal and State planning efforts;.....

(8) The public lands will be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archaeological values; that, where appropriate, will preserve and protect certain public lands in their natural conditions; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use;.....

(12) The public lands be managed in a manner which recognizes the Nation’s need for domestic sources of minerals, food, timber, and fiber from the public lands including implementation of the Mining Minerals Policy Act of 1970.....as it pertains to public lands”

The Public Rangelands Improvement Act of 1978, 43 USC § 1901-1908, once again revitalized the purposes of the Taylor Grazing Act, providing that the Secretary of the Interior “shall manage the public rangelands in accordance with the Taylor Grazing Act, the Federal Land Policy and Management Act of 1976 and pursuant to this Act.” See 43 USC § 1903 which also provides that:

“the goal of such management shall be to improve the range conditions of the public rangelands so that they become as productive as feasible in accordance with the rangeland management objectives established through the land use planning process, and consistent with the values and objectives listed in { Section 1901 }.”

The values and objectives listed in Section 1901 by which the Secretary was to be guided include a finding and declaration by the Congress:

“ to prevent economic disruption and harm to the western livestock industry. It is in the public interest to charge a fee for livestock grazing permits and leases on the public lands which is based on a formula reflecting annual changes in the costs of production.” 43 USC § 1901 (a) (5).”

The Congress further found and declared that one of the reasons the Public Rangelands Improvement Act was necessary was that segments of the public rangelands were producing less “than their potential for livestock” and that unsatisfactory conditions on some public rangelands prevented “expansion of the forage resource and resulting benefits to livestock and wildlife

production.” 43USC § 1901 (a) (3). The Act mandates improvements to prevent economic harm to the “western livestock industry.”

In accordance with these Federal acts--- The Taylor Grazing Act, The Federal Land Policy and Management Act and The Public Rangelands Improvement Act--- the Bureau of Land Management is required to preserve the stability of the western livestock industry and to provide for multiple use management including necessary range improvements for the benefit of livestock production, wildlife habitat, watershed protection, and recreation. These Federal mandates can be met only by management of all federally managed lands within the County in such a way as to provide for continued use of allocated forage by permitted livestock and to work toward the restoration of forages to recover suspended AUMs. (see Appendix for definition)

Range improvements necessary to achieve maximum levels of livestock production, wildlife habitat, watershed protection, and recreation opportunity must be identified by the Bureau of Land Management. The Secretary of Interior, and therefore the Bureau of Land Management, is committed by statute to preserving the stability of the livestock industry. The stability of the industry as a whole is directly related to the stability of the individual ranches that make up the industry, including those in the County. The stability of the livestock industry in the County requires that the statutory mandates be followed.

The quality of economic life of the County, as well as the scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values which are part of life in the County protected by the Federal Land Policy and Management Act, require that the statutory mandates for stabilizing the livestock industry be followed.

Irrigated and intensive agriculture also provide a major contribution to the economic base of the County and are of critical importance to the economic stability of the county. Productive watersheds on public lands must be well maintained within the County as essential factors to preservation of irrigated agriculture.

The largest portion of crops produced in the County include alfalfa, grass, hay, silage and feed grains which are an integral part of the livestock industry which relies heavily on public lands for livestock grazing. Row crops, including but not limited to bean, corn, cereal grains and sugar beets, also form an important base of the agricultural economy of the County and are important to the livestock industry and wildlife.

Agriculture is critical to the economic life of the County, and its importance cannot be overstated. Wyoming Statute § 9-12-109 provides that:

“The council shall encourage and promote the development of agriculture in the State including horticulture, apiculture, livestock, poultry, dairying, and the kindred industries and including the development of new value-added agribusiness and product uses and markets for Wyoming agricultural products.”

Thus, even in a comprehensive planning and zoning statute which permits reclassification and re-zoning of all lands, the legislature recognized that established agriculture must continue unabated.

Goals:

- Development agencies (such as the Chamber of Commerce, Economic Development Corporation, Wyoming Business Council, etc.) will address the fast-changing economics confronting agriculture and related industries. Studies need to be undertaken to identify obstacles, barriers and opportunities for agricultural development. Strategic plans to overcome problems and take advantage of opportunities need to be identified. Most importantly, the agricultural communities and other stakeholders need to be involved in the process to assure implementation of the plan(s) has their support.
- The County supports important goals which diversify and strengthen the economic base of agriculture. The development of new products, value added industrial development, reliable transportation alternatives and marketing efforts are important aspects to securing a sustainable future for the local agriculture industry. Attainment of these goals will assure County residents can expect higher standards of living, and be able to keep pace with the rest of the nation in earning power.
- The County supports the multiple use status of the Federally and State managed lands by actively participating, at its discretion, in decisions affecting the management of these lands.

Public Policy:

1. The County has determined agriculture makes a substantive contribution to environmental and recreational uses of public land; for that reason, public purposes such as protection of endangered species, wildlife habitat, open space, and augmentation of water resources are all enhanced by continued support for livestock grazing, irrigation and other intensive agriculture.
2. The County supports opportunities for enhancement of land stewardship. Good land stewardship assures public land continues to be productive for generations to come, as it has sustained the County's economy for several generations already. Any changes and/or restrictions proposed by Federal or State agencies must be based on objective and sound scientific data and in cooperation with the County as required by FDQA.
3. As far as required by Federal statute, the County asserts State and Federal land use and management plans must comply with the County Land Use Plan and incorporate standards and objectives that maintain the health, safety and general welfare of agricultural interests culturally, historically, and economically.

Cultural, Paleontological, and Archeological Resources

Definition:

Paleontology is the branch of geology that deals with prehistoric forms of life through the study of plant and animal fossils.

Archeology is the science of studying prehistoric and historic remains of human cultures as discovered chiefly by systematic excavations.

Sociology is the science or study of the origin, development, organization, and functioning of human society.

Cultural resources may be investigated through all three of these sciences.

Cultural resources located on public land bring perspective to our history and may have historical significance relating to other natural resources. For instance, the Bridger Trail, which bisected the County, has historic implications regarding the westward migration of people during the Nineteenth Century and points out the significance of our water resources as connected to transportation.

General:

Hot Springs County offers a unique expression of human occupation. Many significant cultural, paleontological and archeological sites have already been identified on public and private land. With the likelihood that additional important sites have yet to be identified and since the vast majority of land within the County is publicly owned, it is reasonable to assume that many of these future discoveries will occur on public land. Historic sites and structures remind us of our rich cultural heritage, provide a reassuring sense of time and place, and assure us all of a continuing source of educational opportunity.

The Archaeological Resources Protection Act (ARPA) of 1979 provides strict and meaningful penalties for destroying sites on public land and for taking artifacts. To reiterate: In the Federal Land Policy and Management Act of 1973, Congress declared that the national interest public lands and their resources should be inventoried periodically. And, that they should be managed so as to protect, among other things, the quality of historical and archeological values. Hot Springs County recognizes manpower and financial constraints have prevented State and Federal officials from identifying and protecting every site within the County. As a result, Hot Springs County concluded most sites on public land are unmarked and essentially unprotected. The County also realizes that until they can be protected, it is better that these sites remain unmarked.

Background:

Hot Springs County offers a unique expression of human occupation which can be divided into two categories: Prehistoric and Historic. Included in the Prehistoric resources are game and Indian trails, individual tepee rings, petroglyphs, camp and chipping sites and game traps. Historic sites add to the evidence of Hot Springs County's long and significant history. They remind us of our rich cultural heritage. They include lonely, outlying cemeteries, stage station sites, ghost towns, rock quarrying sites and oil fields where production is gradually diminishing, and the Wind River Indian Reservation.

Hot Springs County's traditional lifestyle has centered on agricultural pursuits and resource based industries for generations. Cultural resources link us to the past and convey the legacy prior generations left for us. Preservation of what's here provides insight into the fabric of the community and what it will likely become.

Through private efforts, several houses and buildings have been restored and protected. New uses have been found for historic buildings. The Hot Springs County Museum, the Hot Springs Pioneer Association, the Hot Springs County Historical Society, Washakie Chapter DAR, Thermopolis Woman's Club, the towns of Kirby and Thermopolis, and special committees have all played a role in the preservation of the County's cultural resources.

Preservation of irreplaceable historic and cultural resources promotes a sense of community. Historic preservation promotes revitalization of our towns and the countryside. The economic values of historic preservation have been proven again and again. Historic preservation of property enhances values and provides the basis for heritage tourism.

National Register of Historic Places:

Presently, the following structures and sites are listed on the National Register of Historic Places. While some of these sites are on private land, the success of these properties often depended greatly on the public lands. Those starred are also in the 2002 Revision of the Hot Springs County Land Use Plan, with its accompanying recommendations:

- *Bates Battlefield - (HO46) located in the eastern end of the County, adjacent to the Washakie County line. It was the scene of a battle on July 4, 1874 between a group of Arapahoes under Black Coal against Shoshone Indians led by Chief Washakie and U. S. Army troops and a few civilians under the command of Captain Alfred E. Bates. Recommendation: This should remain as agricultural grazing land, with existing livestock watering devices, existing roads and fences. No other development of any type should be allowed.
- *J. D. Woodruff Cabin Site - (HO45) at the main residence of the Mill Iron Ranch headquarters on upper Owl Creek. It was the first cabin constructed in the Big Horn Basin and represents the first livestock enterprise in the Big Horn Basin. Recommendation: Lands surrounding the monument and cabin site should continue as a ranch headquarters and other agricultural uses continued.

- *Legend Rock State Petroglyph Site - (HO4) This site, containing thirty acres on the north bank of Cottonwood Creek in the western part of the County, is an Indian petroglyph site and an archaeological site. It may be visited with access permitted via a locked gate, with the key accessible from Hot Springs State Park Headquarters. This site has been vandalized through the years, but remains an impressive attraction for tourist and resident alike and is visited often by students. Recommendation: Existing uses should continue with no residential or commercial uses permitted.

Additional sites on the National Historic Register, but not in the Land Use Plan include:

- The Four Mile Bridge - (HO381) over the Big Horn River near the mouth of Buffalo Creek. This was the site of an early day ferry. The original steel bridge has been removed by the Wyoming Department of Transportation.
- Steel bridge over middle Owl Creek - (HO408) south of the Hamilton Dome Highway (State Highway 170). This was the site of a representative bridge of its type. It was replaced by the Wyoming Department of Transportation.
- Callaghan Apartments (Plaza Inn) - An 1918 structure built in Hot Springs State Park for those visiting the park for recreational or health purposes. It has been refurbished and is now a member of the Best Western chain.
- Downtown Thermopolis Historic District - (HO406)
- Thermopolis Main Post Office - (HO202)
- Halone House - (HO679) The home of the Halone family starting in 1906. Alexander Halonen (Halone) was an outstanding stone mason and worked on many of the stone buildings in this area, as well as such structures as the base of the Buffalo Bill statue in Cody. His house is representative of his workmanship and the materials he used. His son, Eugene, followed in his footsteps and was an award winning stone mason of the Billings, Montana area.
- Town of Kirby Jail - Under consideration at the present time for Historic Register status is the one-room jail at Kirby. This jail has the original cages for prisoners and served the railroad town of Kirby during its heyday when the town was an important shipping point for cattle, horses and sheep. The first owner of the site, John Nelson, ran cattle on the public lands for years.

Goals:

- The County encourages recognition of sites, structures and landscapes on public land within the County which have played a significant part in creating the cultural, prehistoric, and historical fabric of the community.

Public Policy:

1. Hot Springs County will support development of public education and stewardship programs which will:

- (A) increase awareness about cultural, paleontological, and archeological resources (“Cultural Resources”) and lead to understanding of the history and meaning of various sites
 - (B) enhance responsible visitation
 - (C) and heighten protection strategies carried out within the context of multiple use
2. It is the County’s intent to be recognized as a consulting party under Section 106 of the National Historic Preservation Act (as amended). Currently Hot Springs County does not have a Historic Preservation Commission to maintain the status of a certified local government (“CLG”) as evidence of its intent to be a consulting party.
 3. Hot Springs County will cooperate with State and Federal authorities in identifying significant Cultural Resources in the County, make such sites known, and evaluate the significance of proposed land use actions and their impact on Cultural Resources. It is the County’s intent to evaluate the economic and cultural impacts associated with Cultural Resource identification and protection, and weigh one against the other in a cost/benefit context based on the County’s unique custom and culture.
 4. Hot Springs County supports visitation opportunities to significant local cultural resources, and strongly urges site protection of those cultural resources.
 5. Most roads in the County were originally game and Indian trails and were used by the earliest white travelers in the area. Most of these roads have been altered until the original ruts no longer exist. It was the recommendation of the Land Use Committee of 2002 that “No specific restrictions should be placed.”

Law Enforcement

Definition:

Law enforcement is a means the County will use to compel observance of legal rules of conduct within the County’s jurisdiction. This incorporates one aspect of the mission of local government to protect the health, safety, and general welfare of its citizenry, and is commonly referred to as “police powers”. Wyoming State law does not exempt public land from State law. The Sheriff is the County’s chief law enforcement officer, whose duty is to enforce the law.

Background:

The Sheriff provides search and rescue functions and is critically important in emergency situations throughout the County. The search and rescue program for the County is conducted through the Hot Springs County Sheriff's Department. In addition, the County has an emergency coordinator. The coordinator along with the Thermopolis/Hot Springs County Volunteer Fire Department, of necessity, also work closely with the Sheriff's department. Finally, law enforcement's vital communications equipment may be located on public land. Without unimpeded access to public land, the health, safety and general welfare of the public will be put at risk and could jeopardize the department's ability to protect and serve within its mission.

Violators do not readily recognize boundaries between public and private land. Consequently, assurances that the Hot Springs County Sheriff's Department ("Sheriff") continues as the chief law enforcement officer on public land is important to assure consistency and to maintain public expectations. The Federal Land and Policy Management act (FLPMA) provides a means for Federal agencies to work with local law enforcement authorities to assure law enforcement protections have no gaps. The pertinent language follows:

“ The Secretary may authorize Federal personnel or appropriate local officials to carry out his law enforcement responsibilities with respect to the public land and their resources. Such designated personnel shall receive the training and the responsibilities and authority provided for in paragraph (1) of this subsection.”

Cooperative agreements have been worked out in the past. The County may use cooperative agreements to assure efficient and effective law enforcement.

Public Policy:

1. Hot Springs County supports cooperation between and among County, State and Federal authorities for uninterrupted communications, expedited emergency response, and unimpeded law enforcement protection.
2. Hot Springs County will endeavor to adhere to its rights and responsibilities of any cooperative agreement, and will insist on the adherence by other parties. In the event that the County is unable to carry out its obligation, it will take immediate action to assure the public health, safety and general welfare are not compromised.
3. The Hot Springs County sheriff constitutes the chief law enforcement officer on the public lands in the County for the enforcement of State and County laws. With a cooperative agreement under FLPMA, the County Sheriff can enforce certain Federal statutes on public lands.

Minerals

Definition:

Minerals are naturally occurring substances formed by organic or inorganic processes. The County relies on legal precedent and statutory designations of what are minerals as established by the State.

Background:

Mineral production has and continues to play one of the most significant roles in the culture and economy of Hot springs County. It started with the discovery of coal in the late 1800's and of crude oil in the early 1900's when Hot Springs County was still a part of Fremont County (Hot Springs County was established in 1911). It is known today that substantial amounts of crude oil, natural gas, coal and bentonite are present in the County. Further, there is geological evidence suggesting there are remaining deposits of undiscovered minerals in the County.

Although the production of minerals, and associated economic and cultural activity, have waxed and waned with demand and pricing over the past; it has been, and remains the most significant portion of Hot Springs County's tax base. Crude oil production alone has accounted for more than two-thirds of assessed County valuations since 1977.

It is paramount that the County support production of minerals in an environmentally safe way through the political process as well as physically, by providing infrastructure and services such as roads, bridges, health and law enforcement. The political process has proven to be cumbersome with the controlling government agencies such as the Wyoming Oil and Gas Commission, Bureau of Land Management, United States Forest Service, and State of Wyoming Department of Environmental Quality. Therefore, it is Hot Springs County's duty and obligation to be a part of and/or intervene as provided for by Federal and state Law. (See Appendix A, B).

Besides attaching protective measures for the environment to the Federal Land Policy and Management Act of 1973, Congress wrote that " The public lands will be managed in a manner which recognizes the Nation's need for domestic sources of minerals, food, timber, and fiber from the public lands, including implementation of the Mining Minerals Policy Act of 1970."

Coal Bed Methane:

The Powder River Basin east of the Big Horn Mountains has been transformed in recent years by a boom in the production of coal bed methane (CBM). The economies of counties in that region have improved as a result, but not without adverse consequences. Development of CBM has burdened counties with costs associated with over-used roads, expanded road systems, and demands for facilities associated with CBM (pipelines, compressor stations, etc.).

Two issues of particular significance have caused a great deal of conflict in the Powder River Basin. The County seeks to avoid these conflicts in the future. First, the separation of the ownership of the surface estate and mineral rights to a given property (commonly known as split

estates) result in land uses with different purposes, perspectives and goals that often compete. Each estate has its own purpose and means of providing a livelihood for the respective owners. The other issue is water which will be discussed at greater lengths in the section on water.

Goals:

1. Hot Springs County's goal shall be to support and encourage the extraction of oil, gas, coal, bentonite and other minerals within the County.
2. Mineral production, largely crude oil, has been a part of Hot Springs County's culture for over 100 years. Therefore, the County asserts its right to be a part of any regulatory process; e.g., scoping, EIS, public hearings, working groups, etc.....which impacts its cultural and economic stability.

