

Appendix 8.

Other Pertinent Information

How the Bureau of Land Management Designates and Protects Areas of Critical Environmental Concern: A Status Report, with a Critical Review by the Natural Resources Defense Council

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ABSTRACT: The Bureau of Land Management (BLM) has a unique method for designating and protecting natural areas on the approximately 109 million ha of public land for which it is responsible. The BLM designated 286 areas of critical environmental concern (ACEC's) from 1980 through June 1988, responding to the Congressional mandate of the Federal Land Policy and Management Act (FLPMA). With this experience, the BLM is issuing new guidance to field offices on designating and protecting ACEC's. At the same time, the Natural Resources Defense Council (NRDC) has been giving a critical look at how well the BLM is actually protecting the areas it has designated. This article describes ACEC's and how they are designated as part of the bureau's land use planning process, describes the role of external groups and individuals in nominating ACEC's, and gives preliminary results of a comprehensive NRDC survey of 273 designated ACEC's, which was conducted in late 1987.

DESIGNATION OF ACEC'S

What Does "ACEC" Mean?

ACEC is an acronym for Area of Critical Environmental Concern—an area of public land where the BLM has determined (through land use planning) that "special management attention is required . . . to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources and other natural systems or processes, or to protect life and safety from natural hazards."

This definition, from the Federal Land Policy and Management Act (FLPMA), is unique to the BLM; no other federal agency designates ACEC's. Congress has directed the Secretary of the Interior to:

- (1) promptly develop plans and regulations for the protection of ACEC's (Section 102[a][11]);
- (2) give priority to ACEC's in developing and maintaining inventories of the public land (Section 201[a]); and
- (3) give priority to the designation and protection of ACEC's in developing and revising land use plans (Section 202[c][3]).

The BLM incorporated the ACEC regulations into the bureau's planning regulations. Adopted in 1979 (and amended in 1983) these regulations require that "areas having potential for . . . ACEC designation and protection management shall be identified and considered

throughout the resource management planning [RMP] process" (43 CFR 1610.7-2). The BLM's intent is not to identify and designate all areas that have special values, but to focus on those requiring special management attention.

In its new guidance (signed in September 1988), the BLM says "Special Management Attention refers to management prescriptions developed during preparation of an RMP or amendment expressly to protect the important and relevant values of an area from the potential effects of actions permitted by the RMP A management prescription is considered to be special if it is unique to the area involved and includes terms and conditions specifically to protect the important and relevant value(s) occurring on that area" (BLM 1988b).

Why Is Consideration of ACEC's Timely?

Based on the FLPMA and the planning regulations, BLM managers designated the first three ACEC's in 1980. The next seventy-seven came in one stroke, by signature of the Secretary of the Interior, in the California Desert Conservation Area Plan. Then the pace slackened, except for the BLM Oregon state office. Still, by June 1988, state directors had designated 286 ACEC's, covering nearly 2.1 million ha. This experience has had a considerable effect on the BLM.

This year the BLM is issuing its new guidance on ACEC's (as a section of its

planning manual). There are several reasons why this is happening. In 1986, BLM Director Bob Burford was faced with several ACEC-related RMP protests that were difficult to resolve. The proposals of the state directors involved were so inconsistent that it was apparent that ACEC's were greatly misunderstood. To some in the BLM, ACEC's were seen as an impediment to the bureau's emphasis on production of energy and minerals, timber, and livestock forage. It was argued that ACEC's were "anti-multiple use." ACEC's were considered by some BLM staff and members of the public as pseudo-wilderness. Perhaps more significant, there were some who erroneously believed that the BLM did not have to designate an ACEC if it could be called something else. This was a serious mistake, for Congress meant for areas requiring "special management attention" to be ACEC's.

