



FS Agreement No. 17-MU-11020000-002
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Cooperator Agreement No. _____

**MEMORANDUM OF UNDERSTANDING
Between The
Wyoming Game and Fish Commission
And The
USDA, FOREST SERVICE
ROCKY MOUNTAIN REGION AND INTERMOUNTAIN REGION**

This MEMORANDUM OF UNDERSTANDING (MOU) is hereby made and entered into by and between the Wyoming Game and Fish Commission, hereinafter referred to as “Wyoming Game and Fish,” and the USDA, Forest Service, Rocky Mountain Region and Intermountain Region, hereinafter referred to as the “U.S. Forest Service.”

Background: In June 2006, the Association of Fish and Wildlife Agencies (AFWA), the Forest Service and Bureau of Land Management (BLM) signed a revised agreement establishing policies and guidelines for cooperative management of fish and wildlife in Congressionally designated wilderness areas. (See **ATTACHMENT A – “Policies and Guidelines for Fish and Wildlife Management in National Forest and Bureau of Land Management Wilderness”**, amended 2006, hereinafter “AFWA Agreement”)

The AFWA agreement recognizes the importance of coordination and communication between individual States and the Forest Service and encourages the agencies to establish State-specific agreements. In the spirit of this direction, this Memorandum of Understanding (MOU) between Wyoming Game and Fish and the Forest Service’s Intermountain (R4) and Rocky Mountain (R2) Regions is developed. Though the agencies have different authorities and responsibilities, the fish, wildlife and habitat resources will benefit through a cooperative approach to management. The AFWA Agreement and this MOU are intended to serve as a framework for enhanced cooperation between the Wyoming Game and Fish Department and the Forest Service Regions 2 and 4 in the management of fish, wildlife and habitat on Forest Service-administered wilderness areas in Wyoming.

The 1964 Wilderness Act defines wilderness, describes the purpose for wilderness, and directs the land management agencies to preserve wilderness character in Congressionally designated areas. This MOU is consistent with the provisions of the Wilderness Act of 1964 while recognizing Wyoming Game and Fish’s jurisdiction and responsibilities to manage fish and wildlife populations.

Paraphrasing from the Act:



The purpose of Wilderness is: “In order to assure that an increasing population...does not occupy and modify all areas...leaving no lands designated for preservation and protection in their natural condition, it is hereby declared to be the policy of the Congress to secure for the American people of present and future generations the benefits of an enduring resource of wilderness.” [Section 2 (a)]

The Act defines Wilderness as: “A wilderness, in contrast with those areas where man and his works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain.”

Wilderness is further defined as an area ... “which is protected and managed so as to preserve its natural conditions and which ... generally appears to have been affected primarily by the forces of nature, with the imprint of man’s work substantially unnoticeable....” [Section 2 (c)].

Further, the Act defines the purposes of wilderness in Section 4 and specifically states that, “Except as otherwise provided in this Act, each agency administering any area designated as wilderness shall be responsible for preserving the wilderness character of the area.....”. [Section 4 (b)]

Section 4(c) of the Wilderness Act states: “Except as specifically provided for in this Act, and subject to existing private rights, there shall be no commercial enterprise and no permanent road within any wilderness area designated by this Act and, except as necessary to meet minimum requirements for the administration of the area for the purpose of this Act (including measures required in emergencies involving the health and safety of persons within the area), there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area.”

Section 4(d) (1) of the Wilderness Act states: Within wilderness areas designated by this Act the use of aircraft or motorboats, where these uses have already become established, may be permitted to continue subject to such restrictions as the Secretary of Agriculture deems desirable. The Wilderness Act also specifically acknowledges the role the States have in management of fish and wildlife. Section 4(d)(8) of the Wilderness Act provides that "nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish in the National Forests."

Though the Wilderness Act does not specifically define wilderness character, the definition of wilderness in the Act serves as an approximation. Wilderness character is thus defined as a holistic concept encompassing five statutory qualities: untrammeled, natural, undeveloped, solitude or a primitive and unconfined type of recreation, and other features of value. These qualities are defined in **ATTACHMENT B – National Environmental Policy Act (NEPA) Requirements**. When projects are proposed in wilderness, effects to these five wilderness qualities will be assessed and disclosed, and project design criteria [mitigation measures], if necessary, will be mutually identified by the Forest Service and the Wyoming Game and Fish Department.

The Forest Service and Wyoming Game and Fish acknowledge that each agency has important management responsibilities relating to fish and wildlife resources in wilderness and will endeavor to work cooperatively to fulfill these responsibilities.

This MOU is authorized pursuant to the Organic Act of 1897, 16 U.S.C. §551; Multiple Use, Sustained Yield Act, 16 U.S.C. §§528-531; Forest and Renewable Resource Planning Act of 1974, as amended by the National Forest Management Act of 1976, 16 U.S.C. §§1601-1614; see also 23 U.S.C. 201, 205, Administrative Procedure Act 5 U.S.C. §553, 7 C.F.R. §1.28; 40 C.F.R. Parts 1500-1508; and Forest Service Handbook 1909.15. The Wyoming Game and Fish is authorized to enter into this MOU by Wyoming Statute 23-1-302.



Title: Memorandum of Understanding for Fish, Wildlife and Habitat Management within National Forest Wilderness in Wyoming.

I. PURPOSE

The purpose of this MOU is to document the cooperation between the parties to improve communication and joint activities between our agencies within the wilderness areas on National Forests in Wyoming in accordance with the following provisions.

II. STATEMENT OF MUTUAL BENEFIT AND INTERESTS:

The Wyoming Game and Fish is responsible for the conservation and management of fish and wildlife populations throughout the state. Many species of fish and wildlife travel between private and public lands, including Wilderness, at least on a seasonal basis, which adds to the complexity of fish and wildlife management.

The Forest Service is responsible for the management of National Forest System (NFS) lands for a variety of uses and activities including wilderness stewardship and protection and the management of fish and wildlife habitat. The Forest Service administers 3.1 million acres of Federally designated wilderness areas in Wyoming in accordance with the Wilderness Act, including supporting the State's fish and wildlife objectives, to the extent such objectives are consistent with the Wilderness Act.

Both agencies acknowledge each other's interests and agree that it is to the benefit of the resource to work collaboratively to manage the fish and wildlife resources and their habitat in a manner that is compatible with the purpose and definition of Wilderness, including the preservation of wilderness character.

All parties involved will benefit through increased communication, sharing of information, participation, cooperation, and coordination in implementing their respective missions to conserve and enhance fish and wildlife that resides or uses habitat within Wyoming's National Forest wilderness areas.

In consideration of the above premises, the parties agree as follows:

III. THE FOREST SERVICE AND WYOMING GAME AND FISH SHALL:

- A. Recognize that angling, hunting, trapping, wildlife viewing, and recreational boating (non-motorized) are all legitimate activities in wilderness. Management actions related to these activities will be planned and implemented in conformance with the Wilderness Act and other applicable state and federal laws. Fish and wildlife management activities will emphasize the conservation of natural processes, to the greatest extent possible. Management activities will be guided by the principle of doing only the minimum necessary to conserve, and if necessary, enhance fish and wildlife resources, and to manage the area as wilderness.



