

February 8, 2008

DELIVERED BY MAIL

BLM – Monticello Field Office
365 North Main Street
Monticello, UT 84535

Re: Comments on the BLM Monticello Draft Resource Management Plan/Environmental Impact Statement submitted by the Southern Utah Wilderness Alliance, The Wilderness Society, Sierra Club, Southwest Chapter of Public Employees for Environmental Responsibility (PEER), Great Old Broads for Wilderness, Red Rock Forests and the Center for Native Ecosystems, and Forest Guardians (referred to collectively as “SUWA”)

Greetings:

Thank you for the opportunity to comment on the Draft Resource Management Plan and Environmental Impact Statement (DRMP/EIS) for the Monticello Field Office. As noted in the DRMP cover letter from the State Director, this will be the first RMP and EIS for the Monticello Field Office. These lands are currently managed under the 1991 San Juan RMP, various amendments and administrative closure orders. SUWA appreciates the BLM’s efforts in developing this draft, and believe that a new RMP and EIS for the Monticello field office could go far in alleviating many of the resource impacts and conflicts. We welcome a new examination of these impacts, and new solutions to better balance the needs of preservation and development. As detailed below, however, we do not believe that this draft strikes the proper balance between these demands, nor does this draft contain sufficient analysis to demonstrate that the BLM has adequately considered a number of factors relevant to the resource management plan and the travel plan. Nor does it appear that the BLM has collected sufficient information on which to base this draft plan and proposed travel plan.

The Monticello Field Office contains a wide variety of unique, world-renown, and fragile resources that deserve special attention – attention that the BLM does not grant them in this draft plan. Many of these resources occur in the same or similar types of settings, and as a result, simply protecting certain types of ecosystems could go far to ensure that the special aspects of this place remain intact. For example, cultural sites, riparian areas and water resources, critical wildlife habitat, and popular hiking trails all co-exist in many canyon bottoms of the Monticello Field Office. Developing protective management strategies for riparian areas – something the BLM’s own internal guidance requires – would also protect these other resources. Many of these areas are also included in American’s Red Rock Wilderness Act, and the BLM recognizes that most of these areas have wilderness character.

Yet despite the obvious need for protection of these special resources, BLM’s draft plan would treat them as if they are ordinary landscapes with no special or unique value or management needs. Indeed, BLM has not even surveyed the cultural sites that would be

impacted by the travel plan and ORV designations, or quantified the water quality impacts from vehicle and other use in riparian areas. Among other things:

- The draft plan does not present a reasonable range of alternatives;
- Proposed ORV routes are excessive, and because the draft plan fails to include a site-specific analysis of the route designation impacts, resource damage will certainly occur in violation of BLM's own guidance, regulation and law;
- The draft plan fails to analyze and protect important wilderness resources in the Monticello area;

In addition to these comments, we incorporate by reference the comments submitted by the following experts in their respective fields as follows:

- Colorado Plateau Archaeological Alliance (Jerry Spangler), identifying inadequacies in the inventory, assessment of potential environmental consequences and management of cultural resources in the DRMP/EIS/EIS;
- ECOS Consulting (Charles Schelz) identifying inadequacies in BLM's analysis of riparian, soils, water, wildlife and fisheries resources.
- Megan Williams, identifying inadequacies in BLM's air quality analysis

Sincerely,

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The Southern Utah Wilderness Alliance (“SUWA”) advocates for preservation of Utah's remaining desert wild lands, known collectively as America's Red Rock Wilderness. Since 1983, SUWA has been the only independent organization working full-time to defend America's redrock wilderness from oil and gas development, unnecessary road construction, rampant off-road vehicle use, and other threats to Utah's wilderness-quality lands. SUWA has a national membership of more than 15,000 members.

The Wilderness Society (“TWS”), founded in 1935, works to protect America's wilderness and wildlife and to develop a nationwide network of wild lands through public education, scientific analysis and advocacy. TWS’s goal is to ensure that future generations will enjoy the clean air and water, wildlife, beauty and opportunities for recreation and renewal that pristine forests, rivers, deserts and mountains provide. TWS and its more than 200,000 members have a long-established history of involvement and interest in public lands issues in Utah.

The Sierra Club is a national nonprofit organization of approximately 750,000 members dedicated to exploring, enjoying, and protecting the wild places of the earth; to practicing and promoting the responsible use of the earth’s ecosystems and resources; to educating and enlisting humanity to protect and restore the quality of the natural and human environment; and to using all lawful means to carry out these objectives. The Sierra Club’s concerns encompass all federal lands in Utah. The Sierra Club has approximately 750,000 members across the United States. Sierra Club members enjoy the public lands in Utah. The Utah Chapter of the Sierra Club has approximately 4300 members in the state of Utah. Members of the Sierra Club visit and enjoy the public lands administered by the BLM Monticello Field Office.

The Southwest Chapter of Public Employees for Environmental Responsibility (PEER) is a national alliance of local state and federal resource professionals; in conjunction with Rangers for Responsible Recreation. PEER works nation-wide with government scientists, land managers, environmental law enforcement agents, field specialists and other resource professionals committed to responsible management of America’s public resources. Resource employees in government agencies have unique responsibilities as stewards of the environment. PEER supports those who are courageous and idealistic enough to seek a higher standard of environmental ethics and scientific integrity within their agency. Our constituency represents one of the most crucial and viable untapped resources in the conservation movement.

Red Rock Forests located in Moab, Utah focuses on the health of the La Sal Mountains, Abajo Mountains and Elk Ridge of the Canyonlands Basin of southeast Utah. Red Rock Forests mission is to protect the long-term health and viability of these high elevation forests. They provide critical summer forage for wildlife and support a rich diversity of plant life.

The Great Old Broads for Wilderness is a national, grassroots nonprofit organization dedicated to increasing, preserving and protecting America's roadless public lands. Today

there are Broads of all ages and both genders in every state in the union making their voices heard to protect America's last wild places.

Center for Native Ecosystems has a longstanding record of involvement in management decisions and public participation opportunities on public lands including federal lands managed by the BLM. CNE's mission is to use the best available science to participate in policy and administrative processes, legal actions, and public outreach and education to protect and restore native plants and animals in the Greater Southern Rockies. Members and professional staff of CNE are involved in research, advocacy, and protection efforts for the special status and imperiled species within the Monticello Field Office. Staff and members use and enjoy these lands and intend to visit the subject lands to observe and monitor such habitat and population conditions. Staff have closely networked with wildlife and other professionals at responsible agencies to assess and improve the status of habitat and populations. Failing to manage these resources in a manner that promotes species recovery harms the interest of CNE's staff and members.

Forest Guardians seeks to protect and restore the native wildlands and wildlife of the American Southwest through fundamental reform of public policies and practices. Its goals are to protect and restore the native biological diversity and watersheds of the American Southwest; educate and enlist citizens to support protection of the forests, rivers, deserts and grasslands of this arid region; advocate for the principles of conservation biology in plans to restore degraded ecosystems and watersheds; enforce and strengthen environmental laws; support communities in efforts to protect their land and to practice and promote sustainable use of natural resources.

Table of Contents

- I. Planning Process
- II. General Management Framework
- III. Lands with Wilderness Characteristics
- IV. Travel Management
- V. Areas of Critical Environmental Concern (ACECs)
- VI. Wild & Scenic Rivers
- VII. Oil & Gas Development
- VIII. Recreation and Special Recreation Management Areas (SRMAs)
- IX. Cultural Resources
- X. Wilderness Study Areas (WSAs)
- XI. Impacts of Climate Change
- XII. Visual Resource Management
- XIII. Socioeconomics
- XIV. Special Statues Species
- XV. Air Quality
- XVI. RS 2477
- XVII. Soils
- XVIII. Riparian areas
- XIX. Vegetation
- XX. Wildlife and Habitat Fragmentation
- XXI. National Park Service Cooperation
- XXII. Special Species

Exhibits

- A. Maps and Graphs Comparing Recreational Opportunity Spectrum (ROS) of BLM initial route map with Redrock Heritage Proposal
- B. Comment Period Extension Examples
- C. Table and Maps Describing Impacts and Conflicts Associated with Proposed Route Designations
- D. Maps of Additional non-WSA Lands with Wilderness Characteristics
- E. Photographic Documentation of Additional non-WSA Lands with Wilderness Characteristics
- F. Allen Canyon Wilderness Character Submission
- G. Hammond Canyon Wilderness Character Submission
- H. Lime Creek, Valley of the Gods and the Tabernacle Wilderness Character Submissions
- I. The Needle Wilderness Character Submission
- J. Red Rock Plateau Wilderness Character Submission
- K. Upper Red Canyon Wilderness Character Submission
- L. Letter Supplementing The Tabernacle Wilderness Character Unit

Attachments

- A. "Climate Change and Major Environmental Threats in the Colorado Plateau Region" USGS
- B. "Impacts of Climate Change on Water and Ecosystems in the Upper Colorado River Basin" USGS Powerpoint presentation
- C. J. Belnap and O.I. Lange. "Disturbance and Recovery of Biological Soil Crusts." *Ecological Studies*, Vol. 150. Springer-Verlag Berlin Heidelberg 2001.
- D. 2-26-07-Brief of Federal Appellees - Utah v. Kempthorne
- E. 9-20-06 Merits Ruling – Utah v. Norton
- F. Wilderness Society "Economic & Social Impacts Of Oil And Gas Development"
- G. Wilderness Society "Socio-Economic Framework For Public Land Management Planning: Indicators For the West's Economy"
- H. Hickman, Gene et al "Small Mammals: The Effects Of Recreation On Rocky Mountain Wildlife"
- I. Belnap, Jayne "Impacts Of Off-Road Vehicles On Nitrogen Cycles In Biological Soil Crusts: Resistance In Different U.S. Deserts" *Journal of Arid Environments* (2002)
- J. Belnap, Jayne "The World At Your Feet: Desert Biological Soil Crusts" *Front Ecol Environ* 2003
- K. Davenport & Switalski "Environmental Impacts of Transport, Related to Tourism and Leisure Activities" Missoula 2006
- L. Gelbard & Belnap "Roads as Conduits for Exotic Plant Invasions in a Semiarid Landscape" *Conservation Biology* 2003.
- M. Wyoming Game and Fish Dept. 2004. "Multi-State Sage-Grouse Coordination and Research-based Recommendations."
- N. Van Aelstyn, Nicholas W. "Global Warming NEPA Challenges Likely to Increase" Beveridge and Diamon, P.C.
- O. "Climate Change – Health and Environmental Effects: Public Lands, Recreational Opportunities, and Natural Resources" United States Environmental Protection Agency
- P. "The Effects of Climate Change on Agriculture, Land Resources, Water Resources, and Biodiversity" US Climate Change Science Program, USDA
- Q. Berman, Dan "'Dramatic' Effects of Rising Temps Being Seen on Public Lands – Interior" E&E News
- R. "Climate Change 2001: Impacts, Adaption and Vulnerability" Intergovernmental Panel on Climate Change
- S. "Climate Change and the Colorado River Basin" US Environmental Protection Agency
- T. "USGS Navajo Nation Studies" USGS
- U. Smith & Huxman "Elevated Atmospheric CO₂ and Deserts: Will Increasing CO₂ Alter Deserts and the Desertification Process?" *Arid Lands Newsletter*, No. 49, May/June 2001
- V. Rosenfeld "Smoke and Desert Dust Stifle Rainfall, Contribute to Drought and Desertification" *Arid Lands Newsletter*, No. 49, May/June 2001
- W. Williams "Interactions of Desertification and Climate: Present Understanding and Future Research Imperatives" *Arid Lands Newsletter*, No. 49, May/June 2001

- X. "Our Changing Climate – Assessing Risks to California" California Climate Change Center, 2006
- Y. "Public Lands, Recreational Opportunities, and Natural Resources" US Environmental Protection Agency
- Z. "Impacts on Interior Resources" USGS Global Change Research
- AA. "The Arid and Semi-Arid Western United States" USGS Global Change Research
- BB. "Climate Viability and Change in the Southwest: Impacts, Information Needs, and Issues for Policymaking" Southwest Regional Climate Change Symposium and Workshop Report. University of Arizona, 1997
- CC. "Impacts on Water Resources" USGS Global Change Research
- DD. "Notes on the Ninth Biennial Conference of Research on the Colorado Plateau" USGS Colorado Plateau Research Station
- EE. Ouren, Douglas, et al. "Environmental Effects of Off-Highway Vehicles on Bureau of Land Management Lands: A Literature Synthesis, Annotated Bibliographies, Extensive Bibliographies, and Internet Resources" USGS, 2007.
- FF. "Nature Overrun" The New York Times. January 8, 2008; A22.
- GG. "National Visitor Use Monitoring Results." Bureau of Land Management, 2007.
- HH. Braun, Clait E. Ph.D. 2006. "A Blueprint for Sage-grouse Conservation and Recovery."
- II. Forest Guardians. "Petition to the U.S. Fish and Wildlife Service to Reclassify The Utah Prairie Dog as an Endangered Species Under the Endangered Species Act." February 2003.
- JJ. Southern Utah Wilderness Alliance: Letter to Cedar City Field Office of BLM regarding Parowan Seismic Project. November, 2006
- KK. Center for Native Ecosystems: Letter to Utah State BLM Office regarding Protest of BLM's Notice of Competitive Oil and Gas Lease Sale of Parcels with High Conservation Value. February, 2007
- LL. US Fish and Wildlife Service: Memo regarding Permit Issuance for Cedar City Golf Course. December 2006.
- MM. Forest Guardians: Petition For: A Rule To Significantly Restrict Translocation Of Utah Prairie Dogs & To Terminate The Special 4(D) Rule Allowing Shooting Of Utah Prairie Dogs. February 2005.
- NN. Enscoe, Russell et al. "Modeling Relationships Between Climate and the Frequency of Human Plague Cases in the Southwestern United States, 1960-1997. American Journal of Tropical Medicine and Hygiene; 66(2), 2002.
- OO. Parmenter, Robert, et al. "Incidence of Plague Associated with Increased Winter-Spring Precipitation in New Mexico" American Journal of Tropical Medicine and Hygiene; 61(5), 1999.
- PP. Forest Guardians: Letter to Utah Ecological Services regarding Prairie Dog 5 year Review." April, 2007.
- QQ. US Government Accountability Office. "Climate Change: Agencies Should Develop Guidance for Addressing the Effects on Federal Land and Water Resources." August, 2007.
- RR. Switalski et al. "Benefits and Impacts of Road Removal." Frontiers in Ecology, 2004.

