

CHAPTER FOURTEEN

FUTURE LAND AND RESOURCE MANAGEMENT

14.1 GENERAL

Various land and resource management actions are necessary to pursue and encourage the implementation of the recommended land use development opportunities, land use pattern, and transportation policies outlined in Chapters 11, 12 and 13.

Federal land and resource management policies influencing Johnson County need to be closely coordinated with various federal agencies that administer public lands in Johnson County. Land, resource management, and economic development policies and programs that are pursued by the State of Wyoming also need to be closely coordinated with various State agencies. In both cases, an adopted land use plan for Johnson County can provide a substantive starting point for future discussions and coordination with federal and State agencies. However, a basic framework for agency coordination needs to be established by Johnson County to ensure that:

1. Johnson County meets periodically with appropriate representatives of state and federal agencies;
2. future federal land and resource management policies are consistent with the Johnson County Land Use Plan and other policies of Johnson County.
3. future state land, resource management, economic development, and transportation policies are consistent with the Johnson County Land Use Plan and other policies of Johnson County.

Local land management processes of Johnson County need to be improved to facilitate a more coordinated planning process with the municipalities of Buffalo and Kaycee. The adoption of an updated Johnson County Land Use Plan can help encourage and facilitate this coordination. The potential preparation of new or updated municipal master plans by the City of Buffalo and Town of Kaycee can also be instrumental in helping these communities and Johnson County determine a general community consensus toward future land use development.

The Johnson County Land Use Plan recommends a general vision for future land use development, a general land use development pattern, as well as general development guidelines for various types of land development. However, the Land Use Plan cannot be used by Johnson County to mandate or require development requirements for any future land development project. The establishment of a more structured county land use management process can enable future homeowners, investors, small businesses and land development companies to anticipate the potential location of future land uses in a given area of Johnson County, the general quality of construction, infrastructure and setback requirements, as well as the general level of supporting public services they can expect.

Other conclusions and recommendations in the Land Use Plan point to potential community and economic development opportunities that can be voluntarily pursued by private enterprise or encouraged by various community organizations.

14.2 U.S. FOREST SERVICE

14.2.1 Management of the Bighorn National Forest

The U.S. Forest Service has responsibility for the management of lands and natural resources within the Bighorn National Forest (BNF). The Forest contains approximately 1.1 million acres of land; roughly 676,000 acres are forested (Rideout and Hessein, 2000).

The Region 2 office of the U.S. Forest Service, which is based in Denver, Colorado, administers the Bighorn National Forest. The forest supervisor, who holds primary responsibility for the Bighorn National Forest, is based in Sheridan, Wyoming. Under the supervisor's direction, there are four ranger districts that are each managed by a district ranger. One of the four districts, the Powder River Ranger District, is based in Buffalo.

14.2.2 General Authority for Land and Resource Management

The land and resource management responsibilities of the U.S. Forest Service are generally guided by the Forest Service Directive System that includes the Forest Service Manual and the Forest Service Handbook. In addition, there are some 200 different federal statutes and regulations that influence various management activities of the agency. Federal statutes and agency regulations provide authority and responsibility for the management of, at least, the following resources within the Bighorn National Forest (BNF).

- recreational, cultural and visual resources;
- wilderness areas designated under the federal Wilderness Act of 1964;
- fish and wildlife habitat;
- rangeland resources;
- timber resources; and,
- water quality.

Other resource management responsibilities include a variety of related issues such as public access, timber harvests, forest health and restoration, fire suppression, the preservation of endangered species, as well as erosion and sedimentation.



The administration of the national forests are primarily guided by four federal statutes:

1. the Multiple Use-Sustained Yield Act, which established the multiple-use and sustained yield policies for management of the national forests;
2. the National Environmental Policy Act, which committed the federal government to a policy of creating and maintaining "conditions under which man and nature can exist in productive harmony;
3. the Forest and Rangeland Renewable Resources Planning Act, which called for preparation of a strategic plan for all Forest Service activities every five years based on an assessment of renewable natural resources on all land ownership every ten years; and,

4. the National Forest Management Act, which provided standards and guidelines for national forest planning and management (U.S. Forest Service, Legislative Affairs Office, 1993).

Other federal legislation is frequently introduced and eventually brought into federal law by the U.S. Congress and the President of the United States. Consequently, management responsibilities of the U.S. Forest Service are frequently modified to reflect changing approaches and attitudes toward national forest management.

Once authorized by the executive and legislative branches of the U.S. Government, legal interpretations are subsequently made by Forest Service personnel in Washington, D.C., to determine how existing Forest Service management policies need to be changed. Required or desired changes in management are generally implemented through the Forest Service's preparation of new agency regulations that are published in the Federal Register. Once adopted, the Forest Service distributes new regulations to its regional and district offices in the form of manuals or handbooks. Regional and district offices are permitted and encouraged to make regulations more specific and/or more stringent. However, new regulations cannot be modified to make them less stringent.

14.2.3 Land and Resource Management Concerns of Johnson County

14.2.3.1 Bighorn National Forest Plan Amendments

The National Forest Management Act of 1976 requires each National Forest System unit to prepare an integrated, comprehensive land management plan, at least, once every 15 years. The current land and resource management plan for the Bighorn National Forest was adopted in 1985.

Since adoption, the U.S. Forest Service has made 15 amendments to the 1985 Forest Plan. The processing of an additional proposed amendment is underway at the time of this report. These amendments include:



- Northern Rockies Lynx Amendment. About three years ago, The U.S. Fish and Wildlife Service listed the Canada lynx as a threatened specie in 14 northern states, including Wyoming. USFWS concluded that a primary threat to the lynx in the continental United States is the lack of guidance in federal land management plans. The U.S. Forest Service made the same conclusion in 57 forest plans around the country. The amendment would authorize the Bighorn National Forest and 17 other national forests to establishment measures to conserve the Canada Lynx (U.S. Forest Service, Bighorn National Forest, 2002).

A primary concern of Johnson County is the potential establishment of new measures to conserve the Canada lynx. There is no significant concern for the Management Indicator Species amendment unless this amendment indirectly imposes limits on livestock grazing within the Bighorn National Forest.

Should this Canada lynx be conserved throughout the Bighorn National Forest, it is possible that this mammal will gradually establish habitat and roam in portions of Johnson County.

While no formal studies have been conducted of the lynx in Wyoming, some community leaders and residents are concerned that the lynx may become a predator to commercial livestock in portions of Johnson County if the abundance of hares and mice are inadequate to support the diet preferences of the lynx.

The lynx is a medium-sized, short-bodied cat that has long legs and an overall stocky build. The lynx has been observed primarily in west and northwest Wyoming, northern Albany County, as well as portions of Bighorn and Washakie counties. The lynx is dependent upon the snowshoe hare as its primary food source. Secondly, the lynx seeks other foods such as mice, grouse, and squirrels. In Wyoming, the habitat of the lynx has been observed to be in higher mountainous areas in dense coniferous forests and/or occasional bogs, thickets and rocky outcrops (Clark and Stromberg, 1987). However, the U.S. Fish and Wildlife concluded in March 2000 that "...available evidence is inadequate...to clearly determine whether a resident population currently exists" (in Wyoming).

In view of the potential impacts of the lynx upon livestock and uncertainty of the lynx population, it is recommended that Johnson County oppose the proposed Northern Rockies Lynx amendment. Further, Johnson County should oppose any efforts of the Forest Service, BLM, or the Fish and Wildlife Service to encourage the introduction of this mammal into Johnson County or other nearby areas in Wyoming.

It should be noted that concerns about impacts from predators are not just constrained to the lynx. Wolves, grizzly bears, wolverines, mountain lions, and other predators can impact agriculture and the livestock industry in particular in Johnson County.

14.2.3.2 Bighorn National Forest Plan Revision

The Bighorn National Forest is in the midst of completing various land, natural resource and economic evaluations that are necessary to prepare an update of its 1985 Land and Resource Management Plan. Through this process, the U.S. Forest Service has made efforts to coordinate with representatives of local government, as well as the general public.