The director resolved these protests; state directors re-opened the parts of the proposed RMP's related to ACEC's, knowing the director was a strong supporter who believed that priority had to be given ACEC's in planning. Burford further directed the planning office to put out new guidance on ACEC's to assure internal consistency and conformance with the FLPMA. A draft went out in October 1986 to BLM staff and field offices, and the general public, for review and comment. Even before its final publication, the guidance has had a significant effect in increasing the number and the quality of ACEC's in RMP's. For example, in the San Juan (Utah) RMP (BLM 1987a) already underway, public nominations led the BLM to increase its proposal from five in the preferred alternative of the draft RMP to ten in the proposed RMP, tripling the acreage.

The NRDC has been following the BLM's commitment to ACEC's since the passage of the FLPMA. Charles H. Callison, Director of the Public Lands Institute of the NRDC, did extensive research to prepare two thorough ACEC studies (Callison 1985, Callison and Tobin 1986), which concluded that the BLM

has a "highly uneven performance" in its approach to ACEC's. For example, he states:

"There are as many areas of exceptional scenic beauty, or having life-sustaining springs and riparian zones, or holding archaeological or botanic treasures in the arid lands of Arizona as in the deserts of Southern California. Yet not a single ACEC has been designated within the 12.2 million acres of BLM lands in Arizona, and this fact contrasts starkly with 77 designated areas of the California Desert Conservation Area. There are as many special areas proportionately in Nevada where BLM manages 48 million acres [actually 45.7] . . . but where only 4 small ACECs have been designated" (Callison and Tobin 1986:2).

The record has improved dramatically in Arizona. The protested Lower Gila South RMP ended up with three ACEC's, a previously adopted plan was amended to designate an ACEC, and the upcoming Phoenix RMP proposes seven ACEC's covering 9766 ha. On the other hand, Nevada has added only two ACEC's and Montana, with 3.8 million ha of public land, is proposing just one more in its latest RMP.

For the past year Faith Campbell of the NRDC has conducted a detailed research analysis of most of the ACEC's designated by the BLM. The findings will be published in a detailed report later in 1988. A summary of the results are presented in the second half of this article.

How Are ACEC's Designated?

The BLM designates ACEC's only through its established resource management planning process. Although this often means through approval of an RMP, ACEC's may be designated through amendments to RMP's or to older management framework plans (MFP's), or through a planning analysis similar to that conducted by the Oregon BLM for two ACEC's on Lopez Island (Figure 1) (BLM 1988a). The NRDC

believes, however, that reliance on planning alone (e.g., waiting for an RM) may hold up designations that need to be made immediately.

The BLM has a history of many (if not far too many) special names and designations. The new guidance calls for ACEC's to be an "umbrella" designation that includes research natural areas (RNA's) and outstanding natural areas (ONA's). These two would have the term in their name, e.g., the "Desert Tortoise Research Natural Area ACEC." RNA's would have to meet the criteria used by all federal agencies. The NRDC does not agree with this approach, contending that the purposes of the programs are different.

Areas may be recommended for consideration early in planning from two major sources:

Internally, starting with existing ACEC's, RNA's, ONA's, and other designations; through a review of inventory; or through the internal scoping to identify issues. These prospective ACEC's are identified in the notice of intent (NOI) for the planning effort.

Externally, by nomination of the public or other agencies. This may be made at any time but is most useful early in the planning process. The nomination should be accompanied by descriptive materials, maps, and evidence of the relevance and importance (the key criteria to screen ACEC's) of the values or hazards involved.