Public Policy:

1. Nearly the entire County's known crude oil reserves are in the confines of old oil fields. With the use of available technology, enhanced recovery would make possible the continued production of these fields. Hot Springs County supports enhanced oil recovery and the infrastructure to provide the same; e.g., carbon dioxide pipelines, processing plants, steam flood facilities, etc.
2. Hot Springs County has "stripper production" (a well with 10 to 15 barrels of oil production per day and dependent upon average pricing). The County supports continued preferential tax status and expansion thereof to maintain the economic viability of "stripper production".
3. Hot Springs County asserts its lawful right to comment and be a part of any determination, designation or revision under the Endangered Species Act, Clean Air Act, or any other legislation which could have a direct or indirect impact on the County's mineral development and production.
4. Hot Springs County recognizes there are direct impacts to surface land owners in the process of mineral extraction; e.g., roads, location development, pipelines, contamination, water disposal, and surface disturbance of mining. The County asserts that it is the responsibility of the mineral producer to cooperate with the surface owner to mitigate adverse impacts on surface uses.
5. Hot Springs County strongly urges mineral producers reach written agreements with surface owners before entering upon the land. The County believes mineral producers and surface owners both have rights and

responsibilities, one to the other, and only through mutual cooperation can each optimize their returns on investment.

6. Hot Springs County asserts local, State and Federal land use and management plans are incomplete and materially deficient unless such plans contain a thorough discussion and evaluation of coal bed methane and mineral development, and the implications such development has on surface land uses.

Recreation and Tourism

Definition:

Recreation is defined as an action or lack-there-of, which results in relaxation, entertainment, and is enjoyed by those who participate. Tourism is traveling as, for recreation, relaxation, and entertainment.

Background:

Hot Springs County offers a variety of recreation and tourism opportunities for residents and visitors alike. Public surveys have shown the recreation opportunities locally available are especially important to local residents and visitors. Heightened and more proactive efforts to expand recreation and tourism opportunities will only enhance the quality of life and make a significant contribution to sustaining the custom, culture and economic stability of the County.

The forests, campgrounds, rivers, streams, lakes, and hot springs of the County, the Owl Creek mountains and Hot Springs State Park make significant contributions to the quality of the experience enjoyed by tourists and recreationists. Privately owned concessionaires rely heavily on public land management for their livelihoods. Tourists rely on public land management to assure a positive experience, and residents rely on public land management to maintain their quality of life.

Most recreation and tourism opportunities occur on public land, but draw on County resources and infrastructure to provide support for that experience. Since public land is not taxed, the County relies on programs like the "Payments in lieu of Taxes" ("PILT") program to provide infrastructure, and public services. Unfortunately, PILT has never been fully funded so the burden falls to the local taxpayer to pick up the difference. Any shortfall may be detrimental to the recreational and tourism experience, and the local economy suffers as a result. It also means the quality of life for local residents is diminished since money, which would have otherwise gone to enhancing their lifestyle must be used to maintain services and infrastructure for non-taxpaying tourists and recreationists.

U.S. Highway 20 and State Highway 120 are the two major highways running through Hot Springs County. Highway 20 takes the motorist through the Wind River Canyon along the Wind River and then follows the Big Horn River through Thermopolis and continues north through the County. There are prime hunting areas, fishing streams, and historic sites attractive to sportsmen

and tourists along these two routes. Both highways are on a major route to Yellowstone National Park, which experiences seasonal surges in tourism.

Hot Springs County has abundant geological formations, dinosaur fossils, mineral hot springs and the Wind River Canyon which have provided recreation, health and education to tourists from all over the world. There are several hot springs in the County. These springs provide invaluable cultural, recreational, healthful and commercial assets to the County. These springs have been a major draw and benefit to the people because of their recreational and therapeutic benefits. Concessionaires, businesses or entrepreneurs depend on the protection of the hot springs for their livelihood.

The discovery of significant amounts of fossilized dinosaur remains has provided a new economic force for the County. Based on a major fossil dig southeast of Thermopolis, the Wyoming Dinosaur Center has become a major attraction for drawing visitors to Hot Springs County. This has resulted in recreational benefits to visitors and economical benefits to businesses and residents.

Hot Springs County offers a diverse and abundant game and non-game wildlife population, due in part to aggressive predator control practices and sound range management practices. Recreation and related tourist activities (motorized and non-motorized transport and activities, including but not limited to hunting, fishing, trail riding, wildlife viewing, and water and land sports) have played a large and historically important role in the County's economy. It is the County's belief that they will continue to do so.

Historically the County has been firm in the belief that the wolf and the grizzly bear, both of which occupy habitat in the County, have a negative impact on wildlife populations as well as agricultural operations. Such beliefs led to predator control measures that assured the impact by these animals would be minimal.

Historic sites and structures remind us of our rich cultural resources and offer a continuing source of educational opportunity. Historical, archeological, paleontological, and geological sites abound in Hot Springs County and add to the evidence of the County's long and significant history and are used to attract tourists.

Local culture and custom is also closely tied to access of public land. Access is a means of approach, entrance, or passage; ingress and egress. Activities linked to local culture and custom, and which need access are as follows: recreation and related tourist activities for motorized and non-motorized transport and activities including but not limited to hunting, fishing, water and land sports, hiking and wildlife viewing.

Forest recreational tourism is an important source of demand for the tourism industry in this County. People travel millions of miles each year in all seasons to find and experience activities in forest settings. In many ways the long-term sustainability of the tourism industry is tied to the long-term sustainability of the public and private forests of the County. Past fires and other natural disasters have brought the public closer to the issue of forest health, sustainable management and the economic tourism value of our forest systems. Re-occurring droughts have

taken their toll in the past, and this prolonged episode has certainly resulted in dire consequences to the health of local forests. The mountain pine beetle is a designated pest and is found on the forested portions of the State and Federal Lands within the County. Some forests are suffering major damage due to this infestation. If trees decline, this will affect the aesthetics, health and natural use of our forests.

Our western heritage gave us the opportunity to travel for miles and feel alone with the land. Open space values and access to open spaces are a part of our culture and customs and must be preserved. Camping, hiking, riding, biking, hunting and fishing highlight the scenic nature of public lands in the County. Subdivisions have encroached on access to public land and closure of some private land.

Goals:

- The County serves as a gateway to many tourist attractions and recreational opportunities. Based on our abundant game and non-game wildlife and livestock populations, recreation and tourism will play a valuable role in the County's economy and will continue to represent our customs and culture.
- Preservation, enhancement and protection of all natural habitats shall be strongly encouraged. We must preserve our culture, customs, heritage and our way of life while preserving and protecting our wildlife, historical sites, geological sites, and vegetation. The County encourages recognition and protection of sites, structures and landscapes, roads and trails within the County so that our Western way of life can be preserved.
- Maintaining the presence of livestock on the range, cattle drives, and the presence of ranches and farms enhances and contributes to the tourist's experience in the West. Through good stewardship of the land we will be able to attract tourists to our cowboy heritage.
- Geology plays a major part of tourism in Hot Springs County. The hot springs and Wyoming Dinosaur Center will continue to be an economic boost to tourism revenues in Wyoming. The hot springs must be protected. Any discovery of fossilized dinosaur remains on public lands must be dealt with in a manner that will protect commerce and tourism in the County.
- Wyoming's native wildlife is a treasure that we must conserve for future generations to enjoy, so meaningful habitat protection should become a key part of the management of our public lands. The grizzly bears and non-native wolves are protected under the Endangered Species Act but represent a predatory threat to livestock, game and non-game wildlife and people alike.
- The County believes that sustaining forest health is central to supplying a quality forest experience to people who use public lands and the timber industry.

- People must have access to public lands in order to enjoy our open space values. At no time should the integrity of the land be compromised. Precaution must be taken to maintain the beauty of Hot Springs County. Development along all public roads leading to or crossing public lands deserves special attention to assure that the views are not degraded or compromised.
- The oil industry will be encouraged to use signage and other means to enhance and explain the historical and present significance of geology and its importance in the County.

Public Policy:

1. Hot Springs County supports recreation and tourism opportunities carried out in an environmentally responsible manner consistent with sustaining local businesses that rely on tourism and recreation.
2. The County will promote cooperative agreements with other communities to develop heritage and cultural corridors, and will take appropriate action in support of efforts to create facilities and signage to bolster access in and through the County.
3. The County will promote cooperative agreements with the Wind River Indian Reservation to develop heritage and cultural corridors, and will take appropriate action in support of efforts to create facilities and signage to bolster access in and through the County.
4. The County strongly supports State and Federal offices and agencies to provide public facilities including sufficient sanitary facilities on major highway corridors, at recreation areas, historic sites, and other attractions throughout the County. State and Federal land use and management plans need to incorporate standards and objectives for public facilities, which sustain and support local recreation and tourism economic interests.
5. The County strongly supports State and Federal agencies to provide sufficient signage on major highway corridors, at recreation areas, historic sites, and other attractions throughout the County to direct tourists and those recreating to the use of public land. This signage should also take into account the protection of the land and protection of landowners in the area.
6. The County strongly supports State and Federal agencies to protect the mineral hot springs.
7. In the event of a discovery of fossilized dinosaur remains on public lands, the County strongly supports that this economic resource be exploited in a controlled but logical manner for the economic good of the County and State.
8. The County strongly supports State and Federal offices and agencies to provide sufficient predator control. Predators must be kept under control to provide for human safety and

property and also to preserve and protect game, non-game wildlife and livestock populations.

9. Hot Springs County supports visitation opportunities to significant local cultural sites on public lands and strongly urges site protection of these cultural resources. The County shall support and protect recreational resources on public lands so that all users will have a clean, safe and enjoyable experience.
10. The County relies on its cooperative agreements, RS 2477, the Wyoming Wilderness Act, NEPA and broad-based legal precedent, which all assure continued access of public land, and place the burden on State and Federal officials to prove why access must be curtailed. The County supports retention of existing access to public land, and will oppose management initiatives, which restrict or limit access or may impact the livelihoods and/or quality of life of Hot Springs County residents.
11. New approaches shall be evaluated to allow for fire management primarily in areas where fire would damage vegetation which will support and expand multiple use or would endanger human safety or private property.
12. Hot Springs County supports control of the mountain pine beetle, a designated pest, and the control of white pine blister rust on the forested portions of the State and Federal Lands within the County and opens access in order to control the mountain pine beetle and white pine blister rust.
13. Access must be provided to public lands along roadways traveling through these lands. Designated off road travel and primitive camping should be maintained in a way that will allow access yet protect the environment.
14. Open space values shall be considered when discussing land development.
15. Projects which link cultural heritage and tourism on public lands have the potential to become important components in the County's tourism program. The County will actively participate in regional tourism efforts affecting public lands that link and promote the County's unique attractions and activities. This participation will encourage efforts that will attract new and repeat visitors to this community's businesses.

Special Land Designations

Definition:

“Land Designations” refer to tracts of public land with distinctive and uniquely recognized use characteristics. Commonly used Land Designation in Hot Springs County includes, but are not limited to: national monuments, national forests, wilderness areas, wilderness study areas, wildlife refuges, national recreation areas, roadless areas, areas of critical environmental concern, and wild and scenic rivers.

Background:

The Wyoming Wilderness Act was enacted October 30, 1984. With passage of that legislation, the **Washakie Wilderness Area** was designated in the extreme western portion of Hot Springs County, portions of Park County and portions of Fremont County. The Washakie Wilderness is in the **Shoshone National Forest** and is administered from the Cody, Wyoming office of the USFS. Certain segments of the Wyoming Wilderness Act are particularly relevant to this plan; and therefore, are quoted hence:

- “ To designate certain national forests in the state of Wyoming for inclusion in the National Wilderness Preservation System, to release other forest land for multiple use management, to designate wilderness areas in Wyoming from mineral activities, and for other purposes. “
- Section 401(b)5-“.....unless expressly authorized by Congress, The Department of Agriculture shall not conduct any further Statewide roadless area review and evaluation of National Forest System lands in the state of Wyoming for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.”
- Section 504-“Congress does not intend that the designation of wilderness areas in the State of Wyoming lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that non-wilderness activities or uses can be seen or heard from within the wilderness area shall not, preclude such activities or uses up to the boundary of the wilderness area.” (P.L. 98-550-October 30, 1984).

The **Bureau of Land Management** has used NEPA and the Environmental Impact Statement management procedure to designate the following special lands in Hot Springs County and adjacent counties:

WASHAKIE RESOURCE AREA (east of the Big Horn River in the County) :

1. The Final Washakie Wilderness Environmental Impact Statement of November 1990 established the **Proposed Cedar Mountain Wilderness Area**, partially in Hot Springs County and partially in Washakie County encompasses 10,223 acres. The Cedar Mountain Proposed Wilderness Area can only become a fully adopted wilderness area by act of Congress; and therefore, it is being managed as *de facto* wilderness until such time as final determination is made – one way or the other. The Washakie Resource Management Plan was adopted in 1986; so therefore, no further assessment has been performed on the Cedar Mountain Proposed Wilderness Area. The County supports the recommendations of the 1990 Washakie Wilderness EIS that pre-FLPMA oil/gas leases are still open to exploration drilling, that existing grazing allotments are to be maintained, that 19 miles of existing roads and trails are open to use and that maintenance of 17 miles of fence, two water wells, and five reservoirs would continue to be allowed. The County supports improvement of water resources within the Cedar Mountain Proposed Wilderness Area and supports maintenance of the 19 miles of existing roads and trails for grazing purposes, oil/gas access to the pre-FLPMA leases, emergency services access and for access to control invasive species. (see Appendix “D” – Map II)
2. More recently, the BLM purchased a small tract of land on the Big Horn River, partially in Hot Springs County and partially in Washakie County. The tract covers 187 acres and is known as the **Elizabeth B. Eggert Nature Tract**. The Eggert property was acquired after an Environmental Assessment in 2000/2001 and will be managed as a public access area to the Big Horn River. The County did not object to the purchase of this small tract of land; however, purchase and retirement of large segments of private land from economically productive use by State and Federal entities will be carefully evaluated by the County in order to assess the impact on the County’s economy, custom and culture. (see Appendix “D” – Map V)

GRASS CREEK RESOURCE AREA (west of the Big Horn River in the County):

3. The Final Grass Creek/Cody Wilderness Environmental Impact statement of August 1990 established a Wilderness Study Area (WSA) in the western-most portion of the County, adjacent to the Shoshone National Forest, and encompassing 710 acres. The BLM revisited the matter in their June 1996 Final Environmental Impact Statement for the Grass Creek Resource Management Plan (RMP), at which time, they dropped the Wilderness Study Area (WSA) designation, but replaced and expanded the area with a designated 16,300 acre **Area of Critical Environmental Concern (ACEC)** in place of the defunct WSA. The County acknowledges and opposes the existing ACEC designation and opposes new designations of ACEC and/or WSA area on the Federal lands within the County. With respect to the existing ACEC designated areas in the extreme western portion of the County, there is a mixed pattern of land ownership resulting in the right of private property owners to restrict access to the area. The County recognizes that this area is not open to the public due to the lack of public road easements. (see Appendix “D” – Map III)
4. The Final Grass Creek RMP of June 1996 delineates a **Wild Horse Management Area** along the Big Horn/Washakie County line but excluding any areas in Hot Springs County. The County recognizes the management area is outside its boundaries, has been

functioning satisfactorily, and opposes expansion of the management area into Hot Springs County or establishment of new herds in the County.

5. The Grass Creek RMP delineates an area called the **Meeteetse Draw Rock Art Area** northwest of the Town of Thermopolis. The County supports managing the delineated area as an area of limited access with grazing allotments fully intact and unrestricted. Oil/gas exploration and production in this area is withdrawn from mineral location by the Grass Creek RMP. The County recommends protecting the petroglyphs by discouraging public use and continuing traditional uses such as grazing while restricting ORV use. The County supports an Environmental Assessment study in order to determine the best future use of the area. The County asserts that grazing is the appropriate use of the land for the time being, and that volunteer patrolling and observation by the grazing lease holder(s) are beneficial to protection of the site. (see Appendix “D” – Map IV)
6. The County asserts that the **Gebo-Crosby historical mining area** has been irrevocably altered by human activity including mining, slack piles, mining reclamation, road building, railroad grades, etc.; and with the exception of a few small sites such as the cemetery and town site, has lost much of its historical value. Recognizing that the Gebo-Crosby area has changed uses, and that a detailed management plan is not in place, the County supports the utilization of an Environmental Assessment in order to determine the best future use(s) of the area. (see Appendix “D” – Map IV)

The County recognizes that the various wild ungulates (elk, moose, deer, pronghorn antelope) and domestic ungulates are generally compatible on the same ranges; and therefore, separate land designations for wintering areas, birthing grounds, etc. are not necessary. Concern does exist regarding disease transmission between wild and domestic ungulates and man. In addition, wild ungulates depend upon open trails and roads in order to seek food and migrate during seasonal changes in Wyoming; and that, feeding of cattle by ranchers and opening of roads by oil/gas service personnel and logging operations is beneficial to the animals during harsh weather.

Accumulative Land Use Restrictions/Stipulations:

The County asserts that the accumulative effect of any number of restrictions and stipulations on any given grazing lease, mineral lease or other valid lease, on either State or Federal land, can reach the point of denying the lessee the use of a substantial portion of his lease. Recognizing that most Federal leases are let with Standard Stipulations for Surface Disturbing Activities and many of the stipulations are applied in a subjective manner, the County calls on State and Federal land managers to employ economic decision making tools in order to assess whether or not the accumulative effect of stipulations has become excessively burdensome on lessees.

It is the position of Hot Springs County, that the definition of public interest includes the effect upon the local custom, culture and general welfare with emphasis on the economy of Hot Springs County. Therefore, the documented record must show an economical analysis of the economic effects of either granting, denying or restricting a lease. The consideration of the effect on the local economy would therefore need to be balanced with the needs of wildlife, historical and cultural considerations, air and water considerations, etc. and shown in the record.

The State of Wyoming Land Commissioner typically does not attach lease restrictions to grazing and mineral leases; recognizing that the leases are subject to existing environmental law on both the State and Federal levels. The State recognizes that it's more desirable to assess a higher

royalty fee than restrict mineral activity – in essence the State has determined that it's in the public interest to use fewer restrictions in order to meet the public interest test. The Federal government on the other hand, has downplayed or ignored the effects of accumulative restrictions on the local economies and has put other considerations in front of the public's needs for economic stability. The County asserts that a reasonable balance must be struck.

