

*******Via email and certified mail*******

June 12, 2007

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**RE: SCOPING COMMENTS - CARRIZO PLAIN NATIONAL MONUMENT RESOURCE
MANAGEMENT PLANNING**

Dear National Monument Planning Team:

Please accept and fully consider these scoping comments on behalf of The Wilderness Society, Los Padres ForestWatch, Sierra Club, Desert Committee, California Wilderness Coalition, Defenders of Wildlife, Center for Biological Diversity, Californians for Western Wilderness, Western Watersheds, and Natural Resources Defense Council. These comments are in addition to any scoping comments these groups submitted during the previous scoping period.

Since 1935, The Wilderness Society (TWS) has worked to preserve America's wildlands to ensure that future generations will enjoy, as we do today, the clean air and water, wildlife, beauty, and opportunities for recreation and renewal that pristine forests, rivers, deserts, and mountains provide. TWS has 310,000 members and supporters nationwide and 35,000 in California.

Los Padres ForestWatch ("ForestWatch") is a community-based nonprofit organization that is leading efforts to safeguard the Los Padres National Forest, the Carrizo Plain National Monument, and other public lands along California's Central Coast. Through innovative field work, scientific collaboration, and legal advocacy, ForestWatch works to protect and restore the forests, hills, streams, wetlands, coastal areas, and biological diversity of this spectacular area.

Sierra Club is the nation's oldest and largest grassroots conservation organization. It has over 750,000 members. Inspired by nature, Sierra Club is working to protect our communities and planet.

California/Nevada Regional Conservation Committee, Desert Committee is the conservation arm for Sierra Club in the California and Nevada Regions. It consists of a group of activists who have worked to promote the California Desert Protection act of 1994 and have remained active in issues ranging from ORV management, water use, mining issue, grazing management, and park management.

The California Wilderness Coalition (CWC) is a non-profit organization incorporated under the laws of the State of California with its central office in Oakland, California, and field offices in Eureka, Riverside, and Redding. CWC has more than 5,000 members and more than 200 member organizations and business sponsors. The CWC protects the natural landscapes that make California unique - providing clean air and water, a home to wildlife, and a place for spiritual renewal.

Defenders of Wildlife (“Defenders”) is a national, non-profit wildlife advocacy organization whose mission is the protection of all native, wild plants and animals in their natural communities. It has 490,000 members and supporters nationwide, 100,000 of which are in California.

The Center for Biological Diversity is a non-profit conservation organization dedicated to the protection of imperiled native species and their habitats.

Californians for Western Wilderness is an unincorporated citizens organization dedicated to encouraging and facilitating citizen participation in legislative and administrative actions affecting wilderness and other public lands in the West.

Western Watersheds Project (WWP) is a civic organization dedicated to the protection of the natural resources of our national monuments, public deserts, and national forests. WWP has 74 members in California, and many more elsewhere in the United States.

Natural Resources Defense Council (NRDC) is a national, non-profit environmental advocacy organization with over 1.2 million members and online activists nationwide, more than 257,000 of whom live in California. NRDC has long sought to improve the management and current conditions of the public lands under the jurisdiction of the Bureau of Land Management, including in particular the public lands in California.

On behalf of the above listed organizations and our more than one million members nationwide, we appreciate this opportunity to comment and commend the Bureau of Land Management in undertaking this renewed planning process, including this scoping process and preparation of a broad environmental impact statement, to address the circumstances and values inherent in management of the 250,000 acres of public lands contained within the Carrizo Plain National Monument, an important unit of the National Landscape Conservation System (NLCS). We submit these comments as a complement to any comments submitted individually by our organizations and local field offices and emphasize their intent to facilitate not only the protection of the Carrizo Plain National Monument, but the entire NLCS.

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I. MANAGEMENT FRAMEWORK (SPECIAL STATUS)

The Carrizo Plain National Monument was established by Presidential Proclamation issued in 2001 under the Antiquities Act of 1906, which authorizes the President to designate National Monument status to areas possessing significant historical, scenic, and/or scientific values. The Proclamation for Carrizo Plain National Monument identifies the significant resources that merit National Monument status and calls for their protection. Referred to as “objects of interest” in the Proclamation and “Monument Objects” in this document, these resources include the landscapes of these areas, as well as numerous sensitive and endangered plants and animals, and many archaeological, geological, historic, cultural, and scientific attributes, including:

Cultural resources associated with the Monument’s long and rich human history spanning more than 11,000 years, further described as “bedrock mortar milling features, village middens, and elaborate pictographs . . . Some of these, such as Painted Rock and Sulphur Springs rock art sites are recognized as world class.”

The wildlife, communities and ecosystems found within the Carrizo Plain National Monument are extremely rare and imperiled. The Monument “offers a refuge for endangered, threatened, and

rare animal species such as the San Joaquin kit fox, the California condor, the blunt-nosed leopard lizard, the giant kangaroo rat, the San Joaquin antelope squirrel, the longhorn fairy shrimp, and the vernal pool fairy shrimp.” The Monument is also “home to many rare and sensitive plant species, including the California jewelflower, the Hoover’s woollystar, the San Joaquin woolly-threads,” among many others. The Monument’s “size, isolation, and relatively undeveloped nature of the area make it ideal for long-term conservation of the dwindling flora and fauna characteristic of the San Joaquin Valley region.”

The Monument encompasses Soda Lake, “the largest remaining natural alkali wetland in southern California,” which is “important to migratory birds” and during the winter “fills with water and teems with thousands of beautiful lesser sandhill cranes, long-billed curlews, and mountain plovers.”

The Proclamation also emphasizes the Monument’s geologic processes. The area is “world-famous for its spectacular exposures of fault-generated landforms.” The area is also distinguished by its “significant fossil assemblages.” The Caliente Formation is home to “abundant and diverse terrestrial fossil mammal remains of the Miocene Epoch (from 13 million to 25 million years ago).” In addition, the “terrestrial fossil remains are interlaced with marine sedimentary rocks bearing fossils of mollusks, pectens, turitellas, and oysters.”

Importantly, the Proclamation recognizes that landscapes are a significant aspect of protecting the Monument’s objects. The Proclamation states: “Full of natural splendor and rich in human history, the majestic grasslands and stark ridges in the Carrizo Plain National Monument contain exceptional objects of scientific and historic interest . . . **providing crucial habitat for the long-term conservation of the many endemic plant and animal species that still inhabit the area.** The monument offers a refuge for endangered, threatened, and rare animal species” (emphasis added). The Proclamation clearly states that the Monument is created “for the **purpose of protecting the objects identified above.**” To accomplish this purpose, the Proclamation establishes specific management requirements, including prohibiting all off-road use of motorized and mechanized vehicles (except for emergency or administrative purposes) and withdrawing the Monument lands from mineral leasing and mining (subject to valid existing rights).

Federal Land Policy and Management Act (FLPMA) requires BLM to manage public lands under multiple-use principles unless an area has been designated by law for specific uses, in which case BLM must manage the land for those specific uses. 43 U.S.C. § 1732(a). Pursuant to the legal authority granted by Congress in the Antiquities Act of 1906 (16 U.S.C. §§ 431-433), the President designated Carrizo Plain as a National Monument for the explicit purpose of protecting and preserving identified historic and scientific objects. Proclamation No. 7393. Accordingly, standard multiple-use principles do not apply to this Monument, and any effort to adopt such a management approach to the detriment of its natural and cultural values would be in violation of the Presidential Proclamation and the mandates of FLPMA. BLM must manage the Monument for the protection and preservation of their natural, historic and scientific values, and only allow uses other than those needed for protection of Monument Objects when those uses do not conflict with the directives of the Proclamation.

Because of its significance, which merited designation as a National Monument and inclusion in the National Landscape Conservation System (NLCS), the Carrizo Plain National Monument requires different management from other BLM lands. The NLCS, comprised of lands created by both presidential and congressional directive, is the largest and most far-reaching conservation initiative in the history of the BLM. The designation of National Monuments, together with the establishment of the NLCS itself, represents the cornerstone of a new era in land stewardship. The eyes of the nation will be focused on the results achieved, and on the BLM's ability to fulfill this new mission of stewardship to: "conserve, protect, and restore these nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations."

Recommendation: The BLM should present a complete evaluation of the proposed plan's impacts on monument objects by specifically including each Monument Object (and referring to it as such) in the "affected environment" and "environmental impact" sections of the RMP. This evaluation of impacts should include **measurable** goals, objectives, and desired outcomes to ensure that progress can be tracked. The BLM should determine maximum carrying capacities and critical ecological thresholds to ensure natural resource sustainability within the National Monument. The Natural Area Plan and the preferred alternative in the February 2004 draft of the Environmental Assessment provided a solid foundation for future management. The BLM should build upon these recommendations. We recommend that the BLM vision statement for the National Monument convey the intent of Proclamation 7393 and, accordingly:

- **Protect and conserve the special values of the landscape:** the overriding objective of the National Monument is the permanent conservation of its natural and cultural resources, including historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest. Management must place priority on conserving, protecting and restoring the natural and cultural values of this landscape, and must identify and restrict those uses of the land that are secondary to that objective.
- **Protect and conserve the remote and undeveloped character of the landscape:** BLM must safeguard the remote and undeveloped character of these landscapes within the National Monument, which is essential to the protection of the scientific and historic resources. The National Monument preserves the natural, historic, prehistoric, scenic and other resources articulated in Proclamation 7393 unspoiled for future generations. The National Monument should be a living landscape untouched, to the maximum extent possible, by development, paved roads and ORVs, including dirt bikes and other all-terrain vehicles, while still providing for appropriate public access. New visitor facilities other than those necessary to maintain existing facilities and provide for visitor safety and education should be located in adjacent communities to protect resources and benefit local communities.
- **Foster scientific inquiry to enhance resource management and public education:** the National Monument should serve as an outdoor laboratory where current and future generations can study biological and earth sciences, prehistoric life and environments, human history, and the application of scientific knowledge to improving land management. BLM

should support and encourage scientific study, consistent with the primary objective of protection and preservation of the cultural and natural resources within the National Monument. Preference should be given to projects which will help the BLM better manage the Monument Objects. The recently-released NLCS Science Strategy (available at: <http://www.blm.gov/nhp/efoia/wo/fy07/im2007-116.htm>) emphasizes the importance of both gaining scientific understanding of the resources and landscapes of the Monument and applying this understanding to management of the Monument, stating: “The NLCS must protect the scientific and other natural and cultural resources for which its units were designated, which requires an understanding of what and where these values are, what condition they are in, and how best to manage them.”

