

ORDINANCE # 94-2

TITLED

Butte County's Interim Land Use Policy Plan

BE IT ORDAINED BY BUTTE COUNTY AS FOLLOWS:

The Butte County Interim Land Use Policy Plan is the county land use plan developed by the Butte County government to guide the use of public lands and public resources in Butte County and to protect the rights of private landowners.

Federal and state lands make up a substantial part of Butte County. Moreover, Butte County economy is dependent on business activities on federal and state lands. These activities are inseparably tied to private deeded and patented lands in Butte County. The nature and intent of Butte County government land use planning is to protect the custom and culture of County citizens through protection of private property rights,

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the facilitation of a free market economy, and the establishment of a process to ensure self-determination by local communities and individuals.

It is therefore necessary to develop and implement land use planning mechanisms that focus on federal and state land uses and activities. The Interim Land Use Policy Plan is an interim set of policies that shall provide a general planning framework to remain in effect until a permanent Butte County Comprehensive Land Use Plan is developed and approved by the Butte County Commission.

The Interim Plan addresses federal and state land management issues directly and is intended to be used as a positive guide for federal and state land management agencies in their development and implementation of land use plans and management actions. The County and its citizens support the continued multiple use of federal and state lands in Butte County.

Therefore, it is the policy of Butte County that federal and state agencies shall inform local governments of all pending actions affecting local communities and citizens and coordinate with them in the planning and implementation of those actions. The Butte County Commission, when affected by such actions, shall be consulted and coordinated within accordance with the laws of South Dakota and the laws of the United States.

Finally, in compliance with federal and state law, including but not limited to the Federal Land Management and Policy Act of 1976 and the National Forest Management Act, all federal and state agencies shall comply with the Butte County Land Use Policy Plan and coordinate with the County Commission for the purpose of planning and managing federal and state lands within the geographic boundaries of Butte County, South Dakota. Federal and state agencies proposing actions that will impact the Butte County Land Use Policy Plan shall prepare and submit in writing, and in a timely manner, report(s) on the purposes and objectives and estimated impacts of such actions, including economic, to the Butte County Commission. These report(s) shall be provided to the Butte County Commission for review and coordination prior to federal or state initiation of action.

PREAMBLE

We, the people of Butte County, State of South Dakota, accept, support and sustain the Constitution of the United States and of the State of South Dakota. We have demanded through our elected legislature and governor that the federal government comply with the Constitution of the United States, Article One, Section Eight, Paragraph Seventeen, which limits the authority of the federal government to specific lands, and we hereby reaffirm our demand that all

lands in Butte County not so specifically designated be relinquished to the citizens thereof.

Further, we reaffirm the fundamental rights of mankind as enumerated in the Declaration of Independence and acknowledge the limited nature of government as intended by the nation's Founding Fathers. Based on these cherished traditions, we declare that all natural resource decisions affecting Butte County shall be guided by the principles of private property rights, protecting local custom and culture, maintaining traditional economic structures through self-determination, and opening new economic opportunities through reliance on free markets. Resource decisions made in this manner will enhance environmental quality.

Federal law requires federal agencies to follow local law to the maximum extent possible. Within this context, the following policies were developed:

LAND DISPOSITION

Recognizing that land is essential to local industry and residence, it shall be the policy of this County that the design and development of all federal and state land disposals, including land adjustments and exchanges, be carried out to the benefit of the citizens of Butte County.

POLICIES

1. Increase opportunities for local economic development by increasing the amount of deeded, patented, and non-federal land within the County.

2. Butte County is opposed to federal or state land agencies acquiring any private lands or rights in private lands within Butte County without first ensuring:

a. That as a minimum, parity in land ownership status is maintained; and

b. That private property interests are protected and enhanced, because land going out of private ownership affects the custom and culture and tax base of the county.

