



CARIBOU COUNTY FEDERAL AND STATE LAND USE
PLAN

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PART I PURPOSE AND STATEMENT

A. THE CUSTOM AND CULTURE OF CARIBOU COUNTY

Caribou County is a large natural resource oriented county which is located in the southeastern corner of Idaho. Caribou County's total land area is 1746 square miles. That area is evenly split between public and private ownership. About 594 square miles located in the Portneuf Range in the eastern part of the county is in the Caribou National Forest. The Bureau of Land management and other federal agencies administer about 109 square miles of lands scattered throughout the county. The State of Idaho manages about 176 square miles, including some rather large blocks of land in the northern part of the county. Taken together, public lands make up about 50.4% of the county's land area. The remaining 862 square miles are in private ownership, including a small area in the Fort Hall Indian Reservation in the northwest corner of the county.

Access rights of way and water rights have historically been critical to the early settlers in this county, and they remain critical today. The federal government owns 40.2% of the 1,117,440 acres in Caribou County. The State of Idaho owns 112,640 acres leaving approximately 555,589.2 acres in private ownership. Access across the federal land is necessary for all private land owners to access their property and their water rights, as well as to exercise their adjudicated grazing preference rights.

In 1866 the Congress enacted law to proved and protect access across federal lands for miners and other reliant upon water to earn their livelihood. That act Revised Statute 2477 proved simply that the "right of way for the construction of highways over public land, not reserved for public uses, is hereby granted." Caribou County miners and ranchers developed such rights of way sin the forms of roads and trails which continue to be used today. The Idaho legislature passed a statute in 1993 establishing a procedure by which counties could provide for recording of such rights of way established under 1866 law.

The custom and culture of Caribou County has never altered from its historic beginnings. Mining, manufacturing, ranching and farming activities proved the heritage of the County's residents, and they continue those activities today. The custom and culture of the County also includes the determination of its people. Life was never easy for the settlers of this County. The settling developers of this land worked hard to establish their livelihood, and today's residents work hard to maintain their livelihood. The settling developers were diligent in pursing legal protection of their property rights. Today's residents continue with that diligence.

Through the past decade, recreation use of the lands in Caribou County has rapidly increased. People from out of state as well as Idahoans seeking recreation through motorcycling, trail biking, and other motorized and non-motorized vehicle use, horseback riding, hiking, rock hunting, fishing and hunting have flocked to the open spaces of the County. The potential for conflicts between these users and those residents who make their living here was huge. But cooperative efforts on both sides have kept the conflicts to a minimum, and recreation use has become part of the regular and daily custom and culture of this County.

Caribou County people are independent and strong willed. Private property rights and interests are important to the residents of Caribou County. Private ownership and incentives provided by that ownership are a driving force behind the innovativeness which has allowed the continuation of the custom, culture and lifestyle of the County. It is not a flight of fantasy to say that this independence of its people is part of the custom and culture of this County.

During the past years of planning activities in Caribou County, attention has been placed on development of private lands. But, as federal policies begin to change toward a direction of reducing livestock grazing, reducing recreation use, reducing mining activities, seizing ownership of private property, water rights and rights-of-way, it has become clear that Caribou County will need to extend its planning efforts to an area of concern for federal lands. The Board of County Commissioners handed the task of developing the interim plan to the Planning and Zoning Commission in 2007. The Planning and Zoning Commission has continued its work and has assisted in developing this comprehensive plan which is designed to serve as the standard for land use planning coordination with the federal and state management agencies- planning coordination which will sustain the custom and culture of the County.

B. ECONOMIC BASE OF CARIBOU COUNTY

The people of Caribou County have historically and traditionally earned their livelihood from activities reliant upon natural resources. The economy of the County has always been, and is today, dependent upon ranching, mining, manufacturing and other activities reliant upon the availability of natural resources and reasonable accessible water supplies. The great majority of land which produces the natural resources critical to the economy of Caribou County is owned by federal and state government. The economy of the County is dependent upon industrial and mining activities which are operated on federal and state lands. Those activities include timber cutting, mining, livestock grazing and commercial and recreational activities. It is obvious and viable that the economic stability of the County is totally dependent upon a management style and technique for the federal and state lands.

Privately owned land is intermingled with the federal and state lands. Management decisions for the federal and state lands directly impact use of, and economic value of private land. Restrictions on, and reductions of, grazing on federal lands, for example, will require the rancher to greatly increase grazing on his private ground, to reduce the size of his herd to find alternative grazing land, or seek relief through a combination of these measures. If he must graze the herd solely on his private ground, he will lose the source of winter forage for his herd. His forage costs will dramatically increase because he will have to buy feed for the herd. There is no alternative land available in Caribou County, so even if alternative forage is found outside the County, the transport costs would be extremely high. Either a reduction in herd size, or much higher feed costs, or severely increased transport costs would result in a critically adverse outcome. Economists hold that for every dollar loss to the rancher, there will be a two-fold loss to business income in the surrounding areas of the County.

The portion of the County's economy dependent upon the mining activities at the phosphate mines is dependent upon reasonable federal management decisions regarding mineral extraction. Severe restrictions by federal management agencies would curtail mining activities, resulting in a critical economic loss to the County.

Adequate supply of water is essential to the farming activities in the County. Restrictions on use of irrigation water by federal management agencies throughout the guise of protecting a species will severely impact the economy of the County. Failure to manage uplands in a manner that maintains productive watersheds will likewise decrease irrigation water supplies and also adversely impact the economy of the County.

Reductions in recreation use by federal management agencies will also result in adverse economic impact on the business which serve the users. Most recreation users of the federal lands journey into Caribou County from surrounding areas. They make convenience purchases on a regular basis. Such purchases aid the business income throughout the County.

The economic stability of Caribou County rests upon continued multiple use of the federal lands. The tax base for the County must be protected and vitality of that tax base is dependent upon continued multiple use of the federal lands. If multiple use is restricted, business income will suffer and sales tax will be reduced. If grazing is restricted, financial pressure will be placed on the rancher which may even result in his going out of business. When that happens, the tax base of the County suffers, and the business income is also reduced.

Because Caribou County is a low population County, all sources of economic support must be maintained at their highest possible level. In order to sustain the economic stability of the County, the Board of County Commissioners and the Planning and Zoning Commission have dedicated themselves to a coordinated land use planning effort which can hold the federal management agencies to standards set by Congress regarding continuation of multiple use of the federal lands.

C. MULTIPLE USE AND COORDINATION WITH FEDERAL AND STATE AGENCIES

This plan provides a positive guide for the Planning and Zoning Commission and Board of County Commissioners to coordinate their efforts with federal and state land management agencies in the development and implementation of land use plans and management actions which are compatible with the best interests of Caribou County and its citizens. The plan is designed to facilitate continued and revitalized multiple use of federally and state managed lands in the County.

The Planning and Zoning Commission, the Board of County Commissioners and citizens of Caribou County recognize that federal law mandates multiple use of federally managed lands and they positively support multiple use. Maintenance of such multiple use necessarily includes continued maintenance of the historic and traditional economic uses which have been made of federally managed and state managed lands in the County. It is therefore the policy of Caribou County that the Planning and Zoning Commission and the Board of County Commissioners work constantly to assure that federal and state agencies shall inform the Board of County Commissioners of all pending or proposed actions affecting local communities and citizens and coordinate with the Board of County Commissioners in the planning and implementation of those actions.

Such coordination of planning is mandated by federal laws. The Federal Land Policy and Management Act 43 U.S. 1701, declared the National Policy to be that "the national interest will be best realized if the public lands and their resources are periodically and systematically inventoried and their present and future use is projected through a land use planning process coordinated with other federal and state planning efforts." See 43 USC 1701 (a) (2).

43 U.S.C. 1712 (c) sets forth the "criteria for development and revision of land use plans." Section 1712 (c)(9) refers to the coordinate status of a county which is engaging in land use planning, and requires that the "Secretary(of interior) shall" "coordinate the land use inventory, planning and management activities...with the land use planning and management programs of other federal departments and agencies and of the State and local management programs of other federal departments and agencies and of the State and local governments within which the lands are located." This provision gives preference to those counties which are engaging in the land use planning program over the general public, special interest groups of citizens, and even counties not engaging in the land use planning program.

Section 1712 also provides that the "Secretary shall" assist in resolving, to the extent practical, inconsistencies between federal and nonfederal government plans." This provision also gives preference to those counties which are engaging in the planning process over the general public, special interest groups of citizens, and even counties not engaging in a land use planning program. In view of the requirement that the Secretary(of Interior) "coordinate" land use inventory, planning and management activities with local governments, it is reasonable to read the requirement of assisting in resolving inconsistencies to mean that the resolution takes place during the planning cycle instead of at the end of the planning cycle when the draft federal plan is released for public review.

The section further requires that the "Secretary(of Interior) shall "provided for meaningful public involvement of state and local government officials...in the development of land use programs, land use regulations, and land use decisions for public lands." When read in light of the "coordinate" requirement of this section, it is reasonable to read "meaningful involvement" as referring to ongoing consultations and involvement throughout the planning cycle not merely at the end of the planning cycle. This latter provision of the statute also distinguishes local government officials from members of the general public or special interest groups of citizens.

Section 1712 (c) (9) further provides that the Secretary of Interior must assure that the BLM's land use plan be "consistent with State and local plans" to the maximum extent possible under federal law and the purposes of the Federal Land Policy and Management Act. It is reasonable to read this statutory provision in association with the requirement of coordinated involvement in the planning process.

The provisions of Section 1712 (c) (9) set forth the nature of the coordination required by the Bureau with planning efforts by the Indian Tribes, other federal agencies, and state and local government officials. Subsection (f) of Section 1712 sets forth an additional requirement that the Secretary of Interior "shall allow an opportunity for public involvement" which again includes Federal, State and local governments. The "public involvement" provisions of Subsection (f) do not limit the coordination language of Section 1712 (c) (9) or allow the Bureau to simply lump local government officials in with special interest groups of citizens or members of the public in general. The coordination requirements of Section 1712 (c) (9) set apart for public involvement those government officials who are engaged in the land use planning process as is Caribou County. The statutory language distinguishing the County because it is engaged in the land use planning process makes sense because of the Board's obligation to plan for future land uses which will serve the welfare of all the people of the County and promote continued operation of the government in the best interests of the people of Caribou County.

In *American Motorcyclist Association v. Watt*, 534 F. Supp.923(U.S.C.D. Cal. 1981), the Court held that a County could challenge the implementation of a Conservation Plan issued by the BLM on the basis of these coordinated planning provisions of FLPMA. The court pointed out that FLPMA requires the Secretary of Interior to provide for meaningful involvement of local government in developing plans and regulations, and pointedly referred to FLPMA's "mandate" that federal land use plans be consistent with local plans.

The National Environmental Policy Act requires that all federal agencies consider the impacts of their actions on the environment and on the preservation of the culture, heritage and custom of local government. In U.S.C. 4331 (a) (4) the law provides as follows:

"It is the continuing responsibility of the federal government to use all practicable means, consistent with other essential considerations of national policy, to: (4) Preserve important historic, culture, and natural aspects of our national heritage."

The term "culture" is defined as "customary beliefs, social forms, and material traits of a group; the integrated pattern of human behavior passed to succeeding generations." See Webster's New Collegiate Dictionary at 277(1975). Thus, by definition, the National Environmental Policy Act requires federal agencies to consider the impact of their actions on the custom of the people as shown by their beliefs, social forms, and "material traits." It is reasonable to read this provision of the National Environmental Protection Act as requiring that federal agencies consider the impact of their actions on rural, range-oriented,

agricultural counties such as Caribou County where, for generations, families have depended upon the "material traits" of ranching, farming, mining, timber production, wood products and other agricultural lines of work for their economic livelihoods.

The Endangered Species Act requires that the Secretary of Interior and the management agencies under his supervision cooperate with local government to resolve water resource issues. The Act also requires that the Secretary can make a listing decision only after "taking into account" the efforts being made by local government to protect species. The Outdoor Recreation Coordination Act of 1963 requires that the Secretary of Interior consider local government plans and provide cooperation of local governments with regard to recreation uses on the federal lands. See 16 U.S.C. Section 460L-I(c) (d).

Historically, the Congress, the Bureau of Land Management, and the Federal Courts have recognized that community economic stability is an important consideration in the management of federally managed lands. In interpreting the Taylor Grazing Act, 43 U.S.C. 315 et. Seq. (the act which created the agency to become known as the Bureau of Land Management) the Courts have recognized that the purpose of the Act "is to stabilize the livestock industry and to permit the use of public range according to needs and qualifications of livestock operators with base holdings." See *Chournos v. United States*, 193 F.2d 321 (10th Cir. Utah 1951), Cert. den. 343 U.S. 977 (1952). In *Red Canyon Sheep Co. v. Ickes*, 98 F. 2d 308 (1938), the Court stated that the purpose of the Taylor Grazing Act is to provide the "most beneficial use possible of public range because the livestock industry of the West is an important source of food supply for the people of the nation." *Red Canyon* also pointed out that "in the interest of the stock growers themselves" the Act was intended to define "their grazing rights and to protect those rights by regulation against interference."

Even more recently, a United States District Court has re-affirmed the message that the Taylor Grazing Act was intended to provide economic security to the rancher who grazed those western federal lands which the Congress determined to be suitable for grazing when the Act was passed. In *Public Lands Council v. Babbitt*, 929 F. Supp.1436 (U.S.D. Wyoming 1996), Judge Brimmer issued an injunction restraining the Secretary of Interior from eliminating a grazing preference by use of the term "permitted use" in his famous Rangeland Reform regulations.