The Hot Springs County Board of County Commissioners, through its legislated powers to consider the health, safety and general welfare of the citizens, may conduct open Public Hearing(s) as a method of objectively determining whether or not any particular restriction, or accumulation of restrictions, stipulations, etc., has an unreasonable effect upon the local custom, culture or general welfare of the County. Upon conclusion of a hearing for such purpose, a Finding of Fact and Conclusion of Law decision will be made by the Commissioners on the matter. The determination of the Commissioners shall then be forwarded to the land management agency for inclusion in the decision record along with minutes of the proceedings. Utilization of this method (as authorized by NEPA) thereby incorporates the input of the local citizens and government and provides an open forum for weighing the effects on the local custom, culture and general welfare.

Goals:

- Hot Springs County supports a goal of permitting open access to the public land as much as possible in order to promote the beneficial use of the public lands, provide emergency services to the rural parts of the County, control invasive species and predators, enforce laws, suppress fire, and control weeds and pests.
- It is a goal of the County to be involved in decision making processes of the various State and Federal agencies in order to incorporate the County's custom, culture and general welfare into decision-making regarding special land designations.
- The County's goal with respect to roads and access shall be to maintain or increase the miles of open highways, roads, trails, RS-2477 roads, stock trails, logging roads, bicycling, hiking trails, and horseback trails on the public lands within the County.
- In an effort to protect the economy, and because an excessive level of special land designations, restrictions and stipulations have already been imposed on the State and Federal lands within the County; the County establishes a goal of limiting the number of special land designations, restrictions, and unreasonable stipulations placed on the various industries in the County.

Public Policy:

1. Hot Springs County opposes attempts to create new *de facto* wilderness areas by using “roadless areas” or other restrictive management designations in and of themselves. Instead, the County supports the intent of the Wyoming Wilderness Act, which discourages efforts to promote additional roadless areas, and wilderness-like areas.

2. The County asserts that all reviews of public land policies, include review of existing restrictions, stipulations, land designations and elimination of those which may be deemed excessive.
3. Hot Springs County opposes continuing to treat “wilderness study areas” as wilderness for extended lengths of time – more than a decade has passed since these areas were selected for study, and there seems no end in sight for a determination on the issue. The County supports the intent of the Wyoming Wilderness Act, which discourages efforts to promote additional wilderness areas, and wilderness-like areas in any form.
4. The County acknowledges the Washakie Wilderness area is an important component of the National Wilderness System and supports important populations of wildlife species. The County opposes expansion of the Washakie Wilderness Area to include designation of roadless areas and/or Wilderness Study Areas adjacent to the Washakie Wilderness Area. For purposes of the revision of the Shoshone Forest Plan, the County desires to have land designations in the Shoshone National Forest of western Hot Springs County remain fundamentally as is.
5. The County acknowledges and opposes the existing ACEC designation and opposes new designations of ACEC and/or WSA area on the Federals lands within the County.
6. Hot Springs County supports removal of wild horses from the County should they stray from their range (wild horse management area) and enter the County.
7. The County opposes creation of the Cedar Mountain Wilderness Area and/or any other new wilderness area in the County.
8. The County opposes the acquisition of large tracts of private land by State and Federal entities.
9. The County supports the implementation of an Environmental Assessment to determine the best location for ORV use on the public lands within the County.
10. The County supports the utilization of an Environmental Assessment in order to determine the best future use(s) of the Gebo-Crosby area.
11. The County opposes restrictions placed on existing uses of the public lands due to wolf, grizzly bear, sage grouse or other species of wildlife.

Water Resources

Definition:

The past, present, and future total water available, that has been or can be used by individuals, agriculture, industry, mining, plant life, recreation and other purposes for the benefit of mankind.

Background:

Hot Springs County is made up of arid to semi-arid terrain with all surface drainages tributary to the Big Horn River which flows north through the mid section of the County. Various small creeks flow into the river from the east and west. These creeks originate from the Big Horns to the east, the Owl Creeks to the south, and the Absarokas to the west. The Wind River, becoming the Big Horn

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by the Town of Thermopolis.

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Protection of water quantity and quality has enjoyed an elevated concern level in the County to such an extent that the Hot Springs Conservation District initiated the “ Hot Springs County Groundwater Study – Phase I “ in 1999. The June 2000 Final Report established the Hot Springs Protection Area Map and recommended ten (10) Best Management Practices (BMPs) which can be employed to protect groundwater resources. The protection area was established in order to monitor and protect the hot springs for which Hot Springs State Park and the Town of Thermopolis are widely known. (See Appendix C)

More recently, Phase II of the Hot Springs County Groundwater Study was completed in June of 2004, it was prepared for the Hot Springs Conservation District, submitted to the Board of County Commissioners and the DEQ. It entailed thorough sampling of 52 domestic use water wells in various parts of the County. (See Appendix C)

The surface water quality study entitled “*Final Report: Owl Creek Water Quality Study*” was submitted in July 2004. According to the document: “ The purpose of this water quality study was to assess baseline water quality in the middle and lower Owl Creek drainage basin, particularly for fecal coliform bacteria levels at various sites. This study also sought to obtain additional water quality data for Owl Creek for parameters such as total suspended sediment (TSS), turbidity, total dissolved solids (TDS), dissolved oxygen, and select cations and anions during the course of the sampling year 2003-2004.

A number of interdisciplinary entities exist to address water resource issues impacting Hot Springs County. Some of them are as follows:

- Wyoming Department of Environmental Quality
- Wyoming Water Development Commission
- Wyoming State Engineer's Office
- Wyoming Game and Fish Department
- Wyoming Oil and Gas Commission
- U.S. Bureau of Reclamation
- U.S. Bureau of Land Management
- United States Forest Service
- U.S. Department of Agriculture
- U.S. Bureau of Indian Affairs
- Hot Springs County Conservation District
- Owl Creek Irrigation District
- Lucerne Irrigation District
- Hot Springs County Natural Resources Planning Committee

Goals:

1. In keeping with other goals of land management, Hot Springs County supports the development and construction of water storage, treatment and transportation infrastructure on public lands.
2. The County's goal shall be to support the better usage of water, and the development of more economical means of recycling water for municipal, industrial and agricultural uses.
3. As a continuing goal, the County will support water quantity and quality monitoring programs.

Public Policy:

1. Hot Springs County upholds the Wyoming Constitution which declares that the waters of all natural streams, springs, lakes or other collections of still water within the boundaries of the State are the property of the State which can be filed on by individuals and corporations.
2. Hot Spring County's Board of County Commissioners recognizes that the plan does not empower it to enact any ordinance or resolution which may deprive or regulate a legal owner of State granted-water right.
3. Water resources, surface and subsurface, are paramount to the welfare of Hot Springs County residents. Therefore, the County asserts its lawful right to be a part of any regulatory determination or process involving those resources within its borders. The County urges any regulatory agency which may lawfully promulgate rules, without

County involvement, to inform the County as to any impact it may have; e.g., suspension of a water discharge permit as a by-product of oil production.

4. Hot Springs County promotes that the U.S. Bureau of Reclamation work with the Owl Creek Irrigation District to solve sinkhole problems at Anchor Dam.
5. The County will support efforts to supply potable water to County residents, preserve the quantity and quality of water in cooperation with local, State, regional, and Federal authorities, and utilize its police powers to enhance the health and safety of residents in all water matters.
6. The County will seek to enter into cooperative agreements and memorandums of agreement to assure that changes in land use brought about by water projects sustain local custom and culture, while enhancing the economic and aesthetic quality of life of County residents.
7. The County will vigorously oppose proposals or efforts to modify the watersheds, natural vegetation, or prevailing climate patterns as a means of transferring and increasing water supplies to the detriment of County residents, wildlife, vegetation and quality of life.
8. The County recognizes that the experience of other counties in the State of Wyoming indicates the exploitation of coal bed methane, and the water generated by coal bed methane operations, needs to be considered in any planning process to assure local health, safety and general welfare considerations are protected.
9. Hot Springs County recognizes the value of agriculture to the County, it supports the efforts of State and Federal governments to investigate and promulgate more efficient types of irrigation.
10. Any future well drilling, including but not limited to agricultural, road construction, drainage projects, and mineral projects on public lands in the County must take into consideration their effects on public as well as private water sources.
11. Hot Springs County encourages the WWDC to develop water storage on the Big Horn River and its tributaries on lands of the least beneficial use. Prime irrigated "bottom lands" are to be avoided even at additional cost.

Weed and Pest Management

Definition:

Weed and pest management is defined as the ability to control weeds and pests (insects and rodents) that interfere with management objectives for a given area of land at a given point in time.

Background:

The Weed and Pest Board is the weed and pest control authority for the County. Ongoing programs to identify locations of all noxious weeds and pests and to initiate management and/or eradication efforts will continue. All State agencies are required to control noxious weeds and pests on State managed lands. State law provides for cooperation with the Federal agencies in controlling noxious weeds and pests on the federally managed lands. The Federal Public Rangelands Improvement Act virtually mandates such cooperation in order to improve unsatisfactory conditions of the federally managed rangelands. Cooperative agreements and, if necessary legal actions, will be utilized to assure protection of vital land resources from noxious weed and pest occupation or invasion.

The Wyoming Weed and Pest Act of 1973 as enacted by the legislature of Wyoming, establishes the guidelines for creating Weed and Pest Control Districts and the regulations which govern the districts. Within the Act, the composition of districts is defined by W.S. § 11-5-103 “ All land within the boundaries of Wyoming including all Federal, State, private and municipally owned lands, is hereby included in the weed and pest districts within the County in which the land is located.....”. The act also specifically designates which weeds and pests are designated as weeds and pests in W.S. § 11-5-102 and also gives each County statutory authority in W.S. § 11-42-3 to amend the designated list. Hot Springs County has used this authority to declare Russian olive, puncture vine, wild oats and mosquitos noxious weeds and/or pests. (see Appendix “F” for the listed weeds, pests and predators)

The Weed and Pest Act of 1973 in W.S. § 11-5-109 also spells out enforcement provisions which ultimately could result in heavy fines if persons are convicted by jury. Statute W.S. § 11-5-109c states “ A landowner who is responsible for an infestation and fails or refuses to perform the remedial requirements for the control of the weed or pest.....may be fined.....Any person accused under this act is entitled to a trial by jury.”

In addition to the above mentioned act, the Wyoming Planning and Zoning Statutes in W.S. § 18-5-105 states “the purpose of zoning is to conserve and promote the public health, safety and welfare of citizens of the county. The board of county commissioners shall provide by resolution of.....rodent and insect control.... ”. The statute specifically recognizes “rodents and insects “ and therein empowers the Board of County Commissioners with broad authority over regulation of insects and rodents in each of the various counties including powers to order control of weeds, insects and rodents which are deemed to be a threat to the public’s health, safety and general welfare. (see Appendix “F” for the listed weeds, pests and predators)

Sylvatic plague outbreaks in the rodent population of Hot Springs County pose a threat to the health, safety and general welfare of the County’s citizens. Should rodent populations reach a high level or encroach into the bottom lands, irrigated fields, rural subdivisions, towns and cities of the County, the Board of County Commissioners and/or Weed and Pest District, may exert their authority to control the rodents as they deem necessary. A Wyoming Attorney General Opinion of June 4, 1997 asserts “Regulation of nuisances has been traditionally left to state or local control as an exercise of police power. Certainly, pest control is a form of nuisance

control.” Later on it reads “Since there is no equivalent federal statute for vertebrate pests, we conclude there is no federal law which preempts the Weed and Pest Act of 1973.”

Hot Springs County, as part of the history, custom and culture of the County, has traditionally practiced weed and pest control as a means to increase the productivity of the various lands within the County and as a means of promoting the health, safety and general welfare of the residents of the County. In order to do so, a fundamental goal of weed and pest management has been to hold each of the various property owners in the County responsible for the control of the weeds and pests on their land; and just as importantly, to be responsible for the spread of weeds and pests from their property onto neighboring property.

Hot Springs County, by and through the Hot Springs County Weed and Pest District, has cooperative agreements and memorandums of understandings with various State and Federal agencies. Various programs are being directed at weed and pest management; including, but not limited to the National Undesirable Plant Management Act (7 USC pg2814).

The components of integrated weed and pest management tactics presently utilized are as follows:

- Education (plant identification, life cycles, mapping infestations, etc.)
- Prevention (irrigation management, soil fertility, range management, etc.)
- Mechanical and physical (burning, mowing, cultivation, cross-fencing, etc.)
- Cultural (rotating land uses, establishment of desirable competitive plants, etc.)
- Biological (grazing, predator control, parasites, pathogens, etc.)
- Chemical (herbicides, weed oils, plant growth regulators, etc.)
- Public health and safety (rodent control to minimize plague threats, etc.)
- Law enforcement (remedial requirements, hearings, etc.)
- Training (commercial applicator training and certification, etc.)
- BOCC (emergency declarations, budgeting, public meetings, etc.)

Funding for a long-term strategy implementing weed and pest control tactics has been lacking. Various State and Federal agencies support weed and pest management by utilizing monies from discretionary or general fund sources. This only secures short-term funding, which means that most strategies are based around attacks against specific weed and pest infestations that last no more than one season. In recent years, during drought conditions, these short-term efforts have been all but abandoned as agencies at both the State and Federal levels have poured money into drought related issues such as fighting and protecting against wildfires.

The Hot Springs County Weed and Pest Control District on the other hand, is funded on a long-term basis by a property tax mill levy which enables consistency and fairly balanced funding over the long-term. The tax basis of the County however, fluctuates with mineral evaluation; and therefore, the funding for the Weed and Pest District reflects the health and production of the minerals industry and agriculture in general. In other words, a healthy, diverse economy is essential to funding for the Weed and Pest District. Although the Federal

government does not pay property taxes as such, PILT payments provide a partial remuneration of obligations some of which flows to the Weed and Pest District, either directly or indirectly.

Public Policy:

1. Hot Springs County supports control of the mountain pine beetle (a designated pest under the Weed and Pest Act of 1973) on the forested portions of the State and Federal lands within the County, and open access in order to control the mountain pine beetle.
2. Hot Springs County supports long-term pest (insects and rodents) management and control programs which increase the productivity of the various lands within the County and promote the health, safety and general welfare of the citizens of the County.
3. Hot Springs County will support cooperative efforts with State, Federal and private managers to enhance cooperative weed and pest management efforts countywide; coordinated with, and primarily managed by the Hot Springs County Weed and Pest Control District.
4. Hot Springs County relies upon the Hot Springs County Weed and Pest Control District to make use of cooperative agreements, NEPA, the Wyoming Weed and Pest Act of 1973, and broad based legal precedent to assure recognition of local conditions and circumstances in the decision making process, and to keep the County and the public informed of these efforts.
5. To the extent required by Federal law and the Wyoming Weed and Pest Act, Hot Springs County requires that all of the various property owners, including State, Federal, private and tribal property owners within the County, must be responsible for controlling the weeds and pests on their property thus controlling the spread of weeds and pests onto adjacent lands.
6. The blanket fire suppression policy of the past has contributed to juniper encroachment and sagebrush expansion to the detriment of watersheds, wildlife, and plant communities. New approaches will be evaluated to allow for fire suppression primarily in areas where fire would damage vegetation which would support and expand multiple use or would endanger human safety or private property.
7. Controlled burns will be evaluated as a means of encouraging revitalization of rangeland vegetation, in order to support and expand multiple use.
8. Grazing rest prescriptions related to either wildfires or prescribed burns, will be determined on a site-specific basis. Post fire grazing will not be limited when

unbiased post fire monitoring and evaluation produces relevant accurate data which demonstrates that grazing will not unduly harm the range.

9. The County supports research on how to control cheat grass invasions which appear after burns, by grazing, or any other means.
10. The County asserts that spotted knapweed, leafy spurge, and other noxious weeds are invasive species requiring immediate eradication. (see Appendix "F" for the designated weeds and pests in the County.)

Wildlife (Animal)

Definition:

“Wildlife “means all wild mammals, birds, fish, amphibians, reptiles, crustaceans, mollusks, and wild bison designated by the Wyoming Game and Fish Commission and the Wyoming Livestock Board within Wyoming.” (from W.S. § 23-1-101) Feral cats, feral hogs and wild horses are presumed to be included in the definition by the County.

Background:

The State of Wyoming has principal responsibility for the preservation and enhancement of wildlife populations both on and off public lands although 76% of all wildlife is on private land. The Endangered Species Act at the Federal level has had a major impact on wildlife management in this County. Land used for agricultural populations are known to be important habitat for wildlife. Because wildlife populations do not recognize jurisdictional and/or ownership boundaries, it is important that the County, State and Federal authorities work jointly to assure wildlife populations are protected without interfering with agricultural operations or other such operations that have an economic impact on the County.

The County enjoys a diverse and abundant game and non-game wildlife population, due in part to aggressive predator control practices and sound range management practices, including water development, planting of trees, vegetation and sage brush control. The following figures demonstrate the success of the various management techniques which have been employed in order to increase wildlife populations:

Wildlife Populations in Wyoming 1923-1990:

Elk	increased from	22,000	to	68,000	an	309% increase
Deer	increased from	20,000	to	517,000	an	2585% increase
Antelope	increased from	13,000	to	344,000	an	2646% increase

Historically, the County has been firm in the belief that the wolf and the grizzly bear, both of which occupy portions of the County, have a negative impact on wildlife populations as well as agricultural operations. Such beliefs led to predator control measures that assured the impact by these animals would be minimal.

Hunting and fishing have played a large and historically important role in the County’s economy. It is the County’s belief that they will continue to do so and, based on our abundant game and non-game wildlife populations, that eco-tourism will also play a valuable role in its economy. At the same time, certain species, such as the wolf and grizzly bear, are protected under the Endangered Species act, but represent a predator threat to livestock, game and non-game wildlife and people alike. Other species of concern, including but not limited to the greater sage grouse

and Columbian sharp-tailed sage grouse, exist in the County. A balance must be struck, and the County anticipates playing a role in developing wildlife management plans with human and economic concerns fully and effectively protected.

Grizzly Bears in the County:

Various interests in Hot Springs County participated in the 1996-1998 revision of the Grass Creek Resource Management Plan which the Worland district of the BLM coordinated. The Grass Creek RMP recognized that transient grizzly bears moved through some areas of western Hot Springs County on occasion, but did not plan for or authorize specific grizzly bear management functions on the BLM land in the County. During the Grass Creek RMP revision, various Hot Springs County interests argued for restricting grizzly bear occupancy territory to the Shoshone National Forest boundary and any portions of the Washakie Wilderness Area in Hot Springs County. As a result of the County's participation in the full NEPA/EIS process for the Grass Creek RMP, the Final Decision Record of 1998 did not include permanent grizzly bear occupancy in the plan. The County's concerns about grizzly bear occupancy of the BLM, and intertwined private and State lands, recognized the health, safety and general welfare concerns of the County's residents.