However, Johnson County has serious concern for a growing imbalance in resource management for public lands and natural resources that are contained within the Bighorn National Forest. The U.S. Forest Service is giving considerable attention to the preservation of "endangered" or "threatened" plants and animals, biological diversity, the establishment of new roadless areas, the use of motorized recreational vehicles on public lands, the designation of special management areas, and increased recreational management. In contrast, limited attention is given to the availability of historic timber supplies to support regional and local sawmills or the amount of lands traditionally available for livestock grazing.

The growing imbalance in resource management suggests an intention of the U.S. Forest Service to:

- reduce the amount of public lands that will be available for selected types of public recreation;
- reduce the amount of land available for future timber harvesting; and,
- gradually reduce livestock grazing areas to accommodate future special management area programs, as well as the conservation of habitat for endangered or threatened plants and animals.

In the preparation of its ongoing revision of the Land and Resource Management Plan, the U.S. Forest Service must consider its recommended plans and policies in the context of what economic activities make the Johnson County economy sustainable, as well as historical uses

of the Bighorn Mountains that occurred before the national forest was established. Agriculture, accommodations, and retail trade are significant sectors of the Johnson County economy. Recommended plans and polices that generate significant impacts upon these economic sectors can threaten the sustainability of the overall Johnson County economy.

Title 36, Chapter II, Part 219 of the Code of Federal Regulation provides guidance to the U.S. Forest Service for National Forest System land and resource management planning (Subpart A) and timber management planning. Sections 219.19 and 219.21 of Subpart A clearly require analyses and plan decisions that attempt to balance ecological, social and economic sustainability. For example, Section 219.19 states the following:

"Sustainability, composed of inter-dependent ecological, social, and economic elements, embodies the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528 et seq.) without impairment to the productivity of the land and is the overall goal of management of the National Forest System. The first priority for stewardship of the national forests and grasslands is to maintain or restore ecological sustainability to provide a sustainable flow of uses, values, products, and services from these lands."

Based upon its review of the draft Johnson County Comprehensive Land Use Plan report, a Bighorn National Forest representative clarified that preparation of the Land and Resource Management Plan adhered to an earlier version of Title 36, Chapter II, Part 219. A review of the 1982 administrative rule clearly states that regional and forest planning activities will be based, in part, upon a review of the planning and land use policies of local governmental agencies. Section 219.7 of the 1982 rule requires that the review of local governmental plans and policies will:

- consider the objectives of local governmental plans and policies;
- assess the inter-related impacts of local plans and policies;
- determine how the Forest Service plan should deal with the impacts identified; and,
- consider alternatives that will resolve conflicts with Forest Service planning.

14.2.4 Future Coordination with the U.S. Forest Service

A more balanced approach to future land and resource management should be reflected in the future drafts of the revised Land and Resource Management Plan for the Bighorn National Forest.

In order to encourage this approach, the Johnson County Commissioners and/or other designated representatives of Johnson County need to meet periodically with Bighorn National Forest representatives. During these meetings, U.S. Forest Service representatives should be requested to present an overview of their preliminary conclusions and recommendations that are developed for the revised Land and Resource Management Plan. Bighorn National Forest representatives should welcome this opportunity for meaningful coordination with Johnson County.



Particular attention should be given to those conclusions and recommendations that influence livestock grazing, public recreation, timber harvests. Johnson County Commissioners and their representatives should work constructively with the Forest Service to incorporate recommendations in the Land and Resource Management Plan that expand future

opportunities for livestock grazing and public recreation, as well as increase annual sales quantity levels for timber harvests. These objectives are essential to sustaining the economic viability of the Johnson County economy.

14.3 U.S. BUREAU OF LAND MANAGEMENT

14.3.1 Management of Other Public Lands in Johnson County

The U.S. Bureau of Land Management (BLM) is a federal agency within the U.S. Department of Interior. BLM manages all federal lands that have not been assigned to other federal agencies. In Johnson County this includes all federal lands that are not administered by the U.S. Forest Service.

The headquarters of the Bureau of Land Management are located in Washington, D.C. However, most of its employees work in field offices that are located in 12 western states. In Wyoming, there is one state office in Cheyenne, four district offices, and 10 resource management areas.

The BLM field office in Buffalo maintains a staff of about 68 persons. This office manages almost 800,000 acres of public land in Johnson, Sheridan, and Campbell counties. Roughly 92 percent of these lands are rangelands that are managed for private livestock grazing. The remaining lands are used for other resource uses (Bureau of Land Management, Buffalo Field Office, 2003).



14.3.2 General Authority for Land and Resource Management

The U. S. Bureau of Land Management (BLM) was established in 1946 during a re-organization of the U.S. Government. BLM is a successor to two former federal agencies, the General Land Office and the U.S. Grazing Service.

Various federal statutes guide the management activities of BLM. Some of these statutes, e.g, the U.S. Mining Law of 1872, the Mineral Leasing Act of 1920, and the Taylor Grazing Act of 1934, preceded the establishment of the agency. For example, the Mineral Leasing Act authorized the leasing and exploration of selected commodities such as coal, oil, gas, and sodium on public lands. The Taylor Grazing Act established the U.S. Grazing Service to manage public rangelands.

The U.S. Congress unified its mandate and responsibilities for BLM in the Federal Land Policy and Management Act of 1976 (FLPMA). All policies, procedures and management actions of BLM must be consistent with FLPMA and other federal law that govern the use of public lands.

The term "multiple use" management was introduced in this statute. Multiple use was defined in FLPMA as: "...the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people." (U.S. Bureau of Land Management, 2003).

14.3.3 Land and Resource Management Concerns of Johnson County

14.3.3.1 Continued Availability of Public Lands for Livestock Grazing

Rangeland managers at the Buffalo Field Office administer over 400 grazing leases in Johnson, Sheridan and Campbell counties, as well as slightly fewer grazing units or allotments. The Buffalo Field Office believes that public lands in its Northeast Wyoming region are some of the more productive rangelands in Wyoming (U.S. Bureau of Land Management, Buffalo Field Office, 2003). Informal discussions with rangeland managers in Buffalo in October 2002 suggest there is a good working relationship between private livestock ranchers and BLM representatives.

"The management intensity of allotments varies depending primarily on the acreage and continuity (of) public land acreage. Livestock is closely managed and monitored on about thirty larger allotments. BLM manages the grazing use under allotment management plans on thirteen of these high-priority allotments. BLM applies less intensive monitoring of livestock use and rangeland health on another seventy mid-priority allotments" (U.S. Bureau of Land Management, Buffalo Field Office, 2003).

One of the primary public land concerns of Johnson County is the continued availability of public lands for livestock grazing. The concern for the continued availability of public lands for future livestock grazing stems from the Bureau of Land Management's growing efforts associated with natural resource management. The potential designation of more wilderness areas and wildlife management areas, as well as increasing efforts devoted to the conservation of threatened and endangered species, suggest a potential gradual decline in the amount of public lands and/or the number of animal unit months (AUM) that may be available for future livestock grazing. Any significant decline in the amount of grazing area on public lands or the number of AUM will adversely impact the economic viability of livestock operations.

In April 2001, the Buffalo Field Office completed an update of the Buffalo Resource Management Plan. Appendix B presents BLM standards for healthy rangelands and guidelines for livestock grazing. The Introduction to this section generally explains BLM's approach to livestock grazing. BLM also recognizes that Wyoming's rangelands should be managed in consideration of Wyoming's historical development and in a manner that contributes to a diverse, balanced, competitive and resilient economy. However, since many of the rangeland standards represent physical and biological conditions of the land, BLM also concluded that *".....it is very difficult to provide measurable socioeconomic indicators that relate to the health of rangelands"*.

One recommended approach to future socio-economic assessment is for BLM to evaluate and calculate the financial impact of standards and guidelines upon several individual ranch operations. The recommended indicator should be: Can a livestock operation in Johnson County continue to operate profitably if additional labor or material costs are incurred to meet a proposed rangeland standard? If ranch operations can sustain profitability despite new or revised standards, it is likely that livestock operations will continue to operate. However, if

future standards impose requirements that cannot sustain reasonable profitability, the potential consequences can be significant, particularly if a discontinued livestock operation results in a change in land use.