SS. Proescholdt, Kevin. "Collision Course? Off Road Vehicle Impacts on Hunting and Fishing." Izaak Walton League of America, 2007.

I. GENERAL COMMENTS REGARDING THE PLANNING PROCESS

A. The Public Comment Period is Far Too Short to Allow for a Fully Informed Response to the Draft Plan

While the BLM has been at work preparing the Monticello DRMP/EIS for the past five years, the public is inappropriately limited to 90 days to read, analyze and meaningfully comment on this voluminous set of tomes – over 1000 pages. A variety of groups and individuals submitted requests for an extension to the public comment period to the BLM, including concerned citizens, conservation groups, and Utah Congressman Jim Matheson. Most recently, we submitted a reasonable request for a thirty-day extension of time based on the time and resources required to respond to the immediately preceding deadline for the draft plan for the Richfield Field Office and other areas. As of the date of these comments, we have received no reply from the BLM. In its cursory dismissal of the requests for extension, the BLM has rejected all these well-founded requests for a reasonable extension of time, earlier citing budgetary constraints and pressure from the agency's Washington Office. However, there is no valid reason for the BLM to rush ahead with these plans nor has BLM offered one. (Letters on file at BLM). *See also*, “Public comment periods for BLM plans are long enough” (Salt Lake Tribune, Dec. 1, 2007) by Utah BLM State Director Selma Sierra denying comment extension.

An extension is warranted under BLM's own internal planning guidance documents which clearly provide that every effort should be made to assure meaningful public involvement throughout the planning process. Handbook 1601-1 App. F, page 3. BLM's planning handbook notes that a draft plan will be available for a period of “90+” days, and that “*BLM managers can go beyond these requirements as needed or desired.*” http://www.blm.gov/nhp/200/wo210/landuse_hb.pdf. (Emphasis added.) Shortchanging the comment process is unfair to the public, and will work to the detriment of BLM which will not have the benefit of comprehensive public comment. The arbitrariness of the deadline taints the entire RMP process.

Reasonable extensions of comment deadlines are routinely granted and BLM's refusal to do so here is unreasonable and extraordinary. A comment extension was granted on the original Price Draft RMP in 2004. *See* Exhibit B for documentation of other BLM offices granting extensions on public comment deadlines.

Responsible land management and the public interest would be best served by assuring more meaningful public involvement (by both private citizens and advocacy organizations representing the public interest) by giving the public adequate time to comment.

B. The Monticello DRMP/EIS fails to acknowledge the public will regarding land management preferences.

Not only does the Draft RMP fail to comply with the Federal Regulations noted above (*See*, 43 C.F.R. 8342.1), it also fails to take into account the public sentiment, as documented in the scoping comments received by the Monticello Field Office for this

RMP revision. The Monticello Field Office received thousands comments during combined scoping with the Moab Field Office; and comments regarding ORV management and special designations such as wilderness, WSAs and ACECs ranked highest. Many of these comments reflected the view that the BLM must be more aggressive protecting natural resources and preserving non-motorized recreational opportunities from the alarming increase in ORV use and the attendant damage and noise. Many others indicated recognition of the need for a well-planned route designation and transportation system.

A significant number of the scoping comments calling for ORV use to be restricted, the implementation of motorized/non-motorized zones, and only appropriate, resource-sensitive routes designated. This request has been largely ignored in the Draft RMP and travel plan alternatives. The BLM preferred alternative travel plan includes high route density across the planning area, and wanton designation of redundant routes devoid of clear purpose and need to the very real detriment of non-motorized recreation and resource preservation.

II. GENERAL LEGAL FRAMEWORK AND BLM OBLIGATIONS

The BLM's approach to management of the Monticello resource area is unbalanced and does not utilize opportunities to preserve and enhance the biological diversity, riparian resources, sensitive soils, wilderness values, cultural resources, travel management and recreation of the planning area. The BLM's preferred alternative fails to provide a fair allocation or spectrum of quality recreational opportunities which reflect the need and visitor preference for non-motorized recreation. This is borne out in the travel plan, which heavily favors motorized OHV activity over primitive and unconfined recreation. The Monticello DRMP/EIS preferred alternative does not adequately manage to preserve wilderness characteristics to provide for quieter non-motorized recreation opportunities.

A. FLPMA requires protection of natural resources

The Federal Land Policy and Management Act (FLPMA), 43 U.S.C. § 1701 *et seq.*, imposes a duty on BLM to identify and protect the many natural resources found in the public lands in the Monticello Field Office that will be governed by this RMP. FLPMA requires BLM to inventory the lands and its resource and values, "including outdoor recreation and scenic values." 43 U.S.C. § 1711(a). FLPMA also obligates BLM to take this inventory into account when preparing land use plans, using and observing the principles of multiple use and sustained yield. 43 U.S.C. § 1712(c)(4); 43 U.S.C. § 1712(c)(1). Through management plans, BLM can and should protect wildlife, scenic values, recreation opportunities and wilderness character on the public lands through various management decisions, including by excluding or limiting certain uses of the public lands. *See* 43 U.S.C. § 1712(e). This is necessary and consistent with FLPMA's definition of multiple use, which identifies the importance of various aspects of wilderness characteristics (such as primitive recreation, wildlife, natural scenic values) and requires BLM's consideration of the relative values of these resources but "not necessarily to the combination of uses that will give the greatest economic return." 43 U.S.C. § 1702(c). FLPMA explicitly recognizes that multiple use does not mean that

every acre must or should be available for all multiple uses; FLPMA's definition of "multiple use" includes "the use of some land for less than all of the resources." *Id.* In this manner, all BLM lands can serve multiple uses and still permit, and in some cases even require, management of certain places to conserve natural resources as paramount over other uses.

Under FLPMA, BLM is also obligated to "give priority to the designation and protection of areas of critical environmental concern [ACEC]." 43 U.S.C. § 1712(c)(3). ACECs are areas where special management attention is required "to protect and prevent irreparable damage." 43 U.S.C. § 1702(a). Protection of existing ACECs and due consideration of proposed ACECs must be a priority in the RMP process. The proposed designation of only 2,530 acres of ACEC when 886,810 acres have been found eligible falls far short of FLPMA's mandate that BLM give "priority" to this resource (in fact, it would only designate .03% of lands eligible for ACEC designation). SUWA recommends that the BLM follow the mandate of FLPMA and give priority to the designation of ACECs, and not treat ACEC designation as merely another constituent management option in a matrix of options. ACEC designation must be prioritized in all alternatives, not merely BLM's "conservation" alternative.

Further, FLPMA requires that: "In managing the public lands the [Secretary of Interior] shall, by regulation or otherwise, take any action necessary to prevent unnecessary or undue degradation of the lands." 43 U.S.C. § 1732(b). In this context, when the imperative language "shall" is used, "Congress [leaves] the Secretary no discretion" in how to administer FLPMA. *NRDC v. Jamison*, 815 F.Supp. 454, 468 (D.D.C. 1992). BLM's duty to prevent unnecessary or undue degradation (UUD) under FLPMA is mandatory, and BLM must, at a minimum, demonstrate compliance with the UUD standard. *See, Sierra Club v. Hodel*, 848 F.2d 1068, 1075 (10th Cir. 1988) (the UUD standards provides the "law to apply" and "imposes a definite standard on the BLM."). FLPMA also mandates that the public lands be managed "without permanent impairment of the productivity of the land or quality of the environment." 43 U.S.C. 1702(c).

BLM is obligated to manage the WSAs in accordance with the Interim Management Policy (IMP) for Lands Under Wilderness Review (BLM Manual H-8550-1), which requires that WSAs are managed to protect their wilderness values. *See* DRMP/EIS, p. 2-50. The IMP requires management of the WSAs in the Monticello Field Office in accordance with the nonimpairment standard, such that no activities are allowed that may adversely affect the WSAs' potential for designation as wilderness. The IMP also reiterates that WSAs "must be managed to prevent unnecessary or undue degradation." Additional directives regarding management of ORVs in WSAs can be found in BLM's regulations, which require BLM to ensure that areas and trails for ORV use are located "to minimize damage to soil, watershed, vegetation, air, or other resources of the public lands, and **to prevent impairment of wilderness suitability.**" 43 C.F.R. § 8342.1(a) (emphasis added). BLM is also obligated to close routes to ORV use if ORVs are causing or will cause considerable adverse effects on wilderness suitability. 43 C.F.R. § 8341.2. We emphasize that continued motorized use in WSAs (i.e. "open" areas and on "ways" BLM proposes to designate as official ORV routes) can damage wilderness

suitability and therefore should be prohibited in this DRMP under both the interim management policy and the ORV regulations.

Certain elements of the DRMP/EIS, most strikingly the travel plan and OHV designations, fail the UUD standard. By several measures, the proposed travel plan and OHV designations will harm natural resources by increasing cumulative dust and decreasing air quality; unnecessarily fragmenting wildlife habitat; causing unnecessary damage to riparian areas, floodplains and cultural resources; reducing naturalness in areas with identified wilderness characteristics; and, impairing Wilderness Study Areas.

B. NEPA requires that the BLM fully assess potential environmental consequences and develop a range of alternatives, including mitigation measures, based on scientifically acceptable methodology and high quality data

The National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 *et seq.*, dictates that the BLM take a “hard look” at the environmental consequences of a proposed action and the requisite environmental analysis “must be appropriate to the action in question.” *Metcalf v. Daley*, 214 F.3d 1135, 1151 (9th Cir. 2000); *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 11348 (1989). In order to take the “hard look” required by NEPA, BLM is required to assess impacts and effects that include: “ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, **whether direct, indirect, or cumulative.**” 40 C.F.R. § 1508.8. (emphasis added). The NEPA regulations define “cumulative impact” as: the impact on the environment which results from the **incremental impact of the action when added to other past, present, and reasonably foreseeable future actions** regardless of what agency (Federal or non-Federal) or person undertakes such other actions.

Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. 40 C.F.R. § 1508.7. (emphasis added). A failure to include a cumulative impact analysis of actions within a larger region will render NEPA analysis insufficient. *See, e.g., Kern v. U.S. Bureau of Land Management*, 284 F.3d 1062, 1078 (9th Cir. 2002). In the context of this DRMP/EIS, the decisions made with regard to travel planning must more fully analyze all effects of travel planning and other planning so that all cumulative and site specific environmental and social impacts are adequately analyzed.

The range of alternatives is “the heart of the environmental impact statement.” 40 C.F.R. § 1502.14. NEPA requires BLM to “rigorously explore and objectively evaluate” a range of alternatives to proposed federal actions, and the lack of an alternative that adequately protects natural and cultural resources is a fatal flaw to this plan. *See* 40 C.F.R. §§ 1502.14(a) and 1508.25(c).

“An agency must look at every reasonable alternative, with the range dictated by the nature and scope of the proposed action.” *Northwest Env'tl Defense Center v. Bonneville Power Admin.*, 117 F.3d 1520, 1538 (9th Cir. 1997). An agency violates NEPA by failing to “rigorously explore and objectively evaluate all reasonable alternatives” to the

proposed action. *City of Tenakee Springs v. Clough*, 915 F.2d 1308, 1310 (9th Cir. 1990) (quoting 40 C.F.R. § 1502.14). This evaluation extends to considering more environmentally protective alternatives and mitigation measures. *See, e.g., Kootenai Tribe of Idaho v. Veneman*, 313 F.3d 1094, 1122-1123 (9th Cir. 2002) (and cases cited therein).

For this DRMP/EIS, the consideration of more environmentally protective alternatives consistent with FLPMA's requirement that BLM "minimize adverse impacts on the natural, environmental, scientific, cultural, and other resources and values (including fish and wildlife habitat) of the public lands involved," is lacking given the dearth of analysis, the limited range of alternatives, and the omission of the Redrock Heritage Proposal as an alternative. 43 U.S.C. §1732(d)(2)(a).

NEPA requires that an actual "range" of alternatives is considered, such that the Act will "preclude agencies from defining the objectives of their actions in terms so unreasonably narrow that they can be accomplished by only one alternative (i.e. the applicant's proposed project)." *Colorado Environmental Coalition v. Dombeck*, 185 F.3d 1162, 1174 (10th Cir. 1999), citing *Simmons v. United States Corps of Engineers*, 120 F.3d 664, 669 (7th Cir. 1997). This requirement prevents the EIS from becoming "a foreordained formality." *City of New York v. Department of Transp.*, 715 F.2d 732, 743 (2nd Cir. 1983). *See also, Davis v. Mineta*, 302 F.3d 1104 (10th Cir. 2002).

Further, the agency must "insure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements." 40 C.F.R. § 1502.24. Information regarding reasonably foreseeable significant adverse impacts that is essential to a reasoned choice among alternatives shall be included in an EIS if the costs of obtaining it are not exorbitant. 40 C.F.R. § 1502.22(a). In addition, regarding the content of an environmental analysis, "The information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA." 40 C.F.R. § 1500.1(b). This type of analysis is wholly lacking with regard to travel planning, as well as many other aspects of the Monticello DRMP/EIS.