To become a "potential ACEC" considered in the alternatives in the draft RMP, the recommended areas must pass the screen (i.e., meet the criteria) of being both relevant and important. The first assures that ACEC's apply only to the resources, values, system or process, or hazards called for in the FLPMA; the latter assures they have substantial significance and value. At least one of the factors for relevance must be met before moving on to importance. Then at least one of the factors for importance must be

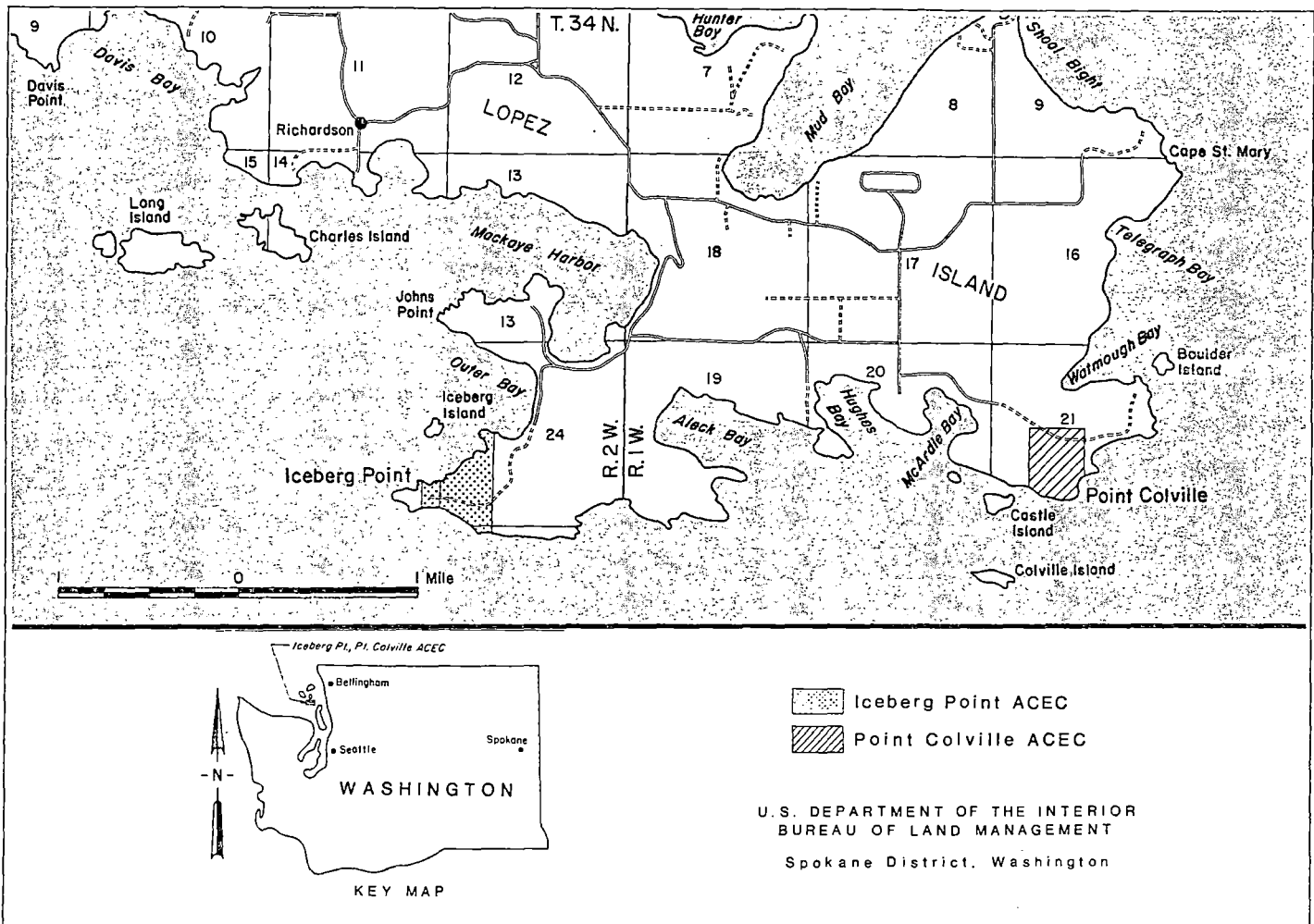


FIGURE 1. Iceberg Point and Point Colville ACEC's. Two parcels of nearly equal size, totaling 46.8 ha, located on Lopez Island in the San Juan Islands of northwest Washington. The ACEC's are being established in 1988 through a Planning Analysis and Environmental Assessment conducted by the BLM for this designation alone (this did not require an RMP). The purpose is scientific research. The special management attention proposed by the BLM is to place signs to control recreation use; require special recreation permits for groups; monitor visitor use; create parking; acquire public access; add adjacent state and federal lands; restrict motorized traffic; and prohibit grazing, firewood cutting, timber operations, mineral material sales, rights-of-way, and overnight camping.

