

**Bitter Creek and Mountain Plover
Areas of Critical Environmental Concern
Plan Amendment and Environmental Assessment**

Finding of No Significant Impact / Decision Record

A Plan Amendment and Environmental Assessment (EA) has been completed addressing designation of two Areas of Critical Environmental Concern (ACECs) in Valley County, Montana, administered by the Bureau of Land Management (BLM) Malta Field Office, Glasgow Field Station. The Final Plan Amendment / EA # MT-096-99-04 was completed in December 2000. This document was provided to all interested and affected parties; a copy is available for review at the Glasgow Field Station and at www.mt.blm.gov/lands/ACEC.pdf.

DECISION:

Based on the information and analysis of the Plan Amendment/EA and comments from the public, it is my decision to adopt Alternative B: designation of the two ACECs, with management according to the prescriptions described below. *(Please note that the Final Plan Amendment/EA did not include management prescription for Bitter Creek, deferring that until after Congress releases it from Wilderness Study Area (WSA) status. Due to concerns raised in the protest resolution process, management prescriptions for Bitter Creek are now included.)*

Bitter Creek

Bitter Creek will be designated an ACEC (59,600 public acres). The boundary will include the three segments of the Bitter Creek WSA. Until Congress acts to either release Bitter Creek from wilderness study or designate it wilderness, the area will continue to be managed under the Interim Management Policy for WSAs (the IMP).

The threefold goal for management of the Bitter Creek ACEC is: (1) maintain the natural grassland vegetation; (2) limit visual change to the undisturbed scenic landscape; and (3) encourage understanding of, and appreciation for, the prairie grassland ecosystem.

If Congress adopts the BLM's recommendation and releases Bitter Creek from WSA status, the special management as an ACEC will comprise the following management prescriptions. These management prescriptions are similar to, but not significantly different from, the restrictions in the revised edition of the IMP existing in 1998, except where resource values warrant a different type or level of restriction. A more detailed plan for management of the ACEC would be initiated within 2 years following WSA release. This ACEC management plan would be developed through a public process. If at that time decisions are proposed that would significantly alter the resource allocations outlined in the management prescriptions below, a plan amendment would likely be undertaken.

Bitter Creek Management Prescriptions

No oil and gas or mineral leasing will be allowed. There are no existing leases.

No new roads will be allowed.

Any surface disturbing activities will be reclaimed with native species and contoured to match the natural terrain.

No above ground rights-of-way will be allowed.

Off-highway travel will be limited yearlong to designated roads and trails, as shown in Figure 2 page 15 of the Final Plan Amendment / EA. Travel off these designated routes will be allowed for permitted uses, primarily livestock permittees for maintenance of fences and movement of livestock.

Motorized wheeled cross-country travel to a campsite will be permissible within 300 feet of roads or trails. Site selection must be completed by non-motorized means and accessed by the most direct route causing the least damage.

Cross-country wheeled vehicle travel would be permissible in emergency operations, including search and rescue and fire suppression. No blading or plowing of fire lines would be allowed.

Current management of livestock grazing will continue with any changes or revisions based on rangeland health standards and the goals of maintaining the natural, undisturbed grassland.

No mechanical rangeland treatments will be allowed. Prescribed fire may be used to maintain the grassland. Existing fences and reservoirs will be maintained. New reservoirs or fences will be considered only if they are necessary to meet rangeland health standards, are reclaimed with native species and designed to minimize visual change. To maintain the native grassland, noxious weed control will continue to focus on aerial chemical application and biological methods. Follow-up ground application could be done if needed. The use of insecticides will not be allowed.

The BLM will promote research by universities and other governmental agencies to further understanding of the grassland ecosystem and associated wildlife.

The BLM will provide interpretive information via the BLM website, pamphlets, signing, etc., to aid understanding and appreciation of the native plants, animals, geology and other features of the ACEC. The watchable wildlife tour route will be continued and maintained for 4x4 travel.

Mountain Plover

The Mountain Plover area will be designated an ACEC (24,730 public surface acres). The boundary will be on existing roads (42.3 miles) and property lines (3 miles). The ACEC will include two habitat areas for the mountain plover. The primary habitat is the hardpan area

(Vaeda silty clay soils) the Nuttall's saltbush habitat on the valley bottoms (12,000 acres). The secondary habitats are on the gentle rises on either side of the valleys.

The following management prescriptions will apply within the ACEC to meet three goals: (1) maintain unique natural habitat for mountain plovers, (2) protect the mountain plover during the nesting period from April 1 to July 31, and (3) encourage research concerning how the mountain plover uses the habitat.