In order to evaluate the broad range of impacts required by a NEPA analysis, it is also critical that BLM adequately and accurately describe the environment that will be affected by the proposed action under consideration – the "affected environment." 40 C.F.R. § 1502.15. The affected environment represents the baseline conditions against which impacts are assessed. The importance of accurate baseline data has been emphasized by the U.S. Court of Appeals for the Ninth Circuit, which stated that "without establishing . . . baseline conditions . . . there is simply no way to determine what effect [an action] will have on the environment, and consequently, no way to comply with NEPA." *Half Moon Bay Fisherman's Marketing Ass'n v. Carlucci*, 857 F.2d 505, 510 (9th Cir. 1988). The court further held that, "The concept of a baseline against which to compare predictions of the effects of the proposed action and reasonable alternatives is critical to the NEPA process." *Id.*

NEPA further requires that, in preparing a final EIS, BLM must discuss “any responsible opposing view which was not adequately discussed in the draft statement and indicate the agency’s response to the issue raised.” 40 C.F.R. § 1502.9. The Council on Environmental Quality interprets this requirement as mandating that an agency respond in a “substantive and meaningful way” to a comment that addresses the adequacy of analysis performed by the agency. *Forty Most Asked Questions Concerning CEQ’s National Environmental Policy Act Regulations*. BLM’s NEPA Handbook elaborates upon this requirement, providing that: “comments relating to inadequacies or inaccuracies in the analysis or methodologies used must be addressed; interpretations of analyses should be based on professional expertise; and where there is disagreement within a professional discipline, a careful review of the various interpretations is warranted.” Handbook H-1790-1, Section V.B.4.a., p. V-11. Failure to disclose and thoroughly respond to differing scientific views violates NEPA and obligates an agency to perform a compliant environmental analysis prior to approving a proposed action. *See, Robertson v. Methow Valley Citizens Council*, 490 U.S. at 350.

BLM’s unexplained dismissal of the Redrock Heritage Proposal is a clear indication of the BLM’s refusal to entertain a responsible “opposing view” in the planning process. SUWA’s comments about BLM’s capricious dismissal of the Redrock Heritage Proposal are included in these comments immediately below.

Recommendations: BLM must fully assess the potential environmental consequences of management decisions, as described above, and consider a full range of alternatives, including more environmentally preferable management approach and mitigation measures. In developing alternatives and assessing their potential impacts, BLM must use data and methods of high quality and establish a baseline of existing conditions against which potential impacts can be assessed. Further, BLM must carefully consider the comments of the experts, identified above, who have submitted important criticisms of BLM’s methodology and conclusions and provided specific recommendations to remedy inadequacies.

The EIS Fails to Satisfy NEPA’s Requirements

As explained above, NEPA sets forth basic requirements regarding the content and focal points for analysis in EISs. NEPA requires, for example, that an EIS fully describe the existing environment and the impacts of the various proposed alternatives. The impacts discussed are not limited to the direct effects of the proposed actions, however. They also include the impacts associated with the cumulative effects of the proposed action taken in concert with other actions, as well as those actions that may be “connected” to those proposed. Indirect effects must be analyzed as well.

Our review of the DRMP/EIS shows that much more work must be done on these documents before they can be finalized. We found significant deficiencies in both the analysis of the current condition and the analysis of the impacts of the proposed alternatives.

A. The EIS and Plan Do Not Describe the Existing Baseline Conditions and the Impacts of ORV Use in the Monticello Field Office.

As noted in the DRMP cover letter, this will be the first RMP and EIS for the Monticello Field Office. These lands are currently managed under three different Management Framework Plans, and two RMPs, and various amendments administrative closure orders. These documents are outdated and most contained little or no NEPA analysis or review, and thus, do not adequately inform the BLM and the public as to baseline conditions.

An accurate description of the baseline conditions of the Monticello Field Office is crucial to the validity of the remainder of the plan. All management decisions and strategies flow from the description of the current conditions. And unless the BLM has an accurate, well-informed understanding of the current conditions, it cannot possibly begin to plan for future resource demands and needs. BLM cannot objectively decide how much ORV use to allow in the future, as BLM does not know how much and what kind of damage such use has caused in the past, and is causing right now.

One of the most obvious and consequential flaws in the document is its failure to assess the ongoing impact of existing ORV use in the Monticello Field Office. Instead of analyzing the current impacts of ORV use, the BLM simply treats existing ORV use essentially as a given, and reasons that since continuing use will cause no damage over and above that which occurs now, the existing damage does not need to be studied. The impacts and conflicts associated with current mismanagement of ORV use are blithely dismissed as an “important issue,” but not analyzed or treated as a serious problem. In other words, the BLM has concluded that current levels of ORV use and trails are consistent with FLPMA, including the UUD and non-impairment standards, even though it does not know what that impact is. See also DRMP/EIS p. 3-152.

Other existing conditions that should have been described include, among other things:

1. The presence of non-native species like cheatgrass (particularly important in light of its role in the spread of wild fire). Numerous studies are readily available on this topic and should have been described by the BLM or used as the basis for a description of the manner in which roads and ORVs spread weeds and contribute to wildfire. See Belnap, J. “Desert Biological Soil Crusts” at p. 188 (Attachment J)(“Exotic annual grasses and increased fire often follow surface disturbance, further simplifying species composition and flattening [soil]crusts.”).
2. The extent of soil erosion caused by ORVs and other uses. For example, a study entitled “Desert Biological Soil Crusts,” Belnap J. states: “As tough as soil crust organisms are in the face of natural stresses (heat, radiation, drought) they are no match for animal hooves, human feet, tank treads or off-road vehicle tires. The compressional and shear forces these activities generate essentially pulverize soil crusts, especially when they are dry (as they most often are). . . . Relative to other disturbance types, direct human impact has probably been most responsible for the simplification and/or destruction of soil crusts and human activities remain the

dominant cause of crust loss.” The impacts on soil are described there as follows: “[t]he reduction of crust cover and loss of lichens and mosses lead to a loss of soil stability and reduced soil fertility as less polysaccharide material is extruded, less carbon and nitrogen is fixed, less dust and other surface materials are captured, fewer chelators and growth factors are secreted, nutrient uptake rates are lowered, and soil food web organism decrease in number and diversity. Flattened soil surfaces change the way crusts affect local hydrologic regimens and vascular plant establishment. In other words, the contribution of biological soil crusts to the surrounding ecosystem is greatly compromised.” This is no small matter. “Biological soil crusts provide many of the basic needs for plants and animals found in the desert environment . . . The condition of biological soil crusts should be a top management priority in desert regions because once this resource is gone, it is often gone for more than a human lifetime.” *Id.* This study is attached to these comments. *See also* Belnap, J. “Impacts of off-road vehicles on nitrogen cycles in biological soil crusts: resistance in different U.S. deserts,” (*See* Attachment I) (noting that ORV use “can have profound impacts on soil resources and nutrient cycles.”) The latter paper notes that recovery from impacts in desert environments is “extremely slow, effective management of this vast resource generally means preserving, to the greatest extent feasible, existing ecosystem structure and function.” This article also cites others which have concluded that ORV use “compact soils, crush vegetation and crusts, and increase soil erosion.” *Id.* At 156. *See* Webb, R.H. & Wilshire, H.G. (Eds.) (1983) *Environmental Effects of Off-Road Vehicles: Impacts and Management in Arid Regions*. New York: Springer-Verlag. The BLM must investigate the extent to which these impacts are occurring and include that in the description of existing conditions.

3. The impact of ORV use on native plants, special status species and threatened and endangered species. *See* Belnap articles cited above for explanation of how ORV use spreads non-natives which out compete native plants, and how ORVs crush native vegetation. The DRMP must include BLM’s, USFWS’s and the Utah Dept. of Natural Resources’ monitoring data, trend analysis, and any other available documentation of the federally listed plant species and the impacts of ORV use on this federally listed species. This information is necessary in order for the decision maker and the public to ascertain if the requirements of the Endangered Species Act are being met if ORV use is allowed in the habitat of any of these federally listed species.
4. The impact of ORVs and other uses on riparian areas. ORV use exists in the Monticello Field Office in most, if not all, of the riparian areas, yet there is no description of the impact that such use has had on this rare and exceeding important habitats. Soil erosion, rutting, channelization and the direct loss of native plants through trampling and crushing are key components to the analysis of this question. *See* comments submitted by ECOS Consulting.
5. The impact of ORV use on wildlife and wildlife habitat. There are numerous professional papers and articles that address the impacts that ORV routes and

roads have on wildlife, and the fragmentation of wildlife habitat. These are discussed at length in the comments submitted by ECOS Consulting.

6. The impact of ORV use on wilderness character in the WSAs. The Interim Management Policy for Lands Under Wilderness Review requires the BLM to make preservation of wilderness qualities its “paramount concern” when evaluating other resources uses and BLM’s regulations require the agency to close routes to ORV use if ORVs are causing or will cause considerable adverse effects on wilderness suitability. BLM Manual H-8550-1, 43 C.F.R. § 8341.2. Because these areas were designated as WSAs, they clearly met requirements for naturalness and providing opportunities for solitude and primitive, unconfined recreation, even with the presence of motorized “ways.” The BLM must establish the condition at the time of designation and the ongoing impacts from use in order to justify any decisions to maintain these ways as open to motorized use.

The existing relative demand for various recreation opportunities is poorly defined. Here, BLM cites the questionable Recreational Management Information System (RMIS) data on this point, and as a result, relies on objectively unverifiable estimations about the demand for motorized recreation. BLM should have conducted a new study, similar to the Moab National Visitor Use Monitoring survey which it conducted on the different types of use in the Moab Field Office, especially the relative use of non-motorized versus motorized recreation. That study showed that non-motorized recreation is utilized by vastly more visitors to the Moab BLM-managed lands than motorized (ORV-based) recreation. This type of study would greatly improve the credibility of baseline use within the Monticello Field Office when creating the Analysis of the Management Situation (AMS). Because hard information on visitation was missing from the AMS and Affected Environment section of the DRMP/EIS, the BLM has created a potentially false impression that the Monticello Field Office is a location in which ORV use is more popular than every other recreation pursuit.

B. The EIS Overlooks Important Impacts of Various Uses Proposed in the Draft Plan

The following notes where BLM has failed to provide basic information about the impacts of the various proposed alternatives in the draft plan. These relate mainly to Chapter 4’s treatment of designated roads and ORV routes, the impacts to cultural sites, and to the impacts to riparian areas. We note again that we adopted the comments provided by CPAA on cultural resources and the comments of ECOS Consulting regarding the plan’s and EIS’s treatment of other natural resources.

1. We reiterate that the BLM’s failure to analyze and present information about the impacts of existing ORV use violates its NEPA duties. BLM’s position seems to be that because designating “existing” routes causes no *new* damage to cultural natural resources, any impacts as a result of designation of trails need not be evaluated. *See e.g.* 4-39 (Under Alt C designating routes would result in “less potential for damage to cultural resources in those areas.”) There is simply no basis for this assumption, and it contradicts numerous studies – even by sister-

agencies in the Department of Interior – about the severe impacts from ORV use. Moreover, designating trails does cause damage by facilitating backcountry use where enforcement and monitoring is extremely challenging. In addition, SUWA refers BLM to comments submitted by CPAA, which discusses the indirect and cumulative impacts that can occur from ORV use on designated trails, including rutting, soil erosion, and continued soil disturbance that can displace and damage artifacts, and also uncover cultural resources that had been previously covered by soil.

2. ORV impacts to vegetation are largely ignored. For example, Chapter 4’s discussion of this impact is limited to two paragraphs, neither of which is quantitative in nature and which do not assess the probability of ORVs introducing and facilitating the spread of non-native species. However, areas open to cross-country OHV use (2,311 acres) would be more likely to experience surface disturbance and destruction of vegetative resources in those areas.
3. Chapter 4’s discussion of soils and water resources fails to consider impacts of decisions about broad-scale uses with long-term impacts – such as the designation of thousands of miles of ORV routes. We have attached studies by Jane Belnap and others about the importance of protecting these desert soils, and about the damage that ORV use causes by facilitating the introduction of non-native species, erosion, the compaction of soils, alteration of the hydrologic function of the soil surface and other impacts.
4. The DRMP/EIS never considers or analyzes whether current or proposed ORV use levels are sustainable over the long term.
5. The BLM acknowledges the high potential for cultural resource sites – and that less than 10% of lands managed by the Monticello Field Office have been inventoried intensively; and that an average of 450 additional cultural sites are documented per year. The DRMP declares that the impacts of the preferred alternative will increase protection over Alternative A by implementing a route designation scheme. However, the BLM never quantifies this assertion with analysis of how close many of the proposed routes are to known sites. Also, there is no analysis of the likelihood that route designation will harm unknown sites. There is no careful analysis of the impacts on documented cultural sites impacted by the designation the Butler Wash ORV ‘open’ area.
6. Given the 2,820 miles of ORV trails the plan proposes to designate, and given the proposed ‘‘open’’ ORV designation areas near Hamburger Rock and Butler Wash, the potential for soil erosion is significant. Soil erosion is one of the primary impacts of ORV use. Yet nowhere in the document is the estimated amount of soil lost to ORV use quantified. This information gap should be filled by inclusion of the best available data and methodology.

C. The EIS does not meet NEPA's Requirements to Analyze Cumulative Impacts and Connected Actions.

The DRMP/EIS generally provides little or no discussion of cumulative impacts or the effects connected activities have on various resources. A summary of these requirements, with citations to the NEPA regulations and statute, is provided above. Its failure to account to those synergistic and additive impacts violates NEPA.

Once again, the plan's failure to provide for the area's critical and unique resources – riparian areas, cultural sites, and recreation demand is the most glaring example of the problems with the BLM's narrow approach. For example, the plan provides for high levels of both grazing and ORV use in canyon bottoms where riparian areas and cultural sites are also prevalent. Yet the plan does little more than acknowledge the combined effects of these two intensive uses, both of which are associated with long-term impacts such as decreased water quality and quantity, native plant loss, soil erosion and diminished enjoyment by non-motorized recreationists. See, comments submitted by ECOS Consulting, and *Multiple Use Grazing Management in the Grand Staircase Escalante National Monument* (available on line at: <http://rangenet.org/directory/jonesa/sulrprec/index.html>).