- **Build community relationships to foster cooperative stewardship:** the National Monument should be managed in the context of the surrounding California communities as well as for the national interest. For example, locating visitor services in surrounding communities builds ownership within those communities for the long-term protection of the Carrizo Plain and surrounding region and creates economic opportunities for citizens. It will also demonstrate to visitors the relationship of the region’s natural landscapes to communities, so that they do not view the National Monument as an enclosed land mass separate from the people who live nearby.

II. RESOURCES

A. CULTURAL, GEOLOGIC, AND PALEONTOLOGIC RESOURCES

FLPMA obligates the BLM to protect cultural, geologic, and paleontologic resource values (43 U.S.C. §§ 1701(a)(8) 1702(c)). These resources – like all resources articulated in Proclamation 7393 – are also protected by the Antiquities Act of 1906 (16 U.S.C. §§ 431-433).

In the context of historical and cultural resources, the National Historic Preservation Act of 1966 (“NHPA”) (16 U.S.C. §§ 470 *et seq.*) affords heightened importance to these resources, establishing a cooperative federal-state program for the protection of historic and cultural resources. In particular, the “Section 106” (16 U.S.C. § 470 (f)) review process obligates the BLM to consider the effects of management actions on historic and cultural resources listed or eligible for inclusion under NHPA. Additionally, Section 106 requires the BLM to give the Advisory Council on Historic Preservation an opportunity to comment before the BLM takes action.

Recommendation for archeological and historical values: We recommend that BLM determine the sites or areas that are most vulnerable to current and future impact and adopt management actions necessary to protect and restore cultural resources. The Native American community should be instrumental in determining whether there are sites or specific areas in the National Monument of particular concern. The BLM should commit to a comprehensive

inventory of cultural and historical resources, develop a timeline for completing the inventory, and use this inventory to develop a specific plan for potential uses of cultural resources in the National Monument (i.e., relative sensitivity, relative opportunities for interpretive development, relative scientific importance, relative potential for research and education).

Specific management actions to protect and preserve archeological and historical sites and landscapes include stabilization, fencing, signing, closures, or interpretative development, to protect and preserve cultural resources. Law enforcement is another key component of protection and the BLM should adopt measures to protect cultural resources from artifact collectors, looters, thieves, and vandals.

Recommendation for geologic and paleontologic resources: We recommend that the BLM determine the geologic and paleontologic sites or areas that are most vulnerable to current and future impact and adopt management actions necessary to protect and restore paleontologic resources. The BLM should commit to a comprehensive inventory of geologic and paleontological resources, develop a timeline for completing the inventory, and use this inventory to develop a specific plan for potential uses of these resources in the National Monument (i.e., relative sensitivity, relative opportunities for interpretive development, relative scientific importance, relative potential for research and education).

Specific management actions to protect and preserve geologic and paleontologic resources include stabilization, fencing, signing, closures, or interpretative development, to protect and preserve paleontological resources. Law enforcement is another key component of protection and the BLM should adopt measures to protect cultural resources from artifact collectors, looters, thieves, and vandals. The BLM should prohibit the collection of any specimens.

B. BIODIVERSITY & HABITAT

The protection of native biodiversity and areas of key habitat – especially annual and perennial grasslands, shrub savannahs, vernal pools and alkali wetlands – within the National Monument is of intensifying concern. As populations expand, and use of the land continues, the viability of native populations and communities is threatened.

BLM must engage in formal Section 7 Endangered Species Act (ESA) consultation with the Fish & Wildlife Service during the preparation of this RMP (*See Pacific Rivers Council v. Thomas*, 30 F.3d. 1050 (9th Cir. 1994)). We encourage the BLM to proactively use its management authority to conserve all native biodiversity within the National Monument. In many cases, this can be achieved with the protection and conservation of the National Monument's remote and undeveloped character and maintenance of connectivity to other conserved landscapes. Furthermore, the protection of wilderness quality lands is a key tool to protect and conserve native biodiversity and should be used accordingly.

The intensification of vegetation management problems is increasingly a threat to native

biodiversity. Scientists who specialize in the field of vegetation management have repeatedly written about the importance of addressing the causes of vegetation problems. For example, Dr. Richard Mack (Washington State University) *et al.* (2000) wrote "[e]ffective prevention and control of biotic invasions requires a long-term, large-scale strategy rather than a tactical approach focused on battling individual invaders. An underlying philosophy of such a strategy should be to establish why nonindigenous species are flourishing in a region and to address the underlying causes rather than simply destroying the currently most oppressive invaders." Despite the fact that the BLM is currently developing a programmatic EIS for vegetation treatments, the BLM must not ignore these recommendations; in fact, we assert that this enhances the relevance and importance of our recommendations.

Finally, proactive management of native wildlife, vegetation, and their habitat can aid the BLM in complying with the stringent protections of ESA.

Recommendation for wildlife management: We recommend that the BLM maintain and restore natural populations of wildlife according to their historic range of distribution and abundance. The BLM should define the status and distribution of the wildlife species using a variety of data resources in delineating wildlife populations and habitats before developing alternatives for each RMP.

Accordingly, the BLM should adopt management actions necessary to protect and preserve the biodiversity, integrity, and population viability of wildlife. BLM should analyze and address the effects of competition on native herbivores. In addition, key wildlife areas such as leks, nesting, brood rearing, calving and fawning grounds, and winter ranges are important to maintain wildlife populations; we recommend that the BLM identify these areas and limit uses that affect such areas in order to preserve their integrity. The integrity of wildlife corridors, migration routes, key nesting areas and access to key forage should be maintained by limiting development, seasonal visitor restrictions, removal of cross fencing, and elimination of unnecessary roads and seasonal restrictions to other roads as necessary.

The BLM should prohibit animal damage control in the National Monument. In the event that animal damage control is allowed, it should be restricted to individual offending animals rather than entire predator populations. Non-lethal control methods should be used before lethal control is permitted. In all circumstances, the RMP should clearly state that the BLM can restrict animal damage control activities and that APHIS ("wildlife services" of the U.S. Department of Agriculture) must honor the RMP.

Finally, the BLM should link biodiversity management to an adaptive ecosystem management framework established for each management unit. The BLM should, where appropriate, restore native species extirpated from the National Monument.

Recommendation for vegetation management: We recommend that management activities should not be allowed to significantly shift the makeup of native plant associations, disrupt their normal population dynamics, or disrupt the normal progression of those associations. The BLM should develop and implement management prescriptions to fully protect and restore native

vegetation types within the National Monument. The BLM should outline the status and distribution of the vegetative communities within the National Monument, and develop a plan to monitor vegetation to assess whether desired conditions are achieved. Native plants of local genotypes/provenance should be used in all restoration and revegetation projects.

The BLM should analyze how to: (1) prevent conditions that have favored the introduction, establishment, and spread of invasive species and other vegetation problems; (2) restore conditions favoring native vegetation; and (3) reduce the need for continued direct control treatments of vegetation. The BLM should place a priority on the control of noxious weed species and prevent the introduction of new invasive species. However, aerial chemical applications of herbicides for vegetation management should be prohibited and spraying by hand should only occur when other alternatives are not feasible. The use of machinery (e.g., roller chopping, plowing, discing) for vegetation manipulation should be carefully limited and prohibited in all circumstances where such action could harm resources and objects of interest. If machinery is used, monitoring plots should be used to gauge the effectiveness of the treatment. **Vegetation manipulation should not be allowed for the purpose of increasing forage for cattle**, unless it is determined to be consistent with the protection of Monument Objects, including the broader ecosystem.

Recommendation for threatened and endangered species, special status species, and critical habitat designations: We recommend that the RMP outline the circumstances that necessitate ESA re-consultation at the RMP level and the circumstances that necessitate ESA consultation (whether formal or informal) at the implementation planning and decision-making levels. The BLM should complete inventories to fill any gaps in its knowledge of special status species and periodically re-inventory populations to determine status and trends. A goal of the BLM should be to ensure the conservation and recovery of threatened and endangered species, special status species, and designated critical habitat within the National Monument. BLM should designate protected activity centers around known species. BLM should manage visitation and use by limiting activities and closing certain areas to prevent impacts (i.e., theft and disturbance) to sensitive species.

Recommendation for riparian areas & wetlands: We recommend that the BLM evaluate or re-evaluate all wetlands and riparian areas to assess whether they are in properly functioning condition (PFC) and should take action to restore and protect PFC on all streams. BLM should incorporate biotic and ecological indicators into its riparian PFC assessments. The BLM should consider implementing Riparian Conservation Zones to serve as a buffer to protect these areas from degradation caused by land use activities. Current PFC assessments are inadequate because they only cover physical (hydrology and soils) components of the system. Roads, trails and recreation facilities should not be placed in riparian areas.

C. WATER RESOURCES

Water is the lifeblood of the West, and watersheds are the engine that circulates water to the

landscape. Water and watersheds are essential values of the public lands (43 U.S.C. §§ 1701(a)(8), 1702(c)).

Proclamation 7393 reserves as of January 17, 2001 “a quantity of water sufficient to fulfill the purposes for which this Monument is established.” Accordingly, the BLM should use the resource management planning process to compile information and assess the needs of the National Monument’s values in terms of both ground and surface water. This provides for the eventual quantification of water claims within the National Monument. The assessment should include an examination of preexisting water rights associated with the National Monument, including, but not limited to, federal reserved water rights under earlier reservations (e.g., springs and water holes), or water rights established pursuant to state law.

Furthermore, as per 43 U.S.C. § 1712(c)(8) of FLPMA, the BLM must comply with applicable pollution control laws, standards, and implementation plans, most notably of the Clean Water Act (CWA).

Recommendation for Water Rights: We recommend that the BLM take timely and appropriate steps to protect the water rights associated with the National Monument. Such steps could include, amongst others:

- Participating in any general stream adjudication affecting the National Monument (initiated by the state and wherein the United States is served under the McCarran Amendment) to ensure that water rights claims for the National Monument are filed and protected; and
- Monitoring and otherwise becoming apprised of any new or proposed water developments that could threaten water supplies important to the National Monument.

Examples of such proposals would be a new diversion of water upstream from the National Monument, a new well drilled outside the National Monument, or on an inholding in the National Monument. BLM should be in contact with the pertinent state officials so that the BLM can be made aware of such proposals in time to make appropriate responses.

Additionally we recommend that the:

- BLM should only allow water development where it is the only method to protect resources;
- BLM should not allow water developments/diversions to dewater springs or streams;
- BLM should assess existing water developments and diversions for their impact on resources, and BLM should consider removing them where they are causing harm;
- **BLM should not allow water developments for the purpose of increasing livestock numbers**, unless it is determined to be consistent with the protection of Monument Objects, including the broader ecosystem; and
- BLM should pursue options for assuring water availability to fulfill the purposes of the proclamation.