Judge Brimmer stated that the term "grazing preference" represents "an adjudicated right to place livestock on public lands" which provided predictability and security to livestock operators. He pointed out that the Taylor Grazing Act imposes on Secretary "an affirmative duty to protect" this preference. In issuing the injunction, the judge found that the Secretary had violated this "affirmative duty":

"With a mere stroke of his pen, the Secretary has boldly and blithely wrested away from Western ranchers the very certainty, the definiteness of range rights, and the necessary security of preference rights that their livestock operations require. Congress gave Western ranchers these rights by enacting the Taylor Grazing Act, and many decades of satisfactory operations and the course of case by case adjudications have confirmed these rights." 929 F. Supp. At 1441.

Caribou County has previously developed its Comprehensive Plan related to privately owned lands in the County. This Land Use Plan is now directed toward management of federally and state managed lands. With adoption of this Plan the County puts in place a "Comprehensive Plan" which includes "all land within the jurisdiction of the governing Board" as directed by the legislature. Idaho Code 67-6528 provides that "the state of Idaho, and all its agencies, Boards, departments, institutions, and local special purpose districts, shall comply with all plans and ordinances adopted under the Local Planning Act." These statements of purpose, of duty to plan, and duties of state agencies to comply with plans adopted under the Local Planning Act certainly contemplate coordination by state agencies of their planning efforts with the local planning efforts of Caribou County.

The Planning and Zoning Commission and the Board of County Commissioners now call upon federal and state management agencies to coordinate in advance with the Board any proposed actions which will impact either the federally and state managed lands in Caribou County, the private property right and private property interests including investment backed expectations of citizens of the County, the economic stability and historically developed custom and culture of the County, or provisions of this Land Use Plan. Such management agencies are requested to so coordinate their actions by providing to the Board in a timely manner, prior to taking official action, a report on the proposed action, the purposes, objectives and estimated impacts of such action and the economic impact.

In other words, the Planning and Zoning Commission and Board of County Commissioners request no more from the federal management agencies than what is required by the federal laws governing their management processes as well as Executive Order 12630 issued by former President Reagan on March 15, 1988 and implemented by guidelines prepared for all federal agencies by the Attorney General of the United States.

The Planning and Zoning Commission and the Board of County Commissioners request no more from the state management agencies than what was clearly intended by the Idaho Legislature through enactment of the Local Planning Act of 1975.

In exchange for compliance with federal law by the federal management agencies, The Caribou County Planning and Zoning Commission and the Board of County Commissioners commit to a positive planning process through which the County will maintain its commitment to true multiple use of the federally managed lands. In exchange for participation by the state management agencies, the Planning and Zoning Commission and the Board of County Commissioners commit to a positive planning process through which the County will equitably consider the best interest of all the people of the State of Idaho in the use of state managed lands. The County commits to an effort to develop Memoranda of Understanding with these agencies through which coordinated planning can be better implemented.

Through the land use planning process Caribou County commits itself to attempting to assure that all natural resource decisions affecting the County shall be guided by the principles of maintaining and revitalizing multiple use of federally managed and state managed lands, protection of private property rights and private property interests including investment backed expectations, protection of local historical custom and culture, protection of the traditional economic structures in the County which form the base for economic stability for the County, the opening of new economic opportunities through reliance on free markets, and protection of the right of the enjoyment of the natural resources of the County by all citizens of the County and those communities utilizing those natural resources within the County. Caribou County is convinced that resource and land use management decisions made in a coordinated manner by federal management agencies, state management agencies and county officials will not only firmly maintain and revitalize multiple use of federally and state managed lands in Caribou County but will enhance environmental quality throughout the County.

Moving onward with the planning process, the Planning and Zoning Commission and the Board of County Commissioners set forth in this Land Use Plan those positive general concepts which they believe are necessary and desirable for the maintenance and revitalization of multiple use as well as economic stability and custom and culture of the County. The General Planning Guidelines set out in section II of this Plan present the standards of law, fact, and planning by which the Board will be guided in its official capacity as the executive authority of the County. The Guidelines include standards for land management set forth by statute, by which the Planning and Zoning Commission and the Board of County Commissioners will be guided.

A "plan" is variously defined as "a detailed and systematic formulation of a large scale program," "a proposed undertaking or goal," and "an orderly arrangement of parts in terms of an overall design or objective." Webster's Third New International Dictionary 1729(1986). This plan fits those definitions. It includes the description of the process by which the land use program began, the guidelines which provide the general standards by which the program will be developed, and finally the Management Actions which formulated the program actions which may be taken to achieve goals and objectives.

The Management Actions set forth in Part III of this Plan will contain, where appropriate, management alternatives designed to achieve maintenance and improvement of multiple use. They will also contain statements of actions which may be taken by the Board to implement objectives set by the Planning and Zoning Commission and the Board of County Commissioners.

The planning process is on-going, and will require the Planning and Zoning Commission and Board of County Commissioners to become involved with analysis and evaluation of all stages of the planning cycles followed by federal and state management agencies, including plan development as well as implementation which includes monitoring and evaluation of plan implementation.

PART II PRIMARY PLANNING GUIDANCE

GENERAL GUIDANCE AND STANDARDS

The federal lands which form about half of the land mass in Caribou County are under management direction from the Congress of the United States. Article IV, Section 3(2) of the United States Constitution provides that "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States..."

The Congress has passed many statutes in exercise of this Constitutional power and authority. Most of those statutes authorize the Secretary who heads and executive management agency to issue rules and regulations to implement the statutes. But the management power and authority never leaves the Congress. The management agencies simply manage the land for the Congress. Their regulations must be consistent with the statutes and must not exceed the authority granted by the statutes.

The Caribou County Planning and Zoning Commission and the Board of County Commissioners have developed this plan to serve as a means of coordination of planning activities with federal and state management agencies. That is the County's obligation to its citizens and to the Congress under the provisions of the Federal Land Policy and Management Act which requires coordination of planning by the federal agencies.

Through coordinated planning, the federal lands can be managed so as to sustain productivity for this and future generations, to maintain the quality of the resources, to protect and preserve private property rights and interests, to maintain full multiple use, and to preserve and maintain the custom, culture and economic stability of the County.

There are several general areas of management in which issues are raised which must be resolved through coordinated planning. This portion of the Plan discusses the principles involved in those general areas of management which give general guidance toward resolution of specific issues of management. Guided by the standards set by the statutes and the general principles set forth in Part II, the plan then proceeds in Part III to identify those specific management techniques and actions needed to meet the objectives identifies. From time to time, the Commission and the Board will request preparation of reports regarding these principles and the specific management techniques and actions. Those reports will become part of the on-going planning process and when adopted will become, by amendment, part of this plan.

1. PRIVATE PROPERTY

Long before the establishment of the United States Constitution, the theory of the natural rights of man was established in the common law of England. As pointed out by professor Richard A. Epstein in "Takings, Private Property and the Power of Eminent Domain" (Harvard University Press, 1985):

" All theories of natural rights reject the ideas that private property and personal liberty are solely creations of the state, which itself is only other people given extraordinary powers. Quite the opposite, a natural rights theory asserts that the end of the state is to protect liberty and property, as these conceptions are understood independent of and prior to the formation of the state. No rights are justified in a normative way simply because the state refuses to protect them, as a matter of grace. To use a common example of personal liberty: The state should prohibit murder because it is wrong; murder is not wrong simply because the state prohibits it, it is wrong because individuals own private property. At each juncture, therefore, independent rules, typically the rules of acquisition, protection, and disposition, specify how property is acquired and what rights its acquisition entails. None of these rules rest entitlements (to property) on the state, which only enforces the rights and obligations generated by theories of private entitlement." Takings, Pages 5-6.

The concept of natural right to property were long debated by political philosophers prior to the establishment of the United States Constitution. Thomas Hobbes reached a solution about property and mankind which leaned toward government control in order to protect against human greed and self interest. Hobbes felt that the price for order was "the surrender of liberty in property to an absolute sovereign." See Takings, supra page 7. The framers of the United States Constitution rejected this concept, turning toward the theories of John Locke whose writing were known to, and cited often by, the framers of the Constitution. Locke believed emphatically that individual natural rights, including the right to obtain and hold property, were not derived from the sovereign or the government but were in fact natural rights in the nature of "the common gift of mankind." See Takings page 10" citing John Locke, "Of Civil Government" Chapter 5(1690). Locke's position was based upon a simple method of individual acquisition of property rights or property interests: "individuals are allowed to keep that which they first reduce to their own possession." See Takings, page 10.

Locke's political philosophy set for the view that the organization of a government does not require the surrender of all natural rights including property rights and interests to the sovereign. In accordance with that view if the government takes a property right or a property interest then it must pay for it. As summarized by Professor Epstein:

"By Locke's view, the State itself does not furnish new or independent rights, qua sovereign against the person subject to it's control. There is no divine right of kings which suspends the ordinary rules of right and obligation between individuals and the state of nature. The sovereign has no absolute power to generate rights. The state can acquire nothing by simple declaration of its will that must justify its claims in terms of the rights of the individuals whom it protects: A State by Ipse Dixit, (which means by the state's own bare assertion of power and authority) may not transform private property in public property without compensation..."
See Takings page 12 citing Webbs Fabulous Pharmacies, Inc. vs Beckwith, 449 U.S. 155(1980).

The framers of the United States Constitution accepted the Locke theories and, as a result, the Fifth Amendment to the Unites States Constitution prohibits the taking of private property for public use without just compensation.

The Planning and Zoning Commission and the Board of County Commissioners will carefully evaluate all federal and state actions relating to private property and private property interests including investment backed expectations in light of the mandate of the Fifth Amendment to the United States Constitution. In so evaluating federal and state actions the Planning and Zoning Commission and the Board of County Commissioners will apply also the principle established by former President Ronal Reagan in issuing Executive Order 12630 which required any and all federal agencies to prepare a Takings Implication Assessment prior to taking any action, issued any rule, or making any decision which would constitute a taking of private property or private property interest including investment backed expectation. The Planning and Zoning Commission and the Board of County Commissioners will also continue to recommend to the Congress that the impact of that Executive Order be enacted into law by enactment of appropriate private property legislation.

The Planning and Zoning Commission and the Board of County Commissioners have followed the progress of the Hage vs. United States, Civil No. 91-1470 L in which a Nevada rancher claims a taking of his property be restrictive actions taken by a federal regulatory agency and seeks compensation in the United States Court of Claims.

In entering an order denying summary judgment to the Government and ordering a trial on the merits, the Chief Judge of the Court of Claims made it clear that the Constitution prevents "government from doing through general regulation what it is prevented from doing through direct specific action--taking private property for public use without just compensation." Decision of March 8, 1996, page 25.

The Planning and Zoning Commission and the Board of County Commissioners will also evaluate actions and court decisions by federal and state regulatory agencies which impacted taking and partial takings where reasonable investment backed expectations and deprived the individual of the economically viable use of his land and property rights and interests.

The Planning and Zoning Commission and the Board of County Commissioners will also evaluate actions by federal and state regulatory agencies impacting water rights constitutionally guaranteed by the Idaho Constitution as compensable rights. The standards by which regulatory actions will be reviewed regarding water rights are set forth in the "water rights" section.

The Planning and Zoning Commission and the Board of County Commissioners will also evaluate actions by the federal and state regulatory agencies taken in the name of protecting threatened or endangered species which adversely impact private property rights, private property interests, and investment backed expectations. The standards by which such regulatory actions will be reviewed regarding such species are those established by decisions of the United States Supreme Court. The County will continue to urge Congress to enact specific private property protection from species listings.

The Planning and Zoning Commission and the Board of County Commissioners will evaluate the issues regarding "takings" of private property in view of the nature of a ranch operation which is set forth in this plan and which is known to everyone involved in the operations and financing of livestock grazing or any other agriculturally oriented activity in Caribou County. The "economic viable use" of the base operation is completely dependant upon reasonable expected use of the federally and state managed lands. That reasonably expected use is often evidenced by a grazing permit. The existence of such permit causes the County Appraiser to appraise the taxable value of the private property which serves as the base operation at a higher rate than if would be appraised if not permit existed. Thus, for taxation purposes the grazing permit is considered part of the realty upon which an individual must be taxed. The Internal Revenue Service also considers the permit as a taxable property interest. Financing institutions, whose support is critical to continued livestock grazing and agricultural operations in Caribou County, consider the existence of the permit, and the reasonable expectation of land use which emanates there from, as an indispensable factor in determining to extend and continue financial support.

Grazing permits are capitalized into the value of a ranch, so that when a buyer purchases a ranch, he actually pays for both the private and federally managed lands contained in the ranch unit. See Phillip Foss, Politics and Grass, (1960) at page 197.

The grazing permit recognized as having the character of a property right, interest or investment backed expectation by the Congress when it enacted that portion of the Taylor Grazing act which is found in 43 U.S.C. 315(b) guaranteeing renewal of permits if denial of the permit would "impair the value of the grazing unit of the permit tee, when such unit is pledged as security for any bonafide loan".