The July 2004 Draft Environmental Impact Statement, Forest Plan Amendments for Grizzly Bear Conservation for the Greater Yellowstone Area National Forests, utilized state of the art analysis of Economic Environment, Social Environment and Cumulative Effects in evaluating the four alternatives analyzed in the plan. As a result, the USFS recommended Alternative II which substantially minimizes the effect of grizzly bear occupancy on the County's health, safety and general welfare. On the other hand, Alternative IV projects very significant impacts on the County's health, safety and general welfare. The County therefore, encourages the various agencies involved in grizzly bear management to likewise consider the significant impacts the USFS plan predicts in Alternative IV when evaluating areas which are socially unacceptable for occupancy.

The grizzly bear recovery plans, based on the Endangered Species Act listing of the grizzly bear as a threatened and endangered species, had established a Primary Conservation Area (PCA) and a ten mile buffer around the PCA on various parts of the Shoshone National Forest, Washakie Wilderness, Bridger-Teton National Forest and smaller tracts of State and private land, which the County has always recognized as the established and intended grizzly bear occupancy area, including those segments of the Shoshone National Forest or Washakie Wilderness Area in the County. It has been and still is, the County's position that grizzly bear occupancy areas before and after delisting of the species, should be restricted to the Primary Conservation Area boundary. The various agencies involved in grizzly bear recovery, have prioritized grizzly bear habitat and population goals to the detriment of the health, safety and general welfare concerns of the County's National Forest boundary citizens.

The County asserts that County Land Use Plans (such as this plan), should have been included in the recognized documents of the various grizzly bear plans; and therefore, the terminology used in the Conservation Strategy should have read "... (as defined in state grizzly bear management plans, Federal Land Management Plans and local government Land Use Plans) ".

The role of the counties in the planning process was completely overlooked, and as a result, county plans were mistakenly omitted.

Sage Grouse Management:

Hot Springs County supports sage grouse recovery efforts which are implemented by management techniques that do not negatively affect the general welfare/economy of the County. Therefore, the County has identified habitat improvement (mechanical, chemical, irrigation, controlled fires, fire suppression policies, reseeding, and grazing), predator control and revision of hunting seasons if necessary as acceptable management techniques. Management techniques which negatively affect the economy, especially restrictions and stipulations on grazing and mining/oil/gas operators, are strongly discouraged by the County.

Goals:

- The goal of the County shall be to support long-term integrated wildlife management.
- The County's goal on wildlife issues shall be to balance health, safety and general welfare concerns of the citizenry against needs of wildlife.
- The County's goal shall be to support multiple use principles of the public lands as a method of sustaining wildlife populations.

Public Policy:

1. The County believes any planning process needs to account for both consumptive and non-consumptive management strategies and tactics addressed in an environmentally responsible manner from the perspective of impacts on economic and human environment, based on sound science.
2. The County endorses fencing techniques, which enhance the ability of permittees and other agricultural interests to keep their operations financially viable, facilitate wildlife management, and reduce or otherwise mitigate risks to the health, safety and general welfare of the public.
3. The County supports pro-active efforts to control predator populations; and more especially, prevent the spread, migration or relocation of predator species such as grizzly bears, mountain lions and wolves to wildlife habitat and grazing allotments. The County expects predator control strategies to balance with the best science available, economics, and the pragmatic logistics of the livestock industry and maintenance of wildlife.
4. The County recognize that the U.S. Fish and Wildlife Service (and various agency partners including the Wyoming Game & Fish Department) are responsible for management of the threatened and endangered species. Although the ESA does not require the protection of public and private property from damage by wildlife, the County

recognizes that the courts are starting to recognize that when the use of private property is taken to protect threatened and endangered species, compensation under the Fifth Amendment to the Constitution must be paid. Therefore, Hot springs County supports compensation for private property losses and damages in a timely manner.

5. The County opposes attempts to expand the original grizzly bear occupancy area beyond the Primary Conservation Area boundary and encourages State and Federal land managers to recognize the intentions of the Grass Creek RMP and the legitimacy of the County's Land Use Plan for State and Federal Lands.
6. The County's policy, with respect to grizzly bears on the BLM, private and State lands in the County, is that they constitute a substantial health, safety and general welfare (economical impact) threat to the County and its residents; and therefore, should be restricted to within the boundaries of the Primary Conservation Area and Washakie Wilderness Area. The County supports controlled grizzly bear occupancy within those portions of the Primary Recovery Area lying within the Shoshone National Forest and Washakie Wilderness Area.
7. As required by Federal law, the County expects the State and Federal agencies involved in grizzly bear conservation to adhere to the provisions of the Grizzly Bear Recovery Plan of 1993, Interagency Grizzly Bear Guidelines of 1986, and the Wyoming Game and Fish Department Strategic Plan of 1990.
8. The County asserts that introducing dangerous animals such as wolves, grizzly bears and mountain lions in areas of mixed land ownership (especially on private lands) constitutes negligence on the part of any agency which promotes the introduction; and therefore, may be held accountable for any and all grizzly bear, wolf and mountain lion damages including physical, economical and psychological.

Predator Control

Definition:

“Predatory animal” means: Any animal(s) which are destructive to livestock, game and poultry, or are a danger to the health and safety of the populous of the County. (see Appendix “F” for the predators designated by the State)

“Predacious bird” means: Any bird that is destructive to livestock, game and poultry, or are a danger to the health and safety of the populous of the County. (see Appendix “F”)

“Trophy game animal” means: Black bear, grizzly bear or mountain lion. (from W.S. § 23-1-101)

Background:

Predator control became a big issue at the turn of the 20th century. Wolves, bears, mountain lions and coyotes especially preyed heavily on livestock and wildlife populations.

Under pressure, the mountain lions, grizzly bears and a few remaining wolves generally retreated into the higher country which was wide open until after World War II. Once in awhile one of them would wander through the lower country. The coyote, of course, lived up to his name as “Wiley Coyote” and has never disappeared from the scene to the despair of those who have seen flocks of sheep ripped to pieces, or their chicken flocks decimated, and to the delight of those who count seeing and hearing coyotes as part of their western cultural heritage.

Today, predators continue to play their role in the custom, culture and economic stability of the County. Not only the bigger predators, but skunks, and the fairly recent addition of foxes and raccoons, have caused problems in Hot Springs County. Eagles have been and still can be severe predators of newborn lambs and calves. In the past, magpies were such a nuisance that bounties were paid on their legs. Today crows come in large enough numbers as to be a health hazard. While there are no large flocks of domestic fowls, game birds have probably suffered severely from depredation, not only from coyotes and fox, but raccoons, bobcats and birds of prey.

Concern for predation is not the only consideration for control of these species, rabies and other diseases must be tracked closely and action taken to eradicate the animal or animals which carry them.

Historically, Hot Springs County has employed predator control as a mechanism to increase the productivity of the private, State, and Federal lands within the County. As such, predator control has benefited both wildlife and domestic livestock. Within the County, the Hot Springs County Predator Control Board directly administers the program employing a predator control agent, also known as a government trapper. Numerous private individuals also actively participate as sportsmen, agricultural producers or landowners concerned about the wildlife and domestic livestock. Predator control is a well established custom and culture within the County which directly affects the economic stability of the livestock industry and the sport hunting/fishing industry. To a certain degree, predator control has also been used to protect the health and safety of the public.

Calvin L. King, in his book “REASONS FOR THE DECLINE OF GAME IN THE BIGHORN BASIN OF WYOMING” gives a fascinating account of the struggle to protect wild game and livestock from the predation of wolves, mountain lions, grizzly bears and coyotes. King, a respected biologist with the Wyoming Game and Fish Department, documented the economic impact of predation and the cyclic nature of game populations, predator populations, weather and livestock losses. For those unfamiliar with the history of predator control, it is an essential reading.

The Wyoming State Legislature established predator control statutes in Title 11, Chapter 6 of The Wyoming Statutes. The statutes provide for general provisions, districts and district boards and the Wyoming State Animal Damage Management Board.

Hot Springs County recognizes and utilizes the right to control rodents and predators through the issuance of hunting permits, aerial hunting permits as outlined in W.S. § 11-6-105 and the right to pay bounties as provided for in W.S. § 11-6-206. All effective means of controlling rodents and predators, including but not limited to airplanes, helicopters, firearms, electronic calling equipment , gases, fire, smoke, dogs, archery, explosives, leg-hold traps, snares, poison, ATVs, snowmobiles, other ORVs, and other outdoor gear and equipment has been and shall continue to be authorized in the County to control predation and resource damage. Those predatory animals authorized for control shall as defined by the Wyoming Weed and Pest Act of 1973 as amended for designated pests, the predatory animal list adopted by the Wyoming Game and Fish Department and the powers granted to the County by the Weed and Pest Act to designate additional weeds and pests as needed. The affected lands within the County include all private, State and Federal lands. (see Appendix “F” for the listed weeds, pests and Predators)

Hot Springs County relies upon Title 7 of Laws Applicable to the United States Department of Agriculture (1931). APHIS (7 U.S.C. 426) Predatory and Other Wild Animals; Eradication and Control:

“.....The Secretary of Agriculture may conduct a program of wildlife services with respect to injurious animal species and take any action the Secretary considers necessary in conducting the program.....The Secretary of Agriculture is hereby authorized and directed to conduct such investigations, experiments, and tests as he may deem necessary in order to determine, demonstrate, and promulgate the best methods of eradication, suppression, or bringing under control on national forests and other areas of the public domain as well as on State, Territory, or privately owned lands of mountain lions, wolves, coyotes, bobcats, prairie dogs, gophers, ground squirrels, jack rabbits, brown tree snakes, and other animals injurious to agriculture, horticulture, forestry, animal husbandry, wild game animals, fur bearing animals, and birds, and for the protection of stock and other domestic animals through the suppression of rabies and tularemia in predatory or other wild animals; and to conduct campaigns for the destruction or control of such animals: Provided, that in carrying out the provisions of this Act the Secretary of Agriculture may cooperate with states, individuals and public and private agencies, organizations and institutions.”

Hot Springs County recognizes that the Department of Agriculture rules and regulations can at times be in direct conflict with the Endangered Species Act. Apparently, the courts have yet to adequately interpret which rules and regulations apply in given situations. Therefore, the County must recognize both until such time as clarification has been made. One situation in particular affects the County; that being the reintroduction of wolves which are protected under the ESA but control is allowed for under the Department of Agriculture regulations. Under certain conditions, the wolf reintroduction and recovery plan allows for destruction of wolves that prey on domestic livestock, by Federal personnel; thereby, recognizing that the effect on the local economy is a valid argument for control.

Hot Springs County endorses predator control as an effective method for protecting game bird populations to include, but not limited to, sage grouse of all species, chukars, quail, Hungarian partridges, pheasants, turkeys, ducks, geese, doves, swans, and the other various bird species unnamed. For protecting sage grouse, predator control and habitat improvement are the County’s adopted mechanisms to increase the population due to the positive effect on the local economy.

The County recognizes predator control as a valid method of increasing the productivity of the public lands upon which the economy of the County is dependent. Productivity as such is deemed to include higher survivability of deer and antelope fawns, lambs of domestic sheep and bighorn sheep, calves of domestic cattle and elk, foals of domestic and wild horses, chicks of the various game birds and other birds, eggs, and the adult populations of most other animals. Decreased predation of economically important species enhances the efficiency and profitability of agricultural producers and other end users.

Goals:

- The County will maintain and protect the health, safety and general well-being of its occupants and their livelihood.
- Pursuant to State statute, the County will establish and implement a cooperative plan for predator control. It may promulgate necessary rules and regulations to carry out the purposes of predator control.

Public Policy:

1. Hot Springs County recognizes selective predator control as a valid means of increasing the productivity of the State and Federal lands within the County and as a valid method of attaining sustainability of the wildlife and domestic livestock populations.
2. Hot Springs County recognizes that predator control measures are applicable on all private, State and Federal lands within the County.
3. The County supports pro-active efforts such as aerial hunting, snares, leg traps, etc. to control predator populations; and more especially, prevent the spread of predator species such as grizzly bears and wolves from migrating or re-locating to areas that impact the health, safety and economy of the County.
4. The County expects predator control strategies to balance with the economy, health, safety, custom and culture of the County.
5. The State of Wyoming has made the Department of Game and Fish responsible for management of certain predator species; and as such, the County expects to be involved in the determination of any impact of management of said species on the economy, culture, custom and safety of the populous of the County.

Chapter 4: Countywide Policies by Area of Concern

Sustainable Growth

General:

Hot Springs County generally does not enjoy a well diversified economy with agriculture, tourism, health care and mining/oil/gas extraction being the major industries in the County. Manufacturing and hi-tech industries in particular have poor representation in the County. Due to the wonderful scenery and hot springs, tourism is a major industry although quite seasonal in nature. Since almost 70% of the County's surface ownership is public lands, the agriculture and mining/oil/gas extraction industries are especially sensitive to policy changes and management decisions on the public lands within the County and to commodity prices in general.

Background:

Jobs in agriculture have dwindled over the last half century. The Hot Springs County agricultural industry is heavily dependent upon the availability of grazing leases on both State of Wyoming and Federal land within the County in order to sustain a viable industry. A recent study by the University of Wyoming Department of Agriculture, which assesses the effect of reduction of AUMs on federal lands in adjacent Fremont County, showed a significant negative effect on the County's jobs and net cash flow when AUMs were reduced (see Appendix "C"). Without the State and Federal leases, many of this County's agricultural operations would undoubtedly become unviable leading to shrinkage of the industry even more; and eventually, subdividing of the smaller tracts of private land for residential purposes.

For those portions of Hot Springs County falling within the Shoshone National Forest; that is, in the extreme western part of the County, the Multiple Use and Sustained Yield Act of 1960 directs the Secretary of Agriculture to manage the grazing, timber production, tourism and mineral resources to produce a sustainable yield of products and services, and for other purposes. It is one of the most important laws governing the management of the national forests.

Historically, the oil industry has been a leading employer in the County but has suffered as commodity prices fluctuate. At the time of this writing, the oil and natural gas prices are quite high thus leading to increased activity, increased assessed evaluations and a large budget surplus for the State of Wyoming. The natural gas industry has seen almost all of the increase in the recent drilling recovery, with oil well drilling lagging natural gas well drilling, due to uncertainties in the price of oil and lack of a national energy policy. The possibility exists that

some methane development may spread from the Powder River Basin to the Big Horn Basin in the near future which would help replace the dwindling oil production. The oil and gas industries in the County are almost totally dependent upon the availability of State and Federal leases in order to sustain production or replace reserves. Retraction of State or Federal lands in Hot Springs County from mineral leasing would have a devastating long-term effect on the economy and upon the assessed evaluation which the County depends upon in order to provide services.

The tourism industry in Hot Springs County is well established, focusing on the Wind River Canyon and mineral hot springs. In addition, the County has benefited from the establishment of the Wyoming Dinosaur Center in East Thermopolis which has provided a boost to the tourism industry in general. Further growth in the tourism industry could possibly be gained through improved infrastructure such as an updated airport. The scenic nature of public land in the County is certainly a tourism attraction along with the hunting and fishing opportunities afforded by the public lands, all of which require access.

One of the strongest industries in the County is the health care industry which is well represented by the Hot Springs County Memorial Hospital, Gottsche Rehabilitation Center, assisted living, nursing homes, mental wellness, and Big Horn enterprises which cares for the disabled. These are supplemented by many service organizations, businesses and volunteers. Since Hot Springs County has a rapidly aging population (defined as the oldest median age), which is the largest in the State on a percentage basis, it is again extremely important to have the facilities in place and well financed to serve the older and disabled population. Doing so requires an adequately funded County government, supported by tax revenue largely generated by the public lands in the County. In brief, multi-use of the public lands in a productive manner contributes greatly to the support of the health care industry and other vital aspects of the economy such as the school system.

Areas which are lacking in the economy are manufacturing, importing/exporting, logging, mining of rock products and minerals, and value added industries. An industrial park and airport relocation are needed in order to properly address these weaknesses.

Sustainable Growth Thresholds:

Webster's Dictionary defines *threshold* as " a level, point or value above which something is true or will take place and below which it is not or will not". In order to perpetuate the sustained growth of the County, the following thresholds are herein established:

GRAZING

For purposes of the BLM Grass Creek Resource Management Plan revision, table 5-4 the preferred alternative of the Final Grass Creek EIS, established a threshold for 2005 of 135,241 estimated long-term AUMs available for livestock use by the end of calendar 2005 on the public lands. This figure was for the entire four county resource area not Hot Springs County alone.

For purposes of the BLM Washakie Resource Management Plan revision, the September 2, 1988 Record of Decision (ROD) stated “ Total authorized livestock grazing use will not exceed 143,000 AUMs annually.” This threshold level included all counties in the planning unit to include Hot Springs County. For purposes of the Washakie RMP revision, the County expects the threshold level to be no less than 143,000 AUMs in order to meet provisions of the Public Range Lands Improvement Act.

Since the pending 2006 revision of the Grass Creek and Wahakie plans will in all likelihood combine the two plans, the minimum threshold level would therefore be:

Grass Creek	135,241	AUMs available
Washakie	143,000	AUMs authorized
Total	<u>278,241</u>	AUMs authorized minimum

For purposes of the Shoshone National Forest revision scheduled to begin in 2005, the grazing threshold as expected by the County shall be to maintain all existing grazing allotments at or above current AUM levels. As such, the County expects that no grazing allotments will be cancelled, eliminated or suspended due to grizzly bear habitat needs which the County feels is single-use of the forest land and grazing lands, not multiple use. Should any allotments be partially or fully lost, the County expects full mitigation of the loss to be firmly and timely implemented.