Recommendation for Water Quality: We strongly encourage the BLM to implement aggressive nonpoint source management practices to protect water resources within the National

Monument. The BLM should establish a comprehensive water quality monitoring program in the National Monument through use of multiple data points to accurately gauge water quality throughout the entire National Monument. Such a program should not only ensure compliance with CWA programs, but also ensure that water quality is sufficient to support National Monument resources. Finally, the BLM should ensure that land management practices (grazing, recreation, etc) protect water quality and quantity.

III. PROTECTION OF WILDERNESS CHARACTER

The lands governed by the Carrizo Plain National Monument RMP contain pristine wildlands, including the Agua Caliente WSA and other lands with wilderness characteristics in the Caliente and Temblor Ranges. Section 201 of FLPMA (43 U.S.C. § 1701, *et seq.*) mandates that BLM inventory public lands, their resources and value. 43 U.S.C. § 1711. In the land use planning process, including revision of RMPs, Section 202 of FLPMA requires that BLM take into account the inventory and determine which uses are best suited to which portions of the planning area. 43 U.S.C. § 1712. BLM's mandate of multiple use and sustained yield, as well as other relevant law and BLM's current guidance, provides for inventory and protection of wilderness values. **BLM is obligated to inventory for and consider a range of alternatives to protect lands with wilderness characteristics.**

1. Wilderness character is a valuable resource and important use of the lands governed by the Carrizo Plain National Monument RMP.

BLM has identified "wilderness characteristics" to include naturalness or providing opportunities for solitude or primitive recreation. *See*, Instruction Memoranda (IMs) 2003-274 and 2003-275. These values should also be identified and protected through this planning process. BLM should recognize the wide range of values associated with lands with wilderness character:

- a. **Scenic values** – FLPMA specifically identifies "scenic values" as a resource of BLM lands for purposes of inventory and management (43 U.S.C. § 1711(a)), and the unspoiled landscapes of lands with wilderness characteristics generally provide spectacular viewing experiences. The scenic values of these lands will be severely compromised if destructive activities or other visual impairments are permitted.
- b. **Recreation** – FLPMA also identifies "outdoor recreation" as a valuable resource to be inventoried and managed by BLM. 43 U.S.C. § 1711(a). Lands with wilderness characteristics provide opportunities for primitive recreation, such as hiking, camping, hunting and wildlife viewing. Most, if not all primitive recreation experiences will be foreclosed or severely impacted if the naturalness and quiet of these lands are not preserved.
- c. **Wildlife habitat and riparian areas** – FLPMA acknowledges the value of wildlife habitat found in public lands and recognizes habitat as an important use. 43 U.S.C. § 1702(c). Due to their unspoiled state, lands with wilderness characteristics provide

valuable habitat for wildlife, thereby supporting additional resources and uses of the public lands. As part of their habitat, many species are also dependent on riparian and other wetland habitats, especially during either seasonal migrations or seasons and years when surrounding habitats are dry and unproductive. Wilderness quality lands support biodiversity, watershed protection and overall healthy ecosystems. The low route density, absence of development activities and corresponding dearth of motorized vehicles, which are integral to wilderness character, also ensure the clean air, clean water and lack of disturbance necessary for productive wildlife habitat and riparian areas (which support both wildlife habitat and human uses of water).

Further, inventorying lands with wilderness characteristics will also provide important data on existing large blocks of habitat and how BLM can restore these blocks of habitat to better match the historic range of variability. Swanson *et al.* (1994) contend that managing an ecosystem within its range of variability is appropriate to maintain diverse, resilient, productive, and healthy ecosystems for viable populations of native species. Using the historical range of variability, they believe, is the most scientifically defensible way to meet society's objective of sustaining habitat.

Identifying, restoring and protecting substantial roadless areas in the lands governed by the Carrizo Plain National Monument RMP can provide crucial benefits to wildlife.

- d. **Cultural resources** – FLPMA also recognizes the importance of “historical values” as part of the resources of the public lands to be protected. 43 U.S.C. § 1702(c). The lack of intensive human access and activity on lands with wilderness characteristics helps to protect these resources.
- e. **Economic benefits** – The recreation opportunities provided by wilderness quality lands also yield direct economic benefits to local communities. According to the U.S. Fish & Wildlife Service, in 2001 State residents and non-residents spent \$5.7 billion on wildlife recreation in California. (USFWS 2001). In addition, local communities that protect wildlands reap measurable benefits in terms of employment and personal income. For instance, a recent report by the Sonoran Institute (Rasker *et al.* 2004) found that:

Protected lands have the greatest influence on economic growth in rural isolated counties that lack easy access to larger markets. From 1970 to 2000, real per capita income in isolated rural counties with protected land grew more than 60 percent faster than isolated counties without any protected lands.

These findings confirm earlier research, showing that wilderness is in fact beneficial for local economies. Residents of counties with wilderness cite wilderness as an important reason why they moved to the county, and long-term residents cite it as a reason they stay. Recent survey results also indicate that many firms decide to locate or stay in the West because of scenic amenities and wildlife-based recreation, both of which are strongly supported by wilderness areas. (Morton 2000). Other “non-market” economic values arise from the ability of wildlands to contribute to recreation and recreation-related jobs, scientific research, scenic viewsheds, biodiversity conservation, and watershed protection (Morton 1999 and Loomis 2000). All of these economic benefits are dependent upon adequate protection of the wilderness characteristics

of the lands.

- f. **Quality of life** – The wildlands located within the Carrizo Plain National Monument RMP help to define the character of this area and are an important component of the quality of life for local residents and future generations. Their protection enables the customs and culture of this community to continue.
- g. **Protection of Monument Objects** – Protection of the wildlands of the Carrizo Plain National Monument will provide protection for the “objects of interest” delineated in the Monument Proclamation including cultural resources, endangered species, and the broader ecosystem.

2. BLM must consider alternatives for managing lands within the Carrizo Plain National Monument RMP to protect their wilderness characteristics.

The range of alternatives is “the heart of the environmental impact statement.” 40 C.F.R. § 1502.14. NEPA requires BLM to “rigorously explore and objectively evaluate” a range of alternatives to proposed federal actions. *See* 40 C.F.R. §§ 1502.14(a) and 1508.25(c).

NEPA’s requirement that alternatives be studied, developed, and described both guides the substance of environmental decision-making and provides evidence that the mandated decision-making process has actually taken place. Informed and meaningful consideration of alternatives – including the no action alternative – is thus an integral part of the statutory scheme.

Bob Marshall Alliance v. Hodel, 852 F.2d 1223, 1228 (9th Cir. 1988), cert. denied, 489 U.S. 1066 (1989) (citations and emphasis omitted).

“An agency must look at every reasonable alternative, with the range dictated by the nature and scope of the proposed action.” Northwest Env’tl. Defense Center v. Bonneville Power Admin., 117 F.3d 1520, 1538 (9th Cir. 1997). An agency violates NEPA by failing to “rigorously explore and objectively evaluate all reasonable alternatives” to the proposed action. City of Tenakee Springs v. Clough, 915 F.2d 1308, 1310 (9th Cir. 1990) (quoting 40 C.F.R. § 1502.14). This evaluation extends to considering more environmentally protective alternatives and mitigation measures. *See, e.g., Kootenai Tribe of Idaho v. Veneman*, 313 F.3d 1094, 1122-1123 (9th Cir. 2002) (and cases cited therein); *see also Or. Env’tl. Council v. Kunzman*, 614 F.Supp. 657, 659-660 (D. Or. 1985) (stating that the alternatives that must be considered under NEPA are those that would “avoid or minimize” adverse environmental effects).

NEPA requires that an actual “range” of alternatives is considered, such that the Act will “preclude agencies from defining the objectives of their actions in terms so unreasonably narrow that they can be accomplished by only one alternative (i.e. the applicant’s proposed project).” Colorado Environmental Coalition v. Dombeck, 185 F.3d 1162, 1174 (10th Cir. 1999), citing Simmons v. United States Corps of Engineers, 120 F.3d 664, 669 (7th Cir. 1997). This requirement prevents the EIS from becoming “a foreordained formality.” City of New York v.

Department of Transp., 715 F.2d 732, 743 (2nd Cir. 1983). *See also*, Davis v. Mineta, 302 F.3d 1104 (10th Cir. 2002).

Given the broad purpose of the preparation of the RMP and the information compiled by the public regarding lands with wilderness characteristics, the range of alternatives for these lands should include alternatives to protect these lands. This range of alternatives is also consistent with BLM's FLPMA obligations to inventory its lands and their resources, "including outdoor recreation and scenic values" (43 U.S.C. § 1711(a)), which by definition includes wilderness character. FLPMA also obligates BLM to take this inventory into account when preparing land use plans, using and observing the principles of multiple use and sustained yield. 43 U.S.C. § 1712(c)(4); 43 U.S.C. § 1712(c)(1). Through management plans, BLM can and should protect wilderness character and the many uses that wilderness character provides on the public lands through various management decisions, including by excluding or limiting certain uses of the public lands. *See*, 43 U.S.C. § 1712(e). This is necessary and consistent with the definition of multiple use, which identifies the importance of various aspects of wilderness character (such as recreation, wildlife, natural scenic values) and requires BLM's consideration of the relative values of these resources but "not necessarily to the combination of uses that will give the greatest economic return." 43 U.S.C. § 1702(c).

a. **BLM should consider designating new Wilderness Study Areas.**

We are aware of the April 2003 settlement agreement (Utah Settlement) between Secretary of the Interior Norton and the State of Utah (in which BLM abdicated its authority to designate any additional Wilderness Study Areas (WSAs)), and we maintain that this agreement is invalid and will ultimately be overturned in pending litigation.

Recently, a federal court in Utah revoked its approval of the Utah Settlement, stating that its approval of the initial settlement was never intended to be interpreted as a binding consent decree. [Salt Lake Tribune August 10, 2005: "Wilderness Deal No Longer OK with Judge," **attached**]. Recognizing that the court's decision undermined the legal ground for the Utah Settlement, the State of Utah and the Department of Interior have now formally withdrawn the settlement as it was originally submitted. *See*, Motion to Stay Briefing and for a Status Conference, September 9, 2005. This casts serious doubt upon BLM's current policy not to consider designating new WSAs. Because the State of Utah and the Department of Interior have withdrawn their settlement and do not intend to seek a new consent decree, there is currently no binding consent decree and the BLM has not even issued any updated guidance seeking to continue applying this misguided, and illegal, policy.