The Congress also recognized the importance of the permit to the ranch operator when it enacted 43 U. S. C. 1752(c) [a portion of the Federal Land Policy Management Act] which afforded to the "holder of the expiring permit or lease" the "first priority for receipt of the new permit or lease." Such priority renewal recognizes the investment of time, energy and money by the ranch owner in reliance upon the land use of the federally managed lands which becomes an integral part of the ranch operation. Rancher-lawyer, Marc Valens has succinctly analyzed the importance of the priority renewal both to the ranch operator and to all members of the American public who collectively own the federally managed lands. In Federal Grazing Lands: Old History, New Directions (1978), (an unpublished manuscript), cited at page 707 of Coggins Wilkinson Leshy, Federal Public Land and Resources Law 93rd Edition 1993), Valens states:

"Priority renewal does have advantages. A permit tee becomes intimately familiar with the range***[H]igh turnover of federal grazers does not permit them to get to know the range nearly as well. Only long use can teach an operator where the thicket is that hides the stubborn bull late in the fall. The seasonal pattern of drying up of the range and water holes must be known to fully utilize the range resource. If the first areas to dry are not used early in the season, they will be wasted. The rancher who expects to use the same range for may years in the future will be careful not to hurt the resource. The range cattle themselves get to learn the range. An old range cow can find hidden water holes and meadows that a new cow would not. And with the first snows of fall, the old cows will lead the herd back to the home ranch."

The ranchers of Caribou County who graze livestock on the federal lands have a preference right to graze there. That "right" is a property interest created long before the Taylor Grazing Act was passed. The nature of the right demonstrates the split estate concept developed in the western lands by the United States.

The interest created in and owned by the Caribou County ranchers predecessors in interest in allotments of grazing lands or forage lands in the "surface estate" of the split estate. The ranchers have the right to graze on the surface of the land, a right which they developed through settlement and development.

A long series of decisions by the United States Supreme Court set forth the position that when a validating or confirming statute is passed, the legal title to the possessory right passes as completely as though a patent had been issued. Title to allotments of federal land for grazing has been adjudicated. The Stock Raising Homestead Act of 1916 culminated development of the settlement acts regarding the lands "chiefly valuable for grazing and raising forage crops" when it completely split the surface estate from the mineral estate in order to allow for the disposal of legal surface title to ranchers, while retaining undiscovered mineral wealth to the United States. The grazing right owned by Caribou County ranchers was acknowledged and secured by passage of the Taylor Grazing act in 1934. Every subsequent Act regarding management of the federal lands has protected and preserved all "existing rights" such as the grazing right.

Property rights related to the federal lands are split between a number of parties and users, private and governmental. The rights possessed by the various parties include water rights, grazing rights, mineral rights, wildlife rights, petroleum-exploration rights and timber harvest rights. Each of the rights has been validated and secured by statute or court decisions.

In *Public Lands Council V. Babbitt*, supra, the United States District Court acknowledged the "right" of a permit tee to his adjudicated grazing preference, and held that such "right" could not be removed by a regulation issued by the Secretary of Interior. Such recognition of a "right" forms the base for a "taking" when that "right" is taken by regulation. It is the goal of this Plan that management activities be instituted which prevent such "taking" and which foster effective implementation of the "right" to adjudicated grazing preferences.

The split estate is further demonstrated by the stock watering right possessed by each Rancher to water existing on federal land. As already recognized in the Snake River Adjudication, each rancher who grazes livestock on federal lands has the right to use water existing on federal lands even though he or she is not the title holder to the lands themselves. The effective date of the right to water the livestock grazing on those lands is the date of first appropriation by the rancher or any predecessor in title who conveyed the stock water right.

The Planning and Zoning Commission and the Board of County Commissioners will plan for, and take positive action to assure that private property rights and private property interests including investment backed expectations are protected in light of the standards set forth.

2. LIVESTOCK GRAZING

The Taylor Grazing Act of 1934, 43 U.S.C. 315, was passed primarily to provide for stabilization of the western livestock industry; and that Act is still sound law. The Act authorized 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 was authorized to act in a way that would "promote the highest use of the public lands." 43 U.S.C.315. The Act authorized the Secretary to issue grazing permits on a preferential basis with preference to be given to those "land owners engaged in the livestock business," "bonafide occupants or settlers," or "owners of water or water rights." 43 U.S.C.315(b). The Secretary was authorized to take action to stabilize the livestock industry which was recognized as necessary to the national well being.

The Act also recognized the property interests of a permit tee in the form of an investment backed expectation in 315(b). That Section provided 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 permitted, when such unit is pledged as security for any bonafide loan."

The Federal Land Policy and Management Act of 1976, 43 U.S.C.1701 et seq., did not limit, restrict or amend the purposes and provisions stated in the Taylor Grazing Act. Section 1701 stated the policy of the 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 and systematically 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 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 the public lands.

The Public Rangelands Improvement Act of 1978, 43 U.S.C. 1901-1908, once again revitalized the purposes of the Taylor Grazing Act, providing that the Secretary of Interior "shall manage the public rangelands in accordance with the Taylor Grazing Act, the Federal Land Policy and Management Act of 1976 and other applicable law consistent with the public rangelands improvement program pursuant to this Act." See 43 U.S.C. 1903, which also provides that:

"the goal of such management shall be to improve the range conditions of public rangelands so that they become as productive as feasible in accordance with the rangeland management objectives established through the land use planning process, 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 that:

"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 cost of production." 43 U.S.C. 1901 (a) (5)."

The Congress further found and declared that one of the reasons the Public Rangelands Improvement Act was necessary is 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." 43 U.S.C. 1901 (a) (3). The Act mandates improvement of the rangelands in order to increase the potential for livestock development and 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 with Caribou 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. The Act requires management practices designed to improve the range so that it will support "expansion of the forage resource" to benefit of livestock production. The mandate of the Act is not furthered by management practices designed to reduce grazing in order to improve the range. Such practices reverse the Congressional mandate set forth in the statute.

Range improvements necessary to maintain current levels of livestock production, wildlife habitat, watershed protection, and recreation opportunity must be identified by the Bureau of Land Management and will be identified by Caribou County. 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 that industry as a whole is directly related to the stability of the individual ranches that make up the industry, including those in Caribou County. The stability of the livestock industry in the County requires that the statutory mandates be followed.

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

3. IRRIGATED AND OTHER INTENSIVE AGRICULTURE

Irrigated and Intensive agriculture provide a major contribution to the base of the County and is of critical importance to the economic stability of the County. Productive watersheds must be maintained within the County as essential factors to preservation of irrigated agriculture.

The largest portion of crops produced in Caribou County are barley and potatoes. Other crops are alfalfa, grass and other hay and silage which are an integral part of the livestock industry, therefore livestock is an important base of the agricultural economy of the County.

Irrigated agriculture, including row crops, is critical to the economic life of Caribou County, and its importance cannot be overstated. The Idaho legislature has recognized that importance in Idaho Code 67-6529 which provides that:

"No power granted hereby [by the Local Planning Act] shall be construed empower a board of county commissioners to enact any ordinance or resolution which deprives any owner of full and complete use of agricultural lands for production of any agricultural product."

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

4. VEGETATION MANAGEMENT

Very clearly both the Taylor Grazing Act and Federal Land Policy and Management Act ordered maintenance and improvement of the vegetation on the federally managed lands to provide forage for livestock and wildlife and habitat for wildlife. Even more pointed however were the instructions given to federal managers by the Public Rangelands Improvement Act of 1978. In 43 U.S.C. 1901, the Congress found that the federally managed lands were producing "less than their potential for livestock, wildlife habitat, recreation, forage, and water and soil conservation benefits." The Congress further found in 1901 that unsatisfactory vegetation conditions on public rangelands "prevent expansion of the forage resource and resulting benefits to livestock and wildlife production." The Congress also found that such conditions preventing and expansion of the forage resource and other unsatisfactory condition on the public rangelands "may ultimately lead to unpredictable and undesirable long term local and regional climatic and economic changes." In order to eliminate such conditions the Congress called for intensive planning and improvement of the condition of the federally managed rangelands so that "they become as productive as feasible for all rangeland values."

Under the federal statutes setting forth the planning and management responsibilities for the federally managed lands, then, it is clear that planning and management efforts must be directed toward increased and expanded forage resources. Caribou County considers itself bound by good planning principles as well as the requirements of the federal statutes to plan and seek federal approval for methods of improving and expanding forage development on the federally managed lands in the County. Increased and expanded forage can result not only from proper grazing management improvements, water development, and reseedling, but also from control of invading vegetation which threatens true multiple use value of the federally managed lands. In planning for vegetation management the Planning and Zoning Commission and the Board of County Commissioners will be guided by the following general considerations:

a. LIVESTOCK GRAZING

Planned livestock grazing will be managed so as to maintain and enhance desired plant communities for the benefit of watersheds, wildlife, water quality, recreation and livestock grazing as required by the Public Rangelands Improvement Act through effective principles of planning and management. Such management will be developed specifically for each allotment in order to achieve the desired result throughout the County.

All necessary grazing management improvements, including water development, noxious weed and sagebrush control, reseeding, fencing, salting plans, herding plans, and grazing systems will be included in Allotment Management Plans. All decisions as to such improvements should be made on an allotment basis since they are integral with use of State leases, private leases, private lands, other allotments, and in overall operation each ranch enterprise.

In order to comply with the multiple use concept mandated by the Statutes, no individual resource value will be given priority in vegetation management decisions. Congress has directed that the federally managed rangelands be managed, maintained and improved "so that they become as productive as feasible for all rangeland values." 43 U.S.C. 1901(b) (2). In order to carry out the Congressional intent it will be necessary that the Bureau of Land Management "inventory and identify current public rangelands conditions and trends." 43 U.S.C. 1901 (b) (1). All planning effort will adhere to the careful and considered consultation, coordination and cooperation requirement established by Federal statutes. See 43 U.S.C. 1701 (a) (2) 1712 (c) (9) 1752 (d).

b. NOXIOUS WEED CONTROL

The Board of County Commissioners is the weed control authority for Caribou County. See Idaho Code, Section 22-2474. Ongoing programs to identify locations of all noxious weeds, and to initiate management and/or eradication efforts will continue. All state agencies are required to control noxious weeds on state managed lands. The state law contemplates cooperation by the federal agencies in controlling noxious weeds on the federally managed lands. See Idaho Code, Section 22-2476. The Federal Public Rangelands Improvement Act virtually mandates such cooperation in order to improve "unsatisfactory condition" 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 occupation or invasion.

5. WATER QUALITY, RIPARIAN AREAS AND WETLANDS

The State of Idaho maintains jurisdiction over water quality enhancement and protection for point and non-point water quality impacts. This plan will address non-point impact through development of sit specific BMPs(Best Management Practices) only for those waters which have been specifically identified and documented as not meeting beneficial uses. Where water quality issues(not supporting beneficial use) have been documented to exist, a priority will be given to development and implementation of allotment management plans in these areas. Such areas will be evaluated and considered within the context of a watershed management approach rather than a specific site management approach. Extensive variation exists in riparian types, current condition, potential for change, disturbance factors, and opportunity for intensive management. Therefore, general application of BMPs is not possible.

Special consideration will be given to natural occurrences and natural recovery systems. a natural state on a county wide basis would contain some areas in all condition classes and in various states of recovery which may not at all times support all beneficial uses. There will be no expectation that all areas will achieve and remain in a high condition class but that all areas will achieve a natural state in relation to time. The primary expectation shall be that systems achieve or maintain Proper Functioning Condition.

The development of BMPs for riparian areas in terms of stream or impoundment types, climatic factors, up and down stream watershed impacts, condition, trend, potential for improvement, and opportunity for management changes. With this in mind, all riparian management decisions will be resolved on a site specific basis.

State of Idaho Water Quality Standards define Best Management Practices as "a practice or combination of practices determined by the Department to be the most effective and practicable means of preventing or reducing the amount of pollution generated by non point resources." IDAPA 16.01.2003.02. In the absence of state-approved BMPs(adopted into the WQS), non-point source activities are to be "conducted in a manner that demonstrates a knowledgeable and reasonable effort to minimize resulting adverse water quality impacts." IDAPA 16.01.2300.04A. "Knowledgeable" is herein interpreted to mean "based upon the best available science" and "reasonable" is interpreted to mean "economically feasible for the ranch operation(s) involved."

Monitoring data which indicated an upward trend will be sufficient evidence to indicate that sit specific BMPs are adequate to meet objectives for areas identified for improvement. Caribou County will take a similar approach to all riparian management programs. The application of Best Management Practices and reasonable (are physically and economically feasible) will be employed for riparian management plans and actions. These will be monitored and deemed adequate when monitoring shows an upward trend leading to support of appropriate beneficial uses. Monitoring may indicate that modifications are needed for site specific BMPs in order to achieve an upward trend.

Where off site impacts within a watershed affect riparian areas, the management plans shall recognize and consider nay limitations to management, to improvement potential, and to potential end point condition.

The Planning and Zoning Commission and the Board of County Commissioners will carefully evaluate implementation of the wetlands provisions of the Clean Water Act of 1988, 33 U.S.C. 1344 by federal regulatory agencies, in order to assure that any person deprived of property right, property interest including investment backed expectations by such implementation is compensated as directed by the 5th Amendment to the United States Constitution

The Cost of a determination by a federal agency that land is a "wetland" should not be done by the individual whose right or interest is adversely impacted. Such cost should be borne by society, a whole in whose interest the agency purportedly acts to protect the "wetland".

6. RECREATIONAL USE

In 1963 the Congress enacted the Outdoor Recreation Coordination Act which declared it "desirable that all American people present and future generations be assured adequate outdoor recreation needs and resources." 16 U.S.C. Section 460l. The Congress authorized the Secretary of Interior to prepare and maintain "a continuing inventory and evaluation of outdoor recreation needs and resources." 16 U.S.C. 460L-1. The same act requires the Secretary to consider the plans of federal agencies, states and local government and to cooperate with such planning units with respect to outdoor recreation. 16 U.S.C.4601-1(c) (d).

Outdoor recreation is one of the multiple uses mandated for the federal lands by the provisions of the Federal Land Policy and Management Act.