For both BLM and USFS grazing lease administration, the Counties minimum requirement shall be: **No Net Loss of authorized AUM's**

In addition to sustaining and maintaining authorized AUMs, the County anticipates the recovery of a respectable number of suspended AUMs due to the success of numerous range land improvement projects the result of which should be apparent during the tenure of the next Resource Mangement Plan.

OIL PRODUCTION

The Final Grass Creek EIS/RMP of June 1996 summarized predicted oil production in New Table 5-12 on BLM-Administered Land in the Grass Creek Planning Area. Oil production was projected at a -2.74% per year decline when in fact the actual decline has been somewhat greater than the projected decline rate. During the monitoring period of 1990 through 2004, Hot Springs County increasingly lost population and tax revenue whereby the socio-economic structure of the County began to suffer.

Obviously, aging oil fields have contributed substantially to the decline in production; however, the County supports mitigation of declining fields by relaxation of drilling stipulation requirements, nominating more leases for sale, sustaining access, encouraging secondary and tertiary recovery methods, utilization of 3-D seismic technology, horizontal drilling, and coordination among the various agencies to facilitate oil production permits in a timely manner.

Therefore, the County recommends a threshold level for oil production in the Grass Creek planning area of 4,200,000 barrels per year which requires the recovery of recently lost production during the course of the next RMP period, approximately 2006-2020. That is, an increase in production is required in order to re-establish the socio-economic base of the County. Again, the 4,200,000 barrel threshold level is combined figures for all counties in the planning area.

For the BLM administered Washakie Resource area precise production records were not readily available in the plan. However, the Final RMP provided good information on Minerals Management such as:

Approximately 117,800 acres (7 percent of the federal mineral estate) would be leased with a “no surface occupancy” restriction to protect important wildlife habitat, and cultural and recreation sites.

Approximately 953,500 acres (60% of the federal mineral estate) would be leased with seasonal restrictions to protect important wildlife habitat.

Approximately 520,500 acres (33 percent of the federal mineral estate) would be leased with other standard surface protection restrictions applied.

Since the County has been experiencing steadily declining oil/gas production, population loss, aging in place and is a distressed community, the threshold which the County establishes for the Washakie Resource area and the potentially combined Washakie/ Grass Creek RMP, is to reduce the total lease restrictions and land withdrawals as a mechanism of sustaining and/or reestablishing the all important mineral base of the County’s economy. Therefore, the following threshold is proposed by Hot Springs County:

For purposes of the Washakie/Grass Creek Resource Management Plan revision(s), a net reduction of 20% in lease restrictions and land withdrawals is deemed essential by the County in order to sustain the custom, culture, general welfare, and socio-economic structure of Hot Springs County.

NATURAL GAS PRODUCTION

Hot Springs County is not a large producer of natural gas and has lost production in the period 1999-2004. Limited production, lack of deep plays, lack of transmission lines, and commodity prices have all influenced declining production. Until such time as the major gas/oil companies invest in exploratory deep drilling, the County will have insignificant production plagued by various problems. A natural gas threshold is difficult to establish and would best be related to number of exploratory wells drilled in the County.

The Grass Creek RMP/EIS of June 1996 projected a +5.87% increase in gas production across a 4 county management area; however, Hot Springs County’s production is not

the primary gas producer and the projected increase is not valid for the County. Therefore, the County's threshold for gas production is to encourage exploratory drilling and facilitate permitting of gas wells.

TIMBER HARVEST

Timber harvesting in Hot springs County is not a large industry and is restricted by access and total forested acres. In the County, the Grass Creek road provides access to the national forest and has opened up the opportunity to harvest marketable timber and timber threatened by disease. Therefore, the County's threshold level for timber harvest shall not be set as a board foot goal; but rather, a broad based goal to harvest the timber necessary to maintain forest health, reduce fire hazards in the forest, provide fire wood, house logs, corral poles, wildlife habitat and recreational use. The County is especially concerned about sustaining forest densities which reduce fire, insect and disease occurrences, and use timber harvesting as a mechanism to achieve those goals.

RECREATIONAL USE

The Final Grass Creek Resource Management Plan/EIS of June 1996 included recreational use considerations which were summarized in New Table 5-15 on page 275 of the plan. The total Recreational Use (on public land only for both consumptive and nonconsumptive uses) projected an increase from 1990 to 2005 of:

Calendar Year 1990 Base Year	80,375 visitor use days
Calendar Year 2005 Projections	89,000 visitor use days

As with other resources, it is the desire of the County to sustain and/or increase recreational use of the public lands during the tenure of the next resource and forest management plans. The above mentioned Grass Creek recreational use figures projected an approximate 10.75% increase in usage on the BLM administered public land. Although precise tables and figures are not readily available for the Shoshone Forest and Washakie Resource Area plans, the County desires to establish an overall threshold increase in all forthcoming plans of:

Recreational Usage 12-15% increase over prior plans

WILDLIFE POPULATIONS

MULE DEER: Hot Springs County recognizes that deer hunting and viewing is an integral part of the County's recreational/tourism base and supports long term herd management objectives which sustain the County's herds. The County recognizes that hunting license numbers, weather, disease, and predator control are the factors playing the largest role in establishing herd numbers. The County supports predator control as a mechanism of sustaining the herd population and increasing the beneficial take of deer.

SW Bighorn mule deer	(9 hunt areas)	23,000 to 25,000
Basin mule deer herd unit	(hunt area 125,127)	2,900 to 3,300 minimum
Owl Creek/Meeteetse	(hunt area 116-120)	4,700 to 5,300 minimum

ELK: The County recognizes elk hunting and viewing as a major socio-economic factor in the County well established in the resident's and non-resident's custom and culture. Therefore, the County's management goal is to sustain elk populations at or near historically high numbers. As with the other ungulates, the County recognizes predator control as a valid method of increasing and/or sustaining elk herd populations.

So. Bighorn Elk herd	(6 hunt areas)	6,400 to 7,000 minimum
Gooseberry Elk herd	(hunt areas 62-64)	3,900 to 4,100 minimum

ANTELOPE: Historically, the County has supported antelope herd populations which are at or near historically high levels in order to sustain the hunting, viewing/eco-tourism industry. As with other ungulates, the County supports hunting licenses in order to control herd sizes on the high end and predator control in order to increase the beneficial take of antelope.

Copper Mtn. Pronghorn herd	(areas 76,114,115)	5,900 to 6,300 minimum
15 Mile Pronghorn herd	(areas 83,77,110)	3,900 to 4,200 minimum

GRIZZLY BEARS: The County recognizes that the grizzly bear constitutes a socially unacceptable species in the BLM administered Grass Creek Resource Management Area. The County asserts that the Grass Creek plan did not allow for grizzly occupancy and desires to maintain this provision in upcoming BLM RMP revisions. It is the County's belief that the presence of grizzly bears on the BLM lands within the County represents a threat to the health, safety and general welfare of the County's residents. Therefore, the County desires to establish the following threshold levels for grizzly bears in Hot Springs County:

BLM administered lands	0 grizzly bears
Shoshone National Forest	0 grizzly bears on grazing allotments
Washakie Wilderness Area (in Hot Springs Co.)	5-20 grizzly bears in the Washakie

BIG HORN SHEEP: The County recognizes the reintroduction efforts to establish healthy herd populations, supports the effort and recommends management techniques which benefit the herds by preventing substantial losses due to predators and disease. The County's goal is to encourage herd populations which benefit eco-tourism and limited hunter harvest. A recommended threshold herd size for the Game and Fish management area which includes the County is;

Francs Peak Big Horn Sheep unit (area 5,22) 1,400 minimum

MOOSE: Threshold population levels are not available for Hot Springs County. Small family groups of moose have been attempting to establish themselves in the western portion of the County; however, predation has threatened their ability to become reestablished. Therefore, the County's moose management goal is to manage moose, and the predators which prey upon them, at a level which will allow the moose population to attain 50-75 animals. Hot Springs County asserts moose are among the most visible and well liked of wild animals and have the potential to benefit the County's eco-tourism industry. In order to accomplish this goal, the County supports various predator management and control methods and forage improvement projects.

SAGE GROUSE: The County has established habitat improvement, predator control and if necessary hunting season suspension as its primary methods of improving and sustaining sage grouse populations. It is the County's belief that too many restrictions on grazing, oil and gas activities have already been imposed due to sage grouse concerns; and therefore, the county desires to reduce the present restrictions and implement an increase in habitat improvement and predator control. The County recognizes that a portion of the oil and gas production decline is related to restrictions, stipulations, special land designations, seasonal withdrawals, etc. and expects State and federal land managers to utilize sage grouse management techniques which benefit the economy not suppress the economy. Therefore, habitat improvements and predator control are to be used as the County's threshold level.

MITIGATION OF UNACHIEVED THRESHOLDS

Hot Springs County shall require that mitigation measures be adopted in order to achieve the established thresholds whenever a threshold level falls short of its goal, especially those affecting the custom, culture, health, safety and general welfare of the County. By doing so, adverse affects of special land designations, mineral lease withdrawals, accumulative restrictions and stipulations can be off set without harming the economy of Hot Springs County. For the various State and Federal resource plans which directly or indirectly impact Hot Springs County, the County shall require explanation of when the threshold level cannot be achieved and discussion of mitigation measures which can offset the negative impact on the County's economic base.

The primary resource management goal of Hot springs County shall be:

Public lands are to managed for sustainability and/or increase in all of the resources to include the socio-economic affect on the County and its residents. To that end, no net loss in total economic activity, adjusted for inflation, shall be acceptable; and in order to meet this goal, mitigation measures are to be employed by State and Federal land managers.

Incremental Bureaucratic Regulations:

Hot Springs County is concerned about the steadily increasing number of restrictions, mitigating measures and stipulations which State and Federal resource managers have put on grazing leases, mining operations, oil and gas production, timber harvesting, recreation and multiple use in general. The accumulative effect of the restrictions, mitigating measures and stipulations has reached the point in Hot Springs County where some components of the economy, particularly agriculture and the oil/gas/minerals industries, are threatened. In most cases, the accumulative regulations have been implemented without an economic analysis of the effect upon the County's economy and social structure including schools, hospitals, government and emergency services. Admittedly, this is a very difficult problem to address. Hot Springs County asserts that the most reasonable method of addressing the issue is through economic analysis of the impacts of the various regulations on the County's economy whether the action is State or Federal in nature. Therefore, the County shall advocate the following remedial actions in order to protect the economy:

1. Establishment of a working group consisting of County, State and Federal representatives to seek solutions to the incremental regulations problem,
2. As required by Federal statute, Hot Springs County shall require that both State and Federal agencies assess the effect of their actions on the economy, custom and culture of Hot Springs County by utilization of economic studies such as cost/benefit analysis, economic impact analysis, lowest cost alternatives, most economic benefit analysis and analysis of the economy of the County in order to protect its general economic health. Hot Springs County at its discretion, may be involved in this process.
3. Hot Springs County shall generally require that the economic alternative which does the least damage to the economy or benefits the economy the most be implemented,
4. As required by the Administrative Procedures Act, Hot Springs County shall require the various agencies to document that their decisions adequately took into account the health, safety, custom, culture, and general welfare (including the economic impact) of their actions on the County,
5. Hot Springs County asserts that the County, at its discretion, has the right to be involved in all decision making and regulatory functions which have an effect on the County's economic stability, custom, culture and the well being of its citizens,
6. At its discretion, Hot Springs County asserts its right to be a "cooperating agency" in order to have direct input into the decision making process and be included in various working groups that determine matter of policy which affect the County,

7. Hot Springs County asserts that the County has the right to help develop management plans, including proposing alternatives at its discretion, for various issues including but not limited to the management of wildlife, land, air and water quality, roads and access, mineral development, forage, range and recreation. These management plans will take into consideration the health, safety and general welfare, plus the custom and culture of the human population of the County.
8. The Board of County Commissioners of Hot Springs County asserts that as a matter of the “ health, safety, general welfare, custom and culture” of the County that the board has the right to hear case by case complaints concerning the effects of incremental regulations on various industries and operators in order to resolve disagreements, protect the economy and environment, encourage economic development, and influence the decision making process.
9. Hot Springs County asserts its right to intervene in matters of the health, safety, general welfare, custom and culture. Whenever a particular economic activity is in danger of being forced out of business by regulations, the expense of meeting regulations is excessive and prohibitive, the accumulative affect of regulations exceeds a “reasonable” level, an economic enterprise is being temporarily shutdown by regulations that are unreasonable as determined by Hot Springs County, and in instances of abuse of authority by State and Federal managers, Hot Springs County asserts its right to intervene.
10. Hot Springs County shall require regulations to take into account the effect upon the economy, custom and culture of the County and the human population of the County. Where appropriate, sound scientific principals shall be utilized.
11. Hot Springs County supports the use of open public hearings conducted by the BOCC to determine whether or not accumulative regulations, or the effect of accumulative regulations, are unreasonable or reasonable.

Goals:

- The County recognizes the importance of the agricultural and minerals industries to the County’s economy and sets a goal of increasing production from these industries countywide but especially from the public lands.
- The County recognizes the importance of diversifying the economy and sets a goal of attracting or promoting new industries to locate within the County.

- The County recognizes the need to participate in State and Federal land use planning processes in order to protect the health, safety and economy of the County and specifically to make sure the County's needs are communicated.
- The County recognizes that over-regulation has a negative effect on the economy and sets a goal of negotiating with State and Federal resource managers reasonable restrictions, mitigating measures, and stipulations on the various industries in the County.
- The County establishes a goal of implementing and periodically updating a Land Use Plan for State and Federal Lands in Hot Springs County and communicating the existence and provisions in the plan to State and Federal resource managers.
- The County establishes a goal of requiring the usage of cost/benefit, socio-economic and other economic studies when the County deems it necessary in order to determine whether or not a particular action is beneficial or detrimental to the economy of the County.

Public Policy:

1. As required by Federal law, public lands in Hot Springs County must be managed by multiple use principles in a manner which sustains and/or increases the productivity of the public lands. (see the Multiple Use and Sustained Yield Act of 1960)
2. Hot Springs County is opposed to public land withdrawals and land restrictions such as additional wilderness areas, wilderness study areas, primitive areas, restrictions on vehicular travel such as roadless areas, unreasonable seasonal restrictions on various industries and other designations which have the effect of withdrawing land from production and thereby impacting the economy.
3. The County will support diversification of the economy and efforts to recruit new businesses and industries to the area that do not hamper or hinder the custom, culture and general welfare of the County.
4. The County will actively work to improve infrastructure needs such as the airport and improve other infra-structure needs such as roads, water distribution and storage systems, emergency services, law enforcement and other vital services.
5. The County will encourage new infra-structure construction in semi-desert locations in order to protect the limited prime, irrigated bottom lands along the Big Horn River and the other major drainages in the County. Future dam site selections, the airport location, roads, powerlines, etc. will be closely reviewed.
6. Hot Springs County may seek cooperating agency status and participate in planning and scoping of management plans affecting the County.

7. Hot Springs County will continue to support the Hot Springs Protection Area in order to preserve the tourism industry and health of the public.
8. The County will continue to encourage a general clean-up on all lands in order to improve the scenic and aesthetic qualities of the County.
9. The County will oppose unreasonable restrictions, mitigating measures and stipulations on the various industries in the County, especially those imposed without County involvement.

Natural Resources and Environmental Quality

General:

Because of the importance of natural resources and the environment to County residents, the protection of such resources through good planning is of utmost importance. The natural environment is important in fostering and attracting economic development, assuring continued growth in tourism, maintaining property values, and providing for a high quality life style. Elements of the natural resources and environmental quality considered here are water quantity and quality, sanitary landfill, individual septic systems and permitted sewage treatment systems, rural land use planning, role of the Hot Springs Conservation District, and Wyoming subdivision statutes.

Background:

Hot Springs County has devoted considerable effort to environmental quality primarily through efforts of County government and the formidable efforts of the Hot Springs Conservation District (a local government and a political subdivision of Wyoming State government). The HSCD has directed much of their effort to the areas of erosion control, water development, tree planting, vegetation improvements, surface and subsurface ground water quality, grazing improvements, wildlife habitat improvements, and air quality improvements. The HSCD has adopted a local conservation plan which is hereby recognized by this document and appended to it. The HSCD is not funded by an assessed mill levy which could provide steady financing; but instead, utilizes grants and volunteers to operate. The HSCD cooperates very closely with USDA agencies as they implement Federal programs in the County. Title 11, Chapter 16 of the Wyoming State Statues provides for establishment and operation of the Conservation District.

Local County government, supervised by the Board of County Commissioners, has addressed natural resources and environmental quality primarily through the Hot Springs County Planning Commission and the County planner position, backed by Wyoming State Statutes and the Hot Springs County Land Use Plan (covering private land). Wyoming State subdivision statutes and various other statutes provide for the authority the County exercises. Hot Springs County has had a LUP in place since 1978 and the existence of the current LUP is hereby recognized by this document. The Hot Springs County LUP provides for solar access permits, flood plain permits,

sewage disposal permits, fast track permits, land use change and subdivision permits. In addition, Chapter 3 of the Hot Springs County LUP entitled "Inventory of Existing Conditions" recognizes various scenic, historic and recreational lands within the County (primarily on private land) and recommends policies for managing the various parcels of land. Hot Springs County government is an approved cooperating agency and has implemented a "Land Use Plan for State and Federal Lands" within the County (this document).

Broad statutory authority is invested in the Board of County Commissioners who, under Wyoming subdivision statutes, are charged "..... to conserve and promote the public health, safety and welfare of citizens of the County." Widespread cooperation between municipal, County, State, tribal and Federal agencies is required in order to fulfill this obligation.

Water Quantity and Water Quality:

Hot Springs County has very limited privately owned, high productivity, irrigated bottom land and can ill afford to lose any of it to rural subdivisions, State and Federal acquisitions for wildlife reserves, water impoundment dams, wilderness areas, recreational areas, etc. Not only is the land lost from the tax rolls but removal from production can impact the local economy. Therefore, Hot Springs County will scrutinize proposed State and Federal projects in order to evaluate the effect on the County's economy and tax basis. Should severe adverse economic effects be identified, the County may object to the project in order to protect the local economy. The County recognizes that the best use of the highly productive agriculture lands has been established by our custom and culture; which in turn, has been dictated by water quantity and quality.