Even if the Utah Settlement is reinstated, not as a consent decree, it is illegal. The Utah Settlement is based on an interpretation of FLPMA § 201, 202, and 603 that is contrary to FLPMA's plain language. Section 603 did not supersede or limit BLM's authority under § 201 to undertake wilderness inventories, but rather relies explicitly on BLM having exactly that authority under § 201. Nor did § 603 in any way limit BLM's discretion under § 202 to manage its lands as it sees fit, including managing areas as § 202 WSAs in accordance with the Interim Management Policy (IMP). Every prior administration has created WSAs under § 202 and they

plainly had authority to do so. This administration has such authority as well, making this a reasonable alternative deserving of consideration in this NEPA process.

The Utah Settlement is also illegal because the court in Utah lacked jurisdiction to prohibit designation of new WSAs nationwide, including in California. In light of the recent ruling and subsequent action of the parties, we emphasize that the BLM can and should continue to designate new WSAs in this planning process, including the areas identified with this submission. Further, if BLM fails to fulfill these obligations, it risks violating both FLPMA and NEPA, and jeopardizing the validity of this entire planning process.

b. **BLM should also consider other management alternatives for protecting lands with wilderness characteristics.**

The Utah Settlement does not affect BLM's obligation to value wilderness character or, according to BLM directives, the agency's ability to protect that character, including in the development of management alternatives. In fact, BLM has not only claimed that it can continue to protect wilderness values, but has also committed to doing so. On September 29, 2003, BLM issued IMs 2003-274 and 2003-275, formalizing its policies concerning wilderness study and consideration of wilderness characteristics in the wake of the Utah Settlement. In the IMs and subsequent public statements, BLM has claimed that its abandonment of previous policy on WSAs would not prevent protection of lands with wilderness characteristics. The IMs contemplate that BLM can continue to inventory for and protect land "with wilderness characteristics," such as naturalness or providing opportunities for solitude or primitive recreation, through the planning process. The IMs further provide for management that emphasizes "the protection of some or all of the wilderness characteristics as a priority," even if this means prioritizing wilderness over other multiple uses. This guidance does not limit its application to lands suitable for designation of WSAs; for instance, the guidance does not include a requirement for the lands at issue to generally comprise 5,000-acre parcels or a requirement that the lands have all of the potential wilderness characteristics in order to merit protection.

Courts have also confirmed the BLM's obligations to consider the value of wilderness characteristics and the potential impacts of decisions on this resource when making land use planning decisions. In a recent decision, a federal court found that BLM's failure to re-inventory lands for wilderness values and to consider the potential impact of decisions regarding management of a grazing allotment violated its obligations under NEPA and FLPMA, then enjoined any implementation of the decision until the agency reinventoried the lands at issue and prepared an environmental document taking into account the impacts of its decisions on wilderness values. In Oregon Natural Desert Association v. Rasmussen, CV 05-1616-AS, Findings and Recommendations (D.Or. April 20, 2006 – **attached**); Order (D.Or. September 6, 2006 – **attached**), the Oregon Natural Desert Association (ONDA) had submitted an updated inventory of wilderness values, but BLM declined to "revisit" its previous inventory or to consider the potential damage to wilderness values from the proposed grazing management decisions. The court found that BLM had violated NEPA by failing to consider significant new information on wilderness values and potential impacts on wilderness values, and had also failed to meet its obligations under FLPMA by failing to engage in a continuing inventory of wilderness

values. The court concluded:

The court finds BLM did not meet its obligation under NEPA simply by reviewing and critiquing ONDA's work product. **It was obligated under NEPA to consider whether there were changes in or additions to the wilderness values** within the East-West Gulch, **and whether the proposed action in that area might negatively impact those wilderness values**, if they exist. The court finds BLM did not meet that obligation by relying on the one-time inventory review conducted in 1992. **Such reliance is not consistent with its statutory obligation to engage in a continuing inventory so as to be current on changing conditions and wilderness values.** 43 U.S.C. § 1711(a).

BLM's issuance of the East-West Gulch Projects EA and the accompanying Finding of No Substantial Impact (FONSI) in the absence of current information on wilderness values was arbitrary and capricious, and, therefore, was in violation of NEPA and the APA. (emphasis added)

BLM is similarly obligated to both consider additions to wilderness values and evaluate the potential impacts on those wilderness values from its management decisions.

In the most recent ruling on the Utah Settlement challenge (State of Utah v. Norton, Case No. 2:96-CV-0870, Order and Opinion (D.Utah September 20, 2006)), Judge Benson found against the Conservation Groups for a number of reasons, including agreeing with the legal interpretation of FLPMA, put forth by the State of Utah and the BLM (a finding we continue to dispute). However, the ruling also justifies the court's interpretation by finding that the agency can provide virtually the same protection for lands with wilderness characteristics through administrative decisions as it can through designation of new WSAs, with the only material difference being that, while the agency can alter its own management decisions, only Congress can change a WSA designation. The court stated: "Both Utah and the BLM acknowledge that the BLM has the discretion to manage lands in a manner that is **similar to the non-impairment standard** by emphasizing the protection of wilderness characteristics as a priority over other potential uses." Order and Opinion, p. 41 (emphasis added - **attached**).

In a February 12, 2004, letter to William Meadows, President of The Wilderness Society, Assistant Secretaries of the Interior Rebecca Watson and Lynn Scarlett stated: "Wilderness characteristics can be protected by imposing a variety of designations and management prescriptions that are available to BLM as part of its resource management planning process." BLM's Arizona State Office has issued guidance that elaborates upon the national guidance by providing for identification of lands with wilderness characteristics and development of management prescriptions to protect and enhance these values (*See* IM No. AZ-2005-007). The recently-released Draft RMP for the Arizona Strip includes land use allocations for lands with wilderness characteristics in **every alternative** and sets out protective management prescriptions (Table 2.10). This RMP also includes a detailed discussion of how BLM identified and assessed wilderness characteristics and the need for protective management. This process is consistent with FLPMA's direction that BLM inventory for the many values of the public lands and consider ways to protect them (i.e., not all uses are appropriate in all places) in the RMP. 43

U.S.C. §§ 1711, 1712. Other RMPs that are being prepared in Arizona also include identification of lands with wilderness characteristics and include management of certain areas to maintain and enhance these values in all of the management alternatives under consideration.

In addition, the recently-released Preliminary Draft Alternatives for the TriCounty RMPs (prepared by the BLM's Las Cruces, NM Field Office) also provide for protection of citizen-proposed wilderness, stating that these areas "would be managed to maintain wilderness characteristics." *See*, TriCounty RMPs/EIS Newsletter, p. 3 (**attached** and also available on-line at: http://www.nm.blm.gov/lcfo/tri_county/tricounty.html).

The Preliminary Goals and Objectives (p. 3, also **attached**) set out a **management approach specific to lands with wilderness characteristics**, including:

- Goal: Maintain naturalness, outstanding opportunities for solitude, and unconfined recreation.
- Objectives:
 - Manage areas with wilderness characteristics to maintain the natural qualities of the landscape where the imprint of human activity is substantially unnoticeable; where the sights, sounds, and evidence of other people are rare or infrequent; and where visitors can be isolated, alone, or secluded from others.
 - Provide management direction for assessing site specific impacts from proposals that fall within identified areas with wilderness characteristics based on the long-term effect on naturalness, ability to restore the impacted area to its natural state, compatibility with VRM objectives, loss of opportunity for solitude and primitive recreation, and potential for proposed use to be accommodated outside of the area.

To ensure that wilderness values receive proper and sufficient attention as a critical aspect of land management in preparation of the Carrizo Plain National Monument RMP, BLM must address wilderness as a separate and unique issue in the planning process including in its Planning Criteria, in the Analysis of the Management Situation and in each section of the RMP. Protection of lands with wilderness character should be identified as a major issue in the scoping report. This will assist the public in understanding the values of wilderness-quality lands and the potential effects of other multiple uses on wilderness character, as well as in communicating comments or concerns regarding the management of these lands to BLM. Because comments on protection of wilderness values will be clearly identified, BLM will be in a better position to clarify any misconceptions and provide complete responses.

In preparing the revised RMP and accompanying EIS, BLM should clearly present management alternatives in the context of protecting wilderness character and analyze environmental consequences to that character; and BLM should assess the existence of lands with wilderness characteristics and present them in the Affected Environment section of the RMP. BLM has been aware of these proposed wilderness areas for some time, and the agency must attend to them. In the "Alternatives" section of the RMP, BLM must include various ways to protect these lands in each of the management alternatives. In addition to considering designation of new WSAs, BLM should propose protective management prescriptions or other protective status (including mineral withdrawals, grazing prohibitions, non-motorized recreation prescriptions, ACEC designations,

and prohibitions on new road construction and erection of structures such as cell towers) for these lands. The Alternatives section must also discuss the implications of each alternative for the wilderness-quality lands governed by the Carrizo Plain National Monument RMP. Finally, BLM must specify the “Environmental Consequences” of the resource management decisions on the wilderness-quality lands in the planning areas. This discussion should include, but not be limited to, an analysis of the cumulative impacts of other activities (including those undertaken by non-federal entities) within the planning areas on these unique lands. In short, in every major section of the RMP, BLM must address wilderness-quality lands and citizen-proposed wilderness areas. BLM should then take appropriate actions to protect wilderness character in the preferred management alternative.

We look forward to seeing an inventory for and protection of wilderness qualities comprehensively addressed as the preparation of the Carrizo Plain National Monument RMP proceeds.

Recommendation: We recommend that the BLM continue to manage the Agua Caliente WSA in accordance with the Interim Management Policy (IMP) and in a manner which maintains its wilderness characteristics and that other areas with wilderness characteristics be identified and managed to preserve their wilderness qualities. This includes the Caliente Mountain and Temblor Mountain areas identified in the Draft RMP dated February 2004 and on the **attached** map. Additionally, the BLM should address designation of additional Wilderness Study Areas in the planning process. The BLM should also assess wilderness quality lands by using the BLM Wilderness Inventory Handbook to evaluate designation of Wilderness Study Areas. Finally, the BLM should review information presented by the public in determining potential wilderness areas in the Carrizo Plain National Monument.

IV. ADAPTIVE ECOSYSTEM MANAGEMENT

Adaptive ecosystem management (AEM) incorporates the BLM’s traditional obligations to inventory, monitor, and evaluate the public lands and activities conducted on public lands. AEM provides the BLM with the ability to gauge whether management activities are achieving objectives and, if not, to alter decisions accordingly. AEM is not, however, a substitute for making real decisions in the RMP. AEM only works where concrete decisions about goals, objectives, desired future conditions, and the actions required to achieve such goals, objectives, and conditions, are clearly expressed within the RMP.