14.3.3.2 Proposed BLM Modifications to 1995 Grazing Regulations

The Bureau of Land Management is presently considering some modifications to its existing grazing regulations that were issued in 1995. The policy changes under consideration would:

- provide greater flexibility for resource managers, ranchers and conservation groups to work in partnership to promote conservation and healthier grazing allotments; and,
- authorize BLM's creation of an administrative process that would help permittees meet mitigation requirements for the protection of threatened and endangered species (U.S. Bureau of Land Management, Office of Public Affairs, 2003).

More specifically, the regulatory changes under consideration would:

- Extend the time for a grazing permittee's temporary nonuse of a permit from the current three-year limit to five years. Such an extension would enhance the Bureau's ability to cooperate with ranchers who want to temporarily rest the land to allow for forage recovery; the five-year limit would also enable the BLM to meet the needs of those ranchers who temporarily cannot use their permits because of business or personal needs.
- Authorize the BLM to designate a new type of grazing unit called "Reserve Common Allotments." Ranchers could use these allotments for livestock forage while their normal allotments undergo range improvement treatment. This will provide an alternative forage source for those ranchers who are engaged in a range-recovery effort that requires a temporary resting of the land from grazing. Reserve Common Allotments will thus enable ranchers to maintain their herds while their allotments recover.
- Reinstate an earlier provision that allows the BLM and a grazing permittee to share title of certain range improvements -- such as a fence, well, or pipeline -- if they are constructed under what is known as a Cooperative Range Improvement Agreement. This potential rule change envisions the BLM and a permittee sharing title in proportion to each party's contribution to the initial cost of constructing the improvement.
- Streamline the administrative appeals process relating to grazing decisions.
- Clarify which non-permit violations the BLM may take into account in penalizing a permittee.
- Distinguish between access on public and private land.
- Revise administrative fees for permit applications, billings, and preference transfer. (The BLM is not considering any change to the existing grazing fee formula, which Congress established in 1978 and has continued by Executive Order since 1986.)
- Clarify that the BLM will follow state law in the acquisition of water rights.
- Re-emphasize that reviews under the National Environmental Policy Act will consider the economic, social, and cultural impacts of the BLM's decisions.

- Eliminate, in keeping with recent Federal court rulings, existing regulatory provisions that assert the BLM's authority to issue long-term "conservation use" grazing permits. These permits were introduced in 1994" (U.S. Bureau of Land Management, Office of Public Affairs, 2003).

The advisability of these proposed amendments is best determined by those who actually manage livestock operations on BLM allotments in Johnson County. Any position that may be taken by Johnson County concerning these regulations should be based significantly upon the insights of those livestock operators who operate, in part, on BLM allotments in Johnson County.

14.3.3.3 Special Interest Group Proposals for U.S. Government to Purchase Public Grazing Rights

The proposed amendments to BLM grazing regulations come at an interesting time. The proposed amendments are, in part, being provided to enable *"....greater flexibility for resource managers, ranchers and conservation groups to work in partnership to promote conservation and healthier grazing allotments"*.

Concurrently, there is an ongoing National Public Lands Grazing campaign that has been mounted by several environmental organizations based in the American West. This campaign has formulated a federal legislative proposal that would allow federal grazing permittees (or lessee) to voluntarily relinquish their interest in public lands grazing to the U.S. Government in exchange for compensation of \$175 per animal unit month (AUM). For example, a permittee with 300 cow/calf pairs, who grazed public lands for five months of every year, would receive \$262,500 (National Public Lands Grazing Campaign, 2002).



These efforts provide another confirmation that a relentless effort continues to be made by various environmental and special interest organizations to remove private livestock from public lands. It is equally evident that there is a significant misunderstanding of livestock operations, as well as their relationship and impact upon natural resources such as soils, vegetation, streams, and other water resources. The presumption of these organizations is that natural resources on public lands would be in a more favorable environmental condition if they were not used.

14.3.4 Future Coordination with the Bureau of Land Management

Similar to the U.S. Forest Service, the U.S. Bureau of Land Management (BLM) has responsibility to coordinate its resource and land use management planning processes with local land use plans. 43 CFR 1610.3 requires, in part, that the Bureau of Land Management to:

- prepare plans that are consistent with officially adopted local land use plans;
- identify inconsistencies with proposed BLM plans and local plans to the Governor.
- take practical steps to resolve conflicts between federal and local plans;

- provide local government with the opportunity to review and provide recommendations concerning issues and topics that might influence local government programs;
- provide a notice of intent to prepare, amend or revise a resource management plan to county boards of commissioners and other governmental agencies;
- provide opportunities for local government to review and comment on resource management plans.

However, 43 CFR 1610.3 also makes clear that Bureau of Land Management has no responsibility to make its plan consistent with a local land use plan if the BLM is not notified by local government that a local land use plan has been adopted (Budd-Falen, 1997). In view of this requirement, the Board of County Commissioners should also formally transmit a copy of the Johnson County Comprehensive Land Use Plan when this document is adopted.

In this context, it is important that current and future amendments to federal grazing regulations are carefully monitored by Johnson County. Further, the Johnson County Commissioners need to periodically meet with local ranchers and BLM rangeland managers to keep abreast of rangeland regulations and other potential issues that may influence future livestock grazing on public lands administered by BLM.

It is recommended that the Board of County Commissioners schedule periodic meetings with local ranchers to gain the insights of local ranchers concerning potential grazing issues. Similarly, the Commissioners should hold a separate meeting with BLM rangeland managers to discuss rangeland conditions in Johnson County, related economic, land use, and natural resource issues, and any potential recommendations.

14.4 U.S. FISH AND WILDLIFE SERVICE

14.4.1 General Management Organization

The U.S. Fish and Wildlife Service (USFWS) is a federal agency under the U.S. Department of Interior. The agency is responsible for conserving, protecting and enhancing fish, wildlife and plants and their habitats for the continuing benefit of the American people.

Wyoming is within USFWS Region 6, the Mountain-Prairie Region, that also encompasses the states of Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, and Utah. The U.S. Fish and Wildlife Service maintains national wildlife refuges near Jackson and Green River, as well as national fish hatcheries near Jackson, Lander and Saratoga. Ecological services are based in the Wyoming Field Office in Cheyenne, the Cody Field office, as well as the Black-Footed Ferret Conservation Center in Laramie.

14.4.2 General Authority for Resource Management

The authority for resource management and conservation efforts of the agency are primarily provided in the Endangered Species Act, Bald and Golden Eagle Protection Act, the Convention on International Trade in Endangered Species, the Lacey Act, Marine Mammal Protection Act, Migratory Bird Treaty Act, and the Wild Bird Conservation Act. These authorities enable the U.S. Fish and Wildlife Service to enforce Federal wildlife laws, administer the Endangered Species Act, manage migratory bird populations, restore nationally significant fisheries, as well as conserve and restore wildlife habitat such as wetlands.

14.4.3 Land and Resource Management Concerns of Johnson County

The primary objective of the Endangered Species Program of the U.S. Fish and Wildlife Service is to protect endangered and threatened species, remove threats to these species, and restore listed species to a secure status in the wild. Program staff regularly evaluates information concerning fish and wildlife populations and potential threats to determine whether or not a particular specie should be listed as a threatened or endangered specie. These evaluations are also frequently prompted by petitions from special interest groups that desire to have one more plant or animal specie listed or de-listed.

“Under the Endangered Species Act, an “endangered” species is in danger of extinction throughout all or a significant portion of its range; a “threatened” species is likely to become endangered within the foreseeable future” (U.S. Fish and Wildlife Service, 2004).

USFWS program managers also coordinate specie recovery efforts with state and local governments, as well as private entities. Once the recovery of a threatened or endangered specie is achieved, a species may be removed from the list of threatened or endangered species.

As of January 2005, the black-footed ferret is listed by the U.S. Fish and Wildlife Service as an endangered specie. The bald eagle and Canada lynx, as well as the Ute Ladies'-Tresses, are listed as threatened species In Johnson County,

The U.S. Fish and Wildlife Service has expressed its desire to de-list the gray wolf as wolf populations now exceed the numerical recovery goals in the northern Rocky Mountain states of Montana, Idaho and Wyoming. However, the USFWS has indicated that it will not de-list the gray wolf until USFWS approves wolf management plans for each of the three states. Wolf management plans for Montana and Idaho have already been approved (U.S. Fish and Wildlife Service, Mountain-Prairie Region, 2005). The proposed plan for Wyoming and related state wolf law was not approved by the USFWS. This decision led to the State of Wyoming suing the U.S. Department of Interior. This court case is pending at the time of this report.