Mountain Plover Management Prescriptions

A seasonal restriction will be placed on oil and gas activities. Geophysical exploration will not be allowed from April 1 to July 31 and oil and gas leases will include a stipulation that prohibits surface use from April 1 to July 31 (see Appendix D). The following mitigating measures will apply for any oil or gas well completed as a producer.

1. Production facilities will be located off the primary habitat (hardpan areas) within the ACEC. Facilities include, for example, the treater and the storage tanks. The pump unit will not be included. All facilities will be designed to reduce contrast with surrounding landscape and reduce resource impact.
2. Pipeline and road construction will not be allowed from April 1 to July 31 in the primary habitat.
3. Special projects (e.g. workover rigs, pipeline maintenance) during the period April 1 to July 31 will require an inventory for nesting habitat. The inventory will have to be completed by a qualified biologist using BLM-approved procedures. If there are occupied nests within 1/4 mile of the proposed activity, mitigation could include the use of a temporary road or with travel in the early morning or late afternoon but no travel from 11:00 a.m. to 4:00 p.m. If there are no occupied nests within 1/4 mile of the proposed activity, special mitigation measures will not apply.

The following mitigating measures will be considered during the Plan of Operations approval process for bentonite exploration and development. Mitigating measures will be applied to prevent unnecessary or undue degradation.

1. Seasonal restrictions will be recommended on surface disturbing activities from April 1 to July 31 on a case-by-case basis to prevent unnecessary or undue degradation. Proposed surface-disturbing activities during the period April 1 to July 31 will require an inventory to determine if occupied nesting habitat occurs. If there are occupied nests within 1/4 mile of the proposed activity, the BLM will work with the operator to relocate the proposed activity or limit the size and duration of the disturbance. If there are no occupied nests within 1/4 mile of the proposed activity, special mitigation measures will not apply.
2. Alternative location of facilities off the primary habitat (hardpan areas) will be required within the ACEC.

3. Access route design for exploration and development will minimize surface disturbance to avoid occupied nesting habitat. Permitted cross-country travel should be performed in a manner that will minimize soil disturbance and damage to vegetation. Reclamation will be required to avoid creating additional permanent roads and trails.

4. Concurrent reclamation will be emphasized to keep disturbance to a minimum, thereby reducing habitat loss. Concurrent reclamation is the method of reclamation where topsoil removed from an area about to be mined is either: (1) directly and immediately reapplied to the adjacent mined area; or (2) applied to the area it was removed from within a short time (1-2 months). Concurrent reclamation provides the greatest opportunity to return the native plant community to the site by preserving the seeds, roots and soil microorganisms. The topsoil material is only about 1-2 inches thick over shale in most places. Within this thin layer are all the ingredients to reestablish the native plant community. If concurrent reclamation is not used, reclamation should be within at least 2 years. The goal of reclamation will be to keep the vegetation short with adequate areas of bare ground.

5. Reclamation will utilize native plant species. Preference will be given to plants that are low-growing.

All right-of-way (ROW) grants within the primary habitat will include the following stipulation: "Construction activity and surface disturbance will be prohibited during the period from April 1 to July 31 for the protection of mountain plover nesting habitat. Any exceptions to this requirement must have prior written approval from the authorized officer, except for emergency actions." Other mitigating measures will be considered on a case-by-case basis with appropriate stipulations from the BLM Manual Handbook H-2801-1 incorporated into the ROW grant.

The BLM will minimize any road construction within the ACEC. A portion of Beaver Branch road is recommended for re-routing to avoid mountain plover nesting habitat. If Beaver Branch road is not rerouted through the primary habitat section, speed control will be implemented for the hardpan segment. Speed control will be implemented on the hardpan section (primary habitat) of Arrambide Road. Any BLM road maintenance during the time period April 1 to July 31 within the ACEC boundaries will be done only with approval from a BLM wildlife biologist.

Off-highway travel will be restricted seasonally (April 1 to July 31) to designated roads and trails (see Figure 3, page 16 of Final Plan Amendment / EA). Off-road travel will be limited to administration of a federal lease or permit.

A watchable wildlife area could be established in an unobtrusive area for environmental education.

Current management for livestock grazing will continue but any changes or revisions based on standards for rangeland health and guidelines for livestock grazing management will address mountain plover habitat.

Other activities and surface disturbing activities will be limited seasonally or prohibited within the ACEC. Land treatments (e.g. contour furrowing or chisel plowing) will not be allowed

within the ACEC. Construction of range and wildlife improvements or use of the ACEC as a fire staging area will not be allowed from April 1 to July 31. The containment/eradication of noxious plants will focus primarily on treatment in the fall and/or aerial spraying. The use of insecticides will not be allowed.