met for the area to be considered a potential ACEC (see Appendix A).

In earlier guidance on ACEC's emphasis was on whether or not to designate. In the new guidance, emphasis is on the level of protection required and proposed. Through its planning process, the BLM analyzes the potential risk or threat and uses that to develop a reasonable range of management options for each potential ACEC being considered. Generally designation will be proposed for one or more alternatives (except the "no action" one), and the level of protection, and perhaps

size of the ACEC, may vary. One of the best examples of options across alternatives is the consideration in the Washakie (Wyoming) RMP (BLM 1987b), which shows different levels of protection for watershed values (Figure 2).

Objectives, size, and special management requirements are tailored to the specific situation. Little can be concluded from the designation of an ACEC about what the BLM is doing, with one exception: In ACEC's, a plan of operations for any surface disturbance from locatable minerals is required, not just for more

than 2 ha, which is the requirement elsewhere. Otherwise ACEC prescriptions vary tremendously. The NRDC believes the lack of national standards and consistency is a major weakness of the ACEC designation.

ACEC's are automatically designated with the approval of the RMP (or plan amendment or analysis) by the BLM state director. ACEC's may be changed or dropped through a plan amendment, and they are automatically reviewed if the entire plan is done over.

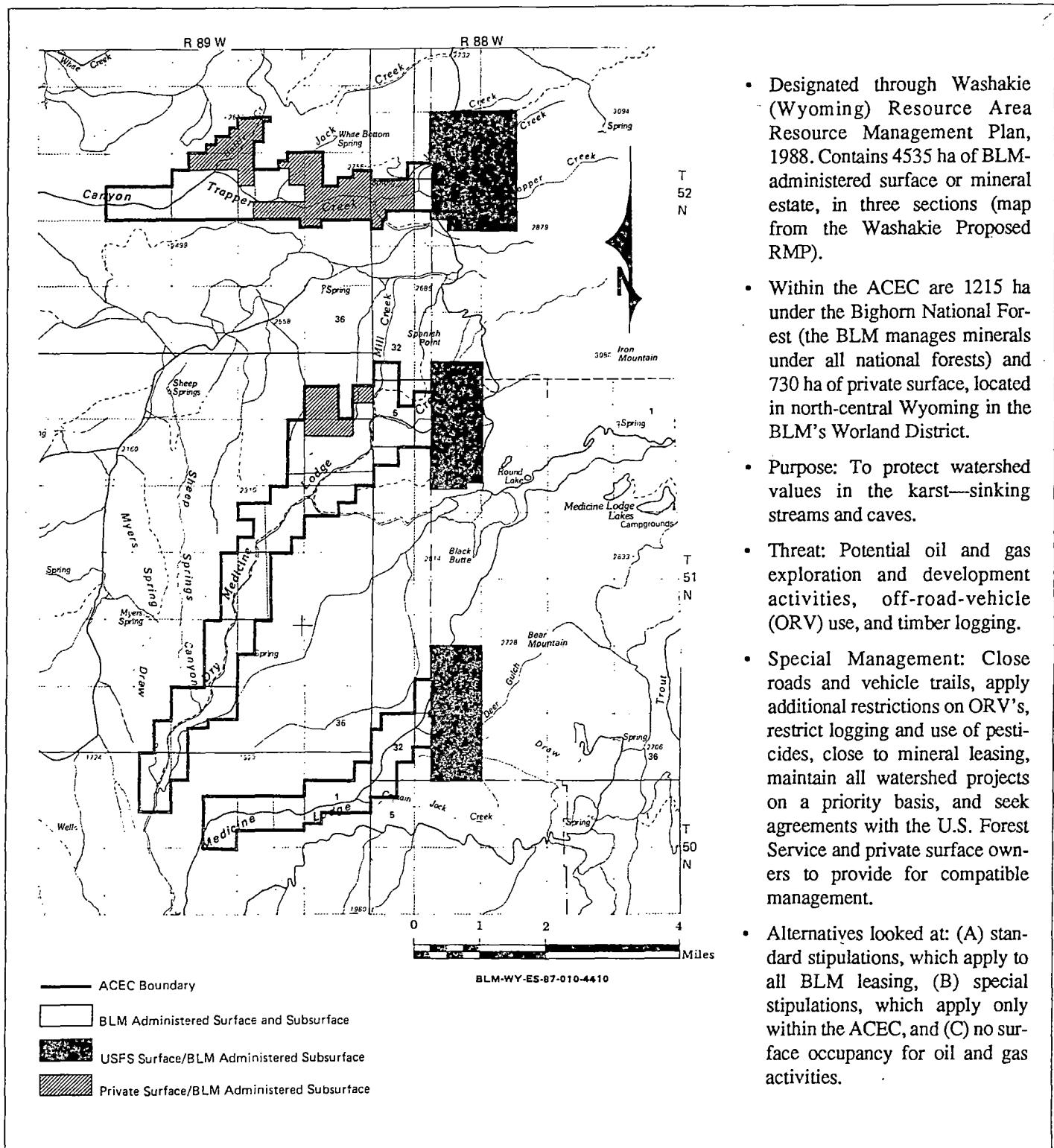


FIGURE 2. Spanish Point Karst ACEC.

EXPERIENCE WITH ACEC'S

How Many Have Been Designated?

In the past eight years, the BLM has designated 286 ACEC's, covering nearly 2.1

million ha. Table 1 shows the number and total area for each state as of June 1, 1988.

Already this table is out of date. The Farmington (New Mexico) RMP desig-