As stated earlier, the listing of specific plant and animal species, as well as related specie recovery efforts, represent serious concern of Johnson County in view of potential adverse consequences upon the economic viability of local ranch and farm operations.

14.4.4 Future Coordination with the U.S. Fish and Wildlife Service

Johnson County desires to coordinate its land use plans and policies with the U.S. Fish and Wildlife Service. Johnson County believes that this coordination needs to take place early in the decision-making process so that the U.S. Fish and Wildlife Service can make effective decisions that consider, in part, the context of the Johnson County environment, economy, and related land uses.

Portions of the Code of Federal Regulations, which are applicable to the U.S. Fish and Wildlife Service, outline the listing process. The consultation with local governmental entities is stipulated as part of the listing process in 50 CFR, Chapter 1, Part 17, Section 16.81(d):

“The Fish and Wildlife Service shall consult with appropriate State fish and wildlife agencies, local governmental entities, affected Federal agencies, and affected private landowners in developing and implementing experimental population rules. When appropriate, a public meeting will be conducted with interested members of the general public”.

In view of the significance of potential listings, the U.S. Fish and Wildlife Service will likely prepare an environmental impact statement for any proposed regulatory action. Title 40, Chapter V, Part 1502, provides requirements for the preparation of environmental impact statements by all federal agencies. In Section 1502.16(c), the evaluation of project consequences is to include a discussion of the potential conflicts between the proposed action and the objectives of Federal, regional, State, and local land use plans, policies and controls for affected areas.

However, the Code of Federal Regulations does not necessarily require this type of analysis for the preparation of environmental assessments. Consequently, Johnson County will need to coordinate with the U.S. Fish and Wildlife Service and monitor the progress of internal agency evaluations. In addition, Johnson County needs to be prepared to provide documented Johnson County concerns regarding any potential listing action, as well as a formal request that a full environmental impact statement is prepared for the proposed listing action.

In the preparation of environmental impact statements, it should be noted that the Code of Federal Regulations also provides considerably leeway to federal agencies when evaluating significant adverse effects on the human environment. Title 40, Chapter V, Part 1502.22 states, in part:

“When an agency is evaluating reasonably foreseeable significant adverse effects on the human environment in an environmental impact statement and there is incomplete or unavailable information, the agency shall always make clear that such information is lacking”.

For this reason, Johnson County should also be prepared to make its own analysis of potential significant impacts, e.g., impacts upon the Johnson County economy, and transmit the information to the U.S. Fish and Wildlife Service.

14.5 WYOMING GAME AND FISH COMMISSION

14.5.1 General Management Organization

The Wyoming Game and Fish Commission (WGFC) is an agency of the State of Wyoming. The Commission includes seven members who are appointed by the Governor, confirmed by the Wyoming State Senate, and who serve six-year terms.

The Wyoming Game and Fish Department (WGFD) administers and implements the policies and regulations that are adopted by the Wyoming Game and Fish Commission. The Department is organized into seven regional management areas. Johnson County is situated within Region 3, which is managed and serviced by the WGFD's Sheridan Region Office.

The regional management areas are further segregated into more specific fish and wildlife management areas. A game warden and wildlife biologist are based in Buffalo and a game warden is based in Kaycee.

Within Johnson County, there are two wildlife habitat management areas, i.e., Bud Love and Ed Taylor, which are managed by the Game and Fish Department for conservation objectives, but concurrently provide outdoor recreational opportunities for hunting,



fishing, camping, and hiking. In addition, the Game and Fish Department also manages five public access areas that provide recreational access to additional public fishing, boating, hunting, hiking and wildlife observation opportunities (see Chapter 10).

14.5.2 General Authority for Fish and Wildlife Management

Title 23 of the Wyoming State Statutes authorizes the Wyoming Game and Fish Commission and Wyoming Game and Fish Department to provide an adequate and flexible system of control, propagation, management, protection and regulation of most wildlife in Wyoming. The range of management responsibilities in W.S. 23-1-302:

- a. Fix season and bag limits, as well as open, shorten, or close hunting seasons for wildlife.
- b. Establish zones and area where trophy game animals may be harvested.
- c. Acquire lands and waters to:
 - develop, improve, operate and maintain fish hatcheries, rearing ponds, game farms, and bird farms;
 - manage game animals, protected animals and birds, fur bearing animals, game birds, fish, as well as public hunting, fishing, or trapping areas.
 - acquire easements and construct access roads.
- d. Sell or exchange lands, water area, or other property that is no longer of any practical use.
- e. Capture, propagate, transport, buy, sell, or exchange game and forbearing animals, bird, or fish.
- f. Direct the capture of any wildlife in Wyoming in localities where species are abundant, as well as transport and distribute any wildlife.
- g. When necessary, kill wildlife in Wyoming, or when wildlife generates substantial damage to property.
- h. If necessary, make provisions for the feeding of fish and wildlife in selected localities.
- i. Promote wildlife research.
- j. Enter into cooperative agreements for wildlife management and demonstration projects.
- k. Supervise the protection, management, and propagation of fish.
- l. Grant licenses for the capture and transport of wildlife, nests, or eggs of non-predacious birds.
- m. Issue licenses.
- n. Open game reserves for hunting when they are overstocked, or a serious shortage of feed exists.
- o. Designate the protection of game, predatory, or other species that are not identified in Wyoming Statutes 23-1-101.
- p. Collect and distribute statistics and information.
- q. Establish hunter check stations.
- r. Regulate the use of power vehicles on lands that are administered by the Wyoming Game and Fish Commission.
- s. Regulate or prohibit the importation of exotic species; small game animals; forbearing animals; game, migratory, and protected birds; and fish into the State of Wyoming.
- t. Designate individual bison, or herds of bison, as wildlife when approved by the Wyoming Livestock Board.

The scope of these responsibilities suggests that the Wyoming Game and Fish Department is primarily a game management authority. At the same time, the scope of management responsibilities also includes other authority to establish fish and wildlife management areas and work with other individuals, agencies and organizations to manage these resources. Consequently, the mission of the agency combines responsibilities for fish and wildlife management, as well as resource conservation.

14.5.3 Land and Resource Management Concerns of Johnson County

14.5.3.1 Conservation of Wildlife Habitat Areas

Seasonal wildlife range areas, which have been mapped on a statewide basis for several decades, are based upon Wyoming Game and Fish Department (WGFD) observations. An annual review of these seasonal wildlife range areas are made during the preparation of annual herd unit reports for various wildlife. The Wyoming Game and Fish Department



incorporates this spatial data into a statewide geographical information system (GIS) and periodically revises the boundaries of various seasonal wildlife range areas.

In order to make effective land management decisions, Johnson County needs to be aware of land areas that are important to the long-term maintenance of wildlife resources in Johnson County. Otherwise, the habitat of elk, white-tailed and mule deer, moose, and antelope populations may be unnecessarily impacted by some future land uses.

During the preparation of the Land Use Plan revision, PPC incorporated available spatial information for big game seasonal ranges. This information included locations of crucial moose habitat, crucial elk winter range and yearlong habitat, as well as general habitat locations for white-tailed and mule deer. Since this information is periodically updated by WGFD, it is important that Johnson County should secure updates of this spatial data when it becomes available. Johnson County should make a written request for this information in order that the Johnson County Planning and Zoning Commission can make appropriate use of this information during its review of residential subdivisions. Correspondence from the WGFD wildlife biologist in Buffalo, which was received by the Johnson County Planner in May 2002, expressed both cooperation and a willingness to share this information with Johnson County in the future (Thiele, 2002)

Particular attention should be given to crucial winter range for elk. The Wyoming Game and Fish believes that these areas are important to sustain an elk population that can survive winter conditions and maintain average reproductive rates 8 out of 10 years.