- B. Recognize that for the purposes of this document, indigenous fish and wildlife species are those that naturally occur within a wilderness area and that were not introduced by humans. Additionally, fish and wildlife species introduced for management purposes prior to wilderness designation may continue to be managed as indigenous fish and wildlife species if the species is likely to survive and does not otherwise interfere with natural conditions or processes. State and federal agencies should carefully evaluate stocking those waters that consistently require supplementation for reasons other than angler-induced mortality. The Wyoming Game and Fish and Forest Service will work cooperatively in order to provide regional consistency on how the term “indigenous” is interpreted with respect to fish and wildlife species within the State of Wyoming. In making this interpretation, consideration will be given to the hydrological context for fish and geographic region for wildlife.
- C. Recognize that some proposed Wyoming Game and Fish management activities may involve techniques, equipment and methods generally prohibited under Section 4(c) of the Wilderness Act that may be approved by the Federal administering agency. The Forest Service will consult closely with Wyoming Game and Fish and give careful consideration to State fish and wildlife interests when considering these proposed actions. Both agencies will use the minimum requirements decision guide that has been developed to assist project managers in determining whether an action is the minimum necessary for administering the area for wilderness purposes, and if so, the minimum activity necessary to complete the action. That process is described in the Minimum Requirements Decision Guide (MRDG) outline (see <http://www.wilderness.net/MRA>). If the action is determined to be the minimum necessary, a final decision may be subject to further analysis under NEPA. Wyoming Game and Fish and the Forest Service will work cooperatively to determine who should take the lead in the NEPA process and to appoint an interdisciplinary team consisting of personnel from both agencies, when necessary.
- D. Recognize that some Wyoming Game and Fish wildlife management actions in wilderness do not require Forest Service approval, but do require communication, cooperation, and coordination. A list of those actions is found in **Attachment C – Process for Addressing Management Proposals**. More detailed information about specific actions can also be found in **Attachment A – AFWA Agreement** of this MOU or Forest Service Manual 2320.
- E. Encourage Wyoming Game and Fish and Forest Service employees with responsibilities that involve activities within wilderness to attend wilderness management training, including on-line courses, preferably in conjunction with local counterparts.



- F. Local Coordination: Conduct annual coordination meetings, and others as needed, between respective local Forests or Ranger Districts and Wyoming Game and Fish Regions to identify opportunities, and jointly pursue projects that meet mutually beneficial fish, wildlife and habitat objectives, subject to compliance with applicable State and Federal law and in accordance with VI.H – Nonbinding Agreement.
- i. Discussion of Wyoming Game and Fish projects or management actions, such as decisions on stockings, transplants, species objectives, etc.
 - ii. Presentation of general information on proposals or management actions not requiring Forest Service line officer approval for the upcoming year or future projects.
 - iii. Discussions of compliance with NEPA, the MRDG, review of the effects to wilderness character of actions during the last year and the approval process for projects or management actions that require Forest Service approval.
 - iv. Discussion of Forest Service projects or management actions, such as decisions on outfitter and guide service days, locations, camps, etc. that may have an effect on wildlife or fisheries.

- G. Agency Leadership Coordination: Conduct annual coordination meetings between agency leadership (Forest Supervisors and Game and Fish Director, Deputy Director(s), and appropriate Division Administrator(s) to discuss issues and opportunities related to implementing the Policies and Guidelines and this MOU.

The annual agency leadership coordination meeting agendas will include at a minimum:

- i. Wyoming Game and Fish and Forest Service reports on previous year projects and accomplishments.
 - ii. Review of policies and guidelines and MOU – status and issues
 - iii. Address local issues requiring direction from agency leadership
 - iv. Discussion of priority issues of concern
- H. Collaboratively and cooperatively develop and implement training and orientation for staff and decision makers in both agencies on the AFWA Agreement (**Attachment A**), dated June 2006 in accordance with VI.H – Nonbinding Agreement.



- I. Review and follow relevant Forest Plan and other applicable management area direction regarding wilderness settings when determining the scope and scale of proposed management actions in wilderness areas.

IV. WYOMING GAME AND FISH SHALL:

- A. Inform the Forest Service of all fish and wildlife projects or management actions within wilderness including those that do and do not require Forest Service approval. Discussion of the projects should be initiated early so that the Forest Service may incorporate these activities and their analysis into their annual program of work. This would typically mean 30 days prior for activities that do not require a NEPA decision and from three months to one year in advance for decisions involving NEPA analysis and decisions, depending on the scope of the project proposal. (See **ATTACHMENT B – NEPA Requirements**)
- B. Encourage the Forest Service to participate in any project activities or analyses that affect fish and wildlife in wilderness as a cooperator.
- C. Seek comments and participation from the Forest Service for Wyoming Game and Fish planning activities that affect fish and wildlife in wilderness, such as big and trophy game species planning, fish stocking planning, season setting and wildlife transplant planning. Wyoming Game and Fish will consult with the Forest Service and give consideration to Forest Service Wilderness objectives when evaluating these proposed actions.
- D. Participate with the Forest Service in developing the MRDG for projects that require Forest Service approval, especially those that trigger a NEPA decision and an agency action. Where it is determined mutually beneficial the Wyoming Game and Fish project manager may complete an initial MRDG for the development of a proposed action for the NEPA process.
- E. Secure a Forest Service Special Use permit for any proposed activity that uses or occupies National Forest land and requires Forest Service approval. It is understood that sufficient time for authorizing and issuing special use permits will be factored into Wyoming Game and Fish timelines for project implementation.
- F. Recognize that certain Wyoming Game and Fish management actions outside of wilderness (for example, transplant of non-native species) can still impact



wilderness resources. Wyoming Game and Fish will consult with the Forest Service and give consideration to Forest Service Wilderness objectives when evaluating proposed actions.

- G. Notify and coordinate with the Forest Service on any piscicide application proposal to remove unwanted aquatic species within wilderness in Wyoming. Provide sufficient lead-time to accomplish the analysis/authorization process associated with piscicide applications within wilderness. Regional Forester approval is required for piscicide application within wilderness areas.

V. THE U.S. FOREST SERVICE SHALL:

- A. Advise Wyoming Game and Fish of any proposed projects or management actions that may affect fish, wildlife, and habitat within wilderness prior to release of public scoping documents in the NEPA process.
- B. Provide Wyoming Game and Fish with updates, as needed, to changes in policy, guidance and other relevant factors that may impact Game and Fish activities.
- C. Encourage Wyoming Game and Fish to participate in any project activities or analyses that affect fish, wildlife and habitat in wilderness as a Cooperating Agency.
- D. Seek comments and participation from Wyoming Game and Fish during project analysis for activities that affect fish, wildlife and habitat in wilderness.
- E. Actively seek participation from Wyoming Game and Fish during Forest or wilderness area planning processes.
- F. Ensure that Wyoming Game and Fish management objectives for fish and wildlife population management are considered and included when mutually agreed to during the development of wilderness management plans.
- G. Process project proposals and special use permit authorizations as agreed to through local coordination.
- H. Recognize that registered piscicide applications to remove unwanted aquatic species on NFS lands in Wyoming, consistent with label requirements, are a state action to be conducted by the Wyoming Game and Fish. The Forest Service will work with Wyoming Game and Fish to complete the Minimum Requirements Analysis (MRA) to protect wilderness objectives, and if determined the minimum necessary, approve those activities and complete the appropriate level of NEPA. NOTE: Regional Forester approval is required for piscicide application in wilderness.



VI. IT IS MUTUALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES THAT:

- A. APPROVAL. The Secretary of Agriculture, or the Secretary’s designee, shall make the final decision for approving any of the 4(c) prohibited uses within National Forest wilderness.
- B. FEDERAL ADVISORY COMMITTEE ACT (FACA). In order to meet the intergovernmental committee exception to FACA, all participants of any NEPA ID team must be a full-time or part-time officer or employee of the Federal Government or elected officer of the State, local, or tribal government (or their designated employee with authority to act on their behalf), acting in their official capacity (41 C.F.R. 102—3.40(g)).
- C. DISPUTES. Disputes between entities concerning any aspect of this MOU and associated environmental analysis will be resolved through good faith efforts, at the lowest level possible, between the parties to the MOU. Unresolved disputes from the National Forests and Wyoming Game and Fish Regions will be addressed by the appropriate Forest Supervisor(s) and Game and Fish Regional Supervisor(s). Disputes that cannot be resolved at that Forest/Region level will be addressed by the Regional Foresters and Wyoming Game and Fish Director.
- D. PRINCIPAL CONTACTS. Individuals listed below are authorized to act in their respective areas for matters related to this agreement.