- Designated through Washakie (Wyoming) Resource Area Resource Management Plan, 1988. Contains 4535 ha of BLM-administered surface or mineral estate, in three sections (map from the Washakie Proposed RMP).
- Within the ACEC are 1215 ha under the Bighorn National Forest (the BLM manages minerals under all national forests) and 730 ha of private surface, located in north-central Wyoming in the BLM's Worland District.
- Purpose: To protect watershed values in the karst—sinking streams and caves.
- Threat: Potential oil and gas exploration and development activities, off-road-vehicle (ORV) use, and timber logging.
- Special Management: Close roads and vehicle trails, apply additional restrictions on ORV's, restrict logging and use of pesticides, close to mineral leasing, maintain all watershed projects on a priority basis, and seek agreements with the U.S. Forest Service and private surface owners to provide for compatible management.
- Alternatives looked at: (A) standard stipulations, which apply to all BLM leasing, (B) special stipulations, which apply only within the ACEC, and (C) no surface occupancy for oil and gas activities.

nated twenty-eight ACEC's in July 1988, more than doubling the state's number.

Using information from the BLM, the NRDC identified 273 ACEC's when it began its study in the summer of 1987.

The methodology for the NRDC study was to devise a questionnaire, which was to be filled out by the appropriate BLM field office for each ACEC. It sought information on the purpose for designation, threats to the resource, and bureau actions to counter such threats. The NRDC also asked contacts to do limited field checks on certain randomly selected ACEC's.

What Types of Resources Are Protected?

The NRDC found the majority of ACEC's are intended to protect wildlife and natural systems, including plants, as shown in Table 2.

What Are the Threats to Resources and Values?