For riparian impacts, for example, the plan notes that adverse effects from a variety of uses occur in Monticello's riparian areas, and that reasonably foreseeable future uses will make it worse, but that mitigation would happen through implementation of PFC standards. There is no attempt to break down the assessment by alternative, timeline for meeting PFC, or any real quantitative analysis.

Additionally the riparian table 3.23 mentions that there are 1077 miles of evaluated riparian areas in the Monticello Field Office and that 639 (60%) are in proper functioning condition, 431 (40%) are functioning-at risk, 6 (.6%) are not functioning. The BLM should identify the areas in which ORV use is also permitted (where trails would be designated) and each stream's PFC rating, and discuss the combined effects of grazing and ORVs on these riparian areas.

D. The EIS Lacks any Statement of Purpose and Need for the ORV Route Designations.

The BLM has based its ORV route designations on a BLM inventory of 3,069 miles of "existing" routes augmented by route data provided by counties. In the preferred alternative only 316 miles the total route inventory were not designated as OPEN to ORV use. Over 90% of the routes that the counties and ORV groups want and advocate for are proposed by BLM to be designated in the new travel plan. There appears to be little, if any objective "planning" and "travel management" involved in BLM's proposed route designations

To approach route designation in this way is to abdicate BLM's responsibility to actively manage its resources, protecting some while developing others in a manner that best meets overall needs and demands, as described in FLPMA. Instead, BLM has largely turned over the route designation process to special interest groups, a small spectrum of

the public, with little independent analysis or active management. This is particularly troublesome given the results of the scoping comments which show that most members of the public are concerned about the effects of ORV use on natural resources and opportunities for quiet recreation. This pre-determined approach has infected the rest of the draft plan with an assumption that demand for ORV use is high and impacts relatively low. It has affected the development of alternatives, as well, with a complete lack of a proposal which addresses the needs of non-motorized visitors. For example, how many routes designated in the plan are for ORVs and how many trails are proposed for hikers? This is the type of information that must be disclosed in the final plan and final EIS. There are precious few places in the Monticello planning area that a non-motorized user can go and not see or hear the impacts of ORV use.

E. Scope of Plan

The BLM avoids dealing with a range of important issues by declaring some beyond the scope of this plan. The issues of public education, enforcement/prosecution, vandalism and volunteer coordination are not addressed, but are critical to adequately analyzing the feasibility of implementing travel planning decisions and ORV route designations. Feasibility and estimated costs for implementation of the travel plan are nowhere to be found. BLM has not assessed implementation and enforcement planning. The DRMP is the appropriate document to address these issues.

F. Lack of Reasonable Range of Alternatives

1. The DRMP/EIS Should Have Analyzed an Alternative with Fewer ORV Routes

Although the DRMP/EIS includes several alternatives for ORV route designations, it fails to include an alternative that would preclude ORV use in WSAs, proposed wilderness areas, non-WSA lands with wilderness characteristics, and other sensitive areas. Indeed, there are 860 miles of difference between the routes designated in Alternatives B, C, D and E – not a meaningful difference in light of the 2,800+ miles of designated ORV routes and over 5000 miles of route total when combined with other dirt roads and trails on all lands. Thus, the DRMP/EIS violates NEPA's requirement that the agency provide a reasonable range of alternatives for the public to consider, and for the agency to analyze in order to make a fully informed decision.

2. The Monticello DRMP/EIS Should Have Fully Analyzed an Alternative Designating New Wilderness Study Areas.

As discussed below, SUWA maintains that BLM has the authority and the responsibility pursuant to FLPMA § 202 to fully analyze and adopt an alternative that would designate new wilderness study areas. BLM's failure to fully consider and analyze such an alternative is fatal to its analysis. Indeed, even if designation of new WSAs was beyond the scope of BLM's authority – a point that SUWA vigorously disputes – NEPA requires that BLM fully consider, analyze, and disclose the environmental benefits and related costs of such an alternative. *See, e.g., City of Sausalito v. O'Neill*, 386 F.3d 1186, 1208-

09 (9th Cir. 2004); *Natural Resources Defense Council v. Morton*, 458 F.2d 827, 837 (D.C. Cir. 1972).

3. NEPA Requires that BLM Not Limit Its Review to the Five Proposed Alternatives

It is imperative that BLM not arbitrarily limit its review to the five alternatives set forth in the DRMP/EIS. Rather, those alternatives should merely be the starting point as BLM reviews comments and determines how best to meet FLPMA's multiple use mandate. For example, BLM could decide to protect additional lands with demonstrated wilderness character or designate additional river segments as suitable for protection under the Wild & Scenic Rivers Act, and correspondingly change oil and gas leasing categories and ORV designations, without having to adopt all the recommendations in current Alternative E.

4. The Monticello DRMP/EIS does not fulfill the minimization criteria required by law

The DRMP/EIS fails to provide an alternative avoiding potential environmental effects of designating particular motor vehicle routes. There is little doubt that motorized vehicle routes in sensitive areas including riparian areas, fragile soils, wildlife habitat, cultural resource areas, roadless, and scenic areas can have adverse impacts on those natural resources. Federal regulations (43 C.F.R. 8342.1) require BLM to "minimize damage" to these natural resources, and "minimize conflict" with other users, yet there is no indication in the DRMP/EIS that the Monticello Field Office has considered and analyzed the site-specific environmental consequences and impacts to natural resources and other users of designating any of the motorized routes proposed in the DRMP/EIS. Additionally, the DRMP/EIS fails to meaningfully analyze the cumulative effects of designating such a widespread network of motorized routes.

The DRMP/EIS fails to provide an appropriate allocation of recreational opportunities. Although the DRMP/EIS includes a description of the various recreational opportunity "focus areas" for which recreation can be managed, it is impossible to decipher the acreages within the various classifications under the various alternatives as key information is omitted from the maps and charts. Based on a review of the maps, however, the alternatives fail to provide adequately for quality, dispersed non-motorized recreational opportunities, especially non-structured, primitive and unconfined recreation which is not afforded by narrowly defined SRMAs and focus areas that cater to specific niche recreation.

Increasing levels of motorized recreation will greatly reduce the opportunities for quiet, non-motorized recreation on BLM lands managed by the Monticello Field Office. Allowing all uses (both motorized and non-motorized) on almost all routes and in all areas might work if use levels were low. However, this is not the case in the Monticello Field Office, as ORV use levels are increasing, and motorized recreation impacts and tends to displace non-motorized recreation. This is exactly what has happened on the public lands managed by the Moab FO over the past 10-15 years. Many non-motorized users now self-select away from previous non-motorized destinations such as Gemini

Bridges, Poison Spider Mesa and Courthouse Wash because of the loud, dusty and unregulated use of ORVs. The same fate could await the lands in the Monticello Field Office, especially once so many ORV routes are designated and that information is promulgated to the public via maps and websites.

There are currently more than 6,000 miles of routes in the Monticello planning area on all lands, according to GIS information. (See Recreation Opportunity Spectrum maps, Exhibit E). There are few, if any places a non-motorized user can go to escape the sights or sounds of ORVs in popular visitation areas of the field office. BLM fails to provide for these quieter opportunities most acutely in the WSAs and non-WSA lands with wilderness character, where motorized users can affect the ability to achieve outstanding solitude or outstanding primitive and unconfined recreation. This DRMP/EIS does not provide equal recreational opportunities for non-motorized uses – or even try to move toward some semblance of balance.

The Federal Regulations governing ORV use on BLM lands require BLM to take quiet and balanced recreational opportunities into account when designating ORV routes, trails, and open areas:

Areas and trails shall be located to minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands, and to ensure the compatibility of such uses with existing conditions in populated areas, taking into account noise and other factors.

43 C.F.R. § 8342.1

5. BLM Unjustifiably Rejected the Redrock Heritage Proposal

The BLM has not fully considered and analyzed the Redrock Heritage Proposal or meaningfully incorporated it into any of the alternatives. The Redrock Heritage proposal was submitted to BLM by SUWA and local residents as a reasonable alternative aimed at a more balanced approach to managing public lands near Monticello. The Redrock Heritage Proposal is a forward-looking approach to managing the world-class scenery and landscapes near Monticello Field Office for current and future generations, and is focused primarily on travel management. As the Redrock Heritage Proposal notes, the BLM did not anticipate the explosion in ORV use or the increase in overall recreation in southern Utah when the current batch of land use plans were drafted, some more than 20 years ago. The Redrock Heritage Proposal includes a proposed travel plan that would help correct the existing unplanned system of routes that are the result of historical mining and grazing activities and uncoordinated user-created routes; and the plan would help protect scarce resources for future generations even after visitation levels have doubled and the public's desire for undeveloped places of respite has grown even stronger.

The Redrock Heritage Proposal's travel plan calls for:

- each route to serve an identifiable and compelling purpose;

- the closure (or non-designation) of ecologically damaging routes;
- adequate opportunities for both motorized and non-motorized recreation; and
- adequately sized areas in which to get out of earshot of motorized routes.

These principles are certainly reasonable, and meet NEPA’s definition of a “reasonable alternative” that should have been analyzed in the DRMP.

The troubling paragraph dismissing the Redrock Heritage Proposal in the Monticello DRMP/EIS can only be interpreted that this reasonable and thoughtful scoping comment was ignored by the BLM in its planning process. While some elements of the SUWA proposal are indeed incorporated into Alternative D, no alternative strikes the same balance of user needs and resource protection offered by the SUWA proposal.

6. BLM Failed to Fully Analyze A No Leasing Alternative

In *Southern Utah Wilderness Alliance*, 164 IBLA 118 (2004), the Interior Board of Land Appeals¹ reversed and remanded a BLM decision to sell oil and gas leases in the Kanab Field Office citing to the agency’s failure to fully consider and evaluate the no leasing alternative in existing NEPA analyses. The IBLA noted that BLM’s leasing decision was based on MFPs and pre-FLPMA environmental analysis reports (EARs) and rejected BLM’s claim that the EARs considered the no-leasing alternative. *See* 164 IBLA at 123-35. *See also Southern Utah Wilderness Alliance v. Norton*, 457 F. Supp. 2d 1253, 1262-1264 (D. Utah 2006) (citing *SUWA*, 164 IBLA 118 (2004)). Because BLM has never fully evaluated the no-leasing alternative there is no earlier analysis that BLM can rely upon for this analysis. BLM must therefore fully analyze and consider the no-leasing alternative, which would provide for no more leasing in the Monticello Field Office – as opposed to simply the maintenance of the status quo of making lands available for leasing in the no-action alternative – in the EIS accompanying the Monticello RMP.

III. LANDS WITH WILDERNESS CHARACTERISTICS

A. GENERAL COMMENTS

The Monticello Field Office manages over 1.7 million acres of public lands in San Juan and Grand counties. This planning area includes approximately 1.2 million acres of citizen-inventoried wilderness quality lands have been proposed for wilderness designation in America’s Redrock Wilderness Act (H.R. 1919, S. 1170, 110th Congress (2007) hereafter referred to as ARWA). The BLM has identified 582,360 non-WSA acres as possessing wilderness characteristics. Approximately 490,000 acres of these lands were identified by the *1999 Utah Wilderness Inventory (Revised 2002)*. An additional 95,000 acres were identified by the more recent wilderness review which looked at lands within the Utah Wilderness Coalition (UWC) wilderness proposal. In

¹ The Interior Board of Land Appeals is one of the several appeals boards within the Office of Hearings and Appeals and it “decides finally for the Department appeals to the head of the Department from decisions rendered by Departmental officials relating to: (1) the use and disposition of public lands and their resources.” 43 C.F.R. § 4.1(b)(3). *See generally*, 43 C.F.R. Part 4 (subpart E); *IMC Kalium Carlsbad, Inc. v. Interior Bd. of Land Appeals*, 206 F.3d 1003, 1010 (10th Cir. 2000).

sum, the BLM has inventoried or reviewed a total of 823,000 non-WSA acres for wilderness characteristics. SUWA recognizes and appreciates the BLM's efforts to inventory and identify all lands possessing wilderness characteristics in the Monticello Field Office. Indeed, the BLM now recognizes that 72% of the UWC wilderness proposal (outside of WSAs) possesses wilderness characteristics, which is an encouraging improvement.

The Monticello Field Office already manages 18 Wilderness Study Areas (WSAs) totaling 386,027 acres. Under all alternatives these WSAs must be managed under the non-impairment standard pursuant to IMP set forth in H-8550-1. BLM must account for soil, riparian, wildlife, vegetative, and T&E species impacts from designation of "ways" within WSAs. BLM must also take into account its own surveillance reports and other documentation regarding impacts to wilderness values in the WSA as a baseline, and ensure that concerns which flow from those documents are addressed.

1. Wilderness character is a valuable resource and an important multiple use of the lands governed by the Monticello RMP.