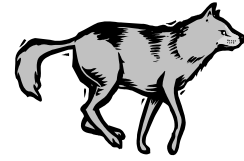
While big game seasonal range information provides useful insights to wildlife habitat, it is important to remember that this information should represent only one of various considerations made during Johnson County's subdivision review process. Using this approach, Johnson County is better able to make land use decisions that balance a number of relevant considerations.

14.5.3.2 State Intervention Concerning Endangered Species

Various branches of the U.S. Department of Interior have made efforts to enhance the survival and recovery of various threatened and endangered plant and animal species, e.g., prairie dog, wolf, and lynx. An important concern of Johnson County is that little attention is focused upon potential conflicts between people, livestock, and other rural property.

Recognizing this dilemma, the State of Wyoming is seeking to implement its own resource management plan for endangered species. The Game and Fish Department would be responsible for implementation. This plan is being reviewed by the U.S. Department of Interior.

A portion of Wyoming's resource management plan includes proposals for the dual listing of the gray wolf as a predatory animal and a trophy game animal. Under this program, the Wyoming Game and Fish Department would be responsible for maintaining seven wolf packs. Wolves would remain under federal protection in Yellowstone and Grand Teton National Parks. In selected wilderness areas adjoining these parks, wolves would be classified as trophy game. Outside of these selected areas, people could kill wolves as predators if the number of wolf packs exceeded seven. This proposal has drawn criticism from the U.S. Department of Interior, particularly the U.S. Fish and Wildlife Service.



Under the Endangered Species Act that was amended in October 1988, state and local governmental agencies have the opportunity to participate and influence decisions concerning proposed endangered specie listings and proposed designations of critical habitat. Upon receipt of a letter from the U.S. Fish and Wildlife Service, local governmental agencies such as Johnson County can comment on the proposed specie listings or proposed critical habitat designations. It is recommended that Johnson County notify all federal agencies that Johnson County desires to participate in all federal decision-making activities within Johnson County (Budd-Falen, 1997).

14.5.4 Future Coordination with the Wyoming Game and Fish Department

The resource management efforts of various federal agencies can be expected to expand programs that are aimed at the survival and recovery of various threatened and endangered plant and animal species, e.g., prairie dog, wolf, and lynx. This trend will require increased efforts by the Wyoming Game and Fish Department to expand conservation programs for various threatened and endangered species in Wyoming.

In view of potential implications upon Johnson County residents and their property, Johnson County will need to remain in close coordination with the Wyoming Game and Fish Department to ensure that conservation programs do not generate adverse impacts upon Johnson County, livestock, and other property, or decrease the economic viability of local livestock operations. It is recommended that periodic meetings be held with representatives of the Wyoming Game and Fish Department. The Johnson County Commissioners should request the Wyoming Game and Fish representatives to present information concerning the status of ongoing conservation programs and issues that may be significant to Johnson County.

As stated earlier, Johnson County should annually request revised spatial information for big game seasonal ranges from the Wyoming Game and Fish Department. Johnson County should ensure that this information is incorporated into the geographical information system for Johnson County.

14.6 STATE CONSERVATION DISTRICTS

14.6.1 General

There are 34 conservation districts established in the State of Wyoming. Two of the 34 districts operate within Johnson County. These districts are:

- Lake DeSmet Conservation District; and,
- Powder River Conservation District.

The Lake DeSmet Conservation District contains over 1.4 million acres of public and private land in the northern half of Johnson County. The Powder River Conservation District encompasses roughly 1.2 million acres of private and public lands in the southern half of Johnson County.

Five district supervisors manage each conservation district. Two of the supervisors must be landowners within the geographical boundaries of their district. The remaining three supervisors are required to be residents of the district.

Full or part-time staff supports both of the Conservation Districts in Johnson County. Staff members work at the direction of their respective board.

14.6.2 Statutory Authority and Responsibilities

Under the authority provided by Title 11, Chapter 16, of the Wyoming Statutes, the Conservation District board has considerable authority to:

- conduct research and investigations and provide useful information concerning range management; soil conservation, flood protection, the use and disposal of water, and any related improvements;
- conduct demonstration projects on lands within the district to demonstrate desirable range management, soil conservation, and water conservation practices,
- carry out preventive and control measures, as well as improvements, within the district that are associated with range management, methods of cultivation, the growing of grass or other vegetation, as well as changes in the use of land or other conservation measures;
- cooperate, or enter into agreements with, any governmental or private agency, landowner, other residents in the district;
- make available machinery and equipment, fertilizer, seeds and seedlings, breeding animals, and other livestock supplies to landowners within the SER district;
- develop comprehensive plans for range improvement and stabilization, as well as the conservation of soil and water resources;
- present plans and information, and bring them to the attention of landowners and residents of the district;
- manage and enter into agreements with federal, state, and local agencies to effect cooperation with the United States concerning land utilization, soil conservation, erosion control, flood prevention, water use and conservation projects, the disposal of water in watershed areas, and other water projects; and,
- act as a representative for local groups in dealing with various federal agencies, e.g., U.S. Forest Service and Bureau of Land Management, concerning various soil and water conservation matters.

14.6.3 Land and Resource Management Concerns of Johnson County

14.6.3.1 Participation of Conservation Districts in Future Land Use Decisions

In accordance with W.S. 18-5-306(b), Johnson County requires subdivision applicants “to obtain a review and recommendations from the local conservation district regarding soil suitability, erosion control, sedimentation and flooding problems.”

Conservation district supervisors and the professional staff associated with each district have extensive experience and knowledge of local agricultural, natural resource, and related land use development issues. In addition, both districts work in close cooperation with the U.S. Department of Agriculture, Natural Resources Conservation Service.

The experience of both Conservation Districts is supplemented by a wealth of information that has been developed by both districts. For example, the Lake DeSmet Conservation District completed an inventory of natural resources and related issues within 43 watershed areas in 1998.

In view of these resources and Wyoming state law, Johnson County must continue to receive and evaluate comments from both Conservation districts. The input of the Conservation districts will enable the Johnson County Planning and Zoning Commission to continue its consideration of a broad range of relevant issues associated with each subdivision application.

14.6.3.2 Sharing of Spatial and Tabular Information

The objectives and functions of the Johnson County Planning and Zoning Commission and the two Conservation Districts vary. However, both organizations often need to review and work with similar land use and natural resource information.

With the recent development of a geographical information system (GIS) for Johnson County, there is an opportunity to develop, share, update and maintain various types of spatial and tabular information. At the time of this report, mutual opportunities are being explored by Johnson County and the Lake DeSmet Conservation District.

14.6.3.3 Adoption of Existing Plans

The Powder River Conservation District developed and adopted its own Resource Conservation and Land Use Management Plan in 1998. This plan provides valuable information concerning land use and resource management issues in the Powder River Conservation District. Based upon a community planning process, this Plan also contains various goals of the District concerning public education and information, soil and water conservation, rangeland management, and tree plantings. A number of the goals of the Powder River District have been reflected into various aspects of the Johnson County Land Use Plan.



14.6.4 Future Coordination with the State Conservation Districts

As stated earlier, it is essential for Johnson County to consider comments from the Powder River and Lake DeSmet Conservation Districts concerning proposed rural subdivisions. Their participation in the subdivision process will help ensure that the Johnson County Planning and Zoning Commission and Board of County Commissioners consider a broad range of issues that are relevant to the review and approval of rural subdivisions.

Other future land use development issues may also require coordination with the Conservation Districts. For example, the two Conservation District representatives are participating in the regional Coal Bed Methane Coalition. Through the participation of several counties in Northeast Wyoming, the CBM industry, and various other agencies, this organization has facilitated a greater understanding of coal bed methane development opportunities, issues, mitigation measures, and relevant solutions to development issues.

14.7 JOHNSON COUNTY

14.7.1 Current Responsibility for Land Use Management

14.7.1.1 Johnson County Planning and Zoning Commission

Land use planning and management activities of Johnson County are generally carried out by the Johnson County Planning and Zoning Commission. The body comprises five members who volunteer considerable time and effort to review and evaluate subdivision applications, as well as guide the direction of county land planning activities. Any decisions reached by the Planning and Zoning Commission are ultimately made in the form of recommendations to the Johnson County Board of County Commissioners for their approval.