3. Federal managed lands that are difficult to manage or which lie in isolated tracts shall be targeted for disposal.

4. The general public, the state of South Dakota and local communities shall be notified of, consulted about, and otherwise involved in all federal and state land adjustments in Butte County. Butte County concurrence shall be required prior to any such land adjustments. Further, Butte County will enforce its right under federal law to be the lead planning agency or joint lead planning agency in all federal and state lands adjustments occurring within the County's political boundaries.

5. Butte County will seek the assistance of the State of South Dakota in coordinating land exchanges so as to maximize deeded and patented fee simple lands.

6. Butte County shall determine land withdrawals for hazardous and non-hazardous waste storage as well

as the types and points of origin of such waste.

7. Pursuant to federal law, before federal and state land agencies can change land use, adverse impact studies on uses shall be conducted and mitigation measures adopted with concurrence from Butte County. Adverse impact studies shall address community stability, local custom and culture, grazing rights, flood prone areas, and access.

WATER RESOURCES

Butte County recognizes that the protection and development of its water resources are essential to its short and long term economic and cultural viability.

POLICIES

1. The protection of existing water rights and water uses within the County is of primary importance to the County's economic and cultural well-being. Therefore, transfer in water use should be carefully considered in relationship to the history, traditions, and culture of Butte County. Pursuant to federal law, any federally proposed designation of Wild and Scenic Rivers and all federal policies regarding riparian management in Butte County shall be coordinated with the County Commission and shall comply with all County water use plans. In addition, Butte County shall prepare plans for the protection of all aquatic Threatened and Endangered species within its boundaries. Federal law requires that federal agencies managing waterways and wetlands containing such species shall coordinate their management activities and plans with the County Commission.

2. Butte County shall actively pursue the acquisition or development of new water to provide water for future economic and cultural growth in the County.

3. Butte County shall promote or pursue development of water markets for existing as well as future water rights for agricultural, municipal, industrial, and domestic purposes. In addition, Butte County shall explore and promote alternative uses of water, including but not limited to recreation and hydro-electric power.

4. The South Dakota Water Plan shall be assessed and considered as part of the Butte County Comprehensive Land Use and Water Use Plans.

5. Butte County shall be actively engaged in the development of water-based recreation within the County.

6. Butte County shall initiate a process for establishing a geologic, hydrologic and biologic data base within the county. The County shall acquire, develop, and synthesize alone or in coordination with other government agencies drilling information, water well testing information, flood prone information, riparian vegetation information, and all other information deemed necessary for the County.

The County shall also develop a definition of "natural" hydrologic environment so as to assess the use of water in the county by man, vegetation, livestock, and wildlife within the context of historical use. The County shall base its water use policy on the "Water Budget", which shall in turn be based on the relationship between precipitation, surface and ground water, evapotranspiration and water use within the county.

7. Pursuant to federal law, the Butte County government shall be notified of all state, interstate and federal actions that have any impact on the water of the County prior to such actions being initiated. In addition, such proposed actions, including federally proposed Wild and Scenic River designations, shall be coordinated with the Butte County Commission and the County water and land use plans prior to adoption and implementation. It is the intent of the County to assist federal and state agencies in the planning and management of the County's natural, cultural, and economic resources.

8. Butte County recognizes the principles contained in South Dakota State Water Law as they exist at this time.

9. Butte County shall develop its water use policy to ensure both water quantity and water quality and to ensure that such policy does not adversely impact water users outside the county.

10. Butte County shall consider Wild and Scenic River Designations of its own design and shall require full federal compliance in the acceptance and enforcement of such designation. In addition, the County shall develop riparian management plans in concert and coordination with landowners, ranchers and the appropriate state and federal agencies.

AGRICULTURE

The custom and culture associated with agricultural production in Butte County is necessary to the livelihood and well-being of its citizens. Therefore, it is the policy of Butte County to

protect agricultural land and promote the continuation of agricultural pursuits by protecting private property rights, relying on self-determination, and ensuring open market conditions.

POLICIES

1. Opportunities for grazing livestock on federal and state lands should be continued at levels consistent with custom and culture and the protection of equitable property rights.