In Wyoming, it can generally be said that development follows water resulting in an increase in rural subdividing, which in turn, slowly erodes agricultural land. Therefore, the County will consider regulations which protect high productivity land from rural subdividing other than for agriculture purposes. Currently, rural parts of the County are zoned agricultural (if not utilized otherwise) and a Land Use Change Permit is required for usage other than agricultural. Rural subdivisions with their inherent water and sewer concerns should be encouraged in areas removed from flood plains and alluvial gravels where septic seepage could affect water quality. Currently, the Towns of Thermopolis and East Thermopolis are enrolled in the National Flood Insurance Program and the flood plain mapped (FIRM); whereas the rural parts of the County are enrolled but **not** mapped; and therefore, a current Federal flood plain map (FIRM) is not available in rural Hot Springs County to help direct the placement of rural subdivisions.

Sanitary Landfill:

The Town of Thermopolis operates a sanitary landfill permitted by the State of Wyoming Department of Environmental Quality. Rural garbage removal is currently provided by a private service but rural garbage pickup is not mandatory. The landfill is available to rural residents, residents of Kirby and residents of East Thermopolis who have residential pickup. The landfill is currently serving the County well and is adequate for the residents of the County. In addition to

garbage disposal, the landfill handles wooden products which are periodically burned, tires which are recycled, and iron which is recycled. Toxic products are not accepted.

Septic Systems and Sewage Treatment:

Hot Springs County has recently implemented a septic system permitting and inspection program authorized by the DEQ. Currently, many of the County's septic systems are not permitted, and especially in the alluvial gravels and floodplains, may contribute to groundwater contamination. On the positive side, rural subdividing has not occurred to a large extent and the number of commercial feedlots in the floodplains is not large either. Therefore, an imminent threat to groundwater quality seems unlikely, especially in light of the encouraging results of the "Hot Springs County Groundwater Study – Phase II" completed in June of 2004. The County and Conservation District expect to closely follow the issue and take preventive measures in order to avoid a problem developing.

In addition to the State of Wyoming subdivision statutes, Hot Springs County has adopted land use planning regulations beginning in 1978; and as recently as 2004, adopted Septic Tank Regulations in the unincorporated parts of the County. Individual waste water treatment systems or septic tanks, are jointly permitted by the County and Wyoming Department of Environmental Quality. Using the above authorities, the County has also exerted control over larger sewage systems in the unincorporated parts of the County. Pursuant to W.S. § 18-5-306, centralized domestic sewage treatment facilities, commercial and industrial facilities are permitted by the DEQ.

The Town of Thermopolis has allowed for disposal of motor home waste and pumped residue from septic tanks thus greatly reducing the chance of contamination throughout the entire County. The program was so successful it began attracting numerous dumpers from other counties; therefore, Thermopolis limited dumping from septic pumping units to residents and businesses from Hot Springs County.

Goals:

- The County will periodically reevaluate participation in the National Flood Insurance Program (NFIP) realizing that a reliable, accurate, flood plain evaluation needs to be done in the future.
- The County will support efforts to supply potable water to County residents, preserve the quantity and quality of water in cooperation with local, State, regional, and Federal authorities. And utilize its powers to enhance the health and safety of residents through water projects developed by improvement districts and joint powers board(s).
- The County will seek to assure that changes in land use brought about by changes in natural use, sustain local custom and culture, while enhancing the economic and aesthetic quality of life of County residents.
- The County will continue to support water quantity and quality monitoring programs.

Public Policy:

1. Protection of the existing quality of ground and surface water resources shall be a priority.
2. The County will vigorously oppose proposals or efforts to modify the watersheds, natural vegetation, or prevailing climate patterns, as a means of transferring and increasing water supplies to the detriment of County residents, wildlife, vegetation and quality of life.
3. The County will vigorously seek to locate, identify, categorize, and determine the potential harm to health and safety of County residents as to wastewater systems.
4. The County recognizes that the experience of other counties in the State of Wyoming indicates the exploitation of CBM, and the water generated by coal bed methane operations, needs to be considered in any planning process to assure local health, safety and general welfare considerations are protected.
5. The County will vigorously seek to locate, identify, categorize, and determine the potential harm to the health and safety of County residents as to discharge and/or wastewater as defined by the State of Wyoming (DEQ) statutes and regulations.

Air

General:

Hot Springs County's air quality is of particular concern. Both natural and man-made sources of degradation can exist. Atmospheric inversions sometimes occur, especially in the Big Horn River valley. Dust from winds though minimal, can occur especially during times of drought. Smoke from natural and controlled fires occurring in forests, hills and prairies have been of concern, and have been exacerbated by drought.

Background:

Under the Federal Clean Air Act, the U.S. Environmental Protection Agency has the responsibility for setting and enforcing air quality standards. Much of the local enforcement is delegated to the Wyoming Department of Environmental Quality. The County's air quality may also fall under the responsibility of the Fire District, Health Department, Planning and Zoning Committee, Emergency Management Office and the Weed and Pest District.

Open burning of field stubble and trash vegetation is a cultural tradition in the agricultural community. Controlled burning of standing vegetation for range improvement purposes is both traditional and sometimes an economic necessity. Smoke and dust created as a result of these activities intermittently degrade air quality. The County has a number of oil and gas production

facilities, animal feedlots, other farm operations, and some light industry. Air quality can be affected by dust, smoke and gases from these traditional and necessary operations.

The County relies upon a network of unpaved roadways on lands of many ownership types. These range from seldom-used unimproved “two-tracks” to improved gravel roads that carry significant traffic. Dust generated from these roadways can negatively affect air quality. Weed and pest management activity such as chemical spraying by both ground and aerial means may affect air quality and have human health consequences.

Goals:

- Air quality is important to the health, safety and general welfare of the public. Dust and odors from local family farm operations are an accepted part of life in rural Wyoming, but unnecessary and harmful pollutants in the air are not. The goal is to prevent harmful air pollution without hampering normal family farm operations.
- In order to evaluate air quality, the County will pursue accurate scientific measurements by working with the Wyoming Department of Environmental Quality.
- The County will develop a transportation plan setting priorities for paving heavily used dirt roads, which create excess dust in more populated areas. The County’s Road and Bridge Department will identify those roads or road segments with a dust problem and pursue dust control efforts. The County will work to facilitate remediation of dust control problems on roads of all ownerships.
- Incentives for mitigating sources of air pollution will be given priority over regulatory restrictions. If regulatory restrictions are deemed necessary, then the goal will be to implement those regulations on terms and conditions that will not be invasive of the rights of individual property owners, but only for the public’s health, safety and welfare.

Public Policy:

1. Protection of existing air quality will be a major consideration in the review of plans for new industrial, commercial, and large scale residential projects. New or changes in existing land uses, which would tend to cause a significant deterioration of existing air quality, without satisfactory mitigation, shall be discouraged. Existing activities shall be encouraged to improve management and practices in support of higher air quality.
2. The County will seek to work with Federal, State and local agencies to educate the public on the value burning plays in agricultural operations and wildlife enhancement and to develop best management practices concepts and applications for controlled burning of vegetation.

3. The County will continue to encourage State and Federal agencies to use prescribed burns as a means of weed and pest control. The County expects to be involved in planning for prescribed burns to mitigate potential wildfire threats and degradation of air quality, and will work to enhance interagency communication.
4. The County will mandate that all of its entities and departments work with and communicate with both private and public interests regarding air quality.

Health

Definition:

Soundness of any living organism,
General condition of body and mind, as to vigor and soundness.

Health as given in the definition is not only health care but the maintenance of body and mind as to vigor and soundness.

General:

There is an overwhelming need today for services that will address the issue of the soundness of our population which leads to quality of life for both young and old. For the young, health care is necessary to maintain or restore health. For the elderly it is maintaining as much health and quality of life as possible within the process of aging.

Background:

Health and recreation have always gone hand-in-hand in Hot Springs County. Historic information shows that travelers to the springs came for those two reasons. One Crow tribesman is said to have obtained his "medicine" at the springs and became a powerful leader in his tribe. Early day campers used crude stone bath houses in which to bathe. Originally Hot Springs State Park was called the Hot Springs Reserve. Soon after the Reserve was set aside the State of Wyoming built a free bath house for those who were crippled with arthritis or were suffering from other ailments. It has been rebuilt two times and is used extensively by visitor and residents alike. The high butte directly above the main spring is called Monument Hill. The name is due to the "monuments" which were built there of rock by those who came to Thermopolis as cripples and after a month of bathing were able to walk to the top of the steep hill.

Doctors, too, were attracted to the site. While at least five doctors practiced medicine in the town from 1900 to 1920, two doctors built actual hospitals on the reserve. Numerous private sanitariums there served the sick. Swimming, boating, fishing, walking, dancing, and musical entertainment were all healthful, enjoyable pastimes in which resident and visitor participated. These activities are still available at times in Hot Springs State Park, along with badminton, horseshoes and picnicking.

Gottsche Rehabilitation Center was established through the estate of the Gottsche family of Rock Springs, Wyoming. The daughter of the family had polio and although they traveled to spas in the United States and Europe, she obtained her greatest relief at Thermopolis. Originally the center was to serve as a polio center, but before it was established polio vaccine was developed so the concept was changed to a rehabilitation center. At the same time the old County hospital, which was located on State land on the west side of the river, needed to be replaced. Consequently, the two health care centers were housed in the same building which is in use today on State land within the park.

Exercise, diet, and mind frame are factors affecting health at all age levels. Services to these age groups are significantly different within other parameters. Hot Springs County, according to an article in the *Casper Star Tribune*, dated June 21, 2004, is experiencing a major change in the age of its citizens. A population estimate from the State of Wyoming shows the median age of local residents to be 44.2 as opposed to 36.2 as the median throughout the State. That is the highest median age of any county in Wyoming. Twenty percent of the people in the County are over the age of 65. This area's reputation, climate, scenery, medical services and mineral hot water springs are drawing factors to retirees. Due to this older population, County residents are disproportionately prone to disabling health issues. Demand for geriatric care is growing, while the need for pediatric care is diminishing.

Hot Springs County has invested heavily in health care. There are over twenty government agencies dedicated to health education, maintenance and restoration. Nine agencies target children, six are for families, and seven are for the elderly. Non-profit organizations, churches, schools and the County library all offer some type of health care resources. Institutions which are completely involved in health care education include Hot Springs County Memorial Hospital, Gottsche Rehabilitation, Health, Wellness and Fitness Center, Big Horn Enterprises, Northwest BOCES (Board of Cooperative Education Services), Canyon Hills Manor, and the Wyoming Pioneer Home. In addition, there are units for independent living for those who need subsidized housing. Besides Gottsche, there are other locations where participation in exercise and fitness is available, both in private centers and in subsidized areas. Hot Springs County Memorial Hospital is committed to providing quality care to the County. The facility is presently engaged in a remodeling effort. In order to provide these services, revenues from multiple use of public land is necessary.

EMT/ambulance service, a volunteer fire department, and a search and rescue team are all located in Thermopolis. All of these entities, either individually or as a cooperative effort, have at some time served the health/accident needs of individuals and groups on Forest Service, BLM, reservation and State lands. Emergency air service to larger cities is available. Many of Hot Springs County's veterans use the VA facilities at Riverton and Sheridan.

Health care issues are of great importance, not only to Hot Springs County, but to the entire West. Many diseases endemic and introduced by wildlife and domestic animals on the public lands can be passed to the human population. They include West Nile virus, chronic wasting disease (CWD), sylvatic plague, brucellosis/Bang's disease (undulant fever in humans), trichomoniasis, rabies, hantavirus and anthrax. While Rocky Mountain spotted tick fever, a people killer in the 1920's and 1930's, has decreased in recent years, Lyme disease seems to

have increased in the West. These diseases have become an increasing threat to human and animal/bird populations. The presence of diseased wildlife on public lands is one of great concern.

Goals:

- Hot Springs County will continue to support the health care industry in the County by cooperating with health care service organizations to maximize their effectiveness and efficiency as they work to meet the health care needs of the community
- Hot Springs County's goal will be to support affordable health care and support subsidized care for the less fortunate.
- Hot Springs County Memorial Hospital plans to meet the community's needs by providing new services as well as updating the building to reflect the ever growing outpatient services needed in today's health care industry. An initiative to expand the Orthopedic Center of Excellence is underway and Women's Health Services will soon be available. Services and programs also under consideration include: The addition of Internal Medicine; opening an outpatient Pain Management Center; provision of a sleep study program; providing cardiac nuclear imaging and increasing the number of surgery suites.
- As an outgrowth of the EDC assessment, a holistic/professional health committee has been established to promote health not only of residents but to draw non-residents to the County. One goal is to promote hiking trails which use the public lands. Such programs will enhance the culture and custom, as well as the health, of residents and visitors.

Public Policy:

1. The County will continue to support, to the best of its financial ability, presently funded services such as the public health nurse and mental health services.
2. The County understands the impacts of multiple use of public lands in relationship to funding of entities such as County health programs and the hospital. The productivity of the gas/oil industry and agricultural industries in particular will be monitored.
3. The County will monitor diseases associated with wildlife in order to assess the impact on the human population and the economy of the County.
4. The County will initiate, if necessary, proactive measures to protect its residents from wildlife and domestic animal borne diseases.
5. The County will participate in inter-agency programs intended to protect the health of the public and continue to work with the various agencies as needed.

6. The County will continue to promote healthy living by supporting the improvement, marking and listing of hiking paths throughout the County.
7. The County will continue to promote the work of individuals and groups to maintain and restore the health of residents and visitors through a vigorous advertising campaign.

Aesthetics

Definition:

Aesthetics – of or pertaining to the beautiful, responsive to the beautiful in nature. The branch of philosophy dealing with the beautiful....and its relation to the human mind.

General:

Hot Springs County is blessed with a diversity of scenic beauty which plays an important role in maintaining the viability of its recreation and tourism industry. Improvements of visual quality characteristics can lead to significant economic gains and are holistically important to the mental health of the community. Thermopolis has a unique skyline, basically unfettered, with some private and some public lands dominating the view.

Background:

Aesthetics play an important role in maintaining property values. Storage of secondhand materials, junk, old inoperable vehicles, and poor maintenance on public lands detract from the value of the affected property, and adjacent and surrounding properties as well. Junkyards and trash located along major highways also have an influence on visitor and tourist's perceptions. Protection of aesthetic values along highways enhance tourism; and encourage travelers to or from national parks and forests, monuments and other nationally recognized tourism destinations to stop and enjoy the rural landscapes and open spaces. Referring, to the Federal Land policy and Management Act of 1973, Congress declared, "The public lands will be managed in a manner that will protect the quality of scientific, scenic.....(and) environmental.....resource(s)."

Goals:

- The County shall make every attempt to protect and improve the aesthetic quality of the environment, prevent negative impacts on property values, the historic culture and custom of the County, and the community's quality of life.
- The County encourages enhancement of aesthetic values through management of good conservation practices.

- Working cooperatively with public land agencies, the County will attempt to take measures to cleanup and maintain intermingled public/private lands of historical and aesthetic values.

Public Policy:

1. Littering of public property shall be discouraged by the County through education, and when possible, enforcement of littering laws.
2. Vandalism on public lands, not only of historic sites such as the Gebo Cemetery, but of the land itself, will be discouraged by the County, through education and when possible law enforcement.

Transportation, Utilities and Communications

Definition:

Transportation: the act of transporting; conveyance.

Communication: the act of communicating; exchange of ideas, conveyance of information, etc.; correspondence. Means of communicating, as a highway or passage; also, a telephone, telegraph, or radio system, radar, fiber optics, computers.

General:

Hot Springs County is sparsely populated, with limited access to services and goods, which are normally available in populated areas. Distances between services, neighbors, friends, and work are considerable. These and similar factors make the need for the very best communications and transportation services an absolute necessity if this community is to keep pace with the rest of the country. Modern communications and transportation systems are a must for us to compete in various markets. All our industries and homes are affected by these services. Today transportation and communications sustain commerce, provide the means to participate in state and national affairs, and forms the basis of our tourism industry.

Transportation Background:

Many of today's roads follow trails made by game, Indians and mountain men. The Big Horn River was also used by the earliest travelers; today travel on it is recreational. Military expeditions and livestock drives opened up new pathways. Various stock trails, including the famous Bridger Trail, traversed the County up to the time of the arrival of the railroad heads; and eventually, the extension of the railroad into Thermopolis from the south.

Regular roads and wheeled vehicles came with settlement in the 1880s. Early transportation services included freighting and stage lines. Many types of wheeled vehicles carried the mail. The first car hit Thermopolis' streets in 1906 and by 1924 the Yellowstone Highway was

running through Wind River Canyon. There have been taxi services in the past and a bus line still runs through. Special transportation services include medical and senior citizen rides both locally and out of County.

The Wyoming Business Council retained consultants to evaluate the economic development potential of the State. The report concluded that those areas not located within easy access of the State's interstate highway system were at a considerable disadvantage in developing commerce. Hot Springs County is not located near an interstate highway system; and therefore, other modes of transportation available to the County must be enhanced to compensate for this shortcoming.

Hot Springs County is bisected by U. S. Highway 20 running from Wind River Canyon to the Washakie County line. Wyoming State Highways include 172 up Kirby Creek, 120 north to Meeteetse and Cody, 431 to Worland, 170 to Hamilton Dome and the Buffalo Creek Secondary. There are 26 graveled County roads. Generally speaking all government roads within the County are in excellent shape. The need for freight teams and wagons to turn around in downtown Thermopolis gave the town its former wide streets. Today there are six truck lines working out of the County. Interstate delivery truck services include UPS, NPT, and Federal Express.

The first railroad engine reached Thermopolis from the north in 1910. Regular passenger, freight and mail service on the railroad between Billings and Casper became a reality in 1913 although it took three years to lay track south through the formidable wilderness of the Wind River Canyon. This connected Montana with Colorado and the southwest for the first time. Today Burlington Northern Santa Fe Railroad runs through the County but there is no passenger service. As noted elsewhere, Burlington Northern Santa Fe is the fifth largest taxpayer in the County.

The first official airport and air service in Hot Springs County was in place by the late 20's. Today's airport is a general aviation airport and as such should serve demands by air cargo, air charter, business and corporate users as a whole. It is located approximately one-quarter mile northwest of the Town of Thermopolis.