Principal Cooperator Contacts:

Cooperator Program Manager Contact	Cooperator Administrative Contact
Name: Scott Smith, Deputy Director, External Operations Address: 5400 Bishop Blvd. City, State, Zip: Cheyenne, WY 82006 Telephone: 307-777-4501 FAX: 307-777-4699 Email: scott.smith1@wyo.gov	Name: John Kennedy, Deputy Director, Internal Operations Address: 5400 Bishop Blvd. City, State, Zip: Cheyenne, WY 82006 Telephone: 307-777-4501 FAX: 307-777-4699 Email: john.kennedy@wyo.gov



Principal U.S. Forest Service Contacts:

<p>U.S. Forest Service Program Manager Contact – Region 2</p>	<p>U.S. Forest Service Administrative Contact – Region 2</p>
<p>Name: Steve Lohr Address: 1617 Cole Boulevard, Building 17 City, State, Zip: Lakewood, CO 80401 Telephone: 303-275-5014 FAX: 303-275-5075 Email: slohr@fs.fed.us</p>	<p>Name: Rebecca Cuthbertson Address: 1617 Cole Boulevard, Building 17 City, State, Zip: Lakewood, CO 80401 Telephone: 303-275-5068 FAX: 303-275-5396 Email: rcuthbertson@fs.fed.us</p>
<p>U.S. Forest Service Program Manager Contact – Region 4</p>	<p>U.S. Forest Service Administrative Contact – Region 4</p>
<p>Name: Kristine Lee Address: 324 25th St. City, State, Zip: Ogden, UT 84401 Telephone: 801-625-5669 FAX: Email: kristinelee@fs.fed.us</p>	<p>Name: Janice Richardson Address: 324 25th St. City, State, Zip: Ogden, UT 84401 Telephone: 801-625-5796 FAX: Email: janicerichardson@fs.fed.us</p>

E. NOTICES. Any communications affecting the operations covered by this agreement given by the U.S. Forest Service or Wyoming Game and Fish is sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:

To the U.S. Forest Service Program Manager, at the address specified in the MOU.

To Cooperator, at Cooperator’s address shown in the MOU or such other address designated within the MOU.

Notices are effective when delivered in accordance with this provision, or on the effective date of the notice, whichever is later.

F. PARTICIPATION IN SIMILAR ACTIVITIES. This MOU in no way restricts the U.S. Forest Service or Wyoming Game and Fish from participating in similar activities with other public or private agencies, organizations, and individuals.



- G. ENDORSEMENT. Any of Wyoming Game and Fish's contributions made under this MOU do not by direct reference or implication convey U.S. Forest Service endorsement of Wyoming Game and Fish's products or activities.
- H. NONBINDING AGREEMENT. This MOU creates no right, benefit, or trust responsibility, substantive or procedural, enforceable by law or equity. The parties shall manage their respective resources and activities in a separate, coordinated and mutually beneficial manner to meet the purpose(s) of this MOU. Nothing in this MOU authorizes any of the parties to obligate or transfer anything of value.

Specific, prospective projects or activities that involve the transfer of funds, services, property, and/or anything of value to a party requires the execution of separate agreements and are contingent upon numerous factors, including, as applicable, but not limited to: agency availability of appropriated funds and other resources; cooperator availability of funds and other resources; agency and cooperator administrative and legal requirements (including agency authorization by statute); etc. This MOU neither provides, nor meets these criteria. If the parties elect to enter into an obligation agreement that involves the transfer of funds, services, property, and/or anything of value to a party, then the applicable criteria must be met. Additionally, under a prospective agreement, each party operates under its own laws, regulations, and/or policies, and any Forest Service obligation is subject to the availability of appropriated funds and other resources. The negotiation, execution, and administration of these prospective agreements must comply with all applicable law

Nothing in this MOU is intended to alter, limit, or expand the agencies' statutory and regulatory authority.

- I. USE OF U.S. FOREST SERVICE INSIGNIA. In order for Wyoming Game and Fish to use the U.S. Forest Service insignia on any published media, such as a Web page, printed publication, or audiovisual production, permission must be granted from the U.S. Forest Service's Office of Communications. A written



- request must be submitted and approval granted in writing by the Office of Communications (Washington Office) prior to use of the insignia.
- J. MEMBERS OF U.S. CONGRESS. Pursuant to 41 U.S.C. 22, no U.S. member of, or U.S. delegate to, Congress shall be admitted to any share or part of this agreement, or benefits that may arise therefrom, either directly or indirectly.
- K. FREEDOM OF INFORMATION ACT (FOIA). Public access to MOU or agreement records must not be limited, except when such records must be kept confidential and would have been exempted from disclosure pursuant to Freedom of Information regulations (5 U.S.C. 552).
- L. TEXT MESSAGING WHILE DRIVING. In accordance with Executive Order (EO) 13513, "Federal Leadership on Reducing Text Messaging While Driving," any and all text messaging by Federal employees is banned: a) while driving a Government owned vehicle (GOV) or driving a privately owned vehicle (POV) while on official Government business; or b) using any electronic equipment supplied by the Government when driving any vehicle at any time. All cooperators, their employees, volunteers, and contractors are encouraged to adopt and enforce policies that ban text messaging when driving company owned, leased or rented vehicles, POVs or GOVs when driving while on official Government business or when performing any work for or on behalf of the Government.
- M. PUBLIC NOTICES. It is the U.S. Forest Service's policy to inform the public as fully as possible of its programs and activities. Wyoming Game and Fish is encouraged to give public notice of the receipt of this agreement and, from time to time, to announce progress and accomplishments. Press releases or other public notices should be coordinated through each affected National Forests' Public Affairs Staff.
- Wyoming Game and Fish may call on the U.S. Forest Service's Office of Communication for advice regarding public notices. Wyoming Game and Fish is requested to provide copies of notices or announcements to the U.S. Forest Service Program Manager and to The U.S. Forest Service's Office of Communications as far in advance of release as possible.
- N. U.S. FOREST SERVICE ACKNOWLEDGED IN PUBLICATIONS, AUDIOVISUALS AND ELECTRONIC MEDIA. Wyoming Game and Fish shall acknowledge U.S. Forest Service support in any publications, audiovisuals, and electronic media developed as a result of this MOU.
- O. NONDISCRIMINATION STATEMENT – PRINTED, ELECTRONIC, OR AUDIOVISUAL MATERIAL. Wyoming Game and Fish shall include the following statement, in full, in any printed, audiovisual material, or electronic media for public distribution developed or printed with any Federal funding.



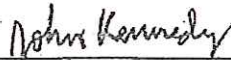
In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. (Not all prohibited bases apply to all programs.)

To file a complaint of discrimination, write USD, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.

If the material is too small to permit the full statement to be included, the material must, at minimum, include the following statement, in print size no smaller than the text:

"This institution is an equal opportunity provider."

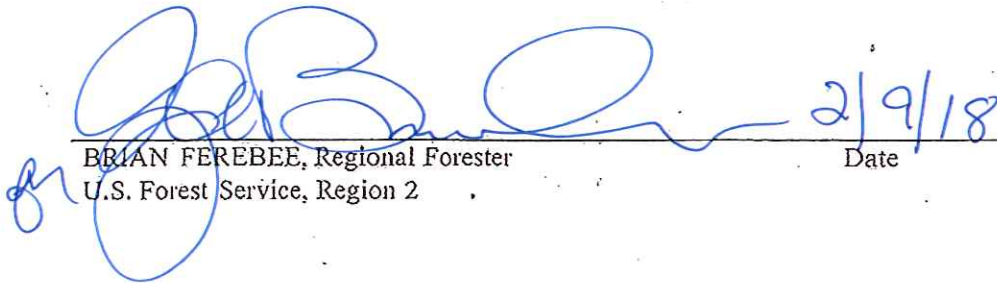
- P. TERMINATION. Any of the parties, in writing, may terminate this MOU in whole, or in part, at any time before the date of expiration.
- Q. DEBARMENT AND SUSPENSION. Wyoming Game and Fish shall immediately inform the U.S. Forest Service if they or any of their principals are presently excluded, debarred, or suspended from entering into covered transactions with the federal government according to the terms of 2 CFR Part 180. Additionally, should Wyoming Game and Fish or any of their principals receive a transmittal letter or other official Federal notice of debarment or suspension, then they shall notify the U.S. Forest Service without undue delay. This applies whether the exclusion, debarment, or suspension is voluntary or involuntary.
- R. MODIFICATIONS. Modifications within the scope of this MOU must be made by mutual consent of the parties, by the issuance of a written modification signed and dated by all properly authorized, signatory officials, prior to any changes being performed. Requests for modification should be made, in writing, at least 30 days prior to implementation of the requested change.
- S. COMMENCEMENT/EXPIRATION DATE. This MOU is executed as of the date of the last signature and is effective through 01/31/2023 at which time it will expire.
- T. AUTHORIZED REPRESENTATIVES. By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this MOU. In witness whereof, the parties hereto have executed this MOU as of the last date written below.