Over the past decade the recreation use of the federal lands in Caribou County has dramatically increased. Conflicts between recreation users and other users of the lands are minimal, and can be kept to a minimum by coordinated planning efforts by the County federal and state agencies, recreational organizations and associations and members of the public. Such coordinated efforts should include development and implementation of a management plan which will include:

- 1) a review and evaluation of all existing open, limited and closed designations imposed by the BLM in order to determine whether the existing designations are needed and appropriate;
- 2) collection and analysis of data relating to the demand for recreation use now and in the future;
- 3) collection and analysis of data relating to the impact of the various uses on land values as identified by FLPMA;
- 4) continual review of the inventory of area designations and recreation needs;
- 5) identification of any adverse impact of recreation uses and development of mitigation plans rather than simply issuance of restrictions on use; and
- 6) continuing to gather public input as to designation of recreation areas.

By developing such a plan, the mandate of Congress that the federal lands should be available for recreation use can be met.

7. WILDERNESS RECOMMENDATIONS

The wilderness act of 1964, 16 U.S.C. 1131-1136, created a National Wilderness Preservation system to be composed of federally managed lands designated by Congress as "wilderness areas." The Act defined a wilderness as "an area where the earth and its community of life are untrampled by man, where man himself is a visitor who does not remain." The definition stated that a wilderness thus was in "contrast with those areas where man and his own works dominate the landscape." See 16 U.S.C. 1131 (c).

The Act provided that all suitable wilderness areas should be inventoried by the federal agency with management responsibility for the particular area. This inventory as well as recommendations by the agency as to whether the area should be established as wilderness areas were to be completed within ten (10) years of passage. Then, in the Federal Land Policy Management Act of 1976, the Congress established a clear directive that by 1991, the Secretary of Interior must review all road less areas of 5,000 acres or more on the federally managed lands (identified as having wilderness characteristics as described in the Wilderness Act) and give to the President a recommendation as to the suitability or non-suitability of each such area for preservation as wilderness. See 43 U.S.C. 1782.

The Wilderness Act itself provided that even in designated areas livestock grazing" where established prior to September 3, 1964, shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary. . . ." 16 U.S.C. 11333(d)(4). The Federal Land Policy and Management Act provided in 43 U.S.C. 1782 (c), that, during the period of review of prospective wilderness areas any existing "mining and grazing uses and mineral leasing" could continue "in the manner and the degree in which the same was being conducted on October 21, 1976." In *State of Utah vs. Andrus*, 486 Fed. Supp. 995 (U.S.D.C., Utah, 1979) the Chief Judge of the Utah District Court ruled that under these statutory terms, the Bureau of Land Management has the authority to manage lands so as to prevent impairment of wilderness characteristics, unless the lands are subject to an existing use. If the lands are subject to any existing use such as grazing, or mining, the Bureau of Land Management may then regulate only so as to prevent unnecessary or undue degradation of the environment. Nearly a decade later in *Sierra Club vs. Hodel*, 848 F 2d 1068 (Tenth Circuit 1988) the Court of Appeals from the Tenth Circuit held that valid existing use rights in wilderness designated areas are exempt from the non-impairment standard. The Court approved the Bureau of Land Management's modification of its Interim Management Policy to provide that even if the exercise of existing rights did impair wilderness suitability, the exercise of the existing rights would be allowed to continue. See 848 F 2d at 1086-1088.

The Wilderness Act allows for recommendations for modification or adjustment of boundaries only after designation as wilderness. Current wilderness recommendations made by the Bureau of Land Management will be reviewed in relation to the impacts on natural resource based industries, on the economic stability of the County, and on the custom and culture of the citizens of Caribou County. A recommendation from the County will be forwarded to Congress based on this evaluation. Interim Management Policy will be followed with emphasis on protection of the total resource and grazing rights as recognized by federal statutes.

A recommendation from the County will also be forwarded to Congress that any prospective wilderness area which the Congress decides not to designate as wilderness, should be released from further wilderness consideration in land use plans for federally managed lands and National Environmental Policy Act decision making. This will eliminate the spectra of multiple land use being hampered or choked off indefinitely in "study areas" even though the land has not been determined to meet the wilderness requirements and qualifications set by the Wilderness Act.

8. NATIONAL WILD AND SCENIC RIVER SYSTEMS

The National Wild and Scenic Rivers Act, 16 U.S.C. 1271-1287, provides the guidance for identification and designation of individual river segments for study and for recommendation for inclusion in the system in order to provide balance with Dams(development) and to provide unique representation within the national system.

Section 1271 called for protection of "certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural or other similar values." These rivers and their immediate environments will be re-evaluated to determine whether they meet the intent of the Wild and Scenic Rivers Act to protect "outstanding remarkable " rivers and provide a balance between development and the preservation of the true uniqueness in the National River System. Based upon this re-evaluation the County will make a recommendation to Congress. The Planning and Zoning Commission and the Board of County Commissioners are satisfied that the rivers in Caribou County do not meet the uniqueness standard established in Section 1271. The Planning and Zoning Commission and the Board of County Commissioners are satisfied there is no need to include any rivers or segments of rivers within Caribou County in the national system and that there are no rivers which meet the standards set by Section 1271. Because the Act is focused on individuality and uniqueness, an Environment Impact Statement is necessary for each separate designation.

One general Environmental Impact Statement for all the rivers will not suffice and will not satisfy requirements of the National Environmental Policy Act or the Wild scenic Rivers Act.

Inaction by Congress as to current recommendations will be interpreted as a negative response if no action is taken within five years of the recommendation. Either in that event, or in the event Congress acts within five years and denies designation into the Wild and Scenic River System, Caribou County will seek release of the area which will allow full multiple use management of those river areas which the Congress fails to designate as include in the national system. As with wilderness study areas, such release will eliminate the spectra of multiple land use being hampered or choked off indefinitely even though the area is not designated as part of the national system.

Under 16 U.S.C. 1283, any federally managed lands which include, border on, or are adjacent to any river included in or under consideration for inclusion in, the national system must be managed by the Secretary of Interior so as to protect such rivers in accordance with the purposes of the Act. However, 16 U.S.C. 1283 (b), provides that the section shall not be "construed to abrogate any existing rights, privileges, or contracts affecting Federal lands held by any private party without the consent of said party." (Emphasis added).

9. THREATENED AND ENDANGERED SPECIES

The Planning and Zoning Commission and the Board of County Commissioners will pay particular attention to any species designated in any category or classification for protection or consideration of protection under the Endangered Species Act and will act to require the agencies to comply with procedural provision of federal statutes. The Planning and Zoning Commission and the Board has developed an endangered and threatened species review proves which is set forth in Part IV of this Plan.

10. WILDLIFE/WILDLIFE HABITAT

Wildlife Management should maintain the balanced wildlife populations which our citizens have grown accustomed to enjoying in consumptive and non-consumptive manner. Big game populations have taxed available habitat in recent years as the populations of deer, and elk have steadily increased. These increased populations have severely strained the habitat balance. As a result big game impacts on private property and property interests have increased proportionally.

The eventual result of limiting populations strictly by available habitat is starvation and disease. This is not a socially acceptable alternative. The Idaho Department of Fish and game needs to be aware of big game impacts not only on private land forage supplies but on the property and property interest of permittees in their allotments. Hunting activity, allowable harvests and Departmental feeding programs must be coordinated with Caribou County to achieve a balanced multiple use.

Currently elk populations are not being managed. Numbers are increasing in many areas and no target population has been identified. Much better coordination of deer hunting seasons with private property use and livestock management must be achieved. The planning effort will be directed at maintaining health balanced populations of wildlife and at establishing management plans including depredation hunts which respect private property rights and interests including investment backed expectations of the people of Caribou County.

11. AREAS OF CRITICAL ENVIRONMENTAL CONCERN(ACEC)

An ACEC by definition is an area with special resource values that must be designated as an ACEC in order to receive special management. No such designations will be recommended where other designations or ordinarily prescribed as such specifically to bring to bear all necessary management. By definition, any area designated for specific management concerns including stream segments of concern is not eligible for ACEC status.

12. WATER RIGHTS

Water rights established historically by the citizens of Caribou County to support private enterprise in the pursuit of mining, livestock raising, and irrigated agriculture as well as for domestic use are recognized to have the same status as "real property". i.e. real estate, and shall be protected as such.

The right to the use of water is guaranteed by Article XV of the Idaho Constitution, which guarantees continued water use once such use has been diverted and appropriated. Pursuant to Article XV 1, as interpreted by the Idaho Supreme Court all waters of the State when flowing in their natural channels are property of all the people of the State. See *Short vs. Praisewater*, 35 Idaho 691, 208 Pac. 844 (1922). However Article XV section 3 of the Constitution provides that an individual has the "right to divert" and appropriate the unappropriated waters of any natural stream to beneficial uses" and that such right established by diversion and appropriation "shall never be denied, except that the State may regulate and limit the use thereof for power purposes."

The Legislature has implemented the Constitution by providing in Idaho in Idaho Code 42-106 that "as between appropriators, the first in time is first in right." This statute implements the provision of Article XV 3, which provides that "priority of appropriations shall give the better right as between those using the water." The same section of the Constitution further provides that when the waters of any natural stream are not sufficient for the service of all those desiring the use of those waters then the uses shall have the following preferences:

"When the waters of any natural stream are not sufficient for the service of all those desiring the use of the same, those using the water for domestic purposes shall (subject to such limitations as may be prescribed by law) have the preference over those claiming for any other purpose: and those using the water for agriculture purposes shall have preference over those using the same for manufacturing purposes."

This Section further provides:

"In any organized mining district those using the water for mining purposes of milling purposes connected with mining, shall have preference over those using the same for manufacturing or agriculture preferences."

The preference which goes with priority of appropriation is so fundamental that compensation must accompany interference with a water right. For example, even when thought this section of the Constitution gives a preference for domestic purposes when there is a shortage of water, if the water has already been appropriated for agricultural use, then the preferential use for domestic purposes entitles the agricultural user to compensate for a "taking" of private property for public use. See *Basinger vs. Taylor*, 30 Idaho 289, 164 Pac 522 (1917).

Water is so essential to agricultural development that the right to its use, established upon diversion and appropriation, is considered not just as "a property right itself", but as a complement of, "or one of the appurtenances of, the land or other thing to which, through necessity, said water is being applied." See Idaho Code 42-101, which further provides that "the right to continue the use of any such water shall never be denied or prevented from any other cause than the failure on the part of the user thereof to pay the ordinary charges or assessments which may be made to cover the expenses for the delivery of such water." The Idaho Supreme Court has held that pursuant to this section a water right has all the qualities and elements of a property right and is considered akin to real property right. In other words, a water right is to be considered as realty. See *Hard vs. Boise City Irrigation and Land Co.*, 9 Idaho 589, 76 Pac 331 (1904); *Anderson vs. Cummings*, 81 Idaho 327, 340 Pac 2d 111 (1959); Idaho Code 55-101: *Ireton vs. Idaho Co.*, 30 Idaho 310, 164 Pac. 687 (1917).

The Idaho Constitution further provides in Article XV 5, that:

"whenever more than one person has settled, or improved land with the view of receiving water for agricultural purposes, . . . as among such person, priority and time shall give superiority of right to the use of such water in the numerical order of such settlements or improvements."

The key to establishment of this Constitutional priority is the diversion and appropriation of the water, that is, the diversion and use of the water for a beneficial use. The Idaho Supreme Court has held, pursuant to the Idaho Constitution: that once appropriated, i.e., diverted and used for beneficial use, water is not subject to appropriation by another person unless it has been abandoned by the original appropriator or his successor at interest. See *Cantlin vs. Carter*, 88 Idaho 179, 397 P 2d 761 (1964).

The Idaho Supreme court has further held that a person who actually settles upon or improves the land with a view to receiving water from a canal or irrigation ditch for agricultural purposes is entitled to t apriority over one who has previously purchased a water right but has failed to either settle upon or improve the land. See *Mellen vs. Grate W. Beet Sugar Co.*, 21 Idaho 353, 122 Pac. 30 (1912). This case law underscores the importance of diversion and appropriation of the water as the establishment of the right of priority.

So important is the nature of the water right that persons owning or claiming land in the vicinity of any stream who do not have sufficient length of frontage to afford requisite access to the water "are entitled to a right of way through the lands of others, for the purposes of irrigation." See Idaho Code 42-1102. If any land owner objects to such right of way or refuses such right of way, the person seeking the right of way "may provide as in the law of eminent domain and condemn the land necessary for establishment of the right of way." See Idaho Code 42-1106: *Whit vs. Mary*, 97 Idaho 85, 540 P2d 270 (1975); *Canyon View Irrigation Co. vs. Twin Falls Canal Co.*, 101 Idaho 604, 619 P2d 122 (1980). Stockwater rights are guaranteed and may be claimed by appropriation just as other water rights.

The Planning and Zoning Commission and the Board of County Commissioners will plan for and positively urge better development of water supply consistent with these statutory and constitutional standards, and will work to protect established water rights in accordance with such standards.

13. LAND TENURE

Approximately 1/2 of the land in Caribou County is private and that is the land which comprises the County tax base which must support all County services. Land tenure adjustments for any government agency must provide for no net loss of private land, private property rights and interest including investment backed expectations or loss of property tax revenue to Caribou County.

The advantage of private ownership to the economy as well as to maintaining and revitalizing the productive value of the federally managed lands is summarized by Gary Libecap in *Locking Up the Range* (1981) at page 102 as follows:

"Well-defined private rights capture individual incentive and initiative for using rangeland efficiently. Further, the insure response by profit-maximizing land owners to changing market demands for range use. Finally, the allow the U.S. to avoid socially costly scientific management programs advocated by the BLM. Private property rights are the necessary conditions for restoring and maintaining the productive value of a land ara larger than New England and the Mid-Atlantic states combined which has been much maligned and fought over for one hundred years."