The NRDC identified the largest number of threats as coming from recreation, especially ORV (off-road-vehicle) use (Table 3). The majority of these threats is in California (seventy of 105), but recreation is cited widely by all state offices except Alaska. The NRDC believes this result reflects public use and selection bias, in that areas of high recreation potential/use have been designated ACEC's while areas with other resource conflicts (e.g., grazing) have not been.

The NRDC further believes these figures show that far too few ACEC's have been nominated or designated for the critical purpose of riparian management and protection.

How Big (or Small) Are ACEC's?

The study shows significant differences in the size of ACEC's by state and by type of resource or value protected. Table 4 divides the 273 ACEC's studied into four size categories.

The size of ACEC's ranges from just over 1 ha for the Lake Falls Creek ACEC (Oregon) to protect from a natural hazard to more than 318,000 ha for the Tozitna River ACEC protecting fisheries in Alaska. Forty of the larger than 4000 ha ACEC's are outside Alaska. The largest

TABLE 1. Designated areas of critical environmental concern, June 1, 1988.

State Office	Number of Areas	Hectares (in thousands)
Alaska	16	1120
Arizona	4	9
California	102	342
Colorado	20	84
Idaho	14	149
Montana	2	5
Nevada	6	10
New Mexico	18	28
Oregon	69	146
Utah	14	42
Wyoming	21	138
TOTALS	286	2073

There are no ACEC's for the Eastern States Office; official policy is to dispose of all surface land in its thirty-one states, so no ACEC's are likely.

Source: Bureau of Land Management, Division of Planning and Environmental Coordination, 1988.

TABLE 2. Leading types of resources protected in ACEC's (1987).

Resource	Number	Hectares (in thousands)
Wildlife/Natural	191	1637
Cultural (including paleontological)	84	349
Recreation/Scenic	73	228
Range	9	109

Source: Natural Resources Defense Council, 1988.

TABLE 3. Threats to resources and values in ACEC's (1987).

Threat	Number
Recreation/ORV's	117
Minerals, and Oil and Gas	67
Grazing (predominantly) and Other Agriculture	32
Forestry (few but intense conflicts)	8

Source: Natural Resources Defense Council, 1988.

TABLE 4. Size of ACEC's (1987).

Size in Hectares	Number	Percent
0-40	31	11
40-400	73	27
400-4000	108	40
Larger than 4000	61	22

Source: Natural Resources Defense Council, 1988.

of these is the Owyhee River Bighorn Sheep Habitat Area in Idaho: 73,000 ha.

Of the 104 ACEC's smaller than 400 ha, fifty-five are in Oregon/Washington and twenty-nine are in California. Of the thirty-one ACEC's smaller than about 40 ha, a high proportion are designed to protect plant communities (twenty-nine) and cultural/prehistoric/paleontological resources (twenty).

The NRDC questions how ACEC's that small can protect the indicated values. Small ACEC's are even more vulnerable than they appear because, at least in some cases, "complete" protection is afforded to only a core area within the ACEC. For example, logging continues outside of the core area in several of the forested ACEC's in Oregon.

How Has The BLM Responded to Public Nominations?

To assess the bureau's responsiveness to nominations by outside organizations, the NRDC also reviewed forty-eight draft and proposed RMP's and accompanying environmental impact statements (EIS's) filed in the Division of Planning and Environmental Coordination in Washington, D.C. The NRDC found that in forty-four of these approved by state directors, the BLM nominated ninety-five ACEC's and the public nominated 161 (some of these may overlap). A total of ninety-seven were designated as ACEC's.