 JOHN KENNEDY, Deputy Director, Internal Operations
 Wyoming Game and Fish Department

1/26/18

 Date



 BRIAN FEREBEE, Regional Forester
 U.S. Forest Service, Region 2

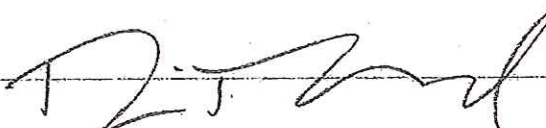
2/9/18

 Date

 NORA B. RASURE, Regional Forester
 U.S. Forest Service, Region 4

 Date

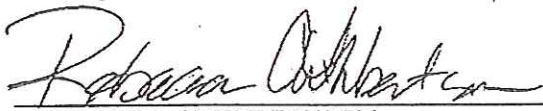
The authority and format of this agreement have been reviewed and approved for signature.



 DAVID DeWALD
 Wyoming Senior Assistant Attorney General

1/26/18 gmb
~~2/26/18~~


 Date



 REBECCA CUTHBERTSON
 U.S. Forest Service Grants Management Specialist

1/26/18

 Date



JOHN KENNEDY, Deputy Director, Internal Operations
Wyoming Game and Fish Department

1/26/18

Date

BRIAN FEREBEE, Regional Forester
U.S. Forest Service, Region 2


Date


for NORA B. RASURE, Regional Forester
U.S. Forest Service, Region 4

2/21/18

Date


The authority and format of this agreement have been reviewed and approved for signature.



DAVID DeWALD
Wyoming Senior Assistant Attorney General

1/26/18 gmb
~~2/26/18~~

Date



REBECCA CUTHBERTSON
U.S. Forest Service Grants Management Specialist

1/26/18

Date



Burden Statement

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0217. The time required to complete this information collection is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

**ATTACHMENT A -ASSOCIATION OF FISH AND WILDLIFE AGENCIES
(AFWA) AGREEMENT**

Policies and Guidelines for Fish and Wildlife Management in National Forest and Bureau of Land Management Wilderness (as amended June, 2006)

(attached .pdf)



**POLICIES AND GUIDELINES FOR FISH AND
WILDLIFE MANAGEMENT IN NATIONAL FOREST AND
BUREAU OF LAND MANAGEMENT WILDERNESS
(as amended June, 2006)**

These policies and guidelines are intended to serve as a framework for enhanced cooperation between State fish and wildlife agencies, the Forest Service, and the Bureau of Land Management in the management of fish and wildlife in National Forest and Bureau of Land Management administered wilderness.



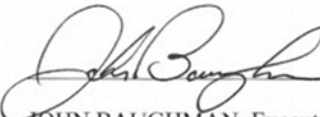
DALE N. BOSWORTH, Chief, USDA Forest Service

7/20/06
Date



KATHLEEN B. CLARKE, Director, Bureau of Land Management

7/14/06
Date



JOHN BAUGHMAN, Executive Vice President, Association
of Fish and Wildlife Agencies

6/30/06
Date

**POLICIES AND GUIDELINES FOR FISH AND
WILDLIFE MANAGEMENT IN NATIONAL FOREST AND
BUREAU OF LAND MANAGEMENT WILDERNESS
(as amended June, 2006)**

A. PURPOSE

This statement of policy and the following guidelines are intended to provide guidance to State fish and wildlife agencies, Forest Service (FS) and Bureau of Land Management (BLM) personnel for the management of fish and wildlife populations in wilderness in accordance with the Wilderness Act of 1964 (16 USC 1131-1136). Both State and Federal agencies are responsible for fostering mutual understanding and cooperation in the management of fish and wildlife in wilderness. The purpose of these guidelines is to develop and expand a framework of cooperation upon which projects and activities may be planned and accomplished while working cooperatively at the national, regional, and local levels. These guidelines serve as a framework for cooperation among the FS, BLM and the States in the coordination of fish and wildlife management and in the development of cooperative agreements or other management plans.

B. STATEMENT OF MUTUAL INTERESTS AND BENEFITS

The FS and BLM are land management agencies dedicated to the management of National Forest System (NFS) and public lands for a variety of uses and activities including wilderness stewardship and protection. Both agencies are mandated through the Secretary of Agriculture and Secretary of the Interior to administer Federally designated wilderness areas in accordance with the Wilderness Act. The FS and BLM are required to preserve wilderness character as directed by the Wilderness Act, while supporting the States' fish and wildlife objectives, to the extent such objectives are consistent with the Act.

The Association of Fish and Wildlife Agencies (AFWA) is an association representing government agencies responsible for North America's fish and wildlife resources. The AFWA serves as a national and international voice on wildlife and conservation issues using expertise in science, policy, economics and coalition-building. The AFWA is dedicated to supporting the State fish and wildlife agencies' work to meet fish and wildlife management objectives in wilderness while preserving wilderness character consistent with the Act.

Section 4(d)(7) of the Wilderness Act provides that "nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish in the national forests." The parties acknowledge that, consistent with applicable Federal and State laws, the States and the Federal government each have management responsibilities affecting fish and wildlife, and will endeavor to work cooperatively in the fulfillment of these responsibilities.

In consideration of the above premises, the parties agree as follows:

C. THE FS AND BLM SHALL:

Participate with the States in annual coordination meetings and encourage communication,

coordination and identification of State-originated fish and wildlife projects satisfying mutually beneficial objectives.

Enter into individual agreements with States in order to make these guidelines as relevant to individual States as they are to the FS and BLM. The FS and BLM will jointly encourage individual States to incorporate these guidelines into statewide agreements or encourage states to adopt a resolution endorsing these guidelines. Work with AFWA and States to identify opportunities and jointly pursue projects that meet fish and wildlife objectives for wilderness subject to compliance with applicable Federal law.

D. AFWA SHALL:

Encourage States to participate with the FS and BLM in annual coordination meetings and encourage communication, coordination, and identification of mutually beneficial projects.

Encourage the States to identify opportunities and jointly pursue projects that meet fish and wildlife objectives for wilderness subject to compliance with applicable Federal law.

Encourage individual States to enter into individual agreements with the FS and BLM in order to make these guidelines as relevant to individual States as it is to the FS and BLM. AFWA will encourage individual States to incorporate these guidelines into statewide agreements or encourage States to adopt resolution endorsing these guidelines.

E. GENERAL POLICY

Fish and wildlife management activities in wilderness will be planned and implemented in conformance with the Wilderness Act's purpose of securing an "enduring resource of wilderness" for the American people. The wilderness resource is defined in section 2(c) of the Act, as an area "untrammelled by man," where natural ecological processes operate freely and the area is "affected primarily by the forces of nature." The National Wilderness Preservation System will be managed to ensure that ecological succession, including fire and infestation of insects, operate as freely as possible with only minimal influence by humans.

Angling, hunting, and trapping are legitimate activities in wilderness areas, subject to applicable State and Federal laws and regulations. Fish and wildlife management activities will emphasize the conservation of natural processes, to the greatest extent possible.