14. ENERGY AND MINERAL RESOURCES

Mineral and prospective energy resources provide the base for an important contribution to the economy of Caribou County. All lands not currently withdrawn from the mineral exploration will remain unavailable for such use.

Proposed revisions to the General Mining Law of 1872 will be carefully evaluated as to any undue adverse impact on the mining industry in the County. Recommendations regarding such proposed amendments will be sent to Congress. The mining industry makes up an important part of the property tax base of the County, and its payroll and expenditures for supplies are important to the economic stability of the County. Mining is one of the historic multiple uses on federally managed land and maintenance of the use is compatible with the multiple use principle.

As Management Action is considered regarding mining interest in the County, the restraints upon free market development imposed by statute or by agency rule will be evaluated. Any unjust or unreasonable restraints which are not specifically based upon statutory authority may be challenged. As to any such unjust or unreasonable restraints which appear to be based upon statutory authority, a recommendation may be made to Congress.

15. CULTURAL AND HISTORICAL RESOURCES

The County has recognized the historical and cultural value of the Chesterfield Town site and Henry the buildings that stand there. By Caribou County Zoning Ordinance any work on such buildings other than ordinary maintenance and repair and interior rehabilitation and stabilization may be performed only upon the issuance of a permit after review of the proposed plan by the County Planning and Zoning Commission, the appropriate Historical Society and the Board of County Commissioners. Planning aspects which may impact the areas of Chesterfield and Henry and their historic buildings will be coordinated with the proper Historical Society, the Planning and Zoning Commission and the Board of County Commissioners.

16. RIGHTS OF WAY

Utility corridors have historically been very important in Caribou County. All planning efforts will provide for continuation of such opportunities. Historically the development of mining, livestock grazing, ranch, and farming has required establishment of numerous rights of way over the federally managed lands. Continued use of these rights of way is essential to continuation of the associated commerce. All planning efforts will seek to maintain historic rights to travel over federally managed lands wherever necessary in pursuit of mining, livestock raising, and other historic uses. Along with right to travel over these rights of way, any maintenance necessary to continue the historic use will be allowed.

In its 1993 session the Idaho Legislature , passed and the Governor signed into law, an emergency act defining "Federal Land Rights of Way" and establishing the procedure by which persons may preserve acknowledgment of such rights of way. That Act, which began as House Bill No. 388 amended Idaho Code Section 40-107 to define "Federal Land Rights of Way "as follows:

"Any road, trail, access or way upon which construction has been carried out to the standard in which public rights of way were built within historic context. These rights of way may include, but not be limited to, horse paths, cattle trails, irrigation canals, waterways, ditches, pipelines or other means of water transmission and their attendant access for maintenance, wagon roads, jeep trails, logging roads, homestead roads, mine to market roads and all other ways."

House Bill No. 388 also added a new section 40-204A to the Code, establishing the procedure by which a person may preserve acknowledgment of such right of way by filing a request for acknowledgement and supporting documentation with the County Recorder. House Bill No 388 became effective through emergency language on March 25, 1993, the date the Governor signed the bill into law. Currently some rights of way have been rescinded due to lack of action by the County. With this plan activities rights of way are being properly honored. A recommendation will be made to the Congress that no federal action be taken which would attempt to repudiate or rescind established rights of way.

17. AIR QUALITY

Caribou County will monitor the available data to identify any potential conflict with federal law regarding the protection of air quality.

18. LAW ENFORCEMENT/SEARCH AND RESCUE

The County will continue positive planning for law enforcement in Caribou County, urging consultation, cooperation and coordination between the BLM, and other federal and state agencies and local law enforcement personnel. The County will provide to protect all Caribou County citizens, private property rights, and natural resources located within the county while complying with Idaho Laws, the Idaho Constitution, county ordinances, Federal laws and the United States Constitution.

Increasingly, the Bureau of Land Management and other Federal agencies have become involved in law enforcement activities in Caribou County, acting as peace officers and enforcing Federal laws and regulations in addition to state and local laws. These activities have become of increasing concern to the citizens of Caribou County, who feel that federal agencies have become increasingly difficult and dangerous to work with. The Caribou County Planning and Zoning Commission, the Board of Caribou County Commissioners, the Caribou County Sheriff's Department and Caribou County Prosecuting Attorney have felt pressure from their constituents to protect the public and to address the problem in a positive manner. The Planning and Zoning Commission, the Board of County Commissioners, the Prosecutor, and the Sheriff will continue working with BLM and other federal agencies to guarantee that both the Constitutions of Idaho and the United States, and all statutes and laws are followed in relation to federal law enforcement activities in Caribou County. As Caribou County has been involved in land use planning for many years, the Caribou County Prosecuting Attorney in conjunction with the Caribou County Sheriff will begin planning for law enforcement activities in the county on State and Federal Land.

The Federal Land Policy and Management Act of 1976 requires the Bureau of Land Management and other agencies under the authority of the Secretary of Interior to coordinate ALL land management activities with county and state governments involved with land use planning USC 1712 (c)(9). The Caribou County sheriff is authorized as the primary law enforcement agent in the county under Idaho Code 31-2227, and the Caribou County Planning and Zoning Commission will assist the County Sheriff in his attempts to secure coordination by federal agencies. While the State of Idaho and Caribou County have been enforcing law on public lands in Caribou County since 1865, increasing Federal laws and regulations in reference to federal lands prompted Congress in 1976 to pass legislation to make sure their new laws would be enforced. Federal laws that simply duplicate existing state and local laws are still within the primary law enforcement jurisdiction of the state, a field Congress did not intend to usurp, but Congress did intend that any new laws it passed should be enforceable.

The Federal Land Policy and Management Act of 1976 in USC 1733(c)(2) addressed the issue of mandating that the Secretary of the Interior "authorize Federal personnel or appropriate local officials to carry out his law enforcement with respect to the public lands and their resources." The Act gives the AUTHORIZING discretion to the Secretary of the Interior not so he can preempt police powers of the state, but so that he can authorize local officials to enforce Federal laws and regulations on public lands. The law becomes even more detailed on the issue when it provides in section 17339(c)(1) that:

"When the Secretary determines that assistance is necessary in enforcing Federal laws and regulation relating to the public lands or their resource he shall offer a contract to appropriate local officials having law enforcement authority within their respective jurisdictions with the view of achieving maximize feasible reliance upon local law enforcement officials..."

Although Congress did direct the Secretary of the Interior to authorize the enforcement of federal laws on federal lands, Congress did not attempt to preempt states' police powers. Specifically, in 43 USC 1701 of the Federal Land Policy and Management Act, Congress mandates that "Nothing in this Act shall be construed as...a limitation upon the police power of the respective States, or as derogating the authority of a local police officer in the performance of his duties, or as depriving any State or political subdivision thereof of any right it may have to exercise civil and criminal jurisdiction on the national resource lands." The County will seek full consultation, coordination, and cooperation with the Bureau of Land Management and other agencies, and will also work with the Caribou County sheriff to provide for the safety of Caribou County citizens and the protection of the land and resources located on federally-managed land in Caribou County.

Congress has also authorized the Secretary of Interior to help with and pay for search and rescue operations on federal lands with Caribou County. The statute says that "The Secretary is authorized in cases of emergency to incur such expenses as may be necessary (a) in searching for and rescuing, or in cooperating in the search for and rescue of, persons lost on the public lands, (b) in protecting or rescuing, or in cooperation in the protection and rescue of, persons or animals endangered by an act of God, and (c) in transporting deceased person or persons seriously ill or injured to the nearest place where interested parties or local authorities are located." The statute thus declares that the BLM shall accept some responsibility on the federal lands. This would help Caribou County defray the costs of search and rescue operations that it has incurred for over a century while policing federal land. In the future, Caribou County expects the BLM to take an active role in financing searches and rescues on federal lands in Caribou County, cooperatively financing not only actual searches and rescues, but contributing towards purchases of necessary equipment and the transportation of dead and seriously ill persons from the federal lands.

21. THE CONTINUING PROCESS

The Caribou County Planning and Zoning Commission and the Board of County Commissioners recognize that the coordinated planning process is an on-going process. Progress does not come easy; some federal personnel are far easier to work with than others. Some still resist the "coordinated" planning which is mandated by Congress. As long as progress in maintaining quality of resources can be made, the multiple uses of the federal lands can be maintained, the economic stability, custom and culture of the County can be preserved, and private property rights and interests can be protected, the County will continue to urge federal personnel to "coordinate". Should hesitance on their part interfere with the stated goals, then action may have to be taken to secure judicial orders that the agencies comply with the coordination mandate of the Congress.

This plan has been developed from a base found in the Interim Plan issued in July, 1993. That Interim Plan and its appendices should be considered along with this Plan in order to understand the depth of commitment of Caribou County to the coordinated planning process.

As the Planning process continues, scientific studies and reports, team evaluations, and other planning reports and studies will be added to the documents which contain the Caribou County Land Use Plan. Such documents, when approved by the Board, will be attached to this Plan and utilized in making planning decisions.

PART III MANAGEMENT GOALS

Guidance Principles

Findings

- A) The historic cooperative efforts of the Western Livestock Industry, Local governments, Federal land management agencies and State land management agencies has resulted in notable progress in sustainability of rangeland productivity. Bureau of Land Management records show a 100% increase in good condition rangeland and a 50% reduction of poor condition rangeland in the past 50 years.
- B) As a result of significant management effort and cooperation, populations of big game and wildlife are increasing throughout the county. Continuation of these cooperative efforts is in the best interest of the rangelands, and the economic activity and wildlife dependent upon them.
- C) As new knowledge of riparian area management has been available and applied, significant changes have occurred in riparian areas that benefit wildlife as well as livestock grazing and recreational use. The latest available technology must be used to support innovative application to continue the improvement in riparian habitat.
- D) In order to promote the economic, cultural, and social well being of Caribou County and our rural communities, grazing preferences must continue to be adequately safeguarded.
- E) Maintaining the economic viability of Caribou County livestock industry is essential for maintaining the open space and habitat for big game, wildlife and fish. The alternative is the sell off of land for developments that would preclude big game, wildlife and fish.
- F) Incentives for increased public input into management planning for public lands and in private investment in rangeland development will support continued cooperative management efforts.
- G) In spite of statutory requirements, Federal land use plans have not been developed in a coordinated manner that provides for consistency with State and local planning agencies.

Purpose

- 1) Promote healthy sustainable rangeland supporting a viable livestock industry upon which Caribou County our small communities and our citizens depend for their custom, culture, economic viability, and social stability.
- 2) Providing for orderly multiple use and development of rangelands to facilitate recreational uses, wildlife, mineral extraction, wood product supply and rights-of-way.
- 3) Provide for sustainable productive watersheds for a continued supply of waters for Caribou County's irrigated agriculture sector which is dependant on both stream flows and water storage.
- 4) Provide for the protection of all property rights and interests related to water, livestock grazing, rights-of-way, mineral extraction, and use of State land leases.
- 5) Provide for statutory requirements for coordination and consistency between Federal land use plans and the Caribou County Land Use Plan for Federal and State Lands.
- 6) Assure that both State and Federal statutes are followed in the administration of the public lands in Caribou County.

(1) PRIMARY SOILS, VEGETATION AND WATERSHED RESOURCES

GOAL: To maintain or improve the primary landscape soil, vegetation and watershed resources in a manner that perpetuates and sustains a diversity of uses while fully supporting the custom, culture, economic stability and viability of Caribou County and our individual citizens.

GUIDANCE: The BLM must comply with the multiple use goals and objectives of the Congress as stated in the following statutory law: Taylor Grazing Act, Federal Lands Policy & Management Act, Public Rangelands Improvement Act, National Environmental Protection Act, Mining Laws of 1866 and 1872, Mining and Mineral Policy Act of 1970, National Materials and Minerals Policy, Research & Development Act of 1980, and other related federal and state laws concerning recreational and other multiple use of natural resources which impact the watershed. The Idaho Constitution requires that all State lands be administered "in such manner as will secure the maximum long term financial return to the institution to which granted or to the state..." The National Environmental Policy Act requires consideration of all environmental actions on the culture, heritage and custom of local government (16 U.S.C. sec. 4331 (a) (4)).

OBJECTIVES:

- 1) Develop a systematic procedure to coordinate all BLM land use inventory, planning, and management activities with Caribou County, to assure that consideration is given to County Land Use Plans, and to assure that agency land use plans are consistent with the Caribou County Land Use Plan to the maximum extent consistent with Federal law.
- 2) Develop & implement Allotment Management Plans(AMP's) as follows:
Within five (5) years on all "T" category high priority allotments that do not already have current AMP's: within eight(8) years on all "T" category medium priority allotments: within ten (10) years on all other allotments.
- 3) Review and adjust grazing stocking levels only in accordance with developed AMPs and/or trend monitoring data based on rangeland studies in accordance with trend monitoring completed at five(5) year intervals following implementation of AMPs.
- 4) Assure that adjudicated grazing preference held by permit tees is authorized according to the governing Federal statutes and that Temporary Non Renewable use is authorized in a manner that allows for use of excess forage when available.
- 5) Develop prescribed fire and wildfire management plans to re-establish historic fire frequencies for appropriate vegetation types and include in such plans livestock grazing techniques as a tool for fire fuel management related to both wildfires and prescribed fires.
- 6) Include within, fire line and site rehabilitation plans, native or exotic vegetation capable of supporting watershed function and habitat for wildlife and livestock.
- 7) Develop grazing management plans following wild or prescribed fire through careful and considered consultation, coordination and cooperation with all affected permit tees and affected landowners to provide for use of grazing animal management to enhance recovery.
- 8) Develop surface disturbance mitigation plans on soils with a high or very high erosion hazard rating within plans for multiple recreation use, road building, timber harvest, mechanical range treatments, prescribed fires, range improvements and vegetation manipulation.