In general, the **AEM framework designed for the National Monument should adopt a precautionary management footing whereby the activity that threatens to impair or degrade the ecological health and integrity of the land and the Monument Objects protected by Proclamation 7393 bears the burden of proof.** The more information that is available and the more that is known about the impacts of a given activity, the greater the degree of confidence with which the BLM can make a decision. Where the degree of confidence is lacking, the BLM should prohibit the potentially impairing or degrading activity or, at the least,

implement sufficient mitigation measures to ensure that the action does not degrade the land (*see* 43 U.S.C. § 1732(b)). This principle makes common sense, ensuring that BLM management decisions are reasoned and informed and not “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law” (5 U.S.C. § 706(2)(A)).

The AEM framework should incorporate and link to the cumulative impact analysis completed pursuant to 40 C.F.R. § 1508.7. The cumulative impact analysis should operate as a mechanism to gauge the impacts to the Monument Objects protected by Proclamation 7393 and the total health and integrity of the landscape. In so doing, the BLM can ensure that individual and cumulative activities conform to the RMP and other legal thresholds.

Recommendation: We recommend that the RMP underscore the principle that the burden of proof is always on the proponent of an action that could impair or degrade the protective values for which the National Monument was created. Enforceable monitoring and evaluation programs with defined time frames and reporting requirements should be built into all decisions and in fact implemented. The AEM approach should also identify the existing condition of resources, standards for when management change will be triggered and the use of a “fallback prescription” where adaptive management is not suitable or funding for necessary monitoring is not sufficient. All data should be identified in terms of its source, location, and time. Furthermore, data, and its application, should be available for independent review and evaluation; it should be formalized and standardized to allow for sophisticated and accurate aggregate understanding of the landscape and the impacts of management practices within the landscape to enhance agency credibility and accountability. The BLM should disclose not only the results of a given analysis, but the underlying methodology and data management practices used. The focus of data collection should be on the impacts – whether adverse or beneficial – caused by particular activities and not the activity itself.

The BLM should limit use of adaptive management to appropriate situations (where the risk of failure will not cause harm to sensitive resources). The AEM framework should be based on best available science and include the following elements:

- **Adaptive management should start small and pace development with level of learning.** In the early stages of the Carrizo Plain National Monument RMP, actions that may cause environmental impact should be limited until such a time where inventory, monitoring, and analysis can confirm that the resources are tending toward the desired goal.
- **Define in detail what the adaptive management process will and will not address.** BLM should prepare a monitoring protocol that guides whether or not BLM plans to use adaptive management with specific resources. The Draft RMP should also describe the resources and specific indicators that will be measured and used to determine adaptive management so that the public can provide meaningful comments on BLM’s proposed approach to adaptive management.
- **Ensure adequate baseline prior to starting adaptive management and identify indicators.** BLM should prepare detailed analysis of current inventory status to accompany the RMP that clearly specifies resources that may be affected by various activities and their baseline condition, then identify indicators for resources or groups of resources that will demonstrate the effects of

management decisions. The RMP should also identify those resources or locations for which BLM lacks inventory data and establish a timeframe to accomplish inventories for resources or locations where data is lacking.

- **Set out detailed monitoring plan and ensure agency commitment to fund monitoring.**

A detailed monitoring plan is crucial for assessing potential impacts on resource conditions, ensuring that indicators are measured at regular and consistent intervals. Commitment of adequate resources for administration of this adaptive management process should be firm and sufficient to support the full implementation of adaptive management. Funding for adaptive management should not be dependent on shifting the financial and personnel burden to various user interests or other cooperating community groups.

- **Include defined limits of acceptable change in resource conditions and specify actions to be taken if change reaches or exceeds those limits.**

For all indicators, the RMP should identify the range of acceptable change from the baseline condition, using best available science, and specify those actions that will be taken in the event that unacceptable levels of change are identified.

- **Have a “fallback” plan should monitoring or other aspects of the adaptive management process not be fully carried out.**

Adaptive management must include requirements for when and how the proposed outcome will be reevaluated if it is not being met. The agency’s ability to reevaluate or amend desired outcomes should not be the sole fallback if either the adaptive management process is not working or outcomes are not being met. BLM should build into the Carrizo Plain National Monument RMP provisions to address situations based on new information, circumstances, regulatory requirements, or discontinued agency funding for monitoring that would trigger a plan amendment or revision under a new EIS.

- **Process should be managed so citizens can actively and effectively participate.**

The adaptive management process should be managed so that the public can actively and effectively participate. Citizens concerned about the Carrizo Plain National Monument reside across a broad geographic area and involvement of citizens in adaptive management processes can be both time consuming and costly to individuals. BLM should, in addition to seeking funding commitments for fund monitoring and analysis, seek funding for citizen participation. BLM should also begin planning now as to how citizen involvement in adaptive management will meet the requirements of the Federal Advisory Committee Act, and such planning should not be left only to those citizens or community groups wishing to collaborate or advise BLM.

V. USES & OTHER MANAGEMENT ISSUES

A. GRAZING

There are 14 grazing allotments located partially or wholly within the boundaries of the Carrizo Plain National Monument (seven of the leases are free-use permits and seven are ten-year leases under the Taylor Grazing Act). Because livestock grazing has historically been the predominant

land use on what is now the Carrizo Plain National Monument, it is critically important that the BLM now manage the Carrizo Plain to protect the Monument values and manage or prohibit livestock grazing accordingly.

Several recent administrative and district court decisions reiterate BLM's special legal obligation in managing National Monuments, and the importance of the Presidential Proclamation's designation of a National Monument through the authority granted by the Antiquities Act. In an August 31, 2005 decision, Judge Sweitzer affirmed the decision by BLM to deny a request to graze cattle on lands acquired by the BLM and then encompassed in the area designated as the Cascade-Siskiyou National Monument. *Walt v. BLM*, OR-110-01-02 & OR-110-03-02 (August 31, 2005) (**attached**). In this case, the Administrative Law Judge recognized that even though the Proclamation did not prohibit grazing, "to the extent BLM reasonably found that grazing would negatively impact objects of interest . . . , its decision to deny the grazing applications was in accordance with 43 C.F.R. 4100.0-8 [permitting grazing in land use plans]." *Id.* at 52. This decision clearly states: "After the Monument was established, **BLM's primary responsibility was to manage the land within the Monument so that the objects of interest identified by the Proclamation were protected.**" *Id.* at 52 (emphasis added).

Further, the ALJ concluded that:

"More to the point, the issuance of the Proclamation, which was done in accordance with the Antiquities Act, means that the lands are no longer to be managed on a multiple use basis. . . Instead, **the lands within the Monument are now to be managed primarily for the protection of the objects of interest identified in the Proclamation. Mr. Drehbol [Monument Manager] properly focused on the Proclamation, rather than the FLPMA multiple-use provisions, when he issued the grazing decisions.**" *Id.* at 53 (emphasis added).

This recognition of the important difference in priorities associated with management of Monument lands was also echoed in a recent decision by the U.S. District Court for the District of Montana. In confirming the potential need to increase bonding requirement on a pre-existing pipeline in the Upper Missouri River Breaks National Monument, the court focused on the fact that the new management plan prepared for the National Monument differed from the previous plan for the resource area, because it was based on study and acknowledgment of the "unique natural values of the area." *Montana Wilderness Association v. Fry*, 408 F.Supp. 2d 1032 (D.Mont. 2006).

Protecting Monument Objects and their "context" (the greater landscape) is an affirmative and meaningful requirement; it is not fulfilled by management decisions that are based on simply permitting Monument Objects to survive in some unspecified condition or by failing to thoroughly consider the impacts of management decisions on the values identified in the Monument Proclamation. Definitions of "protect" include: "to defend or guard from attack, invasion, loss, insult, etc.; cover; shield" (Random House Webster's Dictionary, 2nd Edition, © 1997) and "to keep from being damaged, attacked, stolen, or injured; guard" or "to shield from danger, injury, destruction, or damage" (www.dictionary.com).

Grazing can have a significant impact on BLM public lands. The BLM authorizes livestock grazing through the issuance of permits and leases. Such permits and leases are issued under the authority granted to the BLM by the Taylor Grazing Act of 1934, FLPMA, and the Public Rangelands Improvement Act of 1978. Permits and leases do not give ranchers a property right in the public lands, a principle repeatedly upheld by the federal courts, including the Supreme Court of the United States; rather, they give ranchers a privilege to use the public lands consistent with applicable laws. In this regard, grazing use is not unbounded, but limited by the mix of laws on the public lands, including the ESA, NEPA, CWA, and aforementioned laws that not only *authorize*, but also *restrict*, grazing.

The free-use grazing permits regulation (43 C.F.R. 4130.5) states that these permits are required to be issued to applicants with adjacent residence but may also be issued if the primary purpose of grazing is meeting resource objectives other than livestock production, for scientific research or administrative studies, or for control of noxious weeds. These types of permits are only required for adjacent landowners needing the lands for their domestic livestock and otherwise are always in place at the discretion of the agency. Also, the grazing regulations in general provide the BLM with broad discretion to change grazing leases and permits and impose an obligation on the BLM to periodically review the uses to see if there need to be changes (see, for instance, 43 C.F.R. 4130.3-3 and 43 C.F.R. 4110.2). Free-use grazing permits are issued on an annual basis.

BLM must analyze the impacts of all livestock grazing on the Carrizo Plain National Monument and ensure that such use is compatible with the protective purposes for which the Monument was established. This is consistent with the BLM's obligation pursuant to 43 U.S.C. § 315 of the Taylor Grazing Act of 1934 to identify the public lands "*chiefly* valuable for grazing and raising forage crops" in order to "promote the *highest* use of the public lands." We believe that this analysis is best carried out at the RMP level. Importantly, the RMP level compatibility review does not preclude more site-specific suitability determinations at the implementation level as required pursuant to NEPA and FLPMA (*see National Wildlife Federation v. BLM*, 140 IBLA 85, 101 (August 21, 1997)).

The ecological benefits of cattle grazing in the western United States and specifically on Carrizo Plain National Monument are controversial. While researchers in California's Central Valley have found that managed grazing in vernal pool grasslands provide benefits to maintaining the native vegetation (see, e.g., Marty 2005), there are other studies that raise concerns about the impacts of grazing. There is evidence that high-impact grazing leads to a "decline in perennial forb cover and an increase in annual plants, particularly the exotic cheatgrass (*Bromus tectorum L.*)" (Loeser *et al.* 2007). Kimball and Schiffman (2003) also found that livestock grazing "harms native species and promotes alien plant growth." They state that "the native California grassland community assembled in the absence of grazing herds, whereas invasive European species have been exposed to grazing for centuries. It may be that these invaders have adaptations that better enable them to recover from grazing. In the grassland we studied, [Carrizo Plain National Monument], the strategy of livestock grazing for restoration is counterproductive." In fact, Seabloom *et al.* (2003 a.) found in southern California grasslands that "exotic annuals are not superior competitors but rather may dominate because of prior disturbance and low dispersal

abilities and extreme current rarity of native perennials.” Another article by Seabloom *et al.* (2003 b.) recommends that “seeding of native species is necessary and may be sufficient to create viable populations of native annual species in areas that are currently dominated by exotic species.”

