

UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
WASHINGTON, D.C. 20240

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Instruction Memorandum No. 98-164  
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To: State Director's  
From: Assistant Director, Renewable Resources and Planning  
Subject: Summary of Visual Resource Management (VRM) Issues Discussed In Southern Utah Wilderness Alliance et. al., 144 IBLA 70 (1998)

This Instruction Memorandum is a follow-up to IB No. 98-135 in which we, as a reminder to our field offices, reiterated current Bureau VRM policy and standards. However, a recent decision by the Interior Board of Land Appeals, Southern Utah Wilderness Alliance et. al., 144 IBLA (1998) builds upon and reinforces the Bureau VRM policy, and as such, I am sending as additional guidance, the applicable portions of the decision which should be considered when making VRM-related decisions.

The judges statements addressed in this IM seem clear on several points: 1) when VRM is addressed during the RMP process, and VRM management decisions are made, the implementation of those decisions is mandated just as they are for any other resource allocation decisions. The implementation of those decisions is not at the discretion of the field manager, and 2) the current BLM VRM Manuals and Handbooks dictate how we conduct VRM business. We have very little discretion in being creative about how we view and use the information in those manuals and handbooks. If the manual/handbook states, that a contrast rating is required for all surface disturbing activities, or that VRM management classes are required for all public lands, management does not have the discretion or authority to ignore those types of mandates.

Please refer to the following current VRM manuals/handbooks for additional information on this subject:

- BLM Manual 8400 - Visual Resource Management, dated 4/5/84
- BLM Manual Handbook H-8410-1 - Visual Resource Inventory, dated 1/17/86

- BLM Manual Handbook H-8431-1 - Visual Resource Contrast Rating, dated 1/17/86
- BLM Manual 1616 - Prescribed Resource Management Planning Actions, dated 4/6/84
- BLM Manual 1620 - Supplemental Program Guidance, dated 11/14/86
- BLM Manual 1621 - Supplemental Guidance For Environmental Resources, dated 11/14/86

NOTE: The actual decision rendered by the IBLA judges in this case is not particularly germane to the points to be made in this IM. Therefore, only the highlights from the text (quotations 1-6 noted below) where the judges interpreted, defined, and clarified Bureau VRM policy have been included.

1. "Visual management objectives (classes) are developed through the RMP process for all Bureau lands. The approved VRM objectives shall result from, and conform with, the resource allocation decisions made in the RMPs." (BLM Manual 8400.0 - 6A.2)

The judges stated, "It seems clear from the foregoing that what the Manual intends is for the resource allocation decisions to determine the VRM classification. It is not contemplated that the RMP resource allocation systems will contravene the VRM classification found in the RMP" . . . This is clearly what the BLM Manual intends. For example, the Visual Resource Inventory Handbook (BLM Manual Handbook 8410-1) provides:

The visual resource inventory process provides BLM managers with a means for determining visual values. The inventory consists of a scenic quality evaluation, sensitivity level analysis, and a delineation of distance zones. Based on these three factors, BLM-administered lands are placed into one of four visual classes. These inventory classes represent the relative value of the visual resources. . . . The inventory classes provide the basis for considering visual values in the resource management planning (RMP) process. Visual resource management classes are established through the RMP process for all BLM-administered lands (see also Manual 1624.3). During the RMP process, the class boundaries are adjusted as necessary to reflect the resource allocation decisions made in RMPs. Visual management objectives are established for each class. (See Section VB.)

(BLM Manual Handbook 8410-1, at 1.) Once the visual resource management classes are established, however, they are more than merely guidelines. Rather, having been developed through the RMP process, meeting the objectives of each of the respective visual resource classes is as much a part of the RMP mandate as any other aspect of the resource allocation decisions made in the RMP."

2. "Inventory classes are informational in nature and provide the basis for considering visual values in the RMP process. They do not establish management direction and should not be used as a basis for constraining or limiting surface disturbing activities. . . .

The assignment of visual management classes is ultimately based on the management decisions made in RMPs." (H-8410-1, at 6.)

3. "An RMP is not to be viewed as some static document which, once adopted, remains fixed for all time. On the contrary, for an RMP to have any ultimate vitality, it must be seen as a management tool which is necessarily circumscribed by the values and knowledge existing at the time of its formulation."

4. "If it were assumed . . . that under the RMP resource allocation decisions that the "visual contrast rating scores would exceed the VRM class objectives" for a number of areas, the proper response would have been to delineate those areas and expressly lower the VRM inventory rating to reflect the RMP's resource allocation decisions in those areas."

The judges further stated, "Moreover, . . . we also believe that the failure to complete a contrast ratings worksheet is difficult to justify. . . . And, while BLM asserts that its expert used the contrast ratings system but simply failed to complete the form, the BLM Manual Handbook provides that an individual completes the contrast rating "from key observation point(s) using Bureau Form 8400-4 - Visual Contrast Rating Worksheet. (BLM Manual Handbook 8431-1, at 2)

Clearly, the BLM Manual considers completion of the Visual Contrast Rating Worksheet to be an integral part of implementation of the contrast rating system."

5. And . . . "This does not, of course, mean that it is improper for BLM to endeavor to minimize visual impacts beyond that required by a VRM classification . . . On the contrary, as the Manual itself notes, "since the overall VRM goal is to minimize visual impacts, mitigating measures should be prepared for all adverse contrasts that can be reduced" and this includes "reduction of contrast in projects which have met the VRM objectives." (BLM Manual Handbook, Visual Resource Contrast Rating, 8431-1, at 6.)

6. And . . . "Of course, where the activities which impact upon the visual resources are not "discretionary," as, for example, in the case of valid existing rights, these impacts must be allowed after due effort, consistent with those valid existing rights, is made to minimize the adverse impacts. But the RMP does not contemplate that such valid existing rights will be created, after the adoption of the RMP, by the issuance of oil and gas leases since the very act of lease issuance is, itself, discretionary."

"It is true, of course, that all management plans routinely recognize that the management prescriptions being devised can only be implemented "subject to valid existing rights." But, it is almost restating the obvious to observe that the "valid existing rights" to which these management plans refer are rights existing at the time the management plans are adopted. In other words, it is not expected that BLM officials will authorize the creation of future rights whose excise would be inimical to the very values which a management plan seeks to foster."

As indicated at the beginning of this IM, what is included here only represents excerpts from the decision document (144 IBLA 70, 1998). The purpose of bringing these excerpts to your attention is to demonstrate how the judges reacted to VRM issues analyzed in this particular case.

Please contact Richard Hagan, National Coordinator, Visual Resource Management, at (303) 236-9508, if you have any questions.

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