BLM has identified "wilderness characteristics" to include naturalness or providing opportunities for solitude or primitive recreation. *See*, Instruction Memoranda (IMs) 2003-274 and 2003-275. BLM should recognize the wide range of values associated with lands with wilderness character. The following values should also be identified in the DRMP and management actions proposed to protect these values.

a. Scenic values – FLPMA specifically identifies "scenic values" as a resource of BLM lands for purposes of inventory and management (43 U.S.C. § 1711(a)), and the unspoiled landscapes of lands with wilderness characteristics generally provide spectacular viewing experiences. The scenic values of these lands will be severely compromised if destructive activities or other visual impairments are permitted.

b. Recreation – FLPMA also identifies "outdoor recreation" as a valuable resource to be inventoried and managed by BLM. 43 U.S.C. § 1711(a). Lands with wilderness characteristics provide opportunities for primitive recreation, such as hiking, camping, hunting and wildlife viewing. Most, if not all traditional, primitive recreation experiences will be foreclosed or severely impacted if the naturalness and quiet of these lands are not preserved.

c. Wildlife habitat and riparian areas – FLPMA acknowledges the value of wildlife habitat found in public lands and recognizes habitat as an important use. 43 U.S.C. § 1702(c). Due to their unspoiled state, lands with wilderness characteristics provide valuable habitat for wildlife, thereby supporting additional resources and uses of the public lands. As part of their habitat, many species are also dependent on riparian and other wetland habitats, especially during either seasonal migrations or seasons and years when surrounding habitats are dry and unproductive. Wilderness-quality lands support biodiversity, watershed protection and overall healthy ecosystems. The low route density, absence of development activities and corresponding dearth of motorized vehicles, which

are integral to wilderness character, also ensure the clean air, clean water and lack of disturbance necessary for productive wildlife habitat and riparian areas (which support both wildlife habitat and human uses of water).

d. Cultural resources – FLPMA also recognizes the importance of “historical values” as part of the resources of the public lands to be protected. 43 U.S.C. § 1702(c). The lack of intensive human access and activity on lands with wilderness characteristics helps to protect these resources. As discussed in detail in the comments of the Colorado Plateau Archaeological Alliance, there are important areas of overlap between the areas identified as rich in cultural resources and those containing wilderness characteristics, underscoring the added benefits of protecting these lands.

e. Economic benefits – The recreation opportunities provided by wilderness-quality lands also yield direct economic benefits to local communities. Local communities that protect wildlands reap measurable benefits in terms of employment and personal income. For instance, a recent report by the Sonoran Institute (Sonoran Institute 2004, *Prosperity in the 21st Century West -The Role of Protected Public Lands*) found that: Protected lands have the greatest influence on economic growth in rural isolated counties that lack easy access to larger markets. From 1970 to 2000, real per capita income in isolated rural counties with protected land grew more than 60 percent faster than isolated counties without any protected lands.

f. Quality of life – The wilderness quality lands located within the Monticello Field Office help to define the character of this area and are an important component of the quality of life for local residents and future generations, providing wilderness values in proximity to burgeoning recreational growth experienced by the Monticello area.

g. Balanced use – The vast majority of BLM lands are available to motorized use and development. FLPMA recognizes that “multiple use” of the public lands requires “a combination of balanced and diverse resource uses” that includes recreation, watershed, wildlife, fish, and natural scenic and historical values (43 U.S.C. § 1702(c)). FLPMA also requires BLM to prepare land use plans that may limit certain uses in some areas (43 U.S.C. § 1712). Many other multiple uses of public lands are compatible with protection of wilderness characteristics – in fact, many are enhanced if not dependent on protection of wilderness qualities (such as primitive recreation and wildlife habitat). Protection of wilderness characteristics will benefit many of the other multiple uses of BLM lands, while other more impacting and exclusionary uses (such as off-road vehicle use) will still have adequate opportunities on other BLM lands. Motorized routes should not be designated within lands with identified wilderness characteristics.

2. BLM should consider designating new Wilderness Study Areas

We are aware of the April 2003 settlement agreement (Utah Settlement) between Secretary of the Interior Norton and the State of Utah (in which BLM abdicated its authority to designate any additional Wilderness Study Areas (WSAs)), and we maintain that this agreement is invalid and will ultimately be overturned in pending litigation. The federal court in Utah revoked its approval of the Utah Settlement, stating that its approval

of the initial settlement was never intended to be interpreted as a binding consent decree. Recognizing that the court's decision undermined the legal ground for the Utah Settlement, the State of Utah and the Department of Interior have now formally withdrawn the settlement as it was originally submitted. This casts serious doubt upon BLM's current policy not to consider designating new WSAs. Because the State of Utah and the Department of Interior have withdrawn their settlement and do not intend to seek a new consent decree, there is currently no binding consent decree; yet the BLM has failed to issue any updated guidance regarding the application of this misguided and illegal policy.

Even if the Utah Settlement is reinstated, it is illegal. The Utah Settlement is based on an interpretation of FLPMA §§ 201, 202, and 603 that is contrary to FLPMA's plain language. Section 603 did not supersede or limit BLM's authority under § 201 to undertake wilderness inventories, but rather relies explicitly on BLM having exactly that authority under § 201. Nor did § 603 in any way limit BLM's discretion under § 202 to manage its lands as it sees fit, including managing areas as § 202 WSAs in accordance with the Interim Management Policy (IMP). Every prior administration has created WSAs under § 202 and they plainly had authority to do so. This administration has such authority as well, making this a reasonable alternative deserving of consideration in this NEPA process. *See, e.g., City of Sausalito v. O'Neill*, 386 F.3d 1186, 1208-09 (9th Cir. 2004).

Further, if BLM continues to exclude designation of new WSAs from consideration in the DRMP/EIS, it risks violating both FLPMA and NEPA, and jeopardizing the validity of the entire planning process.

3. The preferred alternative does not sufficiently protect BLM roadless lands -- i.e. "non-WSA lands with wilderness characteristics"

Of the 582,360 acres of unprotected BLM roadless lands, the BLM preferred alternative would manage 0 acres to preserve those wilderness characteristics. Without specific management to preserve identified wilderness characteristics, these roadless lands are threatened by oil & gas development and fragmentation and degradation from motorized routes.

The Monticello RMP should provide real management protection for these BLM roadless lands, a significant non-renewable resource that is threatened by oil & gas development and ORV use. Until the question of wilderness on BLM lands in Utah is settled by legislative means, the BLM must, at a minimum, manage areas with identified wilderness characteristics in a manner so as to prevent actions causing *unnecessary and undue degradation* to those wilderness characteristics. This management strategy should apply to both non-WSA lands identified as possessing wilderness characteristics by the BLM and non-WSA lands with wilderness characteristics included in wilderness proposals that have been introduced before Congress (i.e. the UWC ARWA proposal). This type of management would include oil and gas development restrictions that would preclude surface disturbing activities (such as no surface occupancy stipulations) and would preclude motorized route designations in areas with wilderness characteristics.

Further, routes greatly impact the sense of naturalness within wilderness character areas, and designating routes within these areas would have grievous effects on the wilderness character. Impacts and damage from open motorized routes threaten the wilderness characteristics of a place. The presence of wilderness characteristics should make the BLM very cautious about route designation. Purpose and need of each proposed route must be carefully analyzed and weighed against the strong potential of damaging the wilderness characteristic resource.

Both the BLM's *1999 Utah Wilderness Inventory (Revised 2002)* and the recent Wilderness Characteristics Review (WCR) are positive steps to identify and inventory wilderness quality lands pursuant to 43 U.S.C. § 1711. This is especially important because of the well-documented shortcomings of the original late 1970s BLM inventory that resulted in the creation of the FLPMA Section 603 WSAs.

However, SUWA and others maintain that some wilderness quality lands have yet to be appropriately identified as possessing wilderness characteristics by the BLM. This is sometimes because the BLM has inventoried areas and found that the lands do not possess wilderness characteristics and SUWA and the BLM disagree over the decision. There also remain some areas that the BLM has yet to conduct an appropriate on-the-ground inventory, and has instead relied on aerial photos (which tend to exaggerate impacts because vegetation patterns from old impacts are far more visible from the air than on the ground), where as most of these impacts cannot be found on the ground by experienced field workers, and would certainly be unnoticeable to most visitors. BLM cannot make fully informed decisions on impacts and naturalness merely by looking at aerial photos; on-the-ground field work is required.

The BLM preferred alternative designates motorized routes within areas found to possess wilderness characteristics. Naturally reclaiming routes are proposed to be designated within and around areas with identified wilderness characteristics. These route designations will promote ORV routes that are currently seldom- or never-used, do not have a compelling purpose and need, and will lead to disruption and degradation of soils, vegetation, wildlife and wildlife habitat, riparian areas, cultural resources, and scenic values, which cumulatively negatively impacts the naturalness and thus the wilderness characteristics of the areas.

As the majority of these units are extensions of BLM-identified WSAs or WIAs, we assumed for this purpose that outstanding solitude and/or primitive recreational activities already exist within the larger wilderness character unit, therefore it is not necessary for these "extension" areas to contain these wilderness characteristics as "stand-alone" units.

SUWA has identified numerous instances in BLM's recent WC reviews where BLM utilizes routes as the wilderness character area boundary or in other instances where BLM does not identify any of the wilderness character inventory unit at all. Did the BLM perform on the ground assessments of the routes that these WC reviews claim are "substantially noticeable?" Based on our review, SUWA contends that BLM has only

performed a cursory assessment of these wilderness character units and a more complete and detailed evaluation and inventory of these units is warranted.

The Wilderness Act Section 2 (c) states that an area must “[g]enerally appear to have been affected primarily by the forces of nature, with the imprint of man’s work substantially unnoticeable.” For each area, SUWA provides supplemental and new information that in fact these areas all “appear to have been affected primarily by the forces of nature, with the imprint of man’s work substantially unnoticeable.”

4. The DRMP/EIS application of criteria for identifying lands with wilderness characteristics is inaccurate and or incomplete

Both the *1999 Utah Wilderness Inventory (Revised 2002)* and the recent Monticello BLM’s 2007 Wilderness Characteristics Reviews (WCR) have been positive steps by the BLM to update and identify wilderness quality lands pursuant to Section 201 of FLPMA. This is especially important because of the shortcomings of the original BLM wilderness inventory, started in the late 1970’s, that resulted in the minimal creation of the FLPMA Section 603 WSAs. Vast tracks of BLM lands were arbitrarily and/or capriciously omitted from WSA designation for various reasons not in keeping with FLPMA’s mandate. These errors and omissions made it impossible for the BLM to fully account for the extent of the wilderness resource during its FLPMA mandated wilderness inventories.

Unfortunately, within the Monticello DRMP, many wilderness quality lands that exist and continue to exist today have yet to be appropriately identified as possessing wilderness characteristics. Monticello’s cursory assessments made many flawed determinations on just assessing the units. First, BLM never performed the required on-the-ground inventories warranted to make a formal wilderness character determination, and as such, this resulted in many areas that contain wilderness character within the field office being rejected by the use of aerial photographs and other information irrelevant to how the area or ground actually appears to an average visitor. This approach resulted in a fatally flawed technique in which The Tabernacle, The Needle and the Red Rock Plateau units were BLM arbitrarily separated from the whole of the unit by a point to point boundary, as section line boundary and the utilization of natural cliff rims. In essence eliminating quality BLM lands due to lack of reported size in The Tabernacle and The Needle, and in the case of Red Rock Plateau, vast tracks of BLM lands under the mesa arbitrary not identified by this approach. Besides these examples, many others exist and were performed by BLM personnel and as a result, the Monticello Field Office has failed to identify the full extent of lands with a natural appearance and not significantly impacted by man’s activity. Consequently, the BLM will need to utilize this substantial new information as described below, including information previously submitted by SUWA, in an effort to accurately assess the full extent of wilderness resources within the Monticello Field Office. We also find it unacceptable that BLM failed to perform any follow-up and on-the-ground wilderness character inventories of any of these areas in a rush to complete the RMP. BLM has known that their identification of the wilderness resources that are present has been less than complete.

Further, the recent WCR arbitrarily excludes or fails to identify several natural and wilderness-character-quality BLM lands contiguous with the Manti - La Sal National Forest. In each case, these BLM parcels are part of a larger roadless and wilderness character landscape, and are not physically separated by a significant impact (rather, their only separation is an administrative boundary). The Monticello BLM, at the directive of the Utah BLM planning team, bases this arbitrary exclusion on the fact that the Forest Service has not yet “administratively endorsed” their portion of the roadless area for wilderness designation, therefore, the BLM area would have to meet the size requirements as a “stand alone unit.” This practice of deferring to the contiguous public land managing agency for their future or proposed management fails in the identification of the wilderness resource and therefore, is inaccurate and flawed once again. The Utah BLM’s arbitrary policy here does not comply with the intent of FLPMA. These areas include, Shay Mountain, Allen Canyon, Mancos Jim Butte, Arch Canyon, and Copper Point wilderness character units.

The Bureau Manual Handbook, Wilderness Inventory and Study Procedures (H-6310-1), from which this practice is derived was rescinded by the April 2003 settlement agreement (Utah Settlement) between Secretary of the Interior Gale Norton and the State of Utah (the terms of this settlement are found in the memorandum “Rescission of National Level Policy Guidance on Wilderness Review and Land Use Planning (IM 2003-195)”). Therefore, this BLM wilderness inventory policy – that contiguous lands must be endorsed for wilderness designation in order to permit the local field office to consider cumulative areas with wilderness characteristics – is no longer valid.

Now, the BLM’s guidance for such situations must rely exclusively on the Wilderness Act and FLPMA, neither of which contain any requirements that adjacent agency lands must be “administratively endorsed for wilderness” in order to permit cumulative review.

Section 2(c)(3) of the Wilderness Act states that an area meets the size definition by having “at least five thousand acres of land or is of sufficient size to make practicable its preservation and use in an unimpaired condition.” Further, FLPMA directs the BLM to inventory its landscape for wilderness character. Section 603(c) mandates that the BLM inventory “those roadless areas of five thousand acres or more and roadless islands of the public lands, identified during the inventory required by section 201(a) of this Act as having wilderness characteristics described in the Wilderness Act of September 3, 1964.”

It appears the Monticello BLM did not assess the substantive comments SUWA provided during the RMP scoping period which detailed instances in which the Wilderness Inventory Area (WIA) did not include or identify the full extent of wilderness character and characteristics present.

