§ 1610.2 Public participation.

(d) A list of individuals and groups known to be interested in or affected by a resource management plan shall be maintained by the Field Manager and those on the list shall be notified of public participation activities. Individuals or groups may ask to be placed on this list. Public participation activities conducted by the Bureau of Land Management shall be documented by a record or summary of the principal issues discussed and comments made.

(f) Public notice and opportunity for participation in resource mangement plan preparation shall be appropriate to the areas and people involved and shall be provided at the following specific points in the planning process:

(4) Publication of the proposed resource management plan and final environmental impact statement which triggers the opportunity for protest (See §§1610.4–8 and 1610.5–1(b)); and

§ 1610.4-2 Development of planning criteria.

(d) BLM may change planning criteria as planning proceeds if we determine that public suggestions or study and assessment findings make such changes desirable.

§ 1610.5-1 Resource management plan approval and administrative review.

(b) No earlier than 30 days after the Environmental Protection Agency publishes a notice of the filing of the final environmental impact statement in theFederal Register,and pending final action on any protest that may be filed, the State Director shall approve the plan. Approval shall be withheld on any portion of a plan or amendment being protested until final action has been completed on such protest. Before such approval is given, there shall be public notice and opportunity for public comment on any significant change made to the proposed plan. The approval shall be documented in a concise public record of the decision, meeting the requirements of regulations for the National Environmental Policy Act of 1969 (40 CFR 1505.2).

§ 1610.5-2 Protest procedures.

(a) Any person who participated in the planning process and has an interest which is or may be adversely affected by the approval or amendment of a resource management plan may protest such approval or amendment. A protest may raise only those issues which were submitted for the record during the planning process.

(b) The decision of the Director shall be the final decision of the Department of the Interior.

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Any comments received may be addressed in the ROD. However, review any comments on the final EIS, to determine if they have merit; for example, if they identify significant new circumstances or information relevant to environmental concerns and bear upon the proposed action. If so, the decision-maker preparing the EIS must determine whether to supplement the draft or the final EIS or if minor changes can be made to the existing EIS. Refer to section **9.5, *Supplements to Draft and Final EISs***, when supplementing a draft or final EIS. Check program guidance for additional review requirements. For example, there is a 60-day Governor's consistency review requirement for LUPs (*BLM Land Use Planning Handbook H-1601-01,* pages 24-25).

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Under 43 CFR 1610.5-2(b), that decision was the final decision of the Department of the Interior. It was therefore subject to judicial review under the Administrative Procedure Act, 5 U.S.C. 701-706 (2000). There is no allegation that Lewis sought judicial review of the Assistant Director's decision.