Management activities will be guided by the principle of doing only the minimum necessary to conserve and, if necessary, to enhance fish and wildlife resources, and to manage the area as wilderness.

Section 4(c) of the Wilderness Act states: "Except as specifically provided for in this Act, and subject to existing private rights, there shall be no commercial enterprise and no permanent road within any wilderness area designated by this Act and, except as necessary to meet minimum requirements for the administration of the area for the purpose of this Act (including measures required in emergencies involving the health and safety of persons within the area), there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such

area.”

State fish and wildlife management activities that do not involve Wilderness Act prohibitions identified above in Section 4(c) or that are expressly authorized under specific wilderness acts are generally exempt from authorizations by the Federal administering agencies. However, there may be activities that do not involve prohibitions under Section 4(c) that may require authorizations, such as certain types of activities proposed to address fire or disease under Section 4(d) of the Act.

Proposed State fish and wildlife management activities that would involve uses generally prohibited under Section 4(c) of the Wilderness Act will be considered and may be authorized by the Federal administering agency. The FS and BLM will consult closely with the States and give careful consideration to State fish and wildlife interests when considering these proposed activities, subject to applicable National Environmental Policy Act (NEPA) review, where determined through the Minimum Requirements Decisions Process (MRDP) to be a necessary action (Attachment A Step 1). Additionally, the minimum tool to accomplish necessary fish and wildlife management activities as determined through the MRDP (Attachment A, Step 2), will be recommended by the State and reviewed by the Federal administering agency, in close consultation with the State, and approved where determined appropriate. Units with special provisions mandated by legislation subsequent to the Wilderness Act of 1964 must ensure full consideration of these other legal requirements. Wilderness managers in Alaska must ensure that their decisions are in accordance with the provisions of Alaska National Interest Lands Conservation Act (ANILCA).

Section 4(d)(7) of the Wilderness Act stipulates that “Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish in the national forests.” These policies and guidelines should not be construed as diminishing or expanding State jurisdiction and responsibility to manage fish and wildlife.

This nation is fortunate in having a National Wilderness Preservation System encompassing a wide range of ecosystems. Specific on-the-ground conditions will result in slightly different application of these guidelines in so vast a system. These different applications may be necessary because of enabling legislation for designated wilderness areas.

For purposes of this document, indigenous wildlife and fish species are those that naturally occur within a wilderness area and that were not introduced by humans. Additionally, fish species introduced for management purposes prior to wilderness designation may be managed as indigenous fish species if the species is likely to survive. The State has the responsibility to make the determination as to which wildlife and fish species are indigenous.

F. PROJECT IMPLEMENTATION

The following topics should be reviewed and discussed during annual coordination meetings or during any discussions relative to projects proposed by the State to meet fish and wildlife conservation objectives in wilderness:

1. Use of Motorized Equipment

As outlined in Section E. General Policy, the States' fish and wildlife management activities within wilderness can be accomplished with motor vehicles, motorized equipment, or mechanical transport, only if these devices are necessary to meet the minimum requirements for the administration of the area as wilderness or are specifically permitted by other provisions of the Act. Any such use should be rare and temporary; no roads can be built; and proposals for use of motorized equipment will be considered and may be authorized by the Federal land management agency, in cooperation with the State, through application of the MRDP as outlined in Section E., General Policy. Any use of motorized equipment or mechanical transport requires advance approval by the Federal administering agency.

2. Application of Pesticides

The use of pesticides may be necessary in management of fish and wildlife resources, and their use must be approved by the Federal administering agency.

Guidelines for Application of Pesticides

- a. Use pesticides only where other measures are impractical.
- b. Use only registered pesticides according to label directions and subject to the following restrictions:
 - (1) Pesticides may be applied only by certified applicators.
 - (2) The placement of pesticides shall be accurately indicated on the largest scale USGS map available.
 - (3) Place warning signs at the entrance to the area where pesticides are being used to warn the public of any dangers to themselves or their pets.
 - (4) In the selection of pesticides, give preference to those that will have the least impact on non-target species and on the wilderness environment.

3. Fish and Wildlife Research and Management Surveys

Research and evaluation related to fish and wildlife, their habitats and the recreational users of these resources are legitimate activities in wilderness when conducted in a manner compatible with the area as wilderness. Coordination of all research and survey activities is essential between State and Federal agencies. Methods that temporarily infringe on the wilderness environment may be authorized by the Federal administering agency if alternative methods or other locations are not reasonably available. Research or management survey activities that would involve uses generally prohibited under Section 4 (c) of the Wilderness Act will be considered and may be authorized by the Federal administering agency through application of the MRDP as outlined in Section E., General Policy.

Helicopters and fixed-wing aircraft over flights may be used to conduct fish and wildlife

research and management activities. Use of aircraft for these activities will be coordinated among the State and Federal agencies to minimize conflicts with other wilderness uses. To the greatest extent possible, aircraft must be used in a manner that minimizes disturbance to wilderness character and to human and wildlife use of the wilderness.

Aerial counts and observations (i.e. surveys) of wildlife are allowed in the management of fish and wildlife resources in wilderness. Capturing and marking of animals, radio telemetry, and occasional installations (such as shelters for cameras and scientific apparatus and enclosures essential for wildlife research or management surveys) that would involve uses generally prohibited under Section 4 (c) of the Wilderness Act will be considered and may be authorized by the Federal administering agency through application of the MRDP as outlined in Section E., General Policy.

Guidelines for Fish and Wildlife Research and Management Surveys

- a. Obtain specific written approval or permits from the Federal administering agency before erecting any structure, enclosure, or exclosure.
- b. Locate and construct all structures so as to make them unobtrusive on the landscape.
- c. Construct structures of native materials or camouflage to make them blend with their natural surroundings.
- d. Plan aircraft flights over wilderness to minimize disturbance. Consider time of day, season of the year, route and altitude of flight, and location of landing areas on the perimeter of the wilderness.
- e. Research projects underway when a wilderness is designated may continue, but research methods should be modified, if possible, to minimize disturbance of the wilderness environment.
- f. Installation of base stations for monitoring of radio-instrumented animals will be considered and may be authorized by the Federal administering agency through application of the MRDP as outlined in Section E., General Policy.
- g. The Federal administering agency should only approve methods that minimize the impact on the wilderness environment to the greatest extent possible.

4. Facility Development and Habitat Alteration

Facility development and habitat alteration may be necessary to alleviate adverse impacts caused by human activities on fish and wildlife, including human/wildlife conflicts, and to conserve fish and wildlife resources in wilderness. Facility development and habitat alteration that would involve uses generally prohibited under Section 4 (c) of the Wilderness Act will be considered and may be authorized by the Federal administering agency through application of the MRDP as outlined in Section E., General Policy. For the benefit of wildlife that spend only part of the year in wilderness, give first priority to locating facilities or habitat alterations outside wilderness.

Flow-maintenance dams, water developments, water diversion devices, ditches and associated structures, and other fish and wildlife habitat developments necessary for fish and wildlife management (which were in existence before wilderness designation) may remain in operation.

Maintenance of existing water supplies and development of additional water supplies, including wildlife water developments, that would involve uses generally prohibited under Sec. 4 (c) of the Wilderness Act will be considered and may be authorized by the Federal administering agency through application of the MRDP as outlined in Section E., General Policy.

Clearing of debris that impedes the migratory movements of fish on primary spawning streams that would involve uses generally prohibited under Section 4 (c) of the Wilderness Act will be considered and may be authorized by the Federal administering agency through application of the MRDP as outlined in Section E., General Policy.