2. Federal and state governments should not obstruct agricultural opportunities on their respective lands.

3. Butte County shall establish a Grazing Advisory Board. Pursuant to federal law, federal and state land managing agencies shall coordinate with the Board on all matters affecting livestock grazing on public lands.

4. Butte County shall develop, in coordination with federal and state governments, an effective Section 8 process pursuant to the Public Rangeland Improvement Act of 1978 and shall implement procedures and guidelines to account for the allocation and expenditure of range improvement funds.

5. Incentives for improving grazing lands and promoting good land stewardship shall be developed through:

a. Encouraging permittee ownership of range improvements;

b. Appropriate fee schedules;

c. Allowing subleasing of equitable property rights;

d. Allotment management plan flexibility; and

e. Increasing grazing capacity or allowing other economic benefits to accrue to permittees making investments in range betterment.

6. Butte County shall explore market and incentive systems to reduce administrative and grazing costs of federal and state lands.

TIMBER AND WOOD PRODUCTS

The customs and culture associated with timber and wood products production in Butte County is necessary to the livelihood and well-being of its citizens. Therefore, it is the policy of Butte County to protect timber resources and promote the continuation of a sustainable wood products industry by providing economic opportunity, relying on self-determination, and ensuring open market conditions.

POLICIES

1. Butte County shall promote sale sizes that provide opportunities for a wide spectrum of producers and that allow for local entrepreneurship.

2. Butte County shall explore market and incentive systems to reduce administrative and harvest costs on federal and state lands.

3. Butte County shall examine and implement programs based on market and incentive systems to increase the profitability of harvesting small-diameter timber stands.

4. Opportunities for a sustainable wood products industry shall be continued at levels consistent with custom and culture and as affected by prevailing market conditions.

CULTURAL RESOURCES, RECREATION, WILDLIFE, AND WILDERNESS

Butte County shall promote and facilitate public and private recreational, cultural, wilderness, and wildlife opportunities compatible with local custom and culture and within the constraints of private property rights and local self-determination.

POLICIES

1. Butte County shall establish a threatened and endangered species committee for overseeing protection and recovery of all federal and state listed threatened or endangered species.

2. Butte County shall establish a Butte County Wildlife Committee. Pursuant to federal law, federal and state land and wildlife management and enforcement agencies shall coordinate with that Committee on all matters regarding wildlife.

3. No additional wilderness areas shall be designated in Butte County.

MINERAL RESOURCES

Butte County recognizes that the development of its abundant mineral resources is desirable and necessary to the state and the nation. Therefore, it is the policy of Butte County to develop procedures and site specific plans that provide for the long term availability and responsible development of its mineral resources.

POLICIES

1. Support retention of and compliance with the 1872 Mining Law.

ACCESS AND TRANSPORTATION

Butte County shall develop and maintain a transportation network that optimizes accessibility within the County and that minimizes the cost of movement between all communities and across public lands. Access to or

across federal and state lands shall not entail encumbrances or restrictions on private property rights.

MONITORING AND COMPLIANCE

Butte County shall develop monitoring and compliance standards to evaluate the interim land use plan and to ensure consistency between federal and state actions and activities and the land use requirements enumerated herein.

POLICIES

1. Butte County shall monitor the condition of grazing lands, timber lands, wildlife, and wetlands. Federal and state agencies shall coordinate with the County in the collection of all monitoring data and in the analysis of all resource conditions.

2. Butte County shall enforce compliance with this interim land use plan and shall monitor consistency between federal and state actions and activities and the land use requirements enumerated herein.

First Reading - January 4, 1994

Second Reading - February 1, 1994

This ordinance will become effective on the twentieth day after its completed publication.

This ordinance was passed by a majority vote of the Butte County Commissioners.

DATED at Belle Fourche, South Dakota, this 1st day of February, 1994.

William J. Hannah
Chairman
Board of County
Commissioners
Butte County

ATTEST: **Sally Pflaumer**
Butte Co. Auditor

(SEAL)

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