10) Develop and implement a Management Plan for wildlife through consultation with appropriate wildlife control agencies to prevent and minimize vegetation deterioration and soil erosion caused by wildlife.

11) Apply State of Idaho approved noxious weed control methods through integration in all planning efforts to prevent the invasion of noxious weeds and to improve the ecological status of sites which have been invaded by weeds in coordination with the Caribou County Weed Control. (Includes burning, mechanical, manual, biological and chemical control methods.)

12) Integrate multiple recreation uses into all planning efforts to assure they can continue to occur compatibly with vegetation development and soil stability.

Monitoring

- * Document vegetation trend data obtained through rangeland studies supplemented with actual use, utilization, and climatic data in accordance with the monitoring section of the Caribou County Plan.
- * Document progress in the development and implementation of Allotment Management Plans.
- * Document the development and implementation of quality vegetation suitable for grazing and control plan(s).
- * Document the development and implementation of Management Plans for control of weed and other invading species.
- * Inspect mining activities and other significant surface disturbing activities for compliance with statutory law and relevant reclamation plans.

Evaluation

- * Determine whether documentation shows that AMPs and other activity plans are being developed and implemented as necessary to achieve objectives. Make adjustments in priorities as required.
- * Determine the degree to which trend data indicates that high seral plant communities are remaining stable and lower seral communities are improving. Review and modify appropriate management plans as necessary.
- * Determine the degree to which surface disturbing activities are occurring and their response to reclamation actions.

GENERAL APPLICATION: Essentially all rangeland use and value is dependent upon maintenance and enhancement of the primary landscape soil and vegetation resource. The following issues together with their specific goals and objectives, are in addition to and inclusive of, the goal and objectives stated for the primary landscape soil, vegetation and watershed resources.

(2) FORAGE AND LIVESTOCK GRAZING RESOURCES

GOAL: Provide for landscape vegetation maintenance and improvement which will support restoration of suspended AUM's allocation of continuously available temporary non-renewable use as active preference, and will support continued use and or increased use of State school endowment trust lands.

GUIDANCE: The Taylor Grazing Act mandates stabilization of the livestock industry by providing for the orderly use, improvement and development of the range in a manner which adequately safeguards vested grazing and water rights, and in a manner that will not impair the value of the grazing unit of the permit tee when such unit is pledged as debt security by the permit tee. Public Rangeland Improvement Act provides that the BLM administered lands be managed in accordance with the Taylor Grazing Act. PRIA further provides that the range should be made "as productive as feasible" in accordance with the Congressional objective of preventing "economic disruption and harm to the western livestock industry". The Act mandates improvement of the rangelands in order to expand the forage resource and increase the resulting benefits of livestock and wildlife production. In the Federal Land Policy & Management Act the Congress directs that the BLM administered lands be managed in a manner which "recognizes the Nations need for domestic sources of minerals, food, timber, and fiber from the public lands". The National Environmental Policy Act requires consideration of all environmental actions on the culture, heritage and custom of local government (16 U.S.C. sec 4331 (a)(4)). Current active preference and continuously available supplemental use is considered the established allowable use for livestock grazing.

OBJECTIVES:

- 1) Implement rangeland improvement programs, including but not limited to; water development, rangeland restoration and weed control to achieve forage and livestock grazing as well as other multiple use resource goals.
- 2) Identify and develop off-stream water sources where such opportunities exist, in all allotments pastures with sensitive riparian areas and in all allotments where improved livestock distribution will result from such development.

- 3) Identify and implement all possible livestock distribution, forage production enhancement, and weed control programs before seeking changes in livestock use levels.
- 4) Identify and initiate reductions in stocking levels, only when monitoring data demonstrates that grazing management supported by range improvements and specialized grazing systems, are not supporting basic soils, vegetation and watershed goals.
- 5) Assure that all grazing management actions and strategies fully consider impact on property rights of inholders, adjacent private land owners and state land lessees, and the potential impacts of such actions on grazing animal production.
- 6) Where monitoring history, actual use or authorization of TNR demonstrates that supplemental use is continuously available, and can or should be used to improve or protect rangelands (e.g. reduction of fuel loads to prevent recurring wildfire), initiate a process to allocate such use to permittees as active grazing preference.
- 7) Authorize use of supplemental forage during those years when climatic conditions result in such availability.

Monitoring

- * Document the amount of livestock use through review of actual use, authorized active use, suspended use and temporary nonrenewable use.
- * document all rangeland and livestock management improvement programs as to acres affected by vegetation manipulation, water development, specialized grazing systems and weed control.
- * Document grazing use in each allotment through use pattern mapping.
- * Document the direction of rangeland trend and seral class acreage changes that support changes in the amount of use being authorized or denied.
- * Document all decisions or agreements resulting in changes in active preference and approvals or denial of applications for supplemental use.

Evaluation

- * Determine from monitoring data, trend studies and seral class rangeland studies, the amount of authorized use that can be sustained.

(3) WATER, WATER QUALITY, RIPARIAN, AND FISH RESOURCES

GOAL: Meet the requirements for water quality contained in the State of Idaho water quality plan to the extent they can be met while complying with Idaho constitutional and statutory law as to vested water rights and control of in-stream flow, and to maintain or improve riparian areas and aquatic habitat that represents a range of variability for functioning conditions.

GUIDANCE: The Idaho Constitution requires that all State lands be administered "in such manner as will secure the maximum long term financial return to the institution which granted or to the state..." Article XV of the Idaho Constitution, and Title 42 of the Idaho Code, establish the nature of water rights as rights of realty, define the process by which such rights are acquired, protect such vested rights and establish the Idaho Department of Water Resources as the control agency regarding in-stream flow. Title 39 of the Idaho Code addresses water quality issued through designation of beneficial uses, specific water quality standards to meet beneficial uses, and the processes to follow in achieving the standards where they are deficient. The BLM must comply with Idaho water quality law including the processes set forth for achieving water quality standards. Title 39 also states "It is the intent of the legislature that the state of Idaho fully meet the goals and requirements of the Federal Clean Water Act and that the rules promulgated under this act not impose requirements beyond those of the Federal Clean Water Act."

OBJECTIVES:

- 1) Develop site specific Best Management Practices (BMPs) through allotment management plans for those waters which have been specifically identified and documented as not meeting beneficial use. BMPs include but are not limited to:
- 2) Prescribed grazing systems, off site water development, livestock salting plans, establishment of riparian pastures, herding.
- 3) Develop and utilize standardized forms and procedures for all monitoring data related to riparian and aquatic, habitat, condition and trend.
- 4) Develop management plans for multiple recreation uses in high erosion hazard watersheds, or watersheds where accelerated erosion is occurring, which assure that planning documents and/or other agreements which alter multiple recreation use are formulated through coordination with the Caribou County Planning and Zoning Commission which includes Off Highway Motorized Vehicle recreationist representative groups.
- 5) Develop and implement a management plan for wildlife to minimize surface disturbance erosion adversely affecting riparian areas.

6) Complete annual reviews and provide documentation and data to Idaho Department of Water Resources regarding in-stream flow impact on fish and wildlife habitat, aquatic life, recreation, aesthetic beauty and water quality in light of Idaho Code 42-3806 which prohibits impairment, diminution, control or divestiture of "existing or vested water rights."

7) Provide for the development and maintenance of water conveyance systems.

Monitoring:

- * Document progress in the development of AMPs including site specific BMPs and their implementation.
- * Document the development and implementation of multiple recreation use plans for specific high erosion areas.
- * Document impacts of grazing, wildlife and multiple recreation use on riparian and aquatic habitat.
- * Document and review all IDWR decisions regarding state water plans(s) and minimum in-stream flow.
- * Document the status of water rights in renewal of permits and developing AMPs.

Evaluation:

- * Track the development of AMP's and implementation of BMP's to determine their impact on improvement of riparian areas and identify the need to re-evaluate design and effectiveness of BMP,s..
- * Review the degree of use and effectiveness of standardized procedures to obtain and record data to determine the condition and trend of riparian and aquatic habitat in areas identified as being adversely affected by grazing, wildlife and multiple recreational use.
- * Evaluate both the records of grazing permit renewal and IDWR decisions to establish minimum stream flows for their impact on private property rights, including water rights.

(4) WILDLIFE HABITAT

GOAL: Maintain, improve or mitigate habitat in order to sustain viable and harvestable populations of big game and upland game species as well as wetland/riparian habitat for waterfowl, fur bearers and diversity of other game and non-game species.

GUIDANCE: The Federal Land Policy & Management Act provides that it is the policy of the United States that BLM administered lands be managed in a manner that will protect the quality of multiple resources, will provide food and habitat for fish and wildlife and domestic animals, and will provide for outdoor recreation and human occupancy and use. The Public Rangeland Improvement Act directs improvement of rangeland conditions and provides for rangeland improvement which include habitat for wildlife. The Idaho constitution requires that all State lands be administered "in such manner as will secure the maximum long term financial return to the institution to which granted or to the state..." The authority for management of wildlife rests solely with the State of Idaho by virtue of the equal footing doctrine stated in the Admissions Act, article one and adoption of the U.S. Constitution (10th amendment) in Article 1, sec 3 of the Idaho State Constitution.

OBJECTIVES

- 1) Consult with the Idaho Department of Fish and Game, all affected land owners, lessees and permittees to develop specific wildlife population targets, harvest guidelines, depredation mitigation and guidelines for future site specific management plans affecting upland, water fowl and big game habitat.
- 2) Conduct rangeland studies, pellet group plots, breeding bird transect and other appropriate studies to monitor wildlife relationships to available habitat as well as impacts of vegetation manipulation projects on wildlife.
- 3) Accelerate the planning, approval and completion of additional water developments, rangeland treatment projects and prescribed burns with objectives for enhancement of big game and other wildlife habitat.
- 4) Include consideration of wildlife habitat requirements in the design and reclamation of mineral development projects through approved Plan(s) of Operations.
- 5) Assure that management agencies provide all necessary maintenance of enclosure fences not specifically placed for improved management of livestock.
- 6) Initiate cooperative studies with willing private land owners, of wildlife depredation and related concerns regarding wildlife habitat on private land.

Monitoring:

- * Document the participation of affected parties in the development and establishment of population targets and management guidelines for upland game, water fowl and big game species.
- * Document the inclusion of wildlife habitat objectives in activity plans and BLM approved Reclamation Plans.

- * Document the frequency and extent of water developments and vegetation manipulation projects and prescribed fires for wildlife habitat improvement.
- * Periodically monitor range improvement projects, rights-of-way, woodcuts, mining activities, multiple recreation uses, and materials leases, to document habitat improvement or disturbance.
- * Document the incidents of wildlife depredation and extent of game animal harvest in designated management areas of both land and wildlife management agencies.

Evaluation

- * Track the participation of agencies, landowners and sportsmen and their progress in development of designated management area plans.
- * Reconcile wildlife population fluctuation related to both habitat conditions and non habitat impacts on reproduction and survival.
- * Track the numbers and time required for the initiation and completion of water developments, prescribed burns and range treatment projects for wildlife habitat improvements.
- * Track the incidents and disposition of wildlife depredation on private lands and property.

(5) PUBLIC LAND RESOURCES

GOAL: Utilize, to the greatest extent possible, agricultural or mining entry, land exchange, and land sale for disposal of all public lands which by virtue of their size or location render them difficult and expensive to manage and do not serve a significant public need or where disposal will serve important public objectives. Authorize as needed the use of those lands, not currently authorized, for rights-of-way, leases and permits.

GUIDANCE:

Federal Land Policy & Management Act provides for effective use of the BLM administered lands by providing continuity of uses for roads, power, water and natural gas. The Federal Land Policy & Management Act mandates multiple uses of the BLM administered lands, provides for continuing inventory and classification reviews of the BLM administered land, authorizes the Director to acquire lands when necessary to provide more efficient management through consolidation, and authorizes disposal of certain BLM administered lands. Lands currently under the jurisdiction of other agencies or lands currently withdrawn need a management plan to assure multiple use development when that existing withdrawal is revoked. The BLM is required to comply with federal state and local government laws relating to hazardous materials.

OBJECTIVES:

- 1) Identify and give priority consideration to requests for exchanges or purchases from private land owners with fenced federal range, isolated tracts, or irregular boundary lines.
- 2) Develop an inventory of those BLM administered lands which should be disposed of in the public good and make available for further application for agricultural or mining purposes those lands currently under DLE application or Patent application that are relinquished or rejected.
- 3) Seek legal administrative access only through purchase or exchange where significant administrative need exists, construct new roads around private lands where easement acquisition is not feasible, and consider significant public access needs in all land tenure adjustment transactions.
- 4) Manage newly acquired lands and lands that have been returned to BLM management through revocation or withdrawals in accordance with existing land use plans for adjacent land.
- 5) In coordination with federal agencies and state and local government planning agencies and in cooperation with interested members of the public through the NEPA process, develop and implement an Action Plan for management of hazardous materials on state and public lands.

(6) LOCATABLE MINERAL, FLUID MINERAL AND MINERAL MATERIALS

GOAL: Facilitate environmentally responsible exploration and development base on a preponderance of scientific evidence for locatable mineral, oil, gas and geothermal and common variety mineral resources on BLM administered lands opened to location under mining and other appropriate statutes.