Guidelines for Facility Development and Habitat Alteration

- a. Submit proposals for new structures or habitat alterations to the Federal administering agency for approval.
- b. Build or maintain new and existing structures permitted for wildlife management in a manner that minimizes the visual impacts on the landscape.
- c. Limit clearing of debris from spawning streams to those identified in the wilderness management plan as being critical to the propagation of fish.
- d. Proposals involving use of motorized equipment generally prohibited under Sec. 4(c) of the Wilderness Act will be considered and may be authorized by the Federal administering agency through application of the MRDP as outlined in Section E., General Policy.
- e. If it is necessary to restore essential food plants after human disturbance, use only indigenous plant species. Plant species that naturally occurred or occur in a wilderness area and were not introduced by humans are considered indigenous.

5. Threatened and Endangered Species

Many wilderness areas provide important habitat for Federally listed threatened and endangered species of wildlife. For purposes of this document, threatened and endangered species means Federally listed species applicable to the geographic area. Actions necessary to conserve or recover threatened or endangered species, including habitat manipulation and special conservation measures, that involve uses generally prohibited under Section 4 (c) of the Wilderness Act, will be considered and may be authorized by the Federal administering agency through application of the MRDP as outlined in Section E., General Policy.

Guidelines for Threatened and Endangered Species

- a. When alternative areas outside of wilderness offer equal or better opportunities for habitat improvement or species conservation, actions to recover threatened or endangered species outside

of wilderness should be considered first, but this does not preclude analyzing or implementing projects in wilderness.

b. Threatened and endangered species may be transplanted into previously occupied habitat within wilderness. Proposals that would involve uses generally prohibited under Section 4 (c) of the Wilderness Act will be considered and may be authorized by the Federal administering agency through application of the MRDP as outlined in Section E., General Policy.

c. Proposals for transplants of indigenous species and proposals for habitat improvement projects require close coordination and cooperation between the State and Federal administering agencies.

d. To prevent Federal listing, manage and conserve indigenous species that could become threatened or endangered.

6. Angling, Hunting, and Trapping

Angling, hunting, and trapping are legitimate activities in wilderness subject to applicable State and Federal laws and regulations.

7. Population Sampling

Scientific sampling of fish and wildlife populations is an essential activity in wilderness.

Guidelines for Population Sampling

a. When possible, use only methods that are compatible with the wilderness environment.

b. Gill netting, battery-operated electrofishing, and other standard techniques of population sampling that would involve uses generally prohibited under Section 4 (c) of the Wilderness Act will be considered and may be authorized by the Federal administering agency through application of the MRDP as outlined in Section E., General Policy.

c. Closely coordinate sampling activities with the Federal administering agency and schedule them to avoid heavy public-use periods.

8. Chemical Treatment

Chemical treatment may be necessary to prepare waters for the reestablishment of indigenous fish species, consistent with approved wilderness management plans, to conserve or recover Federally listed threatened or endangered species, or to correct undesirable conditions resulting from human activity. Proposals for chemical treatments will be considered and may be authorized by the Federal administering agency through application of the MRDP as outlined in Section E., General Policy. Any use of chemical treatments in wilderness require prior approval by the Federal administering agency.

Guidelines for Chemical Treatment

a. Use only registered pesticides according to label directions.

- b. In selecting pesticides, give preference to those that will have the least impact on non-target species and on the wilderness environment.
- c. Schedule chemical treatments during periods of low human use, insofar as possible.
- d. Immediately dispose of fish removed in a manner agreed to by the Federal administering agency and the State agency.

9. Spawn Taking

The collection of fish spawn in wilderness shall be permitted when alternative sources are unavailable or unreliable, or where spawn taking was an established practice before wilderness designation.

Guidelines for Spawn Taking

- a. Spawn taking proposals that would involve uses generally prohibited under Section 4(c) of the Wilderness Act will be considered and may be authorized by the Federal administering agency through application of the MRDP as outlined in Section E., General Policy.
- b. Use of techniques and facilities necessary to take spawn, which were in existence before wilderness designation, may continue as provided for in the wilderness management plan.
- c. Facilities for spawn-taking stations approved after wilderness designation must be removed after the termination of each season's operation.
- d. Decisions to prohibit spawn taking, where it was an established practice before wilderness designation, will be made in close cooperation and coordination between the Federal administering agency and the State agency.

10. Fish Stocking

Fish stocking may be conducted by the State agency in coordination with the Federal administering agency to perpetuate or recover a threatened or endangered species, or to reestablish or maintain indigenous fish species. Any species of fish introduced for management purposes prior to wilderness designation may be managed as indigenous fish species if the species is likely to survive. State agencies may continue to stock those waters traditionally stocked prior to wilderness designation. State and Federal agencies should carefully evaluate stocking those waters that consistently require supplementation for reasons other than angler-induced mortality.

Selected species for stocking will be determined by the State agency in close cooperation and coordination with the Federal land management agency. In order of preference for stocking fish species is (a) Federal threatened or endangered species, and (b) indigenous species. Numbers and size of fish and time of stocking will be determined by the State in coordination with Federal agencies.

Lakes and streams currently without fish may be considered for stocking, if there is mutual agreement that no appreciable loss of scientific values or adverse effects on wilderness resources

will occur. It is generally undesirable to stock previously unstocked waters. Because these areas generally reflect natural ecosystem processes, they may possess high scientific values. Proposals for fish stocking that would involve uses generally prohibited under Section 4 (c) of the Wilderness Act will be considered and may be authorized by the Federal administering agency through application of the MRDP as outlined in Section E., General Policy.

Guidelines for Fish Stocking

- a. The State agency shall make fish stocking schedules available to the Federal administering agency, indicating what species and numbers are planned for each water within a wilderness.
- b. Adjust stocking rates to minimize the likelihood of exceeding the carrying capacity of the water being stocked so as to reduce the chance of producing a population imbalance.

11. Aerial Fish Stocking

Aerial stocking of fish shall be permitted for those waters in wilderness where this was an established practice before wilderness designation or where other practical means are not available. Proposals that would involve uses generally prohibited under Section 4 (c) of the Wilderness Act will be considered and may be authorized by the Federal administering agency through application of the MRDP as outlined in Section E., General Policy.

Guidelines for Aerial Fish Stocking

- a. The State agency will supply the Federal administering agency a list of those waters where stocking with aircraft was an established practice before wilderness designation, indicating the type of aircraft used (fixed-wing or helicopter).
- b. To stock waters that had not been aerially stocked before wilderness designation, the State agency will demonstrate to the Federal administering agency the need for using aircraft.
- c. Plan aircraft flights over wilderness to minimize disturbance. Consider season of year, time of day, route and altitude of flight, and location of landing areas on the perimeter of the wilderness.

12. Transplanting Wildlife

Transplants (removal, reintroduction, or supplemental introduction) of terrestrial wildlife species in wilderness may be permitted if necessary: (a) to perpetuate or recover a threatened or endangered species; (b) to restore the population of an indigenous species; or (c) to manage wildlife populations in accordance with the States' wildlife populations objectives.

Transplants shall be made in a manner compatible with the wilderness character of the area. Transplant projects require advance written approval by the Federal administering agency. Follow-up monitoring surveys that would involve uses generally prohibited under Section 4 (c) of the Wilderness Act will be considered and may be authorized by the Federal administering agency through application of the MRDP as outlined in Section E., General Policy.

Guidelines for Transplanting Wildlife

Proposals for motorized methods and temporary holding and handling facilities that involve uses generally prohibited under Sec. 4 (c) of the Wilderness Act will be considered and may be authorized by the Federal administering agency through application of the MRDP as outlined in Section E., General Policy.

13. Wildlife Damage Control

Wildlife damage control in wilderness may be necessary to conserve Federally listed threatened or endangered species, to prevent transmission of diseases or parasites affecting wildlife and humans, or to prevent serious losses of domestic livestock. Refer to MOUs between the Animal and Plant Health Inspection Service (APHIS) and the Federal administering agencies regarding permissible action in wilderness. Proposals that would involve uses generally prohibited under Section 4 (c) of the Wilderness Act will be considered and may be authorized by the Federal administering agency through application of the MRDP as outlined in Section E., General Policy.