The Monticello BLM relies on the fact that a wilderness inventory has already been performed in these areas, therefore, there was no need to address these areas again, regardless of whether the information the agency currently has may be inaccurate. Again, this flawed directive is from the Utah State BLM planning team, which is at odds with FLPMA. The BLM should fully identify the extent of the wilderness resource that exists within the field office, whether or not the agency evaluated an area prior to 1999. The

need to reassess these areas has been described in SUWA's comments during the Monticello DRMP scoping period.

SUWA provides BLM with additional information on lands with wilderness characteristics and refers the BLM to previously submitted information concerning lands that retain wilderness characteristics, lands not yet identified by the Monticello Field Office. This new information contains site-specific comments on lands outside the current WSAs and non-WSA lands with wilderness characteristics. As the majority of these areas are extensions of BLM-identified WSAs or non-WSA lands with wilderness characteristics, outstanding solitude and/or primitive recreational activities already exist within the larger wilderness character unit, therefore it is not necessary for extensions of these areas to contain these wilderness characteristics separately. We attempt to illustrate a larger extent of naturalness than BLM inventories have yet identified.

In addition to the written information provided below, the accompanying maps in Exhibit D illustrate where unidentified wilderness characteristics exist within the field office. The comments below, such as Comment A or Comment B, reference the same letters on the accompanying unit map. Highlighted shades of green on these wilderness character unit maps depict lands that retain and possess wilderness characteristics and continue to warrant a wilderness character determination by the BLM for its ongoing planning efforts. In each of these particular areas, wilderness characteristics are present but have not been fully identified by the Monticello Field Office.

Using natural features (i.e. cliffs, contour lines, etc.) to define the extent of wilderness characteristics is inappropriate for the identification of the wilderness resource. While such natural features might be good boundaries for the *management* of such resources, these types of boundaries are inappropriate for the *identification* of wilderness resources. Proper identification of the extent of the wilderness resource requires that the boundaries encompass all lands meeting the requirement for naturalness and outstanding recreation and solitude as defined by the Wilderness Act and FLPMA.

In the end, the BLM must complete the warranted FLMPA wilderness resource inventory outside the cursory WCR. As demonstrated, there are significant additional lands within the Monticello Field Office that possess and retain wilderness character. In addition, the BLM can not eliminate areas already found to have wilderness character as identified by the 1999 Utah Wilderness Inventory and its Revision without performing supplemental wilderness inventories that are performed on the ground and within the units.

B. Site Specific Comments

Allen Canyon Wilderness Character Unit (Mancos Jim Butte)

See Map at Exhibit D

Comment A – The Monticello BLM abandons any identification of the wilderness character within these BLM parcels not on whether the areas retain wilderness character or not, but merely on the Utah BLM's current and arbitrary practices that these parcels

need to exceed 5,000 acres of BLM lands alone. Not only is this inaccurate, it does not follow any current BLM laws or policies and is derived from misguided Utah State BLM direction only.

BLM relies here to justify this incorrect assessment by noting that there are “established BLM practice with wilderness inventory,” when assessing areas contiguous to larger roadless area of public land. However, the Bureau Manual Handbook, Wilderness Inventory and Study Procedures (H-6310-1), from which this “established” practice is derived was rescinded by the April 2003 settlement agreement (Utah Settlement) between Secretary of the Interior Gale Norton and the State of Utah (the terms of this settlement are found in the memorandum “Rescission of National Level Policy Guidance on Wilderness Review and Land Use Planning (IM 2003-195)”). Therefore, this “established” BLM wilderness inventory policy – that contiguous lands must be endorsed for wilderness designation in order to permit the local field office to consider cumulative areas with wilderness characteristics – is no longer valid.

Now, the BLM’s guidance for such situations must rely exclusively on the Wilderness Act and the FLPMA, neither of which contain any requirements that adjacent agency lands must be “administratively endorsed for wilderness” in order to permit cumulative review.

The Monticello BLM relies strictly on the Forest Service to be managing their portion of this roadless and wilderness character unit as Wilderness or as endorsed wilderness. As a result this incorrect rationale, BLM does not account for the full range of lands retaining wilderness character. We’ve requested documentation of BLM’s policy that guides BLM’s decisions in these situations, but Utah State Office personnel stated that there is no specific BLM policy. Therefore, the exclusion of this natural area, adjoining and contiguous with the larger Forest Service Rare II area is not justified. It’s not the future management of these lands at issue it’s the identification of a wilderness resource.

The Wilderness Act (c)(3) states that an area meets the size definition, by having “...at least five thousand acres of land or is sufficient size to make practicable its preservation and use in an unimpaired condition.” Further, BLM’s guidance of the Federal Lands Policy and Management Act (FLMPA) directed the BLM to inventory its landscape for wilderness character. Section 603(c) to inventory “...those roadless areas of five thousand acres or more and roadless islands of the public lands, identified during the inventory required by section 201(a) of this Act as having wilderness characteristics described in the Wilderness Act of September 3, 1964...”

Nowhere does each of these current guiding policies state that a political boundary separates federal agency lands or that one agency must have made a formal recommendation for wilderness designation. The current no wilderness character determination is not accurate within BLM relevant policies and guidance and must be corrected prior to any Final Monticello RMP.

See Exhibit D for Allen Canyon Map A, B and C for BLM lands continuing to need a wilderness character and characteristic identification.

Finally, at Exhibit F, SUWA provides the BLM with in depth, detailed and significant new information for the Allen Canyon wilderness character unit.

Arch Canyon Wilderness Character Unit

See Map at Exhibit D

Comment A - BLM's Arch Canyon 1 - BLM's wilderness character review overly concluded that some of the original 4,461 acres of this unit parcel has several visual impacts. This, by BLM's ID team reduced the "natural lands" to around 3,200 acres, but then dropped this entire natural area, all contiguous with the Forest Service lands, from being identified as possessing a wilderness character due to the reported size. While we do not account for additional impacted areas outside the unit boundaries and cherry-stems, we question what BLM parcels have seen significant impacts. These purported significant impacts should be obvious to a casual observer and if present, BLM should have utilized these as unit boundaries, opposed to excluding the remaining BLM lands the agency found natural. Exhibit D contains the Arch Canyon Maps A and B which highlight in green the BLM lands contained within the entire Arch Canyon wilderness character unit. This large roadless area includes additional public lands located within the Manti-La Sal National Forest.

This BLM size criteria and non-wilderness character determination is not based on current BLM laws or policies. The Bureau Manual Handbook, Wilderness Inventory and Study Procedures (H-6310-1), from which "established" practices are derived from was rescinded by the April 2003 settlement agreement (Utah Settlement) between Secretary of the Interior Gale Norton and the State of Utah (the terms of this settlement are found in the memorandum "Rescission of National Level Policy Guidance on Wilderness Review and Land Use Planning (IM 2003-195)"). Therefore, any "established" BLM wilderness inventory policy – that contiguous lands must be endorsed for wilderness designation in order to permit the local field office to consider cumulative areas with wilderness characteristics – is no longer valid.

Now, the BLM's guidance for such situations must rely exclusively on the Wilderness Act and the FLPMA, neither of which contain any requirements that adjacent agency lands must be "administratively endorsed for wilderness" in order to permit cumulative review.

The Monticello BLM relies strictly on the Forest Service to be managing their portion of this roadless and wilderness character unit as Wilderness or as endorsed wilderness. As a result this incorrect rationale, BLM does not account for the full range of lands retaining wilderness character. We've requested documentation of BLM's policy that guides BLM's decisions in these situations, but Utah State Office personnel stated that there is no specific BLM policy. Therefore, the exclusion of this natural area, adjoining and contiguous with the larger Forest Service area is not justified. The future *management* of these lands is not at issue, what is imperative is the *identification* of a wilderness resource.

The Wilderness Act (c)(3) states that an area meets the size definition, by having "...at least five thousand acres of land or is sufficient size to make practicable its preservation and use in an unimpaired condition." Further, BLM's guidance of the Federal Lands Policy and Management Act (FLMPA) directed the BLM to inventory its landscape for wilderness character. Section 603(c) to inventory "...those roadless areas of five thousand acres or more and roadless islands of the public lands, identified during the inventory required by section 201(a) of this Act as having wilderness characteristics described in the Wilderness Act of September 3, 1964..."

Nowhere does each of these current guiding policies state that a political boundary separates federal agency lands or that one agency must have made a formal recommendation for wilderness designation. In addition, SUWA did supply the Monticello BLM with supplemental and new information for this particular area and wilderness character unit previously. See "Arch Canyon Wilderness Character Unit," Dated April 12, 2007, as Comment F. This information remains valid and BLM will need to correctly identify the area as retaining a wilderness character for all RMP planning purposes. The current no wilderness character determination is not accurate within BLM relevant policies and guidance and must be corrected prior to any Final Monticello RMP.

Comment B – BLM's Arch Canyon 2 WCR – Here, BLM relies on its current no wilderness character finding of the entire BLM lands to the north. While still incorrect, BLM did not perform any supplemental wilderness character inventories to validate and determined that due to this area's (Comment B) size and not being contiguous to lands with WC, it would not be evaluated.

Our view of BLM's neglected history - The Utah Wilderness Coalition provided the BLM comments during the comment period for the 1999 Utah Wilderness Inventory highlighting this area and old route never got assessed, a road/way form and that it's no longer available due to the Ute tribe closing it on their property. BLM only responded to these concerns by noting that it's outside HR 1500 and the focus of the 1999 Utah Wilderness Inventory. Thus, the BLM did not assess or inventory this area or route of concern. Next, the BLM began the RMP process and completed the WCR of the area, only noting that it's not contiguous to lands with WC, without ever doing a proper and needed assessment of the route as the UWC has pointed out. Therefore, the BLM here is trying to avoid performing the warranted wilderness character assessments that are required for the RMP. In addition, SUWA recently provided significant new information to the Monticello BLM about this particular area. This was included within the "Arch Canyon Wilderness Character Unit," Dated April 12, 2007. This particular pertains to Comment E of this supplemental and new wilderness character submission. This provided information never was assessed or incorporated within the DRMP. This has resulted in an incomplete inventory of Monticello BLM's wilderness resources. Without properly accounting for the wilderness resources that's present within the remaining Arch Canyon wilderness character unit, this area appears, incorrectly, to be severed from lands with WC. This oversight must be corrected.

Comment C – BLM’s Arch Canyon 5 – BLM only assesses this area on a size criteria alone, although the agency did acknowledge within the Revisions to the 1999 Utah Wilderness Inventory, that the current eastern boundary of the Arch Canyon inventory area becomes a pack trail to the north.

Here again, the Utah Wilderness Coalition provided the BLM comments during the comment period for the 1999 Utah Wilderness Inventory highlighting this area and old route was never assessed correctly. BLM did respond to this information by noting that in fact the route is not a road, but a way and pack/hiking trail around 2.1 miles, but then that this area is outside HR 1500 and the focus of the 1999 Utah Wilderness Inventory. Then, the BLM began the RMP process and completed the WCR of this particular area, noting that it’s not contiguous to lands with WC, without ever accounting for the fact that agency already acknowledged that the 1999 used inventory boundary was not a significant impact, in essence, severing this parcel from the rest of the area. With the portion of the route, a cherry-stem, ending just before the state section, wilderness characteristics extend and exist to the east. This, of course is with the BLM’s proper identification of the remaining BLM lands of the Arch Canyon wilderness character unit. In which these BLM lands are contiguous with the Forest Service roadless lands and where, despite repeated vehicle use in Arch Canyon and around Hotel Rock, natural values and characteristics are not depleted from these natural areas. This area is displayed on the Arch Canyon Map D at Exhibit D. Again, the green highlighted areas display lands with wilderness character that have yet been identified within the Monticello DRMP.

In addition to this new information, SUWA recently provided the BLM with additional significant information about this particular area. See “Arch Canyon Wilderness Character Unit,” Dated April 12, 2007, Comment D. This information, as well as the previous UWC information has never been assessed correctly to date. This information highlights and provides the agency with significant new information on where wilderness resources exist within the field office, but has yet been accounted for as warranted by FLMPA

Comment D – BLM’s Arch Canyon 6 – As with the previous comments, BLM again relies on mere size alone and not being contiguous to lands with WC. With only this cursory BLM WCR, BLM fails to account for the adjoining and contiguous Forest Service public lands, as well as the BLM lands to the west. As mentioned before, BLM has already acknowledged that the current eastern boundary of the Arch Canyon inventory unit is only a pack trail. And this fact should have been incorporated within BLM’s WCR of this area, but it was neglected.

Again, the Utah Wilderness Coalition provided the BLM comments during the comment period for the 1999 Utah Wilderness Inventory highlighting that within this area the eastern inventory boundary was not a significant impact, but a mere pack trail. BLM responded by noting that in fact the route is not a road, but is a way and pack/hiking trail around 2.1 miles, but that this area, being outside HR 1500 was out of the focus of the 1999 Utah Wilderness Inventory. Then begins BLM’s RMP process and its delayed WCR of the area. But instead of accounting for the fact that the boundary is only a pack

trail, BLM states that this particular area is not contiguous to lands with WC. This is without ever performing a proper and needed inventory as warranted. BLM already accounted that nowhere along the length of this current WIA boundary here is there a significant impact. In addition to this, the boundary of the Forest Service administrative boundary in no way constitutes a significantly impact either. This exemplifies the situation of the BLM's WCR process and where the Monticello BLM fails to perform the warranted inventory of its resources as required by FLMPA. Therefore, and as this situation demonstrates, the identification of a wilderness resource is incomplete within the Monticello DRMP. As contained at Exhibit D, we have provided the Arch Canyon Maps A and E that highlight in green the BLM lands that posses wilderness characteristics that have yet been identified for BLM's ongoing planning.