14.7.1.2 Johnson County Planner

The Johnson County Planner provides professional support to the Johnson County Planning and Zoning Commission. In this capacity, the Johnson County Planner:

- provides information to private landowners, developers of rural subdivisions, and the general public;
- makes technical evaluations of proposed rural subdivisions and insures compliance with Johnson County Subdivision Regulations, Wyoming state statutes and other applicable regulations;
- provides staff reports and recommendations to the Johnson County Planning and Zoning Commission concerning proposed subdivisions; and,
- organizes and coordinates land management and other land use planning activities with the Johnson County Planning and Zoning Commission, the Board of County Commissioners, as well as appropriate municipal, state, and federal agencies.

14.7.1.3 Johnson County Sanitarian

Wastewater Systems

Another facet of existing land use management in Johnson County is the ongoing inspection of wastewater systems. These inspections are carried out by the Johnson County sanitarian. The State Department of Environmental Quality delegated this authority to Johnson County for small wastewater systems handling up to 2,000 gallons per day.

National Flood Insurance Program

Johnson County also participates in the National Flood Insurance Program. Johnson County's participation in this program is based primarily upon the County's desire to remain eligible for federally subsidized flood insurance that can be made available from any property insurance agent.

One of the commitments that are necessary to sustain eligibility for subsidized flood insurance is the availability and application of adequate land use and control measures in flood hazard areas. In 1998, Johnson County adopted Resolution 190, which, in part, expressed the intent of the Board of County Commissioners to:

"...require the recognition and evaluation of flood, mudslide (i.e., mudflow), or flood-related erosion hazards in all official actions relating to land use in areas having these hazards..."

14.7.2 General Authority for Land Management

The primary authority for land management is derived from Title 18, Chapter 5 of the Wyoming Statutes. Title 18, Chapter 5, Article 1 of the Wyoming Statutes provides authority to the Board of County Commissioners in any Wyoming county to establish a county planning commission. Article 2 provides authority to the Board of County Commissioners in any Wyoming county to establish a county planning and zoning commission. Johnson County has established an Article 2 planning and zoning commission. Article 2 also provides authority for the county to *"prepare and amend a comprehensive plan including zoning for promoting the public health, safety, morals and general welfare of the unincorporated areas of the county."*

The regulation of land subdivisions is addressed in Title 18, Chapter 5, Article 3 of the Wyoming Statutes. Article 3 also grants authority to Wyoming counties to "enact resolutions or regulations which are more restrictive" than the provisions of the article.

Title 18, Chapter 5 is poorly organized and reflects a series of statutory amendments that are sometimes confusing. A brief summary of the authorities for land use planning, land use management and the regulation of subdivisions is provided in the following paragraphs to facilitate a better understanding of the authority for county land management.

14.7.2.1 Land Use Planning

W.S. 18-5-202(b) indicates that county planning and zoning commissions may prepare and amend comprehensive land use plans that promote the public health, safety, morals and general welfare of the unincorporated areas of the county. There is also wording that indicates that the comprehensive plan can be accompanied by zoning.

However, some state land use law precedents, e.g., Baker v. City of Milwaukee (1975), established legal precedent that zoning must conform to a written master plan. A 1996 Wyoming Supreme Court decision, Ford vs. Converse County, reiterated that concept on a county level by clarifying that a "comprehensive plan" is merely a policy statement, which is implemented by zoning enactment. Consequently, the land use plan is a land use policy document that is not intended to be used for regulatory purposes. At the same time, any zoning should conform to the land use policies contained in a comprehensive land use plan.

W.S. 18-5-202(c) indicates that county planning and zoning commissions will certify the comprehensive land use plan to the board of county commissioners. Before certifying its plan or amendments thereto to the board, the planning and zoning commission must hold at least one public hearing. Notice of the time and place of the hearing must be given by one publication in a newspaper of general circulation in the county at least thirty days before the date of the hearing.

Prior to adoption of the comprehensive plan, the board of county commissioners must hold at least one public hearing. Notice of the time and place of the public hearing must be published in one newspaper of general circulation in the county at least fourteen days before the public hearing. After the public hearing, the board must vote on the adoption of the comprehensive plan. A majority vote of the Board of Commissioners is required for the adoption of the comprehensive land use plan.

In those counties where a comprehensive land use plan is officially adopted, W.S. 18-5-208 authorizes the board of county commissioners to participate in efforts to coordinate the local land use plan with federal resource management plans. This section is in clear reference to resource management plans of the U.S. Forest Service, the Bureau of Land Management, the U.S. Fish and Wildlife Service, and any other applicable federal agency plans.

In addition to the federal requirements mentioned above, Johnson County expects cooperation of all Wyoming state agencies in allowing Johnson County's participation in all state planning efforts that affect the county. State agencies should consider the content of the Johnson County Land Use Plan when forming policy decisions.

14.7.2.2 Land Use Management

W.S. 18-5-202 authorizes any board of county commissioners to create and establish a planning and zoning commission. The county planning and zoning commission may prepare and amend a comprehensive plan and zoning.

W.S. 18-5-201 makes it clear that counties cannot take away any zoning authority of towns and cities. W.S. 18-5-201 also authorizes counties to regulate and restrict the location and use of buildings for residential, agricultural, industrial, commercial, public use and other purposes in the unincorporated area. However, no zoning resolution is to prevent any reasonable land uses that are needed to extract or produce mineral resources.

W.S. 18-5-203 states that it is unlawful to locate, construct, enlarge, re-construct, or use any building with an area that is covered by zoning until a zoning certificate is issued for the proposed building and complies with zoning regulations.

14.7.2.3 Subdivisions

W.S. Title 18, Chapter 5, Article 3 is the primary State statute associated with the regulation of land subdivisions. W.S. 18-5-303, in part, indicates that the subdivision regulations apply to land subdivisions that contain parcels less than 35 acres in size. However, there are other exemptions related to the division of land that:

- Is a division of land for the purpose of a gift or sale of property to a member of the landowner's immediately family;
- is a subdivision created by any court of the state pursuant to the law of eminent domain, by operation of law or by order of any court in the state;
- is a subdivision created by a lien, mortgage, deed of trust or any other security instrument, easements and rights-of-way;
- concerns land parcels located within incorporated cities and towns;
- is created by the sale or disposition of land to the State of Wyoming or any political subdivisions thereof;
- affects railroad rights-of-way;

- is the sale or other disposition of land for agricultural purposes or affects the alignment of property lines for agricultural purposes;
- is created by boundary line adjustments where the parcel subject of the sale or other disposition is adjacent to and merged with other land owned by the grantee;
- creates cemetery lots; and
- is created by the acquisition of an interest in land in the name of the husband and wife or other persons in joint tenancy or as tenants in common, and the interest shall be deemed as only one interest.

The board of county commissioners is required to issue subdivision rules and regulations, as well as permits for land subdivisions that are applicable to the statute. Minimum requirements are also included for subdivision permits. These requirements outline a) various types of information that the subdivider should provide to the county, b) minimum information for subdivision plat drawings, c) the submission of performance bonds or letters of credit to ensure completion of on-site improvements, and d) numerous other types of documentation that are required for subdivision permit approval.

W.S. 18-5-307 authorizes any board of county commissioners to allow the county planning and zoning commission to receive and review subdivision permit applications. The planning and zoning commission is to prepare its findings and make recommendations to the board of county commissioners.

Required time schedules are provided for the approval or disapproval of subdivision permit applications. If any part of a proposed subdivision lies within one mile of an incorporated city or town, the appropriate city or town council must also approve the proposed subdivision.

The board of county commissioners is to determine and collect permit fees associated with subdivision permit applications. The fees are to be the greater of \$100, or \$10 per lot up to a maximum fee of \$1,000. Johnson County also charges subdivision review fees. The fees collected are to be credited to the county general fund.

W.S. 18-5-315 authorizes the board of county commissioners to adopt subdivision resolutions or regulations that are more restrictive than those outlined in Article 3. Consequently, local subdivision regulations are not superseded by any provisions in Article 3.