Guidelines for Wildlife Damage Control

- a. Acceptable control measures include lethal and nonlethal methods, depending upon need, justification, location, conditions, efficiency and applicability of State and Federal laws.
- b. Control measures will be implemented by APHIS, the Federal administering agency, the State fish and wildlife agency, or other approved State agency, pursuant to cooperative agreements or MOUs.
- c. Direct control at individual animals causing the problem.
- d. Use only the minimum amount of control necessary to solve the problem.

14. Visitor Management to Conserve Wilderness Wildlife Resources

Many wildlife species are sensitive to human encroachment on their ranges. Grizzly bear, bighorn sheep, elk, mountain goat, birds of prey (such as peregrine falcon and bald eagle), other migratory and resident birds, and certain other wilderness wildlife species may be sensitive to excessive human disturbance, particularly during certain seasons of the year.

Guidelines for Visitor Management to Conserve Wilderness Wildlife Resources

- a. Specify in the wilderness management plan the management actions necessary and the agency responsible to reduce conflicts with wildlife.
- b. If and when it becomes apparent that public use is significantly degrading the wilderness wildlife resources, limitations on visitor use may be imposed and enforced by the appropriate Federal administering agency in coordination with the State wildlife agency. Any limitations will be applied equitably to all wilderness visitors.

15. Management of Fire

The objectives of fire management in wilderness are to: (a) permit lightning-caused fires to play, as nearly as possible, their natural ecological role within wilderness and (b) reduce, to an acceptable level, the risks and consequences of wildfire within wilderness or escaping from wilderness. Fire ignited by lightning may be permitted to burn or will be suppressed as prescribed in an approved plan. Prescribed fires may be permitted to reduce unnatural buildup of fuels only if necessary to meet objectives (a) and (b) above and require approval from the Federal administering agency.



ATTACHMENT A

Minimum Requirements Decisions Process Outline

Pursuant to the Policies and Guidelines for Fish and Wildlife Management in National Forest and Bureau of Land Management (BLM) Wilderness, the intent of this attachment is to document the analysis process used by the BLM and Forest Service, in cooperation with the State fish and wildlife agencies, to determine the “minimum requirements” for accomplishing fish and wildlife projects and activities within a wilderness area. It is also intended to reemphasize that continued State and Federal coordination and cooperation is necessary to meet each agency’s management objectives in wilderness.

The following outlines the “Minimum Requirements Decisions Process” (MRDP) for certain proposed projects within wilderness. For certain projects proposed by State fish and wildlife agencies, this analysis will be completed by the applicable State agency in coordination with the responsible Federal agency. Unless specifically exempted by law, all proposed projects and activities within wilderness involving the eight Wilderness Act prohibitions listed below will require the completion of the MRDP to determine whether they can be authorized in wilderness. Section 4(c) of the Wilderness Act lists ten prohibited uses in wilderness. Eight of these prohibited uses could be allowed if they are “...*necessary to meet the minimum requirements for the administration of the area for the purpose of this Act (including measures required in emergencies involving the health and safety of persons within the area)*...”.

The eight prohibited uses recognized by this exception are temporary roads, use of motor vehicles, motorized equipment or motorboats, landing of aircraft, other forms of mechanical transport, and structures or installations. The two Section 4(c) prohibited uses that may not be authorized in wilderness under the above exception are commercial enterprises and permanent roads.

The 1964 Wilderness Act directs that the determination to employ a generally prohibited use can only be made by the federal agency administering the affected wilderness area. The Act in Section 4(d)(8) also states that “Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish ...” within wilderness areas. For projects proposed by State wildlife agencies in designated wilderness it is crucial that Federal and State agencies respect each other’s jurisdictions and responsibilities when employing the MRDP. The Federal land management agency must work closely and cooperatively with State agencies in determining how best to meet their needs within the allowable legal framework of the 1964 Wilderness Act and the legislation designating the area as wilderness.

For project proposals where a National Environmental Policy Act (NEPA) analysis is required, the MRDP prepared by the State agency will be included in the NEPA process. The Federal land management agency will work with the State agency to complete the applicable NEPA analysis in a timely manner. As a part of the MRDP, the State agency will conduct the

Minimum Requirements Decisions Process, in close coordination and cooperation with the Federal administering agency, and will document the conclusion from Step 1 and the decision from Step 2. The Federal administering agency will make the final determination of the minimum requirements.

Minimum Requirements Decisions Process Outline

Step 1a: Determine if the action proposed by the State agency or Federal administering agency, to meet conservation objectives for fish and wildlife, is *necessary* to manage the area as wilderness.

First, describe the situation that may prompt the State agency or Federal administering agency action and describe how the action will address a problem or issue, or will otherwise contribute to fish or wildlife conservation objectives.

Then, determine whether the action is necessary in wilderness by describing why the action is necessary in terms of the following:

1. Options Outside of Wilderness

Determine whether the purpose of the proposed action can safely, successfully and reasonably be accomplished outside of a wilderness area. However, this does not preclude analyzing or implementing projects in wilderness, so long as they meet the minimum requirement standard (**if the project involves uses generally prohibited under Sec. 4(c) of the Wilderness Act**). For wildlife species that spend only part of the year in wilderness, give first priority to locating facilities or habitat alterations outside of wilderness.

2. Legal and Policy Consistency

Determine whether the proposed action is consistent with law, regulations, policies, and plans. Consider valid existing rights or special provisions of wilderness acts.

3. Consider Requirements of Other Legislation (ESA, ARPA, ANILCA, etc.)

4. Consider other Guidance (State wildlife conservation strategies, comprehensive plans, State listed threatened or endangered species or sensitive species lists, State or tribal agreements, etc.).

5. Wilderness Character

Determine whether the proposed action contributes to the preservation of wilderness character (i.e., how does the proposed action contribute to maintaining the wilderness character?).

6. Public Purposes of Wilderness

Determine whether the proposed action is necessary for the purpose of wilderness (i.e., how would the proposed action support the public purposes for wilderness of recreation, scenic, scientific, education, conservation and historical uses?).

Step 1b: Conclusion: *Is the Action Necessary?*

If the action is necessary, proceed to Step 2 to determine the minimum tool or method for the action. If no action is necessary, stop here.

Step 2a: Determine the *minimum tool*

1. Describe the Proposed Action and Alternative Actions

Analyze at least one feasible alternative, if available, that does not involve a generally prohibited act. This alternative must be one that could accomplish both the wilderness management objectives and the fish and wildlife conservation objectives of the proposed action.

2. Compare the Effects of the Alternatives

Analyze whether the tools and techniques used to accomplish the proposed action are the least degrading to wilderness characteristics while safely, successfully and reasonably accomplishing the task. This entails analyzing the impacts of each alternative on the wilderness characteristics (naturalness, outstanding opportunities for solitude or primitive and unconfined recreation, and other special features). Criteria such as time, convenience, and cost effectiveness may also be considered but are less significant than the potential for impacts to wilderness characteristics.

Step 2b: Decision - *What is the Minimum Tool?*

- Identify the selected alternative.
- Describe the rationale for selecting this alternative, based on the analysis from 2a, law and policy.
- List management requirements for minimizing effects (timing, location, frequency, design standards for this action).
- Describe any monitoring and reporting requirements.

The MRDP used to determine the necessity to either employ or not employ a generally prohibited use meets the intent of the "...minimum requirement..." exception in Section 4(c) of the Wilderness Act. However, any Federal authorization of a generally prohibited use must include a rationale in the decision record that clarifies why the use is needed to manage the wilderness area for the purpose of wilderness and the legislation designating the area as wilderness.

- Decisions resulting from the MRDP outline can be documented in a format that best suits the Federal administering agency and the State wildlife agency.

ATTACHMENT B-- NEPA REQUIREMENTS FOR PROJECTS RELATED TO FISH AND WILDLIFE MANAGEMENT IN WILDERNESS

This attachment to the MOU provides guidance on application of the National Environmental Policy Act for projects proposed by Wyoming Game and Fish.