GUIDANCE: The Mineral Leasing Act of 1920 as amended, Geothermal Steam Act of 1970, as amended, The Mining and Mineral Policy Act of 1970, all declare that it is the continuing policy of the federal government to foster and encourage private enterprise the development of domestic mineral resources. The 1872 Mining Law along with the Mining and Mineral Policy Act of 1970 declares that it is the continuing policy of the United States to foster and encourage private enterprise in the development of domestic mineral resources. The Federal Land Policy & Management Act, reiterates that the Mining and Minerals Policy Act of 1970 is to be implemented and directs that the BLM administered lands are to be managed in a manner which recognizes the nation's need for domestic sources of minerals and other resources.

The National Materials and Minerals Policy, Research and Development Act of 1980 restates the need to implement the 1970 Act and requires the Secretary of the Interior to improve the quality of minerals data in land use decision making. The Mining Law of 1866 guaranteed certain rights which allow for orderly and efficient use of the public lands for commerce.

OBJECTIVES:

- 1) In coordination with federal agencies and state and local government planning agencies and in cooperation with interested members of the public, develop a land management mineral classification plan to evaluate, classify and inventory the potential for locatable mineral, oil, gas, and geothermal and material mineral exploration or development in Caribou County to insure that lands shall remain open and available unless withdrawn through the NEPA process.
- 2) Develop an evaluation program which relies upon and uses all available data retrieval and interpretation methods, including, but no limited to; Reviewing existing data, geochemical and geophysical testing, geological mapping and sampling, and, where appropriate, drilling testing.
- 3) Provide for mineral material needs through negotiated sales, free use permits and community pits.

Monitoring:

- * Document all exploration activity and requests for and the issuance of patents through a system of tracking paper work associated with such activity.

Evaluation:

- * Determine the degree to which mineral exploration and development are occurring as compared to needs and potential for the County.
- * Determine whether the time required to obtain necessary permits and approvals is excessive,

(7) CULTURAL AND HISTORIC RESOURCES

GOAL: In coordination with state and local government planning agencies, and in cooperation with interested members of the public and County Historical Societies, develop and implement a Management Action Plan by which to determine the significance of cultural resources sites according to condition and content and relevance and increase the opportunity for educational, recreational, socio-cultural, and scientific uses of cultural and historical resources.

GUIDANCE: The Federal Land Policy and Management Act directs that the BLM administered lands be managed so as to protect archeological values. The Antiquities Act of 1906 and the Archeological Resources Protection Act of 1979 require protection of historical resources and require permits for excavation or appropriation of such resources. The National Environmental Protection Act directs preservation of important natural aspects of the national heritage. The National Historic Preservation Act of 1966 describes federal agencies responsibility to preserve prehistoric and historic cultural resources.

OBJECTIVES:

- 1) Select at least three (3) cultural resource and historical sites for evaluation annually to track any changes in site characteristics such as deterioration or vandalism.
- 2) Where sufficient data indicates adverse impacts of multiple uses occurring on a site, establish mitigation measures to reduce impacts and protect and conserve unique historical resources.
- 3) Protect the integrity of those portions of the Oregon Trail and associated cultural resource sites on BLM administered lands.
- 4) Manage the existing historic districts in accordance with Section 110 of the National Historic Preservation Act of 1966
- 5) Nominate appropriate site/areas to the national register of historic places only in accordance with the policies and procedures outlined in NEPA

Monitoring:

- * Maintain, review and make available to the public for analysis the data collected during annual monitoring site visits
- * Periodically review changes in historical, cultural and historical site designations

Evaluation:

- * Analyze the site visit data to determine the degree of impact of multiple uses occurring on the and site a develop mitigation measures.
- * Track the progress of recommendations for additions to the National Register of Historic Places.
- * Analyze the degree to which cultural resource management restrictions are affecting or limiting multiple uses of the public lands in Caribou County.

(8) FOREST RESOURCES

GOAL: Maintain or improve tree health, vegetation diversity, wildlife and watershed values through active management of these resources in Caribou County.

GUIDANCE: The Public Rangelands Improvement Act directs that the condition of the BLM administered rangelands be improved so that they become as productive as feasible for all rangeland values. The Federal Land Policy Management Act mandates that BLM administered lands be managed in a manner that will protect the quality of ecological and other resource values and provide food and habitat for fish and wildlife and domestic animals and recognizes the nations need for domestic sources of minerals, food, timber, and fiber from the BLM administered lands. The Idaho Constitution requires that all State lands be administered "in such a manner as will secure the maximum long term financial return to the institution to which granted or to the state..."

OBJECTIVES:

- 1) Plan and implement selective timber and firewood harvesting programs where dead and/or decadent trees need to be removed to improve forest health.
- 2) Plan and implement reclamation of disturbed forest sites
- 3) Document all timber harvest activities on the BLM and Forest Service administered lands and State lands to assure compliance with the Idaho Forest Practices Act.
- 4) Plan and implement grazing management strategies designed to enhance forest resource goals.

Monitoring:

- * Document the presence of Douglas-fir tussock moth and other parasites and diseases.
- * Identify and document old and decadent stands of timber and the management actions applied in each individual case.

(9) HUNTING, FISHING & OTHER RECREATIONAL RESOURCES

GOALS: Provide for multiple recreation uses in Caribou County including BLM and Forest Service administered lands located within its boundaries, including high quality recreational opportunities and experiences at developed and undeveloped recreation sites by allowing historic uses and access while maintaining existing amenities and by providing new recreation sites for the

public's enjoyment. Pursue increased public access opportunities in both motorized and non motorized setting through the acquisition of right-of-way or easements, both public and private. Recognize that multiple recreation uses are mandated by the multiple use concept and that adequate outdoor recreation resources must be provided on the BLM and Forest Service administered lands and waterways.

GUIDANCE: The Federal Land Policy & Management Act declares it to be the policy of the United States that BLM and Forest Service administered lands be managed on the basis of multiple use in a manner which provides for outdoor recreation and human occupancy and use, while at the same time protecting scenic, ecological, environmental, water, and archaeological values. The Act also mandates that outdoor recreation be considered one of the principle uses in the multiple use concept for the BLM and Forest Service administered lands. In 1963, Congress enacted the Outdoor Recreation Coordination Act declaring it "desirable that all American people of present and future generations be assured adequate outdoor recreation resources". See 16 U.S.C. 460L. The Secretary of Interior was authorized to prepare and maintain "a continuing inventory and evaluation of outdoor recreation needs and resources". 16 U.S.C. 460L-1. This Act also requires consideration of the plans of federal agencies, states, and the political subdivisions of states, and required the BLM to cooperate with states, political subdivisions of states and private interests with respect to outdoor recreation. '460-1(c)(d). The Intermodal Surface Transportation Efficiency Act 16 U.S.C.'1302, National Recreation Trails Fund, 26 U.S.C. '9511; and National Trails System Act, 16 U.S.C. '1241 provide for the preservation, development and funding of roads and trails for recreation use. These statutes mandate that trails for multiple recreation uses be made available for a diversity of motorized and non motorized uses. Multiple recreation uses must also be provided for the elderly, physically challenged and very young in order to provide diversity of recreation opportunities. See. Americans with Disabilities Act, 41 U.S.C. '12111 et seq. All areas historically accessed by off-road recreational vehicles, mechanized vehicles, horses and boats should continue to be available for their historical uses. These historically accessed areas include roads, trails, sand washes, and waterways identified by Caribou County as Revised Statute 2477 rights-of-ways.

OBJECTIVES:

1) Provide for continued multiple recreation uses in special and extensive recreation management areas, including those areas where state, federal and/or private funds and materials were or are considered to be used to provide for recreational facilities.

2) In compliance with applicable local, state and federal laws, identify specific areas for national wild and scenic river system potential, additional trailhead facilities for both motorized and non-motorized access, development and/or maintenance of roads, trails, and waterways for both motorized and non-motorized access, restoration of those areas formerly available for historical recreational uses, e.g. motorized and equestrian access for recreational and competitive events, hunting, fishing and boating.

3) Provide for adequate outdoor recreation resources by revising the designated areas to decrease or eliminate limitations and restrictions where the review and evaluation shows that the limitations and restrictions are no longer appropriate and necessary.

4) Plan and establish designated equestrian, foot and off-road vehicle trail systems and waterways for compatible recreation, commercial, and other multiple uses so that such uses can continue unabated.

5) Maintain existing facilities at developed recreational sites and upgrade reconstruct and/or increase recreation facilities, when needs are indicated by monitoring data, at currently undeveloped sites.

6) Describe methods of minimizing or mitigating documented use conflicts or damage and define the manner in which each method is expected to accomplish minimization or mitigation.

Monitoring:

* Collect, review and analyze data relating to the demand for recreation use, the impact of the various recreation uses on land values, and any actual conflict or damage caused by each of the multiple recreation uses.

* In coordination with federal agencies and state and local planning agencies, review all data to determine whether temporary climatic conditions, wildlife activities, or range conditions, which may require temporary or seasonal restrictions or limitations of historic and present recreation uses, and review data to determine the earliest point at which temporary restrictions or limitations can be removed.

* Collect and maintain data obtained during meetings and discussions with recreation users held at least twice annually.

* Collect and maintain records of all management actions taken specifically to meet requirements of the ADA and maintain records of use and requests for use from ADA eligible individuals.

* Investigate, validate and document all user conflicts reported to Caribou County, BLM or Forest Service.

EVALUATION:

- * Meet annually with interested hunters, fishermen and other recreation users and review the data regarding recreation demands, outdoor recreation resources, and multiple recreation uses and their impact
- * Coordinate with federal agencies and state and local government planning agencies, to annually review and analyze recreational inventory, classification and designation information to validate the relevance and importance criteria, the impact on land values and on recreation uses, historic and present.
- * Analyze data on multiple recreational use in areas with special use designation or which are under study for such designation to identify any adverse impacts on multiple recreational use.
- * Review data regarding implementation of the Americans with Disabilities Act and whether ADA implementation actions are adequate.

(10) WILDERNESS, WILD AND SCENIC RIVERS & VISUAL RESOURCES

GOAL: Seek immediate congressional designation action on all WSA's and Wild and Scenic Rivers recommendations in Caribou County to release these areas for multiple use management and in the interim prevent, minimize or mitigate impairment or degradation of such areas to the extent that Congressional actions are not pre-empted.

GUIDANCE: The Federal Land Policy and Management Act provide that the Secretary shall review BLM administered lands and recommend those which he finds to meet wilderness characteristics. Between submission of the Secretary's recommendations and final Congressional action, the Act provides that the lands be managed in such manner so as not to impair their wilderness characteristics, "subject, however, to the continuation of existing mining and grazing uses and mineral leasing in the manner and degree in which the same was being conducted on" October 21, 1976. The Act directs prevention of "unnecessary or undue degradation of the lands and their resources" and implementation of environmental protection. Enabling legislation will identify specific management direction for each Wilderness Area or specify that these lands be placed under multiple use management. The Federal Lands Policy and Management Act declares as the policy of the United States that BLM administered 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 will provide food and habitat for fish and wildlife and domestic animals that will provide for outdoor recreation and human occupancy and use, and, where appropriate, will preserve and protect certain BLM administered lands in their natural condition.

OBJECTIVES

- 1) Within one year develop a comprehensive recommendation to Congress seeking immediate release of all WSA's and Wild and Scenic Rivers recommendations to multiple use management.
- 2) Provide for optimum scenic value in Caribou County through achievement of vegetation and soils watershed objectives and implementation of non- degrading non-impairing range improvement activities, construction, use and maintenance of livestock management facilities, and facilities for public enjoyment of the land.
- 3) Upon Congressional release, return management policies for the affected area to those consistent with land use plans and the non-wilderness full multiple use concept mandated by the Federal Land Policy & Management Act and Public Rangelands Improvement Act.
- 4) Develop and establish objective scientific classifications based upon vegetation condition and trend criteria which comply with the Federal Land Policy & Management Act.

Monitoring:

- * Track the development of Congressional recommendations and Congressional action of WSA's and WSR recommendations.
- * Track the data obtained from rangeland studies and document the location, pace, and extent, of improving trends in rangeland vegetation and soil stability.
- * Document the implementation of multiple use management on lands released through Congressional action.
- * Collect data regarding the multiple recreation uses occurring in areas designated or being subjected to potentially study for special designees such as a wild and scenic river, or wilderness.
- * In coordination with federal agencies and state and local government planning agencies, and in cooperation with interested members of the public, re-evaluate current VRM classifications within 3 years and every 10 years thereafter.

Evaluation:

- * Compare current WSA acres and Wild and Scenic River mile recommendations with those remaining at the end of each decade.

* Determine the extent of change in condition class and trends for watershed uplands and riparian habitat.

* Compare management of released land and river miles for compliance with multiple use guidance provided in land use plans for adjacent land and the Federal Land Policy & Management Act.

(11) AREAS OF CRITICAL ENVIRONMENTAL CONCERN(ACEC)

GOALS: In order to promote multiple use and release management agencies and affected land owners from the burden of an added layer of management, conduct and evaluation of all existing ACEC designations and release those that reflect changed from conditions existing at the time of designation and/or newly acquired information and data indicate they no longer qualify. Conduct NEPA and FLPMA statutory review individually on each new area proposed for designation and Areas of Critical Environmental concern.