Judging by these overall numbers only, without any attempt to evaluate the quality of outsiders' proposals, the NRDC

concludes that the BLM resource area offices in Colorado, Nevada, and Utah appeared particularly reluctant to accept the nominations of outsiders, despite the large number made. (Note the BLM does not necessarily agree with this conclusion.) In recent years, Utah may have become more responsive, according to the NRDC analysis. For the San Juan RMP, the Utah BLM office considered twenty-six nominations. Essentially all nominations were given varying areas or levels of protection in two or more alternatives in the draft RMP/draft EIS. The BLM then proposed ten ACEC's covering 34 percent of the resource area (Figure 1).

How Many ACEC's Have Activity Plans?

The new BLM guidance does not require an activity plan for an ACEC but permits it where appropriate. The NRDC believes that most ACEC's that fit the statutory definition (i.e., areas requiring special management attention to balance competing demands for resources) can be adequately protected only through completion and implementation of site-specific management plans. The BLM guidance on ACEC's does not require these, because the BLM believes that the land use plan should be developed to a sufficient level of detail to preclude the need for an ACEC activity plan. However, activity plans are provided for when appropriate. In practice most ACEC's have or expect one, for the NRDC found that 134 management plans have been completed and 101 plans are proposed, of the 260 ACEC's they surveyed.

The BLM guidance requires development of an implementation schedule for each ACEC, including routine monitoring. An annual report on accomplishments and proposed actions is required for each ACEC. Within a year the BLM should be able to produce regular reports on the status of ACEC's on the public lands. One requirement that should help is that the field submission for the Annual Work Plan must conform to the Resource Management Plan. Further, the Washington office will ask the field to identify measures being funded for ACEC's.

What Is the Problem of Implementation?

One of the biggest concerns expressed by the NRDC and others closely following ACEC's is the lack of specific funding for the protection phase. There is no single budget account, or line item, for managing and protecting ACEC's; all implementation funds must come from "the benefiting activity." Most of these activities, such as recreation, cultural, and wildlife, are already strapped for funds, and little priority is given to ACEC's in day-to-day operations. An informal survey of BLM field offices indicates about 30 percent of the funds needed for implementation is available each year to ACEC's.

CONCLUSION

The designation and protection of ACEC's has been one of the most misunderstood—and thus inconsistent—programs of the Bureau of Land Management. After several years of start and stop, speed and delay, ACEC's are being designated in increasing numbers as part of Resource Management Plans. But what both the BLM and the NRDC want to emphasize is that designation is only the first step. What is more important is the implementation—the actual level of protection provided to the values in the ACEC. The new BLM planning guidance on ACEC's reinforces this point. Maintaining protection requires eternal vigilance by the BLM and by all who are concerned with protecting significant values on the public lands.

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APPENDIX A. Criteria for potential ACEC's.

Relevance

- A. A significant historic, cultural, or scenic value (including but not limited to rare or sensitive archaeological resources and religious or cultural resources important to native Americans).
- B. A fish and wildlife resource (including but not limited to habitat for endangered, sensitive, or threatened species or habitat essential to maintaining species diversity).
- C. A natural process or system (including but not limited to endangered, sensitive, or threatened plant species; rare, endemic, or relic plants or plant communities that are terrestrial, aquatic, or riparian; or rare geological features).
- D. Natural hazards (including but not limited to areas of avalanche, dangerous flooding, landslides, unstable soils, seismic activity, or dangerous cliffs). A hazard caused by human action may meet the relevance criteria if it is determined through the resource management planning process that it has become a part of a natural process.

Importance

- A. Has more-than-locally significant qualities that give it special worth, consequence, meaning, distinctiveness, or cause for concern, especially compared to any similar resources.
- B. Has qualities or circumstances that make it fragile, sensitive, rare, irreplaceable, exemplary, unique, endangered, threatened, or vulnerable to adverse change.
- C. Has been recognized as warranting protection to satisfy national priority concerns or to carry out the mandates of the FLPMA.
- D. Has qualities that warrant highlighting to satisfy public or management concerns about safety and public welfare.
- E. Poses a significant threat to human life and safety or to property.

Source: BLM Planning Manual Section 1613, 1988.