14.7.3 Land and Resource Management Concerns of Johnson County

14.7.3.1 Future Development of Johnson County

The Johnson County Planning and Zoning Commission and the Board of County Commissioners desire to pursue, and, ultimately, achieve a general land use pattern for Johnson County that enhances the health, safety and welfare of the Johnson County community. The Land Use Plan recommends a range of policies concerning land use combinations, general development guidelines, and a general land use pattern for the unincorporated areas of Johnson County.

The Johnson County Planning and Zoning Commission and the Board of County Commissioners desires to establish a regulatory mechanism that will, in part, enable the future implementation of recommended land use policies without unreasonably infringing upon individual property rights. In the absence of some increased land use regulation, future land use development in Johnson County may occur in a manner that will:

- hamper the future delivery of public services;
- increase the cost of public services such as emergency medical services, law enforcement and county road maintenance;
- generate more land use conflicts between adjoining landowners;
- destroy most productive agricultural land;
- destroy scenic views and tourism revenues;
- diminish the quality of life of county residents provided by our agricultural and rural amenities;
- destroy or diminish wildlife habitat; and
- create stormwater drainage problems.

In contrast, during public meetings concerning the Land Use Plan which were held in Buffalo and Kaycee in October 2003, some Johnson County residents expressed their continued concern about increased land use regulation and the potential loss of individual property rights. These residents point out, in part, that a significant proportion of Johnson County is held in federal ownership. As a result, some residents of the County are already burdened by excessive federal regulations that particularly impact livestock grazing and the use of public lands.

14.7.3.2 Potential Approach to Zoning

Should zoning be pursued by Johnson County, any proposed zoning resolution should be limited to provisions that are essential to basic land use management. Such provisions could address:

- definitions associated with the resolution;
- the exclusion of existing buildings and land uses to the requirements of the new resolution;
- the purpose of each zoning district;
- the types of permitted land uses within each zoning district;
- density, e.g., number of dwelling units per acre;
- building setback and height requirements;
- vehicular parking area requirements for commercial and industrial facilities;
- nuisances;
- incompatibility of land uses; and
- protection of lands adjacent to Johnson County Airport to qualify for state and federal funding.

It is also important that the type of land uses permitted in each zoning district include a range of land uses that are consistent with the recommended land use combinations outlined in the Johnson County Land Use Plan. The number of zoning districts should be limited to facilitate community understanding of permitted uses.

The establishment of reasonable building setbacks would reduce land use conflicts between neighboring landowners, and provide greater building safety.

A zoning map should be prepared to identify the location of each zoning district within the unincorporated areas of Johnson County. This would enable landowners to conveniently identify which zoning district(s) applies to any future development on their lands.

Zoning Resolutions can be modified to meet changing county conditions or needs. In accordance with Wyoming Statute 18-5-202, any person may petition the Planning and Zoning Commission to amend any adopted zoning plan.

14.7.3.3 Historical Preservation

As mentioned previously, Johnson County is very rich in history. Historical sites include, but are not limited to, Fort Phil Kearny, the Fetterman Battlefield, the Hole-in-the-Wall area, Dull Knife Battlefield, the Crazy Woman Battlefield, the Fort Reno Historic Site and a portion of the Bozeman Trail. Several of these sites lie on privately owned property.

Any future zoning regulations adopted by Johnson County should include Historic District requirements to provide a mechanism for the preservation of sites, structures, and districts of historical, archaeological, or architectural significance. This is important to:

- Safeguard the heritage of the county by preserving sites, structures or districts which reflect elements of the county's cultural, social, economic, political, architectural or archaeological history;
- Stabilize and improve property values of such sites, structures, or districts;
- Foster civic beauty;
- Strengthen the economy of the county;
- Preserve and enhance the quality of life;
- Promote the preservation and appreciation of the sites, structures, and districts for the education and welfare of the residents of the county;
- Develop an awareness among property owners of the value of preserving, protecting, and restoring areas of historical, archaeological or architectural significance; and
- Enable the county to identify and officially designate sites, structures and districts of historical, archaeological or architectural importance to the county in order to make such sites, structures and districts eligible for specific benefits that may be available from various local, state or federal programs.

14.7.3.4 Incentives for Future Agricultural Land Uses

Incentives need to be explored to assist those in agriculture to keep their land in agriculture. Incentives include conservation easements, transfer of development rights, purchase of development rights, density bonuses, cluster development and other conservation tools. Where development is to occur on a portion agricultural land, efforts should be made to minimize the area used by development and maximize the land retained for agriculture. Agricultural land provides much of the quality of life, tourism income, wildlife habitat and other amenities that all citizens enjoy in Johnson County.

14.7.3.5 Health and Safety Associated with Future Land Uses

Issuance of Building Permits

The health and safety of Johnson County residents is, in part, dependent upon the availability and effective delivery of public services such as fire suppression, law enforcement and emergency medical care. An essential component of public service delivery is knowing where private homes, businesses, and community and public facilities are located. Unanticipated emergencies bring this reality to the forefront.

The issuance of building permits for all private facilities is one of the more effective ways to determine the type and location of new land use development that is occurring in Johnson County. General landowner and building information can be derived from building permits. Using available maps, persons obtaining building permits could help Johnson County personnel locate where new buildings are being constructed. County personnel could subsequently incorporate such information into the Johnson County GIS.

A significant step toward the development of this information was made through the past efforts of Grizzly Engineering to develop a rural addressing system for Johnson County. The issuance of building permits would facilitate the update of this information and the distribution of relevant information to fire suppression, law enforcement and emergency medical personnel.

It is recommended that Johnson County issue building permits at the Johnson County Courthouse in Buffalo and the Town Hall in Kaycee.

Building Inspections

In most American communities, the construction of new buildings and renovations or additions to existing buildings is inspected by governmental agencies. These inspections are typically made for the purpose of insuring compliance to nationally recognized codes.

If the construction is deemed to meet the requirements of these codes, a certificate of completion is issued. Commercial and residential mortgage lenders, as well as insurance brokers, often require a certificate of completion as part of their due diligence before closing loans or issuing insurance policies.

The government building inspection process is thought by some to be desirable to obtain a quality structure and to ensure the health, safety and comfort of future occupants. However, the performance of these inspections can represent a significant expenditure. Also, an owner may not consider these inspections adequate to obtain the desired quality and will pay for duplicate inspections.

Especially in the case of renovations and small additions to existing homes, the costs associated with complying with code provisions can discourage making improvements.

The Johnson County Board of County Commissioners held a public meeting concerning building inspections and building standards in November of 2002. Various local building contractors and others, for the most part, expressed opposition to the adoption of new building standards and building inspections. In view of this, three options for building codes are presented below. It should be noted that other options could also be developed.

Option 1: Adopt all of the requirements of a national building code, electrical code, mechanical code, fire code and plumbing code. Johnson County could concurrently adopt exceptions to the codes that local contractors considered irrelevant or inappropriate for Johnson County.

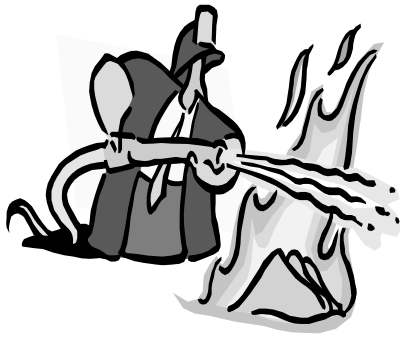
Option 2: Adopt all of the requirements of the above codes, but make no inspections. Johnson County could concurrently adopt exceptions to the codes that local contractors consider irrelevant or inappropriate for Johnson County.

Option 3: Adopt a simplified local building code that incorporates basic health and safety requirements of the above codes, but make no inspections. This option enables Johnson County to establish a more basic set of building standards. For example, the City of Rawlins prepared a simplified set of local building codes to facilitate the understanding and application of relevant building standards by local contractors. These standards were based upon the experience of a former city building inspector and his thorough review of various building codes. A similar ordinance could be developed for Johnson County.

Under options 2 and 3, local building, electrical, mechanical, and plumbing contractors would work on the honor system. Johnson County would not make any inspections of any structures, electrical or mechanical systems unless requested. However, the adoption of code requirements would provide a standard that is expected for future construction. This would provide some assurance to local mortgage lenders, prospective homeowners, and the business community that locally adopted building standards are being adhered to.