Communications Background:

Mail service was the first communications system in the County. It was carried from Fort Washakie to Meeteetse. To serve the old and then the new town of Thermopolis from Casper it came over Copper Mountain to the Holt post office and on down Kirby Creek. The first telephone line came into the County from Casper in 1903 and telegraph service was established at least by 1906. Radio and TV pioneers Joe and Mildred Ernst were installed in the Wyoming Association of Broadcasters Hall of Fame in June of 2004. They were instrumental in bringing radio to Worland, Riverton, and Torrington, and establishing radio and TV stations in Thermopolis in the mid 1950s. Today, the County is serviced by one radio station, KTHE AM 1240.

In 2004 the County is served by several telephone companies and a fiber optics line runs through the eastern part of the County. Television and internet services are provided by three local carriers in addition to larger syndicated networks. Satellite and radar towers are located on high points in Hot Springs County.

Transportation Goals:

- **Highways and Roads:** The County will support safe, efficient local use of U.S. Highway 20 and all State and County highways within its boundaries. The County supports designation of sections of these highways as Scenic Byways, especially State Highways 120 and US Highway 20, with more and improved facilities (including year-round public restroom facilities), grade separated bicycle and hiking trails, and better signage in recognition of the historic, geologic, and cultural sites along this roadway. The County also supports enhancement of these highways to promote tourism, recognition of historical and cultural landmarks. Signage appropriate to the safe use of the highway right-of-way as a stock drive is also important.
- **Railroad:** The County will encourage a better working relationship with railroad companies, foster public/private cooperative agreements for better rail service and otherwise work with BNSF for mutual benefit of the railroad and the community. The County will seek to make safe at-grade rail crossings.
- **Public Transportation:** The County will support efforts to advance public transportation.
- **Aviation:** Since the long-term solution to meet the aviation needs of Hot Springs County is a new airport, a \$150,000 study will be undertaken to find a suitable location. This is included in the Wyoming Aviation Capital Improvement Program plan. The relocation is subject to the availability of funding and is to be completed over a ten-year period. Both Federal and State assistance have been obtained to start the process.

Communications Goals:

- The County will cooperate with the Town of Thermopolis to coordinate a uniform approach to encourage telecommunications providers to continue to improve and expand their services. Information will be gathered and provided to service providers to assist them in determining our needs and effective ways to serve those needs.
- The County will work to encourage governmental agencies to study and fund improvements to our communications networks. Special attention needs to be paid to cell services and satellite communications, and other similar technologies being developed. Our hospital, ambulance service, fire department, sheriff and police are of special importance and require the most modern services available.
- The County will coordinate and encourage telecommunications system improvements, which are proven and dependable. Sources of funding will be sought to support this effort, including funds from FEMA and Home Land Security.

- The County will seek to continue to educate citizens on telecommunications technologies and their uses. This is to include emergency preparedness and management education.

Public Policy:

1. With much of the country doing business electronically using advanced technology resources, it is important to encourage telecommunication enhancements, which will both sustain local businesses, and assist them in becoming competitive in the global marketplace.
2. The County will encourage cooperation between and among telecommunication service providers to enhance communication between and among communities.
3. The County will support efforts to improve the reliability and expansion of local cellular capabilities.
4. Transportation and communications corridors are necessary to the economy of the County, but they need to be balanced with aesthetics which have an impact on the tourist industry.
5. The County encourages the use of existing utility or transportation corridors whenever possible. Where possible, new installations should follow the routes of existing facilities and roads.

Appendix "A"

Acronyms

ANILCA	Alaska National Interest Lands Conservation Act
APA	Administrative Procedural Act (there is both a federal and a state APA)
AUM	Animal Unit Month
BLM	Bureau of Land Management
CBM	coal bed methane
CEDS	Comprehensive Economic Development Strategy
CERCLA	Comp. Environmental Response, Compensation and Liability Act
CFR	Code of Federal Regulations
DEQ	Wyoming Dept. of Environmental Quality
DPC	Desired Plant Community
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
ESA	Endangered Species Act
FIRM	Flood Information Rate Map
FDQA	Federal Data Quality Act
FOIA	Freedom of Information Act
G&F	Wyoming Department of Game & Fish
GIS	Geographic Information System
GPS	Global Positioning System
ICA	Intergovernmental Cooperative Act
MUSYA	Multiple Use and Sustained Yield Act
NRCS	Natural Resources Conservation Service
NEPA	National Environmental Policy Act
NFIP	National Forest Management Act
NPS	National Park Service
NUPMA	National Undesirable Plant Management Act
PILT	payments in lieu of taxes
RCRA	Resource Conservation Recovery Act
RMP	Resource Management Plan
R.S. 2477	Revised Statue 2477
TMDL	total maximum daily load
TSP	total suspended solids
USFS	United States Forest Service
USFWS	United States Fish and Wildlife Service
WYDOT	Wyoming Department of Transportation
WDEQ	Wyoming Department of Environmental Quality

Appendix “B”

Federal Laws & Regulations Providing For Consultation Or Involvement of County Government

(i) Process and Procedural Statutes:

- ❖ Intergovernmental Cooperation Act, 3 U.S.C. §301, 42 U.S.C. §4231(a), provides that federal agencies are to coordinate programs and plans with state and local governments. See also, Executive Order 12372 (July 14, 1982)
- ❖ Administrative Procedure Act (“APA”), 5U.S.C. §553, requires notice of comment of proposed regulations.
- ❖ National Environmental Policy Act (“NEPA”) 42 U.S.C. §4331, 40 C.F.R. §1506.6; NEPA policy is to promote public involvement – 40 C.F.R. §1506.6
- ❖ Code of Federal Regulations (“CFR”), 40 CFR §1508.5 “A state or local agency of similar qualifications or, when the effects are on a reservation, and Indian Tribe, may by agreement with the lead agency become a cooperating agency.”
- ❖ Freedom of Information Act (“FOIA”), Under the FOIA, “...each agency, upon any request for records, which (i) reasonably describe such records, and (ii) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person.” 5 U.S.C. §552(a)(3)(A). (2002)
- ❖ City of Waltham v. U.S. Postal Services, 11 F.3d 235, 245 (1st Cir. 1993). The obligation of federal agencies to consider local government concerns is a legally enforceable right.
- ❖ Village of Palatine v. U.S. Postal Services, 742 F. Supp. 1377, 1397 (N.D. Ill. 1990). The consideration of local government plans and policies must occur on the record. Federal agencies have an affirmative duty to develop a list of factors, which support or explain an agency’s decision to act in disharmony with local land use plans.

(ii) Management of Federal Land:

- ❖ Federal Land Policy and Management Act (“FLPMA”), 43 U.S.C. §§1701, *et seq.*
 - (a) “The secretary shall allow an opportunity for public involvement and by regulation shall establish procedures, coordination with local government is required in addition to public involvement by regulation for development of land use plans, guidance and revision or amendment of plans. 43 C.F.R. §1610.3-1(a) (2002)

- (c) The BLM is obligated to take all practical measures to resolve conflicts between federal and local government land use plans. Additionally, the BLM must identify areas where the proposed plan is inconsistent with local land use policies, plans or programs and provide reasons why inconsistencies exist and cannot be remedied. 43 C.F.R. §1610.3-1©(2) and (3). (2002)
- (d) “In exercising his authorities under this Act, the Secretary by regulation shall establish procedures, including public hearings where appropriate, to give the federal, state, and local governments and the public adequate notice and an opportunity to comment upon the formulation of standards and criteria for, and to participate in, the preparation and execution of plans and programs for, and the management of public land.” 43 U.S.C. §1739(e).
- (e) “The Secretary, with respect to the public land, shall promulgate rules and regulations to carry out the purposes of this Act and of other laws applicable to the public land, and the Secretary of Agriculture, with respect to lands within the National Forest System, shall promulgate rules and regulations to carry out the purposes of this Act.” 43 U.S.C. §1740

❖ National Forest Management Act (“NFMA”), 16 U.S.C. §§1600 *et seq.*

- (a) “In developing the reports required under subsection (b) [Resource Planning Assessments] of this section, the Secretary shall provide the opportunity for public involvement and shall consult with other interested governmental departments and agencies.” 16 U.S.C. §1601(c)
- (b) “The Secretary shall develop, maintain, and, as appropriate, revise land and resource management plans for units of the National Forest System, coordinated with the land and resource management planning processes of State and local governments and other federal agencies.” 16 U.S.C. §1604(a) (2001)
- (c) The Forest Service is obligated to consider and provide for “the stabilization of communities” in its decision-making processes. 36 C.F.R. §221.3(a)(3) (2002)
- (d) To promote sustainability, the responsible official must actively engage the American public, interested organizations, private landowners, state, local and Tribal governments...in the stewardship of the National Forest system lands. 36 C.F.R. §219.12(a) (2001)
- (e) “The responsible official must provide early and frequent opportunities for state and local governments to (a) participate in the planning process, including the identification of issues, and (b) contribute to the streamlined coordination of resource management plans or programs.” 36 C.F.R. §219.14 (2001)
- (f) Amendments to NFMA plans require public notice as well. 16 U.S.C. §1604(f)(4)
- (g) Land use planning regulations are to follow the Administrative Procedure Act (APA) requiring notice and public comment. 16 U.S.C. §1604(g)
- (h) “In carrying out this subchapter, the Secretary of Agriculture shall utilize information and data available from other Federal, State, and private organizations and shall avoid duplication and overlap of resource assessment and program planning efforts of other Federal agencies.” 16 U.S.C. §1610.

- (i) “In exercising his authorities under this subchapter and other laws applicable to the Forest Service, the Secretary, by regulation, shall establish procedures, including public hearings where appropriate, to give the federal, state and local governments and the public adequate notice and opportunity to comment upon the formulation of standards, criteria, and guidelines applicable to Forest Service programs.” 16 U.S.C. §1612(a)
- (j) Public involvement in all Forest Service decisions, 36 C.F.R. Part 216, implements 16 U.S.C. §1612 of NFMA [note: exempts from public notice and comment manual direction on personnel, contracting and routine business operations. 36 C.F.R. §216.3(a)(3)]
- (k) The Secretary has authority to create advisory boards necessary “to secure full information and advise on the execution of his responsibilities.” 16 U.S.C. §1612(b)
- (l) The Secretary is to implement NFMA through rulemaking with notice and public comment pursuant to the Administrative Procedures Act (APA) 16 U.S.C. §1613
- (m) The Multiple Use and Sustained Yield act of 1960 “ An Act To authorize and direct that the national forests be managed under principles of multiple use and to produce a sustained yield of products and services, and for other purposes.” Public Law 86-517, Approved June 12, 1960.

❖ Other Forest Service Regulations:

- (a) Community stability, 36 C.F.R. §221.3. “Management plans for national forest timber resources shall.....be designed to aid in providing a continuous supply of national forest timber for the use and necessities of the citizens of the United States.”
- (b) Executive Order 12630 (E.O. 12630) March 15, 1988. Governmental Actions and Interference with Constitutionally Protected Property Rights.

❖ Protection of Historic and Cultural Resources:

- (a) Cooperation with state and local governmental agencies in protection of historic sites. 16 U.S.C. §464
- (b) Establishes policy of partnership with states, Tribes and counties in protecting historic and cultural resources. 16 U.S.C. §470(a) – (c)(3)
- (c) Historic Advisory Council authorized to adopt regulations to implement local government participation. 16 U.S.C. §470(s)
- (d) Public notice and state agency involvement in rulemaking to protect archeological resources on public land. 16 U.S.C. §470(ii)
- (e) Under ARPA, “...information concerning the nature and location of any archeological resource for which the excavation or removal requires a permit or other permission ... may not be made available to the public... Unless the federal land manager concerned determines that such disclosure would (1) further the purpose of this ... Act; and (2) not create a risk of harm to such resources or to this site at which resources are located.” 16 U.S.C. §470h(a)

(iii) **Wildlife Protections**

❖ Endangered Species Act. 16 U.S.C. §1533

- (a) With respect to any regulation proposed by the Secretary to implement a determination, designation or revision referred to in subsection (a)(1) or (3) [listing or critical habitat], the Secretary shall...give actual notice of the proposed regulation (including complete text of the regulation) to the state agency in each state in which the species is believed to occur, and to each county or equivalent jurisdiction in which the species is believed to occur, and invite the comment of such agency, and each such jurisdiction, thereon;...” 16 U.S.C. §1533(b)(5)(A)(ii); 50 C.F.R. §424.16(c)(2)
- (b) Public comment of at least sixty (60) days – thirty (30) days in all other rules. 50 C.F.R. §424.16(c)(2)
- (c) Public hearings; if requested. 50 C.F.R. §424.16(c)(3)
- (d) The Secretary shall prior to final approval of a new or revised recovery plan, provide public notice and an opportunity for public review and comment on such plan. The Secretary shall consider all information presented during the public comment period prior to approval of the plan. 16 U.S.C. §1533(f)(4)
- (e) Guidelines for classifying petitions and review of potentially threatened or endangered species shall have public notice and opportunity for comment. 16 U.S.C. §1533(h)
- (f) Secretary is to cooperate with the states “...to the maximum extent practicable.” 16 U.S.C. §1535(a) This includes signing cooperative agreements and working with state fish and wildlife programs.

❖ Miscellaneous Other Federal Wildlife Protection Laws

- (a) Coordination with state and other agencies in wildlife protections. 16 U.S.C. §661
- (b) National Wildlife Refuge System is to coordinate with state agencies and other agencies and to provide for public involvement. 16 U.S.C. §668(dd)
- (c) Coordinate with state and other entities in developing comprehensive plans for wildlife restoration. 16 U.S.C. §670(g) and (h)
- (d) Counties are entitled to twenty five percent of revenues from sales of operations within units of the National Wildlife Refuge System. 16 U.S.C. §715(s)
- (e) National Trail System administration and coordination to occur in consultation with state, tribal and local governments. 16 U.S.C. §1246
- (f) Wild & Scenic Rivers System to be designated and expanded in consultation with state and local governments. 16 U.S.C. §1273
- (g) Coordinate, consult and provide for public involvement with local governments in conservation of soil and water, including private land grazing. 16 U.S.C. §§2003-2005
- (h) State authority to develop conservation program for non-game wildlife and fish and public involvement. 16 U.S.C. §2903

(iv) **Federal Pollution Laws**

❖ Clean Water Act. 33 U.S.C. §1251, *et seq.*

- (a) “It is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of the states to prevent, reduce and eliminate pollution, to plan the development and use (including restoration, preservation, and enhancement) of land and water resources and to consult with the Administrator in the exercise of his authority under this chapter.” 33 U.S.C. §1251(b)
- (b) “Public participation in the development, revision, and enforcement of any regulation, standards, effluent limitation, plan or program established by the Administrator or any state under this chapter, shall be provided for, encouraged, and assisted by the Administrator and the states. The Administrator, in cooperation with the states, shall develop and public regulations specifying minimum guidelines for public participation in such process.” 33 U.S.C. §1251(e)
- (c) “It is the policy of the Congress that the authority of each state to allocate quantities of water within its jurisdiction shall not be superseded, abrogated, or otherwise impaired by this chapter. It is the further policy of Congress that nothing in this Chapter shall be construed to supersede or abrogate rights to quantities of water, which have been established by any state. Federal agencies shall cooperate with state and local agencies to develop comprehensive solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources.” 33 U.S.C. §1251(g)
- (d) “The Administrator shall, after careful investigation and in cooperation with other federal agencies, state water pollution control agencies, interstate agencies, and the municipalities and industries involved prepare or develop comprehensive programs for preventing, reducing or eliminating the pollution of the navigable waters and ground waters and improving the sanitary conditions of surface and underground waters.” 33 U.S.C. §1252(a)

❖ Resource Conservation Recovery Act (“RCRA”). 42 U.S.C. §6901, *et seq.*

- (a) State solid waste regulatory programs authorized. 42 U.S.C. §6926
- (b) State underground storage tank programs authorized. 42 U.S.C. §6991(c)

❖ Clean Air Act. 42 U.S.C. §7401, *et seq.*

- (a) Public involvement in preparation of state and regional implementation plans. 42 U.S.C. §7410

❖ Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”). 42 U.S.C. §9601, *et seq.*

- ❖ Community Right to Know. 42 U.S.C. §1001, *et seq.* Implements broad authority to inform members of the public regarding the existence or presence of regulated substances.

(v) **Federal Public and Rural Services**

- ❖ Plant and Animal Damage

- (a) 7 U.S.C. §§2808, 2814. Requires cooperation with counties on noxious weed control.
- (b) 43 U.S.C. §1241. State agencies authorized to control noxious weeds on public land.

- ❖ Federal Electrical and Telephone Services

- (a) 7 U.S.C. §950(a). Authorizes economic development aid for local communities.
- (b) 7 U.S.C. §2281. Authorizes the U.S. Department of Agriculture to form local advisory councils.

- ❖ Federal Highway Act.

- (c) 23 U.S.C. §§204, 214. Requires consultation with local government authorities.

(vi) **Presidential Executive Orders**

- 58 Fed.Reg. 51, 735. (1993)

“State, local and Tribal governments are specifically encouraged to assist in the identification of regulations that impose significant or unique burdens on those governmental entities and that appear to have outlived their justification or be otherwise inconsistent with the public interest.”

- 62 Fed.Reg. 48, 445.

“The purpose of this Order is to assist Federal departments and agencies in undertaking such reviews and in proposing, planning, and implementing actions with due regard for the Constitutional protections afforded by the Fifth Amendment and to reduce the risk of undue or inadvertent burdens on the public fiscally resulting from lawful governmental action.”