GUIDANCE: The Federal Land Policy & Management Act, in 43 U.S.C. 1711 required the BLM to prepare and maintain on a continuing basis an inventory of BLM administered lands and their resource and other valued, giving priority to areas of critical environmental concern. The Act further requires that the inventory must be kept current in order to reflect changes in conditions and to identify new and emerging resource and other values. The Act also mandates that neither the preparation and maintenance of the inventory nor the identification of Areas of Critical Environmental Concern shall in and of itself change management or use of the lands. The Federal Land Policy & Management Act also requires in 43 U.S.C. 1712, that the BLM coordinate the land use inventory, as well as the planning and management activities for land uses with other federal departments and agencies of the states and local governments within which the land lies. The Federal Land Policy Management Act also requires in 43 U.S.C. 1712, that the BLM give priority in the planning process to designation and protection of areas of critical environmental concern. Such areas are defined as areas where special management attention is required to protect and prevent damage to important historic, cultural or scenic values, fish and wildlife resources, or other natural systems or processes, or to protect life and safety from natural hazards. The inventory and planning process mandated by the Federal Land Policy & Management Act was re-emphasized in the Public Rangelands Improvement Act. The National Environmental Policy Act requires the BLM to use a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences in planning and decision making "which may have an impact on man's environment". 42 U.S.C. 4332. The National Environmental Policy Act further requires that the BLM decision making process give appropriate consideration to presently un-qualified environmental amenities and values, and to economic and technical considerations. The Act also

requires and EIS prepared in accordance with 42 U.S.C. 4332 prior to any major federal action significantly affecting the quality of human environment.

OBJECTIVES:

1) In compliance with the planning process set forth in the Federal Land Policy & Management act, inventory the lands in Caribou County, identify specific areas of critical environmental concern by describing the statutory criteria present in the areas, and develop and implement a Management Plan for providing the specific management protection required.

2) In coordination with federal agencies, and state and local government planning agencies, develop and implement an ACEC classification plan utilizing the NEPA, EIS process, to inventory, evaluate and classify and re-classify ACEC's in Caribou County, including within the Plan the following:

3) Describe the important uniqueness(one of a kind) historic, cultural or scenic value, the fish and wildlife resources, or other natural systems or processes in any proposed ACEC, and describe and document the damage which will occur to such value unless special management attention is given to the area, or describe and document the natural hazards of the area which will endanger life or safety unless special management attention is expected to provide the needed protection.

4) Describe and document the special management attention which is necessary to protect the proposed area from imminent damage to the statutory unique(one of a kind), relevance and importance values, or to protect life and safety from natural hazards, and quantify the manner in which such special management attention is expected to provide the needed protection.

5) In developing and implementing the ACEC Management Plan, and in conducting the ongoing evaluation of existing and proposed ACECs, take the following actions:

- > Use a systematic interdisciplinary approach in order to achieve integrated consideration of physical, biological, economic, and other scientific data.
- > Use and observe the principles of multiple use and sustained yield set forth in federal statutory law.
- > Consider present and potential uses of the land and the impacts of special management on private in-holdings, adjacent private lands and state leased lands.
- > Consider the relative scarcity of the values involved and the availability of alternative means and sites for realization of those values.
- > Weigh long term benefits to the public against short term benefits of the existing or proposed action regarding ACEC status.

OBJECTIVES:

- 1) Obtain a determination from appropriate agencies of the maximum tonnage per burning event allowable under air quality standards.
- 2) Manage smoke from prescribed burn through techniques of smoke avoidance, dilution and emission reduction and limit unnecessary emissions from existing and new point and non-point sources through development and implementation of Best Management Practices.
- 3) Develop an annual plan for prescribed burns for restoration of appropriate site specific vegetation which includes air quality considerations.
- 4) Conduct prescribed burning at maximum allowed by the Clean Air Act and State regulations.

Monitoring:

- * Maintain records of both acreage and tonnage burned and compare to allowable values.
- * Review compliance with best management practices for point source emissions.

Evaluation:

- * Review burn calculations and plans to assure that maximums are observed.
- * Evaluate conformance of prescribed burning plans with requirements and guidelines for air quality and smoke management being developed by the State of Idaho.
- * Review Best Management Practices as necessary to assure applicability and compliance.
- * Review annually the backlog of prescribed burns and applications and requests for additional prescribed burns to incorporate them into the following year annual plans.

PART IV - THREATENED AND ENDANGERED SPECIES

A. LOCAL PLANNING UNDER THE ENDANGERED SPECIES ACT

In the Endangered Species Act of 1973 (as amended) the United States Congress has established it to be the national policy to maintain a balance in the ecological systems upon which human and all life depend which prevents the unnatural, unnecessary extinction of a species of fish, economic and social hardship which would lead to extinction of human activities on the other.

In 16 U.S.C. Section 1533 the Congress has specifically required the Secretary of Interior to consider "economic impact" before designating a critical habitat, all governmental agencies-local, state and federal- are called upon to cooperate with each other and with other interested parties to conserve the ecological systems upon which all species depend.

The specifically expressed purpose stated in 16 U.S.C. Section 1531 is to provide a legislative and financial means through which conservation of ecological could be maintained with such balance. The Congress declared the national purpose to be to encourage states "through Federal financial assistance and a system of incentives" to develop and maintain "conservation programs." Such programs were defined to include scientific resource management activities such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, transplantation and other activities designed to bring about the balance in the ecological system which make protective actions under the Endangered species Act no longer necessary.

Local planning must play a critical role in the development of programs which will work toward that balance in the ecological system which will protect all species of life, including human. In 16 U.S.C. Section 1533 (b)(1)(A) the Congress mandated that the Secretary of Interior must make his determination to protect species "on the basis of the best scientific and commercial data available to him" and only AFTER TAKING INTO ACCOUNT THOSE EFFORTS, IF ANY, BEING MADE BY ANY STATE...OR ANY POLITICAL SUBDIVISION OF A STATE...TO PROTECT SUCH SPECIES". So Congress declared it to be the national policy that local conservation programs, research programs and habitat maintenance programs be looked to initially as the means to achieve the balance desired in ecological systems upon which all life depends. In 16 U.S.C. Section 1531(c)(2) the Federal agencies shall cooperate with State and local agencies to resolve water resource issues in concern with conservation of endangered species.

The County will expect all federal agencies to follow the mandate of the federal statutes and to consult and cooperate with the County as it implements its local responsibility in accordance with the Endangered Species Act.

Moreover, such agencies as the Bureau of Land Management are advised that the County expects the BLM, in planning for the protection of any species in Caribou County, to coordinate its efforts with the County in light of the specific statutory mandate of coordination set forth in U.S.C. Section 1712 (c)(9).

B. RESEARCH AND REVIEW PROCESS

- a) An Ecological Balance Subcommittee will oversee the implementation of the research and review process. A Chairman of the Subcommittee will be named by the Chairman of the Caribou County Planning and Zoning Commission, and the members of the Subcommittee will be named by the Chairman of the Planning and Zoning Commission and the Chairman of the Subcommittee.
- b) When an agency, citizen or group of citizens believe that a condition has caused or threatens to cause disruption to the balance of the ecological systems upon which human and all life depends in Caribou County, a request should be made to the Ecological Balance Subcommittee to initiate the process identified in this Part of the County Land Use Plan. Any member of the Subcommittee or of the Planning and Zoning Commission may request that the process be initiated, whether or not a request has been made by an agency or other citizen.
- c) The subcommittee will review the request, and may invite the requesting agency, person or group to meet with the subcommittee to discuss the request. During this initial review, the subcommittee shall request information from state and federal agencies and interested citizens as to the species identified in the request. Thus, the subcommittee can take advantage of existing data and analysis regarding the species identified in the request. The subcommittee shall coordinate its review with state and federal agencies and interested citizens and citizen organizations.
- d) When the subcommittee determines the nature of the condition, the potential impact on the ecological system which is or may become imminent, the courses of research necessary to fully study the condition, and the resources necessary to implement research and review, a report shall be submitted to the Planning and Zoning Commission. The Commission shall coordinate its review of the subcommittee report with state and federal agencies and with interested citizens and citizen organizations. After coordination, the Committee will then decide whether research and review is necessary or desirable, and either direct the Subcommittee to implement full research and review or to close its file.
- e) If the Commission directs further action, the Subcommittee will notify, in writing, all federal agencies exercising land management activities in Caribou County, all federal agencies with responsibility under the Endangered Species Act, all federal agencies exercising land management planning activities in Idaho, all State agencies exercising land or water management activities in Caribou County, all conservation groups and groups of citizens interested in the multiple uses of the federally managed lands in Caribou County of the County's initiation of the research and review process. An initial informational meeting will be included in the written notice.

- f) The subcommittee will then conduct meetings, coordinate research efforts and review the condition, the problems presented to the ecological system, the necessity of corrective action or actions, the alternative corrective action or actions which are possible, the impact of each of such alternatives on the balance in the ecological system, means of financing the alternatives and expected results of the alternatives.
- g) If at any time during this process, the subcommittee believes that a Memorandum of Understanding to Establish a Working Group is desirable, it shall make such recommendation to the Commission, and if it concurs, the Commission shall make such recommendation to the Board of County Commissioners. If the Board concurs, a Memorandum of Understanding (MOU) shall be prepared to establish citizens groups can work cooperatively and coordinately in planning for the maintenance of or re-establishment of the balance in the ecological system. The pattern for such MOU shall be developed and consist of the working group from the United States Department of Interior(both Fish and Game and Wildlife Service) and Agriculture, State water-land-and wildlife agencies from Wyoming and Utah, the Southeastern Idaho Counties and organizations such as Utah Trout Inc., Desert Fishes Council, Wyoming Trout Inc. and Trout Unlimited and any other needed representation.
- h) The Subcommittee shall advise the Commission, and the Commission shall advise the Board of County Commissioners of progress in the research and review process on a regular basis. No later than 180 days after the filing of the initial request for research and review a report shall be submitted to the Board of County Commissioners regarding the status of the process, with attention being directed to all elements of study set forth above in subparagraphs f and g. If more research and review time is needed, the 180 day report shall be submitted to the Board of County Commissioners regarding the reported condition and all elements of study set forth above in subparagraphs f and g.
- i) Within 60 days of receipt of the final report, the Board of Commissioners will issue a report and decision based upon the research and review process. That further work is necessary or may continue implementation of the process under stated guidelines for future implementation.
- j) All meetings of the Subcommittee, Commission and Board regarding the research and review process shall be open to the public. The Subcommittee and Commission may hold public hearings and/or meetings during the process, and Board of County Commissioners shall conduct a public hearing prior to issuing its final report and decision.
- k) Throughout the process identified in subsections a through j, the County will coordinate activities with state and federal agencies, interested citizens and citizen groups and organizations.

C. IMPLEMENTATION OF LOCAL PLANNING

1. LOCAL WORKING GROUPS WORKING THROUGH MOU'S

During the research and review process or after the issuance of the Board's report and decision, local working groups will be established through MOUs for implementation of local planning to maintain or reestablish the balance in ecological systems in Caribou County.

- a) Disclosure in good faith of information regarding the particular purpose of the specific working group established by the MOU;
- b) Efforts by the working group to secure funding from public or private sources to aid in pursuing the purpose of the MOU;
- c) Regular meetings of the working group;
- d) Continuing effort to identify and attempt to include all parties with a possible interest in the purpose of the MOU;
- e) Establish and continue, to the extent possible, a comprehensive survey of the conditions of the ecological system and the species under study;
- f) Develop and formulate an action plan to guide and coordinate the efforts of the working group;
- g) Work cooperatively and coordinately to create and implement a management plan for the ecological system under study.

The County will seek the participation of all governmental agencies involved in the management of lands, water, and other natural resources in Caribou County or in any such management activities which will impact Caribou County, other adjoining counties which are impacted by events and actions in Caribou County, citizens and groups of citizens who use the federally and state managed lands in Caribou County, and citizens and groups of citizens who are interested in the natural resources of Caribou County and their use.

When specific MOUs are executed, they will be attached to the Caribou County Land Use Plan for the Federally and State Managed Lands, and will be considered part of this plan.

2. CONSERVATION AGREEMENTS

The County may also study and support the development of Conservation Agreements through the program of the United States Fish and Wildlife Service, and/or conservation programs and/or agreements offered by other state and federal agencies and interested citizens and citizen organizations.

3. SPECIFIC ACTION PLANS

The Caribou County Planning and Zoning Commission will recommend to the Board of County Commissioners; specific actions regarding a particular species, a particular condition objective for and ecological system within the County; or the use of plans for the federally and state managed lands within the County when the Commission believes such plan is necessary or desirable to meet the planning standards established for such lands by federal and state statues. This recommendation process will be coordinated with state and federal agencies and interested citizens and citizen organizations.

When such specific action plan is recommended, the Board of County Commissioners shall conduct a public hearing regarding adoption of the plan. Public notice of the hearing will be published and written notice will be mailed to all governmental agencies involved in the management of land, water and natural resources in Caribou County. Written notice will also be mailed to members of any working group involved with the particular subject of the proposed action plan.

After the hearing, the Board of County Commissioners may adopt, reject, or modify the action plan. If the plan is adopted as presented or as modified, it shall be attached to this Plan and become a part of this Plan as fully as if set forth herein. The Board of County Commissioners will then notify all governmental agencies involved in the management of land, water and natural resources in Caribou County of the adoption of the action plan.

4. LOCAL ORDINANCES

When the Board of Commissioners deems it necessary, County planning standards for management of the federally and state managed lands in Caribou County will be established by County ordinance pursuant to Idaho law.

5. EFFECTIVE DATE

This plan shall be effect after it passage, approval and publication according to law.

Approved and passed by the Board of County Commissioners of Caribou

County Idaho on this 25th day of February 2008

R. Douglas Hagan
Commissioner 1st District

Earl Jensen
Commissioner 2nd District

Commissioner 3rd District

ATTEST Keda Mascarenias