PROTESTS

The resolution of protests is the responsibility of the Assistant Director of the BLM whose decision is the final decision of the Department of the Interior. The Assistant Director received two protest letters; both were determined to have standing by previously participating in the planning process. The letters from the two protesters were reviewed and protest issues and comments were identified. Each of the protest issues was responded to and those responses were included in return letters to each protestor.

The Assistant Director has determined that approval of the proposed plan amendment is consistent with the BLM's policy guidance, is based upon valid and complete information and complies with applicable laws, regulations, policies, and planning procedures.

FINDING OF NO SIGNIFICANT IMPACT:

Based on the analysis of the public comments and of potential environmental impacts contained in the environmental assessment, I have selected Alternative B as described above and have determined that designation of the Bitter Creek and Mountain Plover Areas of Critical Environmental Concern is not a major federal action which will significantly affect the quality of the human environment. Therefore, I have determined that an Environmental Impact Statement is not required.

RATIONALE FOR DECISION:

In order to be designated an ACEC, an area must meet both the relevance and importance criteria as defined in 43 CFR 1610.7-2. The Bitter Creek area meets three of four relevance criteria; (1) historic, cultural or scenic values; (2) fish and wildlife resources; and (3) natural process or system. The Mountain Plover area meets criteria 2 as a natural habitat for mountain plovers, a species of special concern proposed for listing as threatened or endangered. (Appendix A, page 45-46 Final Plan Amendment/EA)

The Bitter Creek and Mountain Plover areas meet the importance criteria for ACEC designation. "Bitter Creek WSA is exemplary of a proper functioning prairie ecosystem. Included in the BCWSA are a variety of natural vegetation types; wetland, riparian, woody draw, prairie grassland, and badlands. While many of the other 15 comparable areas include these vegetation types, no other area has this rich variety of types in combination with lack of developed roads and scenic intrusions" (Appendix B, page 61 Final Plan Amendment/EA). "The Mountain Plover area is unique because it contains natural habitat for the mountain plover. It is one of the

last areas of native plover habitat in the United States. It is more than locally significant to the survival of the plover.” (Judith-Valley-Phillips RMP, Appendix H, page 372, 1992)

Throughout the public process there has been broad support for designation of both ACECs. Designation of the two ACECs will provide for management of the Bitter Creek area as exemplary grassland and for protection of the mountain plover habitat. The management prescriptions will provide for the protection of these habitats while allowing uses to occur during times or in ways that fit with the goals of the ACECs. Designation of these areas will lead to improved understanding and appreciation of the prairie ecosystem and the associated plant and animal species.

ALTERNATIVES:

One other alternative was considered, Alternative A: No Action. In this alternative neither area would be designated an ACEC.

Bitter Creek WSA, which is not recommended for wilderness designation, would be managed the same as surrounding lands if released from WSA status. This would open the area to oil and gas leasing and development and to other activities that could degrade the prairie ecosystem. The Mountain Plover area would not have timing restrictions on oil and gas and other activities to protect the plover. There would be no recognition of the special values of these two unique areas.

IMPLEMENTING AND MONITORING DECISIONS:

This Decision Record, including the goals and management prescriptions, constitutes an implementation decision. Future monitoring of the ACEC will provide the information needed to insure the ACECs are managed to meet the goals stated above.

MAINTAINING AND AMENDING DECISIONS:

Decisions in this plan will be maintained to reflect minor changes in information. Maintenance is limited to refining or further clarifying a plan decision and cannot expand the scope nor change the terms and conditions of the decisions. Maintenance will be documented in supporting records. A plan amendment would likely be necessary if major changes are needed or to consider a proposal or action that is not in conformance with the plan. Plan amendments are accomplished with public input and environmental analysis.

PUBLIC INVOLVEMENT:

The views and concerns of the public were actively sought throughout this planning process. Public involvement and coordination are summarized in Chapter 5 of the Final Plan Amendment /EA.

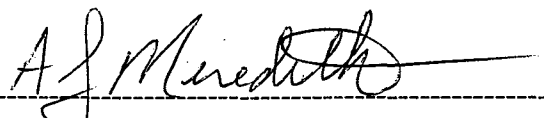
CONSISTENCY:

This plan is consistent with the plans, programs, and policies of other Federal, state and local governmental agencies.

PUBLIC AVAILABILITY OF THE DOCUMENT:

Copies of this Decision Record are available from the Glasgow Field Station, Rte 1-4775, Glasgow, MT 58230.

The decision to designate the Bitter Creek and Mountain Plover ACECs and to manage them per the management prescriptions above is authorized upon signature of this FONSI/DR.



Martin C. Ott
State Director, Montana/Dakotas
Billings, Montana

8-8-03

Date