Projects can be categorically excluded (CE) from an Environmental Assessment (EA) or Environmental Impact Statement (EIS) if:

1. the proposed action is within one of the categories created by the Forest Service, USDA or Congress (FSH 1909.15 Chapter 30)
2. there are no extraordinary circumstances (FSH 1909.15 Chapter 30.3) See note below.
3. scoping performed in accordance with FSH 1909.15 Chapter 11 identifies that a **CE** is appropriate and that the action will cause no significant effects. If the responsible official determines, based on scoping, that it is uncertain whether the proposed action may have a significant effect on the environment, prepare an **EA** (ch. 40). If the responsible official determines, based on scoping, that the proposed action may have a significant environmental effect, prepare an **EIS** (ch. 20). Scoping is required on all proposed actions, including those that would appear to be categorically excluded.

Note: Congressionally designated wilderness is one of the resource conditions to be evaluated to determine if extraordinary circumstances exist. The mere presence of this resource condition does not preclude the use of CE. It is (1) the existence of a cause-effect relationship between a proposed action and the potential effect on the resource condition and (2) if such a relationship exists, the degree of the potential effect of a proposed action on the resource condition that determines whether extraordinary circumstances exist. (FSH 1909.15, 30.3)

Timelines for completion of NEPA can vary depending upon appeals and litigation. Typically, if there are no appeals or litigation, an EA can be completed in 12-18 months and an EIS in 12-24 months. Decisions that are categorically excluded from further documentation can be implemented as soon as the decision memo is signed, typically taking between 30 to 45 days depending on the scoping period length and if a decision memo and/or a special use permit is required ..

In all proposals the following apply:

1. Effects to wilderness character must be assessed, including the effect to other features integral to the wilderness area if appropriate. The qualities of Wilderness character identified in the Wilderness Act are described below.
2. All CE's for fish and wildlife projects require a project or case file and a decision memo.
3. A special use permit will be issued when a federal decision is required.

Potential project effects can be gathered and documented in the Effects on Wilderness Attributes Worksheets.

See also the Implementation Toolbox for additional guidance, including scenarios, explanations of wilderness character and how to address effects to wilderness character.

ATTACHMENT C -- PROCESS FOR ADDRESSING MANAGEMENT PROPOSALS

This MOU establishes a standard process for addressing fish, wildlife and habitat management proposals on National Forest Wilderness proposed by Wyoming Game and Fish. The process is described below. These permissions and authorities mirror those found in the AFWA Agreement.

A. Management Actions requiring a Federal Decision

In accordance with the national AFWA Agreement (see Attachment A), dated June 2006, the following actions require federal agency approval:

- Any action involving a Section 4 (c) prohibition, including:
 - Use of motorized equipment
 - Landing of aircraft
 - Use of motorized vehicles and any other kind of mechanical transport
 - Temporary or permanent facility development, structures or installations
- Use of chemicals (piscicides, pesticides or herbicides)
- Habitat alteration
- Stocking previously unstocked waters
- Transplanting (removal, reintroduction, or supplemental introduction) wildlife , including the transplanting of federally listed threatened and endangered species into previously occupied habitat
- Fish stocking using motorized equipment or mechanical transport: Where established prior to designation, fish stocking, including aerial stocking, will continue as specified in state stocking plans, subject to periodic review. Congress provided for the allowance of fish stocking to continue subject to changed conditions or circumstances that would endanger wilderness character exceeding the existing situation at time of designation. Identify all State stocked waters at time of designation, including the method of stocking and type of motorized use or mechanical transport used in State stocking plans. A new federal decision would only be needed if a change from the current situation is warranted due to adverse effects to wilderness character, proposed changes in stocking species, or methodology (non-motorized to motorized).

*See specific agency or regional policy to determine who the Responsible Official is for these actions (FSM 2320)

B. Management Actions that do not Require a Federal Decision

The following actions do not require federal agency approval (provided the project does not include on-the-ground use of Section 4 (c) prohibitions on motorized equipment, mechanical transport, landing of aircraft, structures or installations):

- Overflights, aerial counts and observation
- Scientific sampling, capturing and marking animals and using radio telemetry
- Angling, hunting, trapping
- Animal research and survey work
- Fish surveys using gill-netting or battery operated electrofishing
- Spawn taking
- Ongoing fish stocking of indigenous species that were established prior to wilderness designation.
- Changes in fish species stocked in areas where stocking was established prior to designation, provided they are indigenous.

- **Wildlife Damage Control.** Wildlife damage control in wilderness may be necessary to conserve Federally listed threatened or endangered species, to prevent transmission of diseases or parasites affecting wildlife and humans, or to prevent serious losses of domestic livestock. Refer to the AFWA Agreement (Attachment A) for further guidance on wildlife damage control.

C. Step by Step Process for NEPA Analysis of Fish and Wildlife Management Actions Covered by this MOU that Require a Federal Decision.

The following is a step-by-step explanation of the NEPA process to follow when there is a project proposal that requires a federal decision.

Step 1. The action does not require a federal decision or the action is adequately covered by previous NEPA analysis, such as in a wilderness or land management plan. (See ATTACHMENT D for current Forest and Wilderness Plan direction references.)

The project can be implemented without further analysis. For instance, fish stocking is allowed where it was established prior to wilderness designation by means that were traditionally used. The Wyoming Game and Fish will make available to the Forest Service a stocking schedule so that in any given year the line officer will know which lakes will be stocked and by what means. The line officer will work with the Wyoming Fish and Game to identify mitigation measures to preserve wilderness character and to minimize effects to the public.

If the action does require a federal decision or is not covered by previous NEPA, the Wyoming Game and Fish should proceed through the flowchart. Go to Step 2.

Step 2. If the action is not adequately covered by NEPA, Wyoming Game and Fish responds to the question: can this project be accomplished outside of wilderness and still meet stated goals and objectives?

If yes, the project should be implemented outside of wilderness.

If no, the Wyoming Game and Fish will cooperate with the Forest Service to prepare the minimum requirement decision guide (MRDG) as described in Attachment A of the AFWA Agreement dated June 2006. Though the question, "can this project be accomplished outside of wilderness" is included in the MRDG, it is significant enough to warrant it as a first step. If project can be accomplished outside of wilderness, there is no need to proceed with the MRDG.

Step 3. Does the action require a federal agency action?

If yes, the MRDG identifies that the project is necessary in wilderness and requires a federal agency approval (such as for the need for motorized equipment and/or mechanical transport) an analysis is required under the NEPA. Go to Step 4.

If no, the MRDG indicates that the project is necessary in wilderness but no federal agency approval is required, notify the line officer and discuss implementation.

Implement project.

Step 4. Enter the NEPA Process. The first step in the NEPA process is public scoping which helps determine the extent of analysis required. The Wyoming Game and Fish should develop a purpose and need for the project at this time. The purpose and need for the project will define the level of scoping necessary. See **Attachment B** for more information on NEPA requirements and scenarios.

Attachment D – Wilderness Areas Affected by this MOU

Forest	Wilderness Area	Date and Name of Wilderness or Forest Plan
Bighorn NF	Cloud Peak Wilderness Area	Bighorn Land and Resource Management Plan, 2005
Bridger-Teton NF	Bridger Wilderness Gros Ventre Wilderness Teton Wilderness	Bridger-Teton Land and Resource Management Plan, 1990
Caribou-Targhee NF	Jedediah Smith Wilderness Winegar Hole Wilderness	Targhee Land and Resource Management Plan, 1997
Medicine Bow -Routt NF	Encampment River Wilderness Huston Park Wilderness Platte River Wilderness Savage Run Wilderness	Medicine Bow Land and Resource Management Plan, 1998 Routt Land and Resource Management Plan, 2003
Shoshone NF	Absaroka-Beartooth Wilderness Fitzpatrick Wilderness North Absaroka Wilderness Popo Agie Wilderness Wasakie Wilderness	Shoshone Land and Resource Management Plan, 2015