Lacking of true assessments here, SUWA has already provided significant new information to the Monticello BLM about this particular area, of which never was incorporated within the WCR or DRMP. See "Arch Canyon Wilderness Character Unit," Dated April 12, 2007. Information concerning this particular area was detailed within Comment D. This information, the information provided here, as well as the UWC information still needs to be addressed by the BLM in efforts to comply with FLMPA

Comment E – Overall, the Monticello BLM has not been able to account for the wilderness values and characteristics present within the Arch Canyon wilderness character unit. Neither BLM's late 1970's, the 1999 Utah Wilderness Inventory and the Revisions to this inventory, have made the identification of wilderness resources priority over the political interferences and biases of this area. We have provided supplemental and new wilderness character information to the Monticello BLM, most recently within the See "Arch Canyon Wilderness Character Unit," Dated April 12, 2007, in which we acknowledge where BLM found most of the area to be natural in character, but where the agency overly concludes that vehicle use in Arch Canyon itself, resource damaging vehicle use at that, makes it impossible to have one locations within the entire area have outstanding solitude. This assessment is not in context with the diversity of the topography, the vegetation or with the roadless and RARE II lands to the north. It's a wilderness resource that does not just arbitrarily end at the BLM and Forest Service boundary, but unmistakably continue and are present within the BLM lands here. The task at hand, required by FLMPA, is to identify lands with wilderness character, this is regardless with the potential future management of these lands. Until the BLM completes its objectives, the agency is in violation of FLMPA. Further, we once again provide the information concerning this entire area that was supplied to the BLM with sufficient time to incorporate into the WCR and DRMP.

Bridger Jack Mesa Wilderness Character Unit

SUWA does not have any additional information or comments at this time for the BLM Bridger Jack Mesa wilderness character unit, but may do so in the future if warranted or needed.

Butler Wash Wilderness Character Unit

SUWA does not have any additional information or comments at this time for the BLM Butler Wash wilderness character unit, but may do so in the future if warranted or needed.

Cheesebox Canyon Wilderness Character Unit

See Map at Exhibit D

Comment A – BLM’s only assessment of this area is within the recent WCR. Within this review the BLM ID team noted that there are “multiple vehicle routes” in the area, and therefore no wilderness character. This is interesting because the current boundary utilized in this area is the natural wash of Fry Canyon and not located on one of these “multiple routes.”

The boundary, as a result does not account for the full extent of the natural character lands here. It appears BLM has only run through the motions of the review and if in fact performed a proper inventory here, would have included the natural lands as indicated on the Cheesebox Canyon Map B. SUWA does acknowledge that there area a few routes in the area, but the edge of these area utilized as the wilderness character boundary opposed to using a natural wash system to demark the full range of natural lands as BLM has done. An expansion to include lands that retain a wilderness character is still needed by the Monticello BLM.

Comment B – BLM’s White Canyon #1 - BLM fails to include the natural BLM lands that the agency’s own WCR admits are “contiguous” to the WIA. In essence, there is not a physical impact, significant or not, that separate the BLM lands here from the rest of the WIA. Wilderness values do not just end along the current section line, but unquestionably continue north to the next significant impact. See Cheesebox Canyon Map C at B-1.

BLM’s WCR review goes on to note that Pinon Point was determined not to be natural due vegetation manipulations, bladed drill pads, active mines and approximately 16 miles of bladed routes. We agree on this point. The lands on top of Pinon Point have been impacted, but we don’t find BLM’s recent assessment that these impacts extend down into this particular area. The active mines are well to the north outside the unit. The vegetation manipulated area is on top of the point, and outside the unit. The bladed routes are all outside the unit, except one fading and reclaiming route in the north. This is minimal in comparison to the enter unit. The drill pads are all outside the unit.

In the end, all significant impacts that BLM noted in the 1979 evaluation and the recent WCR are not within this particular area. Therefore, BLM has yet to fully identify the extent of the wilderness resource that exists in this area. See Cheesebox Canyon Map A and C.

Comment C – BLM’s recent WCR only notes there may be “mining disturbances” in this area, thus justifying the no wilderness character determination. No where does this vague evaluation mention that the lands at question here are contiguous with the WIA

area already having wilderness character. See Cheesebox Canyon Map D at C-1. Further, no where within the area are there mining impacts that renders the area significantly impacted and appearing to have been affected by man's work. Therefore, the section line boundary is not an appropriate boundary demarking the edge of natural characteristics and as such, an expansion is warranted for this area and within BLM's ongoing planning process. Failure to do so results in an incomplete account of the full extent a wilderness resource.

Comment D – BLM's WCR fails to identify this area for wilderness characteristics due to what the agency notes as "non-contiguous to lands with WC." This is wrong and when viewing the area in GIS, it appears so, but in reality, this area is completely contiguous with the WIA and WC lands. Only the lands on Deer Flat are impacted by man's activities, and thus are utilized as the WC boundary. This BLM area is primitive in natural and is part of the roadless area and will need to be identified as retaining WC. See Cheesebox Canyon Map E.

Comment E – BLM never inventoried this area during the 1999 Utah Wilderness Inventory and then during the Revision to the 99 inventory, BLM notes that there are impacts on Deer Flat, therefore no inclusion within the WIA is justified. This revision conclusion was done without any supplemental inventory performed, and the WCR follow this example.

Taking a closer look here, the current WIA boundary is well off of Deer Flat along the natural hillsides, where the impacts are not located. Further, the WSA boundary in one area here is a ¼ and ½ section line, not a physical impact. It's difficult to understand how wilderness characteristics end magically along these straight and arbitrary lines that cross the natural landscape. Without question, the current location of these boundaries does not include the full extent of WC, regardless of BLM's justification in the revision and WCR documents. This exemplifies why BLM needs to perform an on-the-ground inventory of the wilderness resources it manages, opposed to the paper exercise the agency currently performs. The green highlighted areas on Cheesebox Canyon Map F display the WC lands that exist today, but have yet been identified by the BLM and included within the WC unit. BLM's task of WC identification is incomplete.

Comb Ridge Wilderness Character Unit

See Map at Exhibit D

Comment A – Along the eastern area and Butler Wash, BLM currently utilizes the natural wash bottom the enter length of the unit. By utilizing this natural feature, rather than the edge of the few significant impacts, fails to include the full extent of the lands retaining naturalness and a wilderness character. Therefore, BLM has yet to account for the entire landscape within the Comb Ridge wilderness character unit having wilderness characteristics. Perhaps in the end, the wash would make the best "management" location of wilderness character, but it isn't the correct boundary when BLM in needing to *identify* wilderness character. BLM needs to perform an in-depth wilderness inventory along this boundary, and then only exclude the camps and features that are significant

and include the lands that are natural in appearance and character. Anything else fails to identify the wilderness resource here. See the Comb Ridge Map A for BLM lands that need to be included within the wilderness character unit.

Copper Point Wilderness Character Unit

See Map at Exhibit D

Comment A – BLM has yet to actually perform a recent WCR at all for the Copper Point wilderness character unit, instead only assessing the area as not being of sufficient size and not being contiguous with lands that have WC. Both of these assessments are wrong resulting in BLM dismissing a resource the agency is required to identify. BLM lands here, surrounding the towering red rock formation of Copper Point, all display an exceptional natural appearance and in conjunction with the natural lands located within Glen Canyon National Recreation Area, have wilderness character.

At incorrect direction from the Utah State BLM office, the Monticello BLM relies strictly on the GCNRA to be managing their portion of this roadless and wilderness character unit as Wilderness or as endorsed wilderness. This mistake results in the BLM not accounting for the full range of lands retaining wilderness character. Recreation and wilderness specialist throughout Utah have all communicated that this current “policy” has no legal authority. We’ve requested documentation of BLM’s policy that guides BLM’s decisions in these situations, but Utah State Office personnel stated that there is no specific BLM policy. Therefore, the exclusion of these natural areas, adjoining and contiguous with the larger public lands within the GCNRA area is not justified. It’s not the future management of these lands at issue; it’s the identification of a wilderness resource.

The Bureau Manual Handbook, Wilderness Inventory and Study Procedures (H-6310-1), from which the “established” practice is derived was rescinded by the April 2003 settlement agreement (Utah Settlement) between Secretary of the Interior Gale Norton and the State of Utah (the terms of this settlement are found in the memorandum “Rescission of National Level Policy Guidance on Wilderness Review and Land Use Planning (IM 2003-195)”). Therefore, this “established” BLM wilderness inventory policy – that contiguous lands must be endorsed for wilderness designation in order to permit the local field office to consider cumulative areas with wilderness characteristics – is no longer valid.

The Wilderness Act (c)(3) states that an area meets the size definition, by having “...at least five thousand acres of land or is sufficient size to make practicable its preservation and use in an unimpaired condition.” Further, BLM’s guidance of the Federal Lands Policy and Management Act (FLMPA) directed the BLM to inventory its landscape for wilderness character. Section 603(c) to inventory “...those roadless areas of five thousand acres or more and roadless islands of the public lands, identified during the inventory required by section 201(a) of this Act as having wilderness characteristics described in the Wilderness Act of September 3, 1964...”

Nowhere does each of these current guiding policies state that a political boundary separates federal agency lands or that one agency must have made a formal recommendation for wilderness designation. SUWA has already supplied the Monticello BLM with supplemental and new information for the Copper Point wilderness character unit previously, this information remains valid and BLM will need to correctly identify the area as retaining a wilderness character for all RMP planning purposes. This significant and new supplemental wilderness character was submitted to the BLM in August 2007.

Cross Canyon Wilderness Character Unit

SUWA does not have any additional information or comments at this time for the BLM Cross Canyon wilderness character unit, but may do so in the future if warranted or needed.

Dark Canyon Wilderness Character Unit

SUWA does not have any additional information or comments at this time for the BLM Dark Canyon wilderness character unit, but may do so in the future if warranted or needed.

Fish and Owl Creeks Wilderness Character Unit

See Map at Exhibit D

Comment A – In these locations, BLM uses a straight section line boundary to account for the wilderness character. Being arbitrary in the identification of wilderness characteristics, it's without question that the appearance of natural character does not just end along these straight lines running across the landscape. Expanding the boundary as indicated on the accompanying map will correctly identify the full extent of wilderness characteristics that exist within the Fish and Owl Creeks wilderness character unit.

Fortknocker Canyon Wilderness Character Unit

SUWA does not have any additional information or comments at this time for the BLM Fortknocker Canyon wilderness character unit, but may do so in the future if warranted or needed.

Gooseneck Wilderness Character Unit

SUWA does not have any additional information or comments at this time for the BLM Gooseneck wilderness character unit, but may do so in the future if warranted or needed.

Grand Gulch Wilderness Character Unit

SUWA does not have any additional information or comments at this time for the BLM Grand Gulch wilderness character unit, but may do so in the future if warranted or needed.

Gravel and Long Canyons Wilderness Character Unit

See Map at Exhibit D

Comment A – Around Jacob’s Chair, BLM claims that the Revision to the 1999 Utah Wilderness Inventory assessed the area and found that there is no wilderness character, but this not the case. This revision never addressed this particular area, so BLM’s recent WCR is based on incomplete information. Our review of our own inventory records and aerial photographs does reveal that the area has seen past mineral exploration, but today, the routes in this area have dramatically succumbed to the forces of nature and the erosion process. This has resulted in the near obliteration of the route north of Jacob’s Chair. As with the wilderness character assessment of this route, it’s determined that it does not have any significant impact on the immediate area or on the unit as a whole. The Gravel and Long Canyons Map A depicts the BLM lands that have yet been found to have wilderness character. Therefore, wilderness values are present today and are needing identification for the ongoing Monticello planning purposes. Lack of a complete inventory by the BLM fails to perform the identification of this resource.

Hammond Canyon Wilderness Character Unit

We commend the Monticello BLM here for correctly determining and noting that indeed the Hammond Canyon unit possesses and retains a wilderness character. This correct assessment was made to the area even though the area does not meet the self-imposed internal 5,000 acre threshold set arbitrarily by the Utah BLM. Therefore, SUWA does not have any additional information or comments here, but does supplement BLM correct wilderness character determination at Exhibit G.

Harmony Flat Wilderness Character Unit

SUWA does not have any additional information or comments at this time for the BLM Harmony Flat wilderness character unit, but may do so in the future if warranted or needed.

Harts Point Wilderness Character Unit

See Map at Exhibit D

Comment A – BLM’s current identification of the lands that retain a wilderness resource within this impressive and emblematic red rock landscape is more political than reality. This may stem out of the local county’s disdain of wilderness than the reality of BLM identifying the full extend of the wilderness resource. Only a few of the canyon systems in this area were found to have wilderness character within the 1999 Utah Wilderness Inventory, with BLM unjustly and inexcusably used the natural rims of Harts Draw to

arbitrarily exclude the natural mesa tops. We are quite aware of the county's illegal activities on these rims, but without question, the few bladed routes have not impacted the vast majority of the lands free of any human impacts whatsoever. These few routes may only total a mere ½ to 1% of the total BLM lands here, far outside a significantly impacted landscape. BLM's assessments elsewhere, notably the Vernal BLM, assess oil and gas routes in this manner. Although the BLM will authorize miles of routes in a Vernal WIA, the analysis does not conclude that outside the routes themselves, the natural values of the area are impacted. Thus, this is the same situation.

Proceeding around the current boundary BLM uses for identifying wilderness character, countless locations utilize a point to point, countless elevation contours, natural washes, cliff bottoms, and cliff tops are used. In each instance, these natural features are not impacts, and do not separate lands with wilderness character from those that lack this character. As indicated on the Attached Map in Exhibit D, the lands that retain a wilderness character and continuing to need a wilderness character identification are shown in green. Some of the required field inventory, and not just an aerial interpretation may need to be done within coordination with the Moab Field Office.

We also are quite aware of the political nature of this area, and note that elsewhere in the Utah BLM the use of these natural features as unit and wilderness character boundaries is not prevalent, although it does happen. This is just an inventory though. The potential management of the wilderness resource is an administrative decision. Therefore, we encourage the BLM to identify the lands with wilderness character and leave the politics or potential future management out of it. FLMPA directs the BLM to "identify" its resources. Wilderness resources are no different.