Research has also shown that thick herbaceous cover negatively affects populations of listed threatened and endangered species found on the Carrizo Plain National Monument including giant kangaroo rats (*Dipodomys ingens*), San Joaquin kangaroo rats (*D. nitratoides*), San Joaquin antelope squirrels (*Ammospermophilus nelsoni*), and blunt-nosed leopard lizards (*Gambelia sila*) (Germano *et al.* 2001). Germano *et al.* (2001) stated that fire or grazing may be necessary in some years to “decrease the dense cover created by these exotics.”

However, Loeser *et al.* (2007) warns that “episodic drought interacts with cattle grazing, leading to infrequent, but biologically important shifts in plant communities. [Their] results demonstrate the importance of climatic variation in determining ecological effects of grazing practices, and we recommend improving conservation efforts in arid rangelands by developing management plans that anticipate this variation.” In addition, climate change is expected to increase the variability in precipitation events and “managers should anticipate more drought-years that further stress native communities and facilitate the spread of cheatgrass and other exotic plant species” (Loeser *et al.* 2007).

Cattle grazing can also affect the habitat selection and home range of native ungulates such as Tule elk, pronghorn antelope, and mule deer. Loft *et al.* (1991) found that female mule deer “shifted habitat use by reducing their use of habitats preferred by cattle and increasing their use of habitats avoided by cattle.” Kie *et al.* (1991) found that mule deer “spent more time feeding and less time resting with increased cattle stocking rates.”

Common biological soil crusts species found in the Carrizo Plain National Monument include a variety of lichen (*Acarospora schleicheri*, *Aspicilia californica*, *Collema tenax*, *Placidium squamulosum*, and *Placynthiella spp.*) and moss (*Bryum argenteum*, *Ceratodon purpureus*, and *Tortua spp.*). In order to encourage the growth of biological crusts, Roger Rosentreter, a BLM Botanist, commented (**attached**) that grazing and other surface disturbance should be avoided in the spring season: “if livestock grazing and trampling is going to occur, then it should occur after the fall rains so that the soils are pliable and continue thru the winter but be removed before the soil dries out.”

Recommendation: We recommend that the BLM analyze the impacts of livestock grazing on plant and animal species (including invertebrates) and ecosystems, water quality and quantity, soils, invasive weeds, and heritage resources. The BLM should permit livestock grazing only as a management tool and only if it can be demonstrated, based on high quality and accepted science, to be consistent with the Proclamation’s requirements to protect native species and ecosystems. A comprehensive study of the effects of grazing on Monument Objects is being conducted at the Cascade-Siskiyou National Monument in Oregon and we recommend that the BLM consider structuring a study on the Carrizo Plain National Monument in a similar manner. In order to achieve flexibility with the use of cattle to control exotic plant species when necessary, the BLM

should phase out the remaining long-term grazing leases and replace them with annual free use permits if grazing is used as a resource management tool. As an alternative to grazing to control exotic plant species, the BLM should analyze and consider the use of prescribed fire in conjunction with or as an alternative to livestock grazing and other methods. In addition, if grazing is to occur in areas that should (or do) have biological crusts, the BLM should survey, map and manage these areas to protect biological soil crusts.

When grazing occurs on the Monument, it should only occur in the context of a specific management prescription to achieve a measurable management objective. Grazing should not occur simply because there is forage available for livestock. However, if there is a management objective that grazing could help to achieve, the “Standards and Guidelines for Grazing Administration” should be followed when grazing occurs. Where standards and guidelines are not being met, BLM should take immediate action to rectify grazing management so that those standards and guidelines are met.

The RMP should establish a detailed process for completing allotment assessments pursuant to the standards and guidelines and rangeland reform regulations. Such a process should outline a:

- Defensible and consistent process for doing rangeland health assessments, including appropriate assessment methodology (at a minimum, through use of BLM technical references as per BLM Handbook 4180-1) that details the proper intensity of assessments and density of observation points, appropriate indicators linked to the standards and guidelines, and the use of reference areas;
- Schedule for assessing allotments and implementing changes where necessary;
- Use of truly interdisciplinary teams to conduct assessments;
- Collection of sufficient quantitative and supplemental qualitative information adequate to initiate monitoring, including requiring follow-up monitoring and specifying affirmative corrective action that is to be taken to ensure that any changes required by BLM needed to achieve the standards and guidelines are implemented and are effective;
- Commitment to assess springs and riparian areas for PFC incorporating biotic and abiotic indicators (and to reassess where data becomes old or otherwise infirm); and
- Commitment to upland assessments including evaluation of cryptobiotic soil crusts.

Finally, the BLM should address how it will handle conservation buyouts of grazing leases from willing sellers and, furthermore, identify how it will retire such leases through the planning process. BLM should not establish “grassbanks” in areas where a permit or lease was bought out for conservation purposes as this contradicts the very purpose of the buyout.

B. FACILITIES, DEVELOPMENT, AND OPERATIONS

The administrative infrastructure and operations of the Carrizo Plain National Monument must ensure the protection of the objects of historic and scientific interest listed in Proclamation 7393.

Recommendation: We recommend that the BLM describe in detail the type of structures that will be allowed and the type that will not be allowed within the boundaries and within various parts of the National Monument. These structures should be limited to minor visitor facilities (signs, fences, etc.) necessary for safety or resource protection. Again, as a general proposition, all visitor facilities, where possible, should be located outside the Monument in nearby local communities. BLM should make use of existing infrastructure rather than developing new facilities.

BLM should not allow lodges or developed campgrounds to be built in the National Monument. These facilities should be privately owned in the local community. BLM should not allow concessions in the National Monument. Finally, the BLM should maintain management authority for the Monument and should not consider untested management initiatives for the protection of the Monument's resources.

C. FIRE MANAGEMENT

Many of the native plants and wildlife species on the Carrizo Plain National Monument are evolutionarily adapted to low intensity fires (see **attached** Schiffman Scoping comments 2002). In fact, "the greatly diminished role of recurrent fire in these ecosystems is thought to be responsible for ecologically adverse shifts in the composition, structure and diversity of these grasslands, leading specifically to the rise of ruderal [exotic] species and invasion by less fire-tolerant species" (Brockway *et al.* 2002). The study by Brockway *et al.* (2002), "suggests that dormant-season burning may be the preferable method for restoring fire in shortgrass prairie ecosystems where fire has been excluded for a prolonged time period."

Recommendation: We recommend that the BLM develop fire management policies and prescriptions for the Monument which provide for the use of naturally occurring fire to restore and maintain the Monument's species and ecosystems. This would include the development of a comprehensive fire management program for the Carrizo Plain National Monument that restores characteristic fire to the San Joaquin Valley region ecosystem including:

- Allocation of the maximum possible area to wildland fire use and develop prescriptions for use of prescribed fire elsewhere;
- Identification of the threats imposed by Hazardous Fuel situations, as well as the resource impacts of implementing fuel reduction programs;
- Defining the Appropriate Management Response to fires within the Carrizo Plain National Monument, taking into account protection and management of objects and resources; and
- Developing appropriate Emergency Fire Rehabilitation protocols that are consistent with the protection of Carrizo Plain National Monument objects, resources, and objectives.

D. IMPLEMENTATION AND FUNDING

The BLM should ensure that sufficient funding is provided for mitigation, monitoring, restoration, enhancement, reclamation, and other protective actions to ensure the preservation of the National Monument's values. Furthermore, if a particular management activity is not granted funding for associated mitigation, monitoring, restoration, enhancement, reclamation, or other protective actions, then the activity should be prohibited from going forward.

Recommendation: We recommend that the BLM address how the plan will be funded and implemented. Funding for monitoring and evaluation of the Monument's resources and management objectives should be specified. The BLM should address how the plan will be updated and management changed based on new information gained from monitoring and evaluation.

E. PERMITS AND RIGHTS-OF-WAY

Reflecting a nationwide problem, the National Monument is fragmented amongst a variety of owners. The interplay between these owners – and the rights and responsibilities of each – has a significant effect on the health and integrity of the land. Furthermore, the National Monument allows a variety of uses that require access to the land. Clearly delineating the rights, privileges, and responsibilities of the various property owners and land users is thus critical. The BLM must impose the least degrading management alternative on use of and access to the National Monument (43 U.S.C. § 1732(b)).

Recommendation: We recommend that the BLM specify how it plans to address access to private property. Although the BLM has been successful in purchasing and acquiring private inholdings within the National Monument from willing sellers, it should identify a strategy for purchasing or acquiring the remaining inholdings within the National Monument from willing sellers. Further, the BLM should prohibit new rights-of-way in the National Monument, except those required for accessing private property. Finally, the BLM should specify how it intends to handle existing permits and requests for new permits with the National Monument.

F. RECREATION

How the BLM manages visitation to the National Monument will have a profound impact on the land's future health and integrity. We support visitation and recreational use of the National Monument, especially low impact activities carried out in a responsible fashion such as backpacking, bird watching, photography and hunting, but emphasize that it is the remote and undeveloped character of the area that ascribes the land with such special value. We encourage the BLM to manage the area consistent with its inherent nature to preserve it for present and

future generations.

Recommendation: We recommend that the BLM identify ways to accommodate current and future visitor use in a way which will prevent or lessen the potential impacts of visitor use. The BLM should identify acceptable and allowable recreational uses. The BLM should prohibit the following uses: camping in sensitive areas (or limiting camping to designated sites), rock climbing where it would harm archeological, paleontological, biological or other resources, and the recreational collecting of objects. In addition, the BLM should manage overnight camping to prevent impacts to resources and limit development of new primitive camping areas to outside the Monument. Finally, the BLM should ensure that the production of feature films does not impair or degrade National Monument values or the broader health and integrity of the landscape.

G. TRANSPORTATION PLANNING AND ORVs

The natural splendor of the Monument and connectivity of the landscape are highly impacted by the road network and fencing across the Monument. Currently, the Monument's landscapes have a multitude of roads that serve no visitor or administrative purpose and roads that cross sensitive resource areas including springs and seeps. Roads have consistently been proven to fragment and degrade wildlife habitat, encourage noxious weeds, disturb wildlife and alter movements and migrations. Fragmentation of wildlife habitat should be treated as the biggest threat to the National Monument's biological resources. We note that grasslands are considered to be the most fragmented ecosystems in the United States. The National Monument's outstanding wildlife populations and their habitat cannot be adequately protected without a scientifically defensible transportation plan.

