



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, DC 20240



MAY 20 2009

Honorable Robert F. Bennett  
Committee on Energy and Natural Resources  
United States Senate  
Washington, D.C. 20510

Dear Senator Bennett:

Thank you for your letter to Secretary Salazar dated April 30, 2009. On behalf of Secretary Salazar, I am enclosing supplemental responses to the questions attached to your letter.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Christopher J. Mansour  
Director, Office of Congressional and  
Legislative Affairs

Enclosure

cc: Honorable Jeff Bingaman  
Chairman  
Committee on Energy and  
Natural Resources

Honorable Lisa Murkowski  
Ranking Member  
Committee on Energy and  
Natural Resources

May 20, 2009

Senator Bennett Questions and Answers

16. Do you agree that the Department's authority to establish new Wilderness Study Areas under Section 603 of FLPMA expired no later than October 21, 1993?

Answer: Yes. Section 603 of FLPMA required the Secretary to conduct a review of roadless areas of public lands of at least five thousand acres and report his recommendations about the suitability or unsuitability of each area for preservation as wilderness to the President, who in turn was to make recommendations to Congress. Areas deemed suitable for preservation as wilderness through that process are called Wilderness Study Areas (WSAs). Section 603 specified that the Secretary's review and recommendations were to occur within fifteen years of FLPMA's enactment in 1976. The President then had two years to advise Congress of his recommendations for areas to be designated as wilderness. This means that all of the requirements of Section 603 were to be completed seventeen years after FLPMA's enactment, or by October 21, 1993, at which time the authority expired.

We do not expect our position on this question to change.

May 20, 2009

17. Do you agree that the Department currently has no authority to establish new WSAs (post-603 WSAs) under any provision of federal law, such as the Wilderness Act or Section 202 of FLPMA?

Answer: Yes. Section 603 created a unique multi-step process that resulted in the establishment of WSAs and imposed certain management requirements on WSAs. No other provision of federal law creates a similar process or authorizes the creation of WSAs. Section 603 required the Secretary over a 15 year period to determine whether certain lands were suitable for preservation as wilderness and to report those findings to the President. The lands so reported are known as WSAs. The President was then required within two years to recommend to the Congress which of those lands should be designated as wilderness. Pending action by Congress either designating the WSA lands as wilderness or releasing them from their WSA status, the Secretary is required by section 603 to manage WSA lands so as not to impair their suitability for designation as wilderness.

It should be noted, however, that the fact that the Department can no longer establish WSAs does not impair the BLM's ability to protect areas with wilderness characteristics through FLPMA's land use planning process under Section 202 of FLPMA. In their 2005 Settlement Agreement, both BLM and Utah acknowledged that BLM has the discretion under section 202 to manage lands to protect their wilderness characteristics, consistent with the multiple-use and sustained yield standard in FLPMA.

We do not expect our position on this question to change.

May 20, 2009

18. Do you agree that the Department has not had the authority to create any new WSAs since the expiration of FLPMA Section 603 on October 21, 1993?

Answer: Yes. See answers to Questions 16 and 17.

May 20, 2009

19. Do you agree with federal Judge Dee Benson that the settlement agreement between the state of Utah and the United States is consistent with FLPMA?

Answer: Yes. We believe that the settlement agreement and Judge Benson's opinion in Utah v. Norton are consistent with FLPMA. As Judge Benson concluded, the settlement agreement recognizes that the plain language of FLPMA provides for the establishment and management of WSAs exclusively under Section 603, which by its own terms expired no later than October 21, 1993. In addition, Judge Benson noted that under the settlement agreement, both BLM and Utah acknowledged that BLM's authority under section 202 of FLPMA remains intact and provides authority to use the land use planning process to protect areas with wilderness characteristics, consistent with the guiding multiple-use and sustained-yield policy of FLPMA.

We do not expect our position on this question to change.

May 20, 2009

20. Does the BLM have authority to apply the non-impairment standard, as enumerated in the Interim Management Plan for wilderness study areas, to lands that are not designated as WSAs under Section 603?

Answer: No. Because the Department's authority to establish WSAs, which are required to be managed under the non-impairment standard, expired no later than October 21, 1993, the BLM does not have authority to apply the non-impairment standard to non-WSAs. However, as explained in the other answers, this does not prevent the BLM from managing non-WSAs with wilderness characteristics in a way that protects these characteristics. As Utah acknowledged in the 2005 Settlement Agreement, FLPMA Section 202 provides BLM with the discretion to manage lands to protect their wilderness characteristics.

We do not expect our position on this question to change.