Appendix “C”

References and Resources other than those found in Appendix “B”

1. Draft Wilderness Environmental Impact Statement for the Washakie Resource Area, Worland District, Wyoming: prepared by U.S. Department of the Interior, Bureau of Land Management, 1986 (signed September 3, 1986).
2. Economic Impacts of Reduction in Federal Grazing in Fremont County, Wyoming, by David “Tex” Taylor, Tom Foulke, Jim Thompson and Roger Coupal, Department of Ag and Applied Economics, University of Wyoming.
3. Final Report: Owl Creek Water Quality Report, prepared by Gretchen L. Hurley for the Hot Springs Conservation District and the Wyoming Department of Environmental Quality, 44 pages in the main text plus appendices, July 2004.
4. Final Environmental Impact Statement – Record of Decision for the Shoshone National Forest Land and Resource Management Plan, Park, Fremont, Teton and Hot Springs Counties, Wyoming: prepared by the USDA – Forest Service, Rocky Mountain Region, Shoshone National Forest, Cody, Wyoming, signed by the Regional Forester on February 27, 1986.
5. Final Environmental Impact Statement for the Shoshone National Forest, Volume I, Chapters I-V and VII-IX and Appendices, Volume II, Chapter VI: prepared by the USDA-Forest Service, Rocky Mountain Region, Shoshone National Forest, Cody, Wyoming, document 02-14-85-01 and 02, 1985.
6. Final Environmental Impact Statement for the Washakie Resource Management Area, Worland, Wyoming, prepared by the U.S. Department of the Interior, Bureau of Land Management, 1987.
7. Final Environmental Impact Statement and Proposed Resource Management Plan for the Grass Creek Planning Area in the Bighorn Basin Resource Area, Worland District, Worland, Wyoming: Volumes 1 and 2: prepared by the U.S. Department of the Interior, Bureau of Land Management, Worland District Office, June 1996.
8. Fremont County Wyoming Land Use Plan, September 7, 2004.

9. Grizzly Bear Conservation for the Greater Yellowstone Area National Forests, Draft Environmental Impact Statement, July 2004, Forest Plan Amendments for six National Forests in Idaho, Montana and Wyoming, USDA (US Dept. of Agriculture).
10. History of Wildlife in the Bighorn Basin, by Calvin L. King, printed by Pioneer Printing & Stationary Co., Cheyenne, Wyoming.
11. Hot Springs: A Wyoming County History, by Dorothy Buchanan Milek, printed by Saddleback Books, 1986.
12. Hot Springs Conservation District-Long Range Plan 2001-2005; Hot Springs County, Wyoming plan prepared by the Board of Directors of the Conservation District.
13. Hot Springs County Groundwater Study – Phase I, prepared by Gretchen L. Hurley for the Hot Springs Conservation District and Wyoming Department of Environmental Quality, 250 pages with maps included, 1999.
14. Hot Springs County Groundwater Study – Phase II: FINAL REPORT, prepared by Gretchen L. Hurley for the Hot Springs Conservation District and Wyoming Department of Environmental Quality, 97 pages with water quality test reports and maps, June 2004.
15. Hot Springs County Land Use Plan: Combining the Hot Springs County Land Use Plan and Development Permit System, prepared by the Hot Springs County Planning and Zoning Commission, November 18, 2002, amended March 17, 2004 for Sewage Disposal Systems.
16. Hot Springs Rural – Worland Pipeline Regional Water Supply Project Level II Study: prepared by Lidstone and Associates, Forsgren and associates, and Brs, Inc. for the Wyoming Water Development Commission and Regional Joint Powers Board, August 2004.
17. LEGEND ROCK PETROGLYPH SITE (48H04), WYOMING: 1988 ARCHAEOLOGICAL INVESTIGATIONS”, prepared by Danny N. Walker and Julie E. March for the Wyoming Recreation Commission, Cheyenne Wyoming, submitted by the Office of Wyoming, State Archaeologist, Project Number WY-6-88, BLM antiquities permit number 019-WY-C089, March 27, 1989.
18. Reasons for the Decline of Game in the Bighorn Basin of Wyoming, Calvin L. King, Biologist, Wyoming Department of Game & Fish; 1965, Vintage Press, Inc., New York, N.Y.
19. Record of Decision and Approved Resource Management Plan for the Grass Creek Planning Area of the Worland Bureau of Land Management Office: prepared by the U.S. Department of the Interior, Bureau of Land Management, Worland Office, Worland ,Wyoming, September 1998.

20. Rural Resource Team Report for Thermopolis and Hot Springs County: Community Assessment ofr Hot Springs County, Wyoming: prepared by the Wyoming Rural development Council, September 15-18, 2003.
21. Waskakie County Comprehensive Plan: THE “ Centennial “ PLAN, Washakie County, Wyoming, effective July 1, 2004.
22. Weed and Pest Control, Wyoming State Statues Title 11, Chapter 5- Weed and Pest Control.
23. Yellowstone Development District, Including the Counties of Fremont, Hot Springs, Park and Sublette, Wyoming-Comprehensive Economic Development Strategy, prepared for the Thermopolis EDC and Hot Springs County Commissioners by Silver Eagle Consulting, December 2002.

Appendix “D”

Maps and Graphs

- I. Map showing the proposed Hot Springs Protection Area surrounding Hot Springs State Park in Thermopolis, Unpublished Hot Springs County map, Hot Springs County Planner’s Office, Gretchen Hurley files.
- II. Proposed Cedar Mountain Wilderness Area (Cedar Mountain WSA WY-010-222), Final Washakie Wilderness Environmental Impact Statement, November 1990, US Dept. of the Interior, Bureau of Land Management, Worland District Office, map number 5.
- III. Proposed Area of Critical Environmental Concern (ACEC), Final Environmental Impact Statement, Grass Creek Planning Area, Resource Management Plan, Volume 1 of 2, June 1996, US Dept. of the Interior, Bureau of Land Management, Worland District Office, map number 12.
- IV. Cultural Resource Management Areas, Final Environmental Impact statement, Grass Creek Planning Area, Resource Management Plan, Volume 1 of 2, June 1996, US Dept. of the Interior, Bureau of Land Management, Worland District Office, map number 2.
- V. Elizabeth B. Eggert Nature Tract, Fee Acquisition Land and Water Conservation Fund (Eggert Parcel), Case File No: WYW-152424, Decision Record and Finding of No Significant Impact, EA WY-010-EA1-50, August 2001, US Dept. of the Interior, Bureau of Land Management, Worland Field Office.

APPENDIX “E”

Botany Comments: Wyoming Natural Diversity Database Project: Hot Springs County

Summary:

There are no known or suspected Threatened and Endangered plant species present in the proposed project area in Hot Springs County. There are eight documented Wyoming plant species of special concern and three documented plant species of potential concern. These species are summarized below:

Among the rarest of these eleven species is *Physaria condensate* (Rocky Mountain twinpod). This particular variety occurs in central Wyoming and nowhere else. Information on the description, habitat requirements, and status of this and other Hot Springs County species are found on the Wyoming Natural Diversity Database homepage (<http://www.uwyo.edu/wyndd>- then go to plants, and other species of concern or species of potential concern). This can also be used to evaluate the range of elevations. Some of the species on this list, e.g., the *Androsace chamaejasme* ssp. *Carinata* (sweet-flowered rock jasmine), are generally restricted to alpine and subalpine settings where development activity is absent.

Please note that the absence of information in the database does not mean that plant species of concern are absent but may mean that there have not been any forms of botanical studies in the area. Bonnie Heide

APPENDIX "F"

Designated Weeds, Pests and Predators

I. WYOMING WEED & PEST ACT DESIGNATED LIST: Designated Noxious Weeds W.S. § 11-5-102 (a)(xi) and Prohibited Noxious Weeds W.S. § 11-12-104

- i. Field bindweed (*Convolvulus arvensis* L.)
- ii. Canada thistle (*Cirsium arvense* L.)
- iii. Leafy spurge (*Euphorbia esula* L.)
- iv. Perennial sowthistle (*Sonchus arvensis* L.)
- v. Quackgrass (*Agropyron repens* (L.) Beauv.)
- vi. Hoary cress (*Cardaria draba* & *Cardaria pubescens*)
- vii. Perennial pepperweed (giant whitetopp)(*Lepidium l.*)
- viii. Ox-eye daisy (*Chrysabtherum leucanthemum* L.)
- ix. Skeletonleaf bursage (*Franseria discolor* Nutt.)
- x. Russian knapweed (*Centaurea repens* L.)
- xi. Yellow toadflax (*Linaria vulgaris* L.)
- xii. Dalmatian toadflax (*Linaria dalnatica* (L.) Mill.)
- xiii. Scotch thistle (*Onopordum acanthium* L.)
- xiv. Musk thistle (*Carduus nutant* L.)
- xv. Common burdock (*Arctium minus* (Hill) Bernh.)
- xvi. Plumeless thistle (*Carduus acanthoides* L.)
- xvii. Dyers wood (*Isatis tinctoria* L.)
- xviii. Houndstongue (*Cynoglossum officinale* L.)
- xix. Spotted knapweed (*Centaurea maculosa* Lam.)
- xx. Diffuse knapweed (*Centaurea diffusa* Lam.)
- xxi. Purple loosestrife (*lythrum salicaria* L.)
- xxii. Saltcedar (*Tamarix* spp.)

II. DESIGNATED PESTS

W.S. § 11-5-102(a)(xii)

- (1) Grasshoppers
- (2) Mormon crickets
- (3) Prairie dogs
- (4) Ground squirrels
- (5) Mountain pine beetle
- (6) Beet Leafhopper

III. WEEDS & PESTS DESIGNATED BY THE HOT SPRINGS WEED & PEST DISTRICT UNDER AUTHORITY GRANTED BY THE WEED & PEST ACT OF 1973

- (1) Russian olives
- (2) Puncture vine
- (3) Wild oats
- (4) Mosquitos

IV. PREDATORS DESIGNATED BY THE STATE OF WYOMING LEGISLATURE

- (1) Coyotes
- (2) Jackrabbit
- (3) Porcupine
- (4) Raccoons
- (5) Red fox
- (6) Skunk
- (7) Stray cat (feral)
- (8) Gray wolves (conditional)
- (9) English sparrow (predacious bird)
- (10) Starling (predacious bird)

APPENDIX "G"

Assessed Valuations and Other County Statistics

Appendix “H”

Livestock and Agricultural Statistics

Appendix "I"

Big Game Population Estimates

Big Game Population Estimates for those herd units, which include Hot Springs County.

Copper Mtn. Pronghorn Herd Unit (hunt areas 76,114,115)

1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
5,600	5,807	6,391	5,908	6,383	6,701	6,505	5,327	4,387	3,788

Fifteen Mile Pronghorn Herd Unit (hunt areas 83,77,110)

1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
4,300	4,229	4,047	4,142	3,922	3,555	3,548	3,469	4,331	3,457

Southwest Bighorn Mule Deer Herd Unit (hunt areas 35-40, 42, 43, 164)

1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
20,836	21,174	22,265	22,682	25,068	24,908	23,173	21,579	21,568	21,661

Basin Mule Deer Herd Unit (hunt areas 125,127)

1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
2,500	2,600	2,794	2,929	2,943	2,956	2,788	2,875	3,056	3,261

Owl Creek/Meeteetse Mule Deer Herd Unit (hunt area 116-120)

1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
3,500	3,557	3,894	3,853	4,598	5,106	5,232	4,711	4,842	5,034

South Bighorn Elk Herd Unit (hunt areas 33,34,47,48,49,120)

1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
6,300	6,450	6,400	6,500	7,075	6,700	6,530	5,670	5,685	4,980

Gooseberry Elk Herd Unit (hunt areas 62-64)

1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
4,000	3,900	4,060	4,000	4,025	4,200	4,100	4,060	4,080	3,713

Francs Peak Bighorn Sheep Herd Unit (hunt areas 5, 22)

1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
1,490	1,400	1,390	1,380	1,325	1,425	1,515	1,500	1,465	1,400

Greybull/Gooseberry Moose (Area 9)

1994	1995	1996	1997	1998	1999	2000	2001	2002	2003

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WACD

*Representing Wyoming's 34 Local
Conservation Districts*

Terri A. Lorenzon, Director
Environmental Quality Council

Powder River Conservation District

P.O. Box 48

Kaycee, WY 82639

(307)738-2321

Mr. Mark Gordon
Environmental Quality Council
Herschler Bldg. 1W
Cheyenne, WY 82002

March 10, 2006

Dear Mark,

On behalf of the South Fork/Salt Creek Watershed Advisory Group, the Powder River Conservation District (PRCD) would like to take this opportunity to comment on the Petition to Amend Wyoming Water Quality Rule, Chapter 2, Appendix H filed by the Powder River Basin Resource Council (PRBRC).

The South Fork/Salt Creek Watershed Advisory Group is comprised of representation from local landowners, industry, the Powder River Conservation District, and the Natrona County Conservation District. The purpose of this group is to address all water quality issues on the South Fork of the Powder River and Salt Creek. We believe that adoption of this petition would probably lead to the discontinued discharge of beneficial use water produced by conventional oil & gas operations.

The advisory group has been active in water quality monitoring since 2003. As a result, reports have indicated that the elimination of oil field discharges in the Salt Creek sub-watershed would result in sustained periods of no flow as well as elevated sulfate and dissolved solids concentrates, thereby causing detrimental effects on water users and potentially on fish and wildlife in the watershed (Salt Creek/South Fork 319 Watershed Assessment Final Project Report 2003-2004). This is only one example, of many statewide situations, where the discontinuation of surface discharge would have a negative effect on the environment, wildlife, agriculture and the many ranchers dependent on these waters.

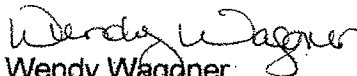
However, recognition needs to be given to the areas where discharge water is damaging the environment. An importance needs to be placed on the manner in which

water is being discharged and justification can be given to its "beneficial use." Some landowners have suffered greatly from CBM discharge water and have reaped negative financial effects. The best interests of the environment, all landowner, and industry should equally be considered. Perhaps the solution is as simple as requiring a surface use agreement with all landowners affected by produced water, rather than enacting new statewide rules that would be detrimental to many areas.

Locally, all of the previously mentioned entities benefit greatly from surface water discharge. Being located in an area that has limited water sources and soils with high concentrates of natural minerals, the produced water is particularly valuable. Therefore, the listed entities do not believe that it is practical to adopt the Petition to Amend Wyoming Water Quality Rule, Chapter 2, Appendix H. As an advisory group we feel this issue does not have a blanket solution and that the entire petition should be dismissed, perhaps with the alternative above considered by the petitioners.

We appreciate the opportunity to express our concerns regarding this issue. Please contact our office should you have any questions concerning our comments or if any clarification is needed. Both, DEQ approved, final reports from water monitoring seasons 2003 and 2004 are available for your reference to support our position.

Sincerely,


Wendy Wagner
PRCD District Manager

**FOAL: Friends Of A
Legacy—McCullough
Peaks Mustangs**

1019 Meadow Lane Ave.
Cody, WY 82414

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OCT 01 2006

Terri A. Lorenzon, Director
Environmental Quality Council

September 27, 2006

Mark Gordan, Chairman
Environmental Quality Council of Wyoming
Herschler Building, 1 West
122 West 25th Street, Room 1714
Cheyenne, WY 82002

Dear Mr. Gordan:

Good day to you. I represent the non-profit organization, FOAL, which is the acronym for: Friends Of A Legacy—McCullough Peaks Mustangs. We are recognized by the State of Wyoming as a non-profit corporation, and we have achieved 501©3 status from the IRS. We are an advocacy group. FOAL's purpose, as stated in our by-laws, is to provide educational opportunities to the general public, to enhance the habitat for all creatures living within the McCullough Peaks Wild Horse Herd Area, and to assist the US Bureau of Land Management in managing the wild horses in the McCullough Peaks herd. In keeping with our purpose, I am writing you concerning proposed amendments to Appendix H of Chapter #2 of Water Quality Rules and Regulations for the State of Wyoming.

FOAL is strongly opposed to the amendments cited above, as they would apply to the Oregon Basin Oil Field operated by Marathon Oil Co. in Northwest Wyoming. Our opposition is based upon the following information, which we believe is truthful and accurate. The Dry Creek drainage meanders through the southerly edge of the McCullough Peaks Wild Horse Herd Management Area, beginning approximately 25 miles downstream from the Oregon Basin Oil Field surface discharges. Wild horses, pronghorn, mule deer, numerous species of birds, and domestic livestock drink from the water in Dry Creek, apparently with no ill effects. In recent drought years, the perennial water available in Dry Creek has become increasingly important to the creatures living within reach of it. Without the abundant and continual surface discharges from the Oregon Basin Oil Field, the water in the Dry Creek drainage would, in all likelihood, dry up in most years by mid-August, and would continue to be dry until replenished by rain, snow, or spring run-off. Current surface water discharges from the Oregon Basin Oil Field barely meet existing Effluent Limits standards. Marathon Oil has determined that it will be cost-prohibitive to treat discharge water from the Oregon Basin Oil Field in order to comply with the new standards being proposed. Marathon Oil plans to utilize a more cost effective option of injecting the water back into deep geologic formations, should the new standards be imposed. The net result from that scenario would be a degradation of the habitat in the McCullough Peaks Wild Horse Herd Management Area.

Another request in the petition to amend Appendix H of Chapter #2 addresses the quantity of water to be discharged, based upon what will be actually consumed by livestock and wildlife. Dry Creek runs for nearly fifty miles downstream from the Oregon Basin Oil Field. Regulating discharges to correspond with actual downstream use seems to be totally impractical in this instance.

Thank you for your time. Please feel free to contact me concerning this matter, if you wish.

September 27, 2006

Sincerely,



Marshall Dominick

Marshall Dominick

President, FOAL

Cc

John Cora, Director, Water Quality Division, Dept. of Environmental Quality, Herschler Bldg. – 4W, Cheyenne, WY 82002

John Wagner, Administrator, Water Quality Division, D.E.Q., Herschler Bldg. – 4W, Cheyenne, WY 82002

Bill DiRienzo, Water Quality Division, D.E.Q., Herschler Bldg. – 4W, Cheyenne, WY 82002

Governor's Office, State Capitol, 200 West 24th Street, Cheyenne, WY 82002-0010

Kate Fox, Davis and Cannon Law Firm, P.O. Box 43, Cheyenne, WY 82003

Marvin Blakesley, Marathon Oil Co., 1501 Stampede Ave., Cody, WY 82414

Michael J. Blymyer, Field Manager, BLM—Cody Field Office, P.O. Box 518, Cody, WY 82414

Tricia Hatle, Wild Horse Specialist, BLM –Cody Field Office, P.O. Box 518, Cody, WY 82414

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