14.7.3.6 Electrical and Work Safety Associated With Coal Bed Methane Exploration and Production

In its consideration of both options, Johnson County should also remember that any adopted code requirements would help improve the future quality of construction by all contractors who work in Johnson County, not just those who live and work in Johnson County. The anticipated resurgence of coal bed methane exploration and production will undoubtedly use a combination of both local and out-of-state tradesmen.



During the recent coal bed methane production boom in Campbell County, the Fire Chief of the Campbell County Fire Department observed that few safety standards were applied in coal bed methane exploration and production areas. His department responded to a number of accidents that were caused by electrical and work safety issues at various coal bed methane wells and compressor stations. Most of the larger CBM companies have adopted operational and safety standards. However, subcontractors do not necessarily follow them, nor are subcontractors adequately monitored to ensure that standards are followed (Scott, 2001).

Only one electrical inspector from the State Fire Marshall's office makes electrical inspections in all of northeast Wyoming. Johnson County should work with State legislators from Johnson County to ensure that a greater number of qualified electrical inspectors are available to inspect electrical installations at CBM wells and compressor stations on private lands. Otherwise, the safety of private landowners and their property may be compromised.

14.7.3.7 Development Criteria for Future Oil and Gas Exploration and Production

Oil and gas development are very important to the State of Wyoming and Johnson County because of the significant mineral tax revenues derived from these activities. However, some general development criteria for future oil and gas exploration and production activities on private lands is appropriate. Reasonable development and operational criteria should be established by Johnson County to address issues such as:

- noise, light and dust impacts near residential areas
- potential aquifer depletion
- vehicular speeds and other safety factors on county roads
- avoiding damage to roads, bridges, culverts and other county facilities
- minimizing and properly constructing new accesses onto county roads
- shielding equipment yards in highly visible and residential areas
- consolidating transmission lines, utility trunks, access roads and other infrastructure to minimize effects on the landscape
- controlling emissions and air pollution

- controlling discharges and water pollution
- reclaiming areas disturbed during construction and restoring areas back to their original land use upon completion of industrial activities
- controlling existence and spread of noxious weeds

Such criteria will help minimize adverse impacts upon local landowners, rural residences, agricultural operations, and other land uses. These criteria should be addressed more specifically and incorporated within any future zoning regulations for Johnson County.

14.7.3.8 Subdivisions

In 2001, Johnson County adopted minor subdivision regulations for Johnson County. These regulations were prepared and adopted to facilitate the review and approval of minor lot splits that were previously allowed under the 1975 Wyoming Real Estate Subdivision Act.

Subdivisions Containing Parcels Less Than 35 Acres in Size

The concern for subdivisions containing parcels less than 35 acres in size is to process subdivision applications efficiently and effectively. In the subdivision review and approval process, it is important for Johnson County to:

- Clearly identify the information requirements that are required for the subdivision permit application and the preparation of subdivision plats. Information requirements should recognize that there are various types of subdivisions that have different types of issues and complexity. If information requirements are unreasonable, developers and decision-makers will lose faith in the subdivision review and approval process.
- Identify specific elements of the review and approval process so that applicants seeking to subdivide land are aware of the scope and timing of the review by the Johnson County Planner, the Johnson County Planning and Zoning Commission, and the Board of County Commissioners. This description should also include statements that clarify what general considerations will be made during the project review. One of various elements of the subdivision review should be Johnson County's determination of the consistency of the proposed subdivision with the policies in the adopted Johnson County Land Use Plan.
- Give adequate attention to significant project issues. Permit stipulations should continue to be used to ensure that specific project issues are adequately addressed. However, any stipulations tied to subdivision approval should be consistent with those required for subdivisions with comparable site conditions or characteristics.
- Provide flexibility in site layout and subdivision design. General topography in the vicinity of Buffalo suggests that subdivision developers may elect to design more clustered residential subdivisions if the regulatory process remains flexible.
- If zoning is established, this aspect of regulatory approval can be accomplished concurrently during the subdivision review and approval process.

It is recommended that Johnson County revise subdivision regulations to incorporate requirements for other types of subdivisions that include parcels less than 35 acres in size. Johnson County should consider developing variable application and plat requirements for different types of subdivisions. The subdivision application and plat requirements for each type of subdivision would vary and be consistent with the complexity of issues involved.

Subdivisions Containing Parcels 35 Acres or Larger in Size

Future subdivisions containing parcels, which are 35 acres or more in size, are exempt from Title 18, Chapter 5 of the Wyoming State statutes. Under W.S. 18-5-315, Johnson County can impose more restrictive requirements than those outlined in the statute, but it is highly doubtful that this section could be interpreted to remove the exemptions relating to the size of parcels.

In its consideration of subdivision requests, Johnson County should consider the recommendations outlined for future land use combinations and the recommended land use pattern. As stated in Chapter 11, the development of new residential subdivisions is recommended within proposed community expansion areas in the immediate vicinity of Buffalo and Kaycee.

In view of the 1996 Wyoming State Supreme Court decision, Ford vs. Converse County, the Johnson County Land Use Plan cannot represent the sole basis of any land use decisions since the county land use plan provides no regulatory authority.

Johnson County should make reasonable efforts to encourage subdivision development within close proximity to Buffalo and Kaycee. If the review process for subdivisions containing parcels less than 35 acres in size is efficient and reasonable, developers and investors may be less attracted to the development of subdivisions with parcels 35 acres or larger.

All costs associated with subdivisions should be internalized and borne by the developer and residents of the subdivisions so as not to become a burden on all taxpayers.

14.7.3.9 Noxious Weeds

The Johnson County Weed and Pest District advocates the following voluntary general guidelines for the control of any State-designated or county-declared noxious weed species.

- “1. Prevention is the most effective and economical tool in controlling unwanted weeds. This can be achieved by washing vehicles, using certified weed free forage for mulch, inventorying and monitoring weed infestations, and treatment of insipient infestations.*
- 2. Enter into an effective treatment program on established weed problems, with eradication the exception, not the rule.”*

By Statute, if the District Board finds that a landowner or entity is responsible for any weed infestation that is *“...liable to spread and contribute to the detriment of others”*, they *“...may set forth minimum remedial requirements for control of the infested area”*. If the said landowner or entity fails, or refuses, to perform the remedial requirements, they are subject to a fine. The ultimate goal for successful weed management is cooperation, land stewardship and being good neighbors. The Johnson County Weed and Pest District office should be contacted for more specific information and management recommendations.

14.7.4 Recommended Tools for Future Land Use Management

14.7.4.1 Geographical Information System

Pedersen Planning Consultants established a geographical information system (GIS) for Johnson County using ArcView GIS software. The Johnson County GIS includes a wide variety of spatial data relating to the following:

- existing groundwater wells (2003)
- potential groundwater vulnerability
- precipitation
- streams and drainage areas
- 4th, 5th and 6th order hydrologic units
- general soil classifications
- seasonal ranges for various big game animals
- Bighorn National Forest boundary
- USFS and BLM grazing allotments
- existing federal, state, and county recreation and conservation areas
- residential, commercial, industrial, public facility and community facility land uses
- lands used for production of crops in 1991-1992
- Interstate and State highways, Johnson County roads, and other trails
- general land ownership: federal, State, and private
- coal bed methane wells in February 2002
- location of coal resources at various ranges of depth
- most rural residential subdivisions
- a recommended land use pattern for Johnson County

A considerable amount of tabular data is available in attribute tables that are associated with the available spatial data.

However, there are a number of rural residential subdivisions that are not yet incorporated into the GIS. In addition, polygons of private lands in the unincorporated area are also not included. This information was originally to be provided to Johnson County by the State Department of Revenue; however, the commitment of the State Department of Revenue to provide this information is uncertain.

Nevertheless, existing information contained in the GIS enables Johnson County to make a number of useful applications relating to future land management. The availability and access to this information will, for example, enable the Johnson County Planning and Zoning Commission to more effectively and efficiently review subdivision applications.

A valuable and important source of information contained in the GIS is a wealth of land use data. While not all private land parcels and rural subdivisions are incorporated in the GIS, Johnson County should make every effort to update this information, at least, annually. The establishment of a county building permit system will greatly facilitate the update of this information.