Proclamation 7393 obligates the BLM to “prohibit all motorized and mechanized vehicle use off road, except for emergency or authorized administrative purposes.” As detailed below, the definition of “road” has a very specific legal definition. Furthermore, Proclamation 7393 obligates the BLM to develop a transportation plan to protect the objects identified in the Proclamation. We assert that in order to comply with Proclamation 7393, the transportation plan should be completed during the RMP process and not be deferred to a later date.

In addition, there are a number of locations where off-road vehicle use is occurring contrary to the Monument Proclamation and the current management plan.

1. Travel management decisions in the RMP

The *Land Use Planning Handbook* states that BLM should:

Complete a defined travel management network (system of areas, roads and/or trails) during the development of the land use plan, to the extent practical. If it is not practical to define or delineate the travel management network during the land use planning process, a preliminary network must be identified and a process established to select a final travel

management network. (emphasis added)

The *Land Use Planning Handbook* (Appendix C, Section II.D) also sets out requirements for travel management at both the land use and implementation planning levels:

- At the land use plan level, BLM must identify areas for use based on program goals and objectives, primary users, reason for “allowing travel” into an area, setting character to be maintained (including Visual Resource Management and Recreation Opportunity Spectrum classifications), and primary means of travel appropriate to meet objectives and keep setting character; and
- At the implementation level, BLM must define a detailed travel management network, “establish a process” to identify roads, trails, etc. with criteria for selections, guidelines for management, monitoring and maintenance, and indicators for future plan maintenance.

Further, as mentioned above, the Monument Proclamation requires BLM to develop a travel network as part of the RMP.

Recommendation: BLM must identify a travel network as part of the RMP in accordance with the principles outlined below. As part of this plan, BLM must develop strict criteria for road designation and ensure that a travel management plan is developed which protects Monument Objects. The RMP must identify not only areas for use, but also reasons for permitting travel into an area and appropriate criteria for determining routes that will be made available for different uses, taking into account such factors as undeveloped recreation opportunities available and natural settings. In addition, we ask that the BLM undertake relevant transportation studies during the RMP process to understand how increased visitation impacts natural resources.

In this plan, the BLM must specify the locations, terms, and conditions for all emergency and authorized administrative motorized and mechanized use and analyze the impacts – especially cumulative impacts – of such use within the EIS and close administrative routes once the administrative purpose ends.

We ask that the BLM not upgrade existing routes, build any new routes or build new parking areas or turnouts unless deemed absolutely necessary and only after accounting for natural, cultural and scenic values and minimizing all adverse impacts to said values (in general, new parking areas or turnouts should be presumed unnecessary). The BLM should also close and reclaim informal (unofficial or undesignated) parking areas and limit vehicular speed.

We also ask that the BLM utilize and consider the road inventory conducted and submitted to the Bakersfield Field Office by Craig Deutsche in its analysis of the impacts of vehicle use and the development of its travel management plan.

2. Landscape level planning

Travel planning requires the agency to manage human travel across the landscape. The land use planning process, which addresses the broader landscape within a planning area, provides one of the best opportunities to make travel planning decisions in the appropriate context. While we

understand that BLM does not have authority to close or relocate highways, major roads, or County roads, BLM must include these routes when analyzing the transportation network, as they have a great impact on habitat fragmentation and reduction in core area size (discussed in length later in these comments and in the attachments). The placement and design of travel routes defines which areas will remain or become roadless, and which areas will be disturbed and how. In other words, route decisions determine the fragmentation of the landscape, and, thus, how naturally or unnaturally a landscape will behave in terms of water flow and quality, wildlife migration, and species composition and function.

NEPA requires federal agencies to assess the direct, indirect and cumulative environmental impacts of proposed actions, taking a “hard look” at environmental consequences and performing an analysis commensurate with the scale of the action at issue. 42 U.S.C. § 4321 *et seq.*; 40 C.F.R. § 1508.8.1 Travel planning affects the entire landscape and can only be thoroughly and properly assessed by considering potential impacts and making decisions at a comparable level. In terms of how to evaluate the potential impacts of travel management decisions, NEPA’s definition of “cumulative impact” is instructive:

The impact on the environment which results from the incremental impact of the action when **added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions**. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. 40 C.F.R. § 1508.7. (emphasis added)

BLM must account for the direct, indirect, and cumulative impacts of all roads in the Carrizo Plain National Monument RMP planning area when completing a comprehensive travel management plan.

Recommendation: We recommend BLM address travel management on a landscape-wide basis by addressing the impacts of all roads in the planning area and accounting for the landscape-wide impacts of these roads. The BLM should establish a travel system that retains the minimum amount of routes necessary to provide for reasonable access to public lands including closure and rehabilitation of redundant roads, roads that serve no visitor or administrative purpose, and roads in sensitive resources areas including springs and seeps.

In addition, the BLM must document off-road vehicle use, analyze its impacts and develop a plan to address the impacts including signage, law enforcement and restoration;

3. Legal definition of “Road”

BLM must apply a legal definition of “road” within the planning process, develop appropriate criteria to accurately gauge what is or is not a road, **ensure that illegal “ghost roads” are not legitimized**, and in fact, close and reclaim such “ghost roads.” Some legal roads serve important

¹ See also Metcalf v. Daley, 214 F.3d 1135, 1151 (9th Cir. 2000); Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 348 (1989).

travel needs and are appropriate for motorized use. However, routes that are not “roads” should not receive equal consideration. The agency has a definition of “road,” and this definition should be adopted and used consistently in order to create a regular expectation and approach on BLM lands. We note however, that merely meeting the definition of a road is not sufficient to justify designating a route. In fact, the BLM must still consider whether a route has negative impacts to sensitive or protected resources, such as by the process recommended in this document, and should only designate those that do not impact these resources.

The legal definition of road for the BLM public lands is derived from the definition of “roadless” in the legislative history of FLPMA:

The word “roadless” refers to the absence of roads which have been improved and maintained by mechanical means to insure relatively regular and continuous use. A way maintained solely by the passage of vehicles does not constitute a road. (H.R. Rep. No. 94-1163 at 17 (1976)).

In addition, the Code of Federal Regulations (43 C.F.R. § 19.2(e)) establishes the following definition:

An improved road that is suitable for public travel by means of four wheeled, motorized vehicles intended primarily for highway use.

IM 2006-173 (“Implementation of Roads and Trails Terminology Report”), which sets out and defines associated with transportation management, also includes a definition of a road as:

A linear route declared a road by the owner, managed for use by low-clearance vehicles having four or more wheels, and maintained for regular and continuous use.

Therefore, it is incumbent upon BLM to exclude “user-created” routes from the inventory presented in the Draft RMP. To include these routes is to legitimize and “grandfather in” illegally created routes and/or routes which have not been improved or maintained by mechanical means to ensure regular use.

Recommendation: The BLM must use a legal definition of “road” (defined above) when designating routes available for motorized travel in the Monument, in order to comply with the Proclamation.

4. Habitat fragmentation

As mentioned in the beginning of this section of our comments, BLM must address travel management on a landscape level to ensure that BLM meets its responsibility as stewards of the public land and mitigates against habitat fragmentation.

We have included The Wilderness Society’s most recent habitat fragmentation report, “Habitat Fragmentation from Roads: Travel Planning Methods to Safeguard BLM Lands” (**attached**). Also **attached** are four scientific reports prepared by TWS and discussed in the habitat

fragmentation report. These include *Fragmenting Our Lands: The Ecological Footprint from Oil and Gas Development*, *Protecting Northern Arizona's National Monuments: The Challenge of Transportation Management*, *Wildlife at a Crossroads: Energy Development in Western Wyoming*, and *Ecological Effects of a Transportation Network on Wildlife*. In addition to summarizing the four reports included, "Habitat Fragmentation from Roads: Travel Planning Methods to Safeguard BLM Lands" provides a summary of available scholarly and government reports and studies on the impact of habitat fragmentation on wildlife, provides methods for calculating habitat fragmentation, and provides recommendations on how to integrate fragmentation analysis into travel management.

Recommendation: We recommend that BLM use the information provided to measure habitat fragmentation, conduct a thorough fragmentation analysis, and inform decisions regarding road closure and other limitations on use in the Carrizo Plain National Monument RMP. The BLM must consider the impacts of existing roads in ecologically sensitive areas and consider their removal, seasonal closure (or reconstruction with appropriate mitigation measures) to protect sensitive resources to protect sensitive resources including nesting sites on marine rock outcrops and cliffs. The BLM should also consider removing fences which inhibit the movement of pronghorn and/or other wildlife.

5. Principles of travel management

When completing a comprehensive travel management plan, it is vital to complete it in a systematic and transparent manner.

Recommendation: We recommend BLM follows the nine principles detailed below to ensure that only routes which truly serve a valid purpose for the public remain open.

Key principles of travel planning:

- (1) Travel management is part of land use planning and should address both recreation and transportation needs from a landscape perspective.
- (2) Prior to conducting an inventory or designation of routes, BLM should assess the present resources, requirements for protection, and which uses for recreation and development are compatible with these resources, requirements and other users.
- (3) BLM should use a legal definition of "road" when designating routes.
- (4) BLM's consideration of ORV use should take into account its potential damage to resources and other uses, including exclusion of other users, in compliance with 43 C.F.R. § 8342.1 and Executive Orders (Executive Order No. 11644 (1972) (as amended by Executive Order No. 11989 (1977))).
- (5) Where BLM presents a baseline travel system, it must present route maps in a responsible manner that does not legitimize illegally-created routes.
- (6) BLM should include a detailed closure and restoration schedule in the plan.
- (7) BLM should include and implement a monitoring plan.

- (8) BLM should include and implement education and outreach in the plan.
- (9) BLM should develop alternatives that incorporate the agency's ability to implement, monitor and enforce designated routes and areas in light of current budget trends.

The Wilderness Society and the Colorado Mountain Club have developed a template for conducting travel management planning, including a detailed discussion of these key principles of travel planning, which we have **attached** and recommend that the BLM incorporate into the RMP and into its comprehensive travel management planning.

H. RESPONSIBLE USE OF FIREARMS

Hunting is one of many ways that visitors use and enjoy the Monument. However, non-game hunting can impact the Monument's ecosystems and threatened and endangered species found on the Carrizo Plain including the San Joaquin kit fox and the San Joaquin antelope squirrel. Lead poisoning from the use of lead bullets can kill the California condor, an endangered species, golden eagles, and other raptors. Target shooting can result in the accumulation of litter, soil contamination by lead and wildfires. It can also impact the safety and experience of visitors.

Recommendation: We recommend that the BLM permit only responsible hunting and firearm use and limit hunting to game species in season. In addition, the BLM should prohibit the use of lead bullets. Finally, the BLM should maintain its current policy of directing target shooters to facilities outside the Monument.

I. OIL AND GAS DEVELOPMENT

The last of the existing "grandfathered" federal oil and gas leasing permits – which predated the Monument's designation – lapsed in February 2006. Because the Presidential Proclamation that created the Monument prohibits any new oil leases on BLM lands where the agency holds the mineral rights, the Carrizo Plain National Monument is positioned to enjoy permanent protection from oil industry pressures.

However, 30,000 acres within the monument's boundaries are privately-owned properties known as "inholdings" where oil and gas development could occur in the future. In addition, the mineral rights to BLM lands, including surface access rights, are privately held on approximately 150,000 acres (or 60 percent) within the 250,000 acre monument. Even more disconcerting is that an oil company, Occidental Petroleum, owns 20,000 acres of these privately held mineral rights. If oil and gas exploration and development were to occur on even a fraction of those 150,000 acres of privately held mineral rights, it could prove devastating to Carrizo Plain National Monument. The associated industrial activity, including roads, drilling pads, pipelines, and other infrastructure, would destroy suitable habitat for rare threatened and endangered species of plants and animals, including but not limited to the San Joaquin kit fox (*Vulpes macrotis mutica*), San

Joaquin antelope squirrel (*Ammospermophilus nelsoni*), blunt-nosed leopard lizard (*Gambellia sila*), giant kangaroo rat (*Dipodomys ingens*), California jewelflower (*Caulanthus californicus*), San Joaquin wooly-threads (*Lembertia congdonii*), and Hoover's wooly star, (*Eriastrum hooveri*). Oil development may also impact water quality and quantity (drilling and production is an extremely water-intensive process), air quality, and the scenic and wilderness qualities of the Monument. Fortunately, the current assessment of the oil and gas potential on the Carrizo Plain is low, meaning that there is either a low probability that oil and gas would be found there or that, if oil and gas were to be found, it would be unprofitable to remove.

Recommendation: The BLM should work to buy out the mineral rights owned in split estate and/or work to trade mineral rights within the Monument for rights of comparable value outside of the Monument. Considering that oil and gas drilling can impact the natural landscape, plants and animals, we recommend that the BLM address the potential impacts of oil and gas drilling on split estate lands and existing energy leases and mining claims. As the surface owner, the BLM has the right to request that impacts be minimized and should help other parties understand their options for best management practices and to agree on them. BLM should identify priorities for acquisition (surface and subsurface) in the Lands and Realty section of the RMP.

BLM should address how it will handle energy leases and mining claims that were valid at the time the National Monument was established. BLM should perform a validity examination before claimants conduct surface disturbing activities greater than casual use.

J. SOCIOECONOMIC ANALYSIS

The analysis of the socio-economic impacts of the proposed resource management plan must be thorough and accurate in order to responsibly manage the public lands. We have **attached** a document entitled “**Socio-Economic Framework for Public Land Management Planning: Indicators for the West's Economy**,” which details our expectations for the baseline analysis of the region's economy as well as the analysis of the potential impacts of proposed management alternatives on the area. We request that your analysis of alternatives in the preparation of the Carrizo Plain National Monument RMP follow the approach set out in this document, as well as the more specific considerations detailed below.

1. General approach

In general, when looking at the economic implications of various management alternatives, BLM should do a full accounting of the costs and benefits. To facilitate informed investment decisions about publicly owned wildlands, economic analysis must take into consideration both market and nonmarket benefits and costs (Loomis 1993). To account for the full array of market and nonmarket wildland benefits, economists have derived the total economic valuation framework (TEV). TEV is the appropriate measure to use generally when evaluating the benefits of conserving wilderness character and wildlands. Figure 1 summarizes the seven categories of wildland benefits (Morton, 1999).

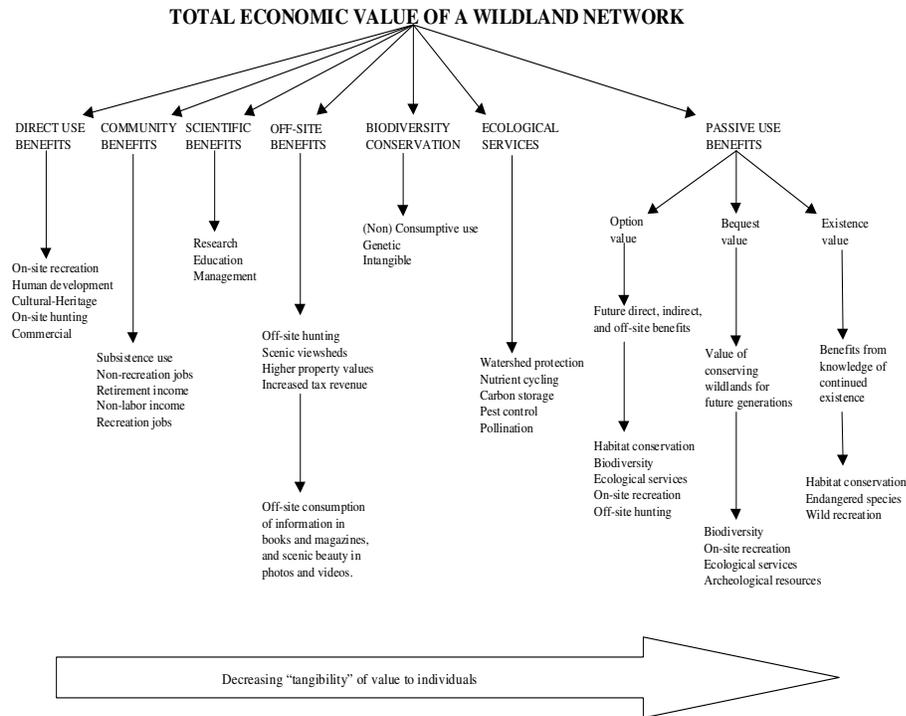


Figure 1. Total Economic Valuation Framework for Wildlands

Source: Morton, 1999

With respect to estimating the economic impacts (e.g., income to communities) of various management alternatives, the BLM should avoid the IMPLAN model or other input-output models that are grounded in economic base theory, as research has shown that IMPLAN is a static model that is inadequate for planning purposes. IMPLAN models also do not consider the impacts of many important variables that affect regional growth in the rural west, such as regional amenities like high quality hunting, fishing and recreational opportunities, open space, scenic beauty, clean air and clean water, a sense of community, and our overall high quality of life. Many of these amenities are associated with attracting new migrants as well as retaining long-time residents – both of whom earn retirement and investment income. Unfortunately, most IMPLAN models completely fail to consider the important economic role of retirement and investment in the economy of a community – which can be a fatal flaw of the model. We recommend that the BLM rely on trend analysis of income and employment for the counties impacted using the EPS system developed by the Sonoran Institute (www.sonoran.org). We have **attached** an aggregate profile for the three-county Carrizo Plain NM area as an example. Since these three counties are very different from each other, we recommend that BLM do a more detailed examination of each county which includes EPS and EPSC profiles along with other analyses.

Kern County’s economy has been more reliant on the extractive industries than the other two counties in the area, but the service sector still produces the majority of income and employment. Of note is a large fluctuation in income from the mining industry - indicative of the potential for “boom-and-bust.” The fact that the service sector currently and historically has produced a large portion of the county’s income and employment, along with the upward trend in this sector

indicates that these industries are likely to be important in the area in the future. The RMP for the Monument should strive to ensure that the professional and service sector is not impacted by the management alternatives. The service and retail trade sectors are the largest contributors to income and employment in San Luis Obispo County; however this county also has large transportation and construction sectors. Similar to mining in Kern County, construction income shows a great deal of variability over the time period. The service sector in Santa Barbara County accounts for nearly a quarter of income and almost 35% of employment. As in the other two counties in the area, retail trade is also an important sector. Unlike Kern or San Luis Obispo Counties, Santa Barbara County also receives a notable proportion of its income and employment from the manufacturing sector.

2. The BLM should use Total Personal Income as a basis for examining economic impacts

For the analysis of regional economic trends, the BLM should include an analysis of all sources of income, rather than relying solely on employment – which will dramatically overstate the importance of oil and gas industries to the local economy. A full accounting of income is necessary to an understanding of the important role that transfer payments and other sources of non-labor income, such as interest payments, rents, and profits have upon the regional economy. For example, in the three-county Carrizo Plain area, investment and retirement income accounts for 27% of total personal income. Therefore, an economic impact analysis that excludes non-labor income is inadequate and misleading.

3. To provide socio-economic context, the BLM should examine historic trends in county income and employment

A growing number of economists are recognizing that protecting the quality of the natural environment is key in attracting new residents and business and therefore the environment is the engine propelling the regional economy. A letter to President Bush from 100 economists concludes “The West's natural environment is, arguably, its greatest, long-run economic strength...A community’s ability to retain and attract workers and firms now drives its prosperity. But if a community’s natural environment is degraded, it has greater difficulty retaining and attracting workers and firms” (Whitelaw *et al.* 2003). Given these findings, we request that the BLM economists fully consider the indirect role of wildlands in attracting non-recreational businesses and retirees when considering the economic impacts of the proposed resource management plan. Research supports these assertions that the amenities of the rural West attract business and economic opportunities (Lorah 2001; Rasker 1994; Johnson and Rasker 1993 and 1995; Rudzitis and Johansen 1989 and 1991)

Completing an analysis of income and employment trends and the role of wildlands in those trends is especially relevant given the growing body of literature suggesting that the future diversification of rural economies is dependent on the ecological and amenity services provided by public lands in the west (Power 1996, Johnson and Rasker 1995, Haynes and Horne 1997). These services (e.g. watershed protection, wildlife habitat, and scenic vistas) improve the quality of life, which in turn attracts new businesses and capital to rural communities.

Public lands in the West represent natural assets that provide communities with a comparative

advantage over other rural areas in diversifying their economies. Public land management can contribute to decreasing dependence/specialization and diversifying local economies by de-emphasizing resource extraction and emphasizing management and budgets on providing high-quality recreation and conserving habitat for the region's biological resources.

As noted by (Freudenburg and Gramling 1994):

It needs to be recognized as a serious empirical possibility that the future economic hope for resource-dependent communities of...the United States could have less to do with the consumption of natural resources than with their preservation.

Resource managers, economic planners and community leaders must become aware of this potential. **We therefore request our concerns be fully addressed and our recommendations followed as part of the NEPA process analyzing different uses of these public lands.**

Recommendation: BLM should analyze the socioeconomic impacts of the proposed management alternatives in accordance with the approach set out in "Socio-Economic Framework for Public Land Management Planning: Indicators for the West's Economy," including the more specific considerations detailed above.

VI. CONTACTS

We are available to discuss our comments further at your convenience. If you would like to talk with us or have any questions, please contact the undersigned.

Sincerely,

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