Comment B – What happened here? BLM's wilderness character boundary, one that purports to separate lands with wilderness character from that of lands that lack wilderness character proceeds over a nearly one thousand foot cliff of Harts Point itself. This is demonstrated on the Attached Harts Point Map A at B-1. It's to be taken by the public that the lands to the north are drastically different than that of the nearly identical cliff to the south. While BLM may believe this is the case, thus the use of this natural feature as the wilderness character boundary, this is not the situation on the ground. It's the views and impression that the appearance of naturalness does not arbitrarily end at this current BLM WC boundary. Without question, wilderness characteristics extend and are present within natural and large back canyon systems, benches and high mesas of this area. As a result of this natural and arbitrary boundary, wilderness characteristics to the south, and indicated in highlighted green are not yet accounted for by the Monticello BLM. This wilderness resource oversight needs correcting in efforts for the agency to account for the full extent of its resources.

Comment C – This is a similar situation to that of the entire Harts Point area. Here, BLM uses another wilderness character boundary that does not utilize the edge of a significant impact. In fact, this boundary does not use an impact at all, but as with the previous comment, this boundary proceeds off of the towering red rock cliffs into Harts Draw. In addition, it's located along the straight section line proceeding off Hatch Point. Again, with this boundary BLM implies that wilderness characteristics only exist to the

east, and somehow this political line demarks the extent of the lands that retain their wilderness characteristics. In reality, this is farther from the truth. This results in BLM's inventory of the wilderness resources contained within the field office being incomplete and it's here that we point out and provide additional new information concerning this current oversight. We fully expect that the agency account for this lack of an accurate account of the wilderness character here, and expect that the Monticello BLM coordinate with the Moab BLM with regards to the upper natural bench lands. With this updated wilderness inventory and identification, the BLM will acknowledge that the wilderness characteristics here extend north towards the Needles Overlook, into Lockhart Basin and further north.

Comment D - BLM attempts to correct some of its political wilderness character inventory and identification within the impressive canyon systems that surround Indian Creek. Since the 1999 Utah Wilderness Inventory concluded that the entire northern red rock formations of Indian Creek had no wilderness characteristics, BLM has revised this oversight and identified an additional wilderness character unit here. This area includes the renowned climbing area of Indian Creek, as well as the striking canyon systems and towering red rock formations here. This is encouragement for meeting its mandates in FLMPA, but continues to fall short of completing the full identification and extent of the wilderness character that exist. This lack of a complete wilderness character identification include the use of the natural rims all along Harts Point and the use of a straight ¼ sections that runs completely across the natural terrain in one locations. With the use of these natural and arbitrary boundaries, BLM fails to account for the full range of the lands that retain a natural appearance, and where BLM lands that are free of any significant impacts. The use of significant impacts along the north, high on top of Harts Point is warranted and with the proper expansion of the wilderness character boundary, BLM will begin to account for the wilderness characteristics that are indeed present here. Neither the topography in this area, nor the native vegetation along the mesa tops have been significantly impacts by man's activities. It's the natural terrain that remains, and whether viewed from within the unit, or along the Harts Point road, the impression is that the areas has only been affected by the forces of nature and not the dominate hand of man. If in fact there are a few features that are significant in nature, these should be excluded by the use of boundaries or a cherry-stem, not as with the current BLM boundary that runs along the natural rims. Anything else fails in accounting for this areas wilderness resource that are obviously present. Please See Harts Point Map B at Exhibit D. The green highlighted portions are BLM lands that have yet been properly identified as possessing wilderness characteristics.

Indian Creek Wilderness Character Unit

SUWA does not have any additional information or comments at this time for the BLM Indian Creek wilderness character unit, but may do so in the future if warranted or needed.

Lime Creek Wilderness Character Unit

SUWA does not have any additional information or comments here, but has supplied the BLM with significant and new wilderness character information at Exhibit H for the Lime Creek wilderness character unit.

Lockhart Basin Wilderness Character Unit

See Map at Exhibit D

Comment A – What happened to BLM’s assessment of the Lockhart Basin wilderness character area? It was recently found by the BLM to have the reasonable probability of having wilderness character (RPD), but within the DRMP and the background files, this area seems to have slipped through its proper wilderness character identification. As BLM is aware, this is an extremely remote and natural area, not significantly impacted by human activity. It contains all characteristics required by The Wilderness Act, including outstanding solitude and primitive recreational opportunities. This BLM oversight within the Monticello DRMP needs correcting. As shown on Lockhart Basin Map A, the areas highlighted in green (Monticello) and pink (Moab) as well as to the north, need to be identified as having wilderness character.

Comment B – South of Lockhart Basin the landscape is as impressive and natural as within the basin itself. Being more characterized here as the towering red rock wall and rugged talus slopes, BLM’s recent WCR overly implied that this area has far too many significant impacts to be natural. This is interesting since the views from The Needles Overlook are some of the most impressive around, with the lands directly below retaining an overwhelming natural appearance. Further, this area is not severed or separated by a human impact from the natural lands within Lockhart Basin. BLM’s RPD boundary follows the natural terrain and as a result, wilderness characteristics do not just arbitrarily end at this magical line. We’ve included several photographs that clearly highlight and demonstrate that the area retains and appears overwhelmingly natural. See Exhibit E. Our field inventories do not confirm BLM’s no wilderness character assessment, and besides the main route into Lockhart Basin, no other human feature within the area remains a significant impact affecting the entire area and landscape. The omission of this impressive area as having natural and wilderness characteristics needs correcting prior to the release of the Monticello or Moab Final RMPs.

Comment C – North of Lockhart Basin, another large and natural area exists and we’ll refer to as “Dripping Spring Basin.” BLM claims, and that’s all it is, that there is no wilderness characteristics anywhere within this expansive area. BLM goes on to base this conclusion by noting several features that are within this area. Guzzlers, a mining site, a permanent cow camp, and many range improvements. This is accurate, but the correct approach would be to identify the BLM lands that are natural and retain their wilderness characteristics, and if in fact there claimed significant features are truly significant, then an exclusion of these from the unit, opposed to dropping the entire area as being identified for WC. Our visits to the area do not confirm BLM’s exaggerated assessment of these features. In addition, we have included a few photographs that clearly demonstrate that despite the impacts BLM’s WCR notes, these area minimal and substantially unnoticeable when viewing or within the basin. These photographs

represent new information on the natural and wilderness character values the area contains and are located at Exhibit E. Interestingly, BLM's approach to the evaluation and identification of WC is nearly identical of that from the late 1970's inventories where BLM exaggerates the impacts to *not* find WC. Both the Monticello and Moab BLM have yet to account for the wilderness character that is present. The Dripping Spring Basin Map A displays where natural and wilderness characteristics exist. Green highlights Monticello's incomplete wilderness inventories and pink highlights Moab's areas.

Mancos Mesa Wilderness Character Unit

See the Red Rock Plateau wilderness character unit for detailed comments and new information below concerning the canyon wall system of Red Canyon and the correct extension and identification of wilderness characteristics that are present.

Monument Canyon Wilderness Character Unit

See Map at Exhibit D

Comment A – Without ever performing any wilderness character inventory of the area, BLM discounts the entire area as possessing a wilderness resource. BLM relies on the fact that several of their staff have been in the area “administering their respective resources,” but this doesn't account for an accurate assessment of the wilderness resource characteristics. Sure BLM staff notes that there are impacts in the area, but without specifically assessing and inventorying the area for wilderness, this assessment is subjective. BLM further relies on the 1979 evaluation of the area, which was not an inventory, just an assessment, in which the agency at that time discounted there was any unit containing wilderness character. More often than not, and with the potential energy development the area may contain, these early assessments were more often flawed than an actual account of the wilderness resource. BLM has therefore yet to ever truly perform a warranted wilderness inventory to make today's claim that the area is no longer natural in appearance.

It's only the UWC and SUWA that have every performed a detail wilderness character inventory of the area known as the Monument Canyon wilderness character unit. While we acknowledge that the area has seen vegetation manipulations, some oil and gas development and ORV use and this has increased since 1979, we continue to identify that these significant impacts are outside the unit, most often utilized as unit boundaries.

BLM's WCR does not account for this, nor does the WCR account for large core areas of this canyon system being free of any human impacts at all.

Within this area vegetation consists of large areas of pinon and juniper and native grasses. The landscape and its topography are all a direct result of the natural process and where the few remaining past routes exist, each of these are minimal and substantially unnoticeable within the unit. In context of the Vernal BLM's WC analysis, these impacts account for perhaps less than 1% of the entire area within the Monument Canyon wilderness character unit. By far, this insignificant amount of past human use does not substantially impact the area as a whole. As for the potential for solitude and primitive

recreation, the area is rather remote and rarely experiences visitors deep within the canyons, except perhaps hunting season. This enables visitors to truly experience the area in its primitive and natural setting. It's the topography and vegetation that well afford screening opportunities, which enhances the outstanding nature of the solitude and primitive recreational activities present.

In the end, BLM has yet to ever perform a detailed wilderness character inventory within this area and it appears BLM's assessment was not made with the intent of identifying wilderness resources since they do exist in Monument Canyon and its surrounding lands. We've also include a few photographs at Exhibit E, all taken within the unit, that plainly demonstrate that the area large areas that retain their natural characteristics, while also offering areas of outstanding solitude and primitive type recreation.

Regarding the ongoing planning for the Monticello BLM, it's here SUWA provides the BLM with detailed new information concerning the wilderness character of the Monument Canyon unit. This includes the attached WC unit map and several photographs, outside this the agency does not have any additional substantial wilderness character information.

Nokai Dome Wilderness Character Unit

SUWA does not have any additional information or comments at this time for the BLM Nokai Dome wilderness character unit, but may do so in the future if warranted or needed.

Red Rock Plateau Wilderness Character Unit

See Map at Exhibit D

Red Rock Plateau Wilderness Character Unit

Comment A – The Red Rock Plateau area is one of the more remote and characteristic regions of Utah's red rock country. This rarely visited area may only see a few visitors in a year, and the majority of this is along the boundary roads. Here though, BLM has yet to fully identify the area's wilderness character, continually relying on the initial assessment that the area is severely impacted by past mineral exploration. While it's true the uranium boom took its toll on this spectacular area, at minimal returns probably, it's the natural process that has returned the favor. Erosion has taking its own toll on much of this past exploration routes, which were often located within **XX** formation. This formation, with its rugged character, has dramatically lessened and nearly obliterated much of these past features.

Unfortunately, the Monticello WRC does not account for the entire landscape free of any human impacts whatsoever, or the fact that the routes within the area, minimal in comparison of the entire region, do not substantially or significant affect the naturalness the area overwhelmingly retains. This failure stems out the lack of any detailed wilderness character inventory, instead relying on GIS data and aerial interpretations. It's

a no brainer why this approach overlooks the wilderness character that exists within this area.

Further, the BLM's WCR arbitrary separates the Red Rock Plateau wilderness character unit into three prominent sub-units. "A" is the high mesa tops and forested reaches of Wingate Mesa. Unit "B" is the large basins and canyons that include Hidden Valley, Wilson Canyon, Mahon Canyon, Rainbow Canyon, Manon Canyon, Piute Canyon, Red Canyon, Blue Canyon, Low Canyon, and Bullseye Canyon. And unit "C" became everything under the natural rims of Wingate Mesa to the northeast and seen from Highway 95.

With this sub-unit approach, the BLM was able to not identify the full extent of wilderness character that indeed exists within this natural and remarkable remote area.

Wilderness character, according to the BLM, ends at the natural rims of Wingate Mesa, below here, in the impressive canyon systems, there is not one locates that retains all of its wilderness characteristics. From our repeated visits and detailed wilderness character inventories here, we can confirm that BLM's identification is less than adequate. We also will point out that besides the UWC and SUWA, the BLM has never performed any wilderness character inventory of this area outside the late 1970's initial assessment and the recent WCR. Of which neither is a wilderness character inventory. Interestingly, the late 1970's approach was to include vast tracks of BLM land that did indeed have significant mineral impacts then drops the entire region due to this without any boundary adjustments.

We will guarantee the Monticello BLM if we were to go together and visit one of the many side canyons of Red Canyon, which would require hiking, that there would be overwhelming natural values, the solitude would be outstanding, and mere hike into the area would be one of the more primitive activities that exists. All of which make the recent WCR of the area less than accurate on the identification of wilderness character. As a result, BLM's ongoing planning process is utilizing inaccurate information due to BLM continue oversight of identifying the resources the agency manages.

Finally, we have included at Exhibit J, a more in-depth and detailed analysis of the wilderness character tics the Red Rock Plateau wilderness character unit contains. The information here and within this new wilderness character submission includes the most detailed and comprehensive wilderness character review and assessment of the Red Rock Plateau wilderness character unit to date. BLM will need to incorporate this information, once it performs the warranted wilderness character inventory prior to any Final RMP.

Road Canyon Wilderness Character Unit

SUWA does not have any additional information or comments at this time for the BLM Road Canyon wilderness character unit, but may do so in the future if warranted or needed.

San Juan River Wilderness Character Unit

See Map at Exhibit D

Comment A – Along the extreme western boundary, BLM has utilized the natural feature of Lime Creek, opposed to using the edge of a significant human impact. This results in BLM lands located on one side of the stream/wash being correctly identified as having wilderness characteristics, while the other side has been arbitrarily excluded by the use of the wash. Impacts that would preclude this area from wilderness character identification are not present and BLM’s continued no wilderness character determination is not justified. BLM thus has not identified the full extent of wilderness characteristics here and will need to do so for all ongoing resource management planning. As

Shay Mountain Wilderness Character Unit

See Map at Exhibit D

Comment A – BLM found the vast majority of the area that comprises the Shay Mountain wilderness character unit has wilderness character. The exception to this was the very northern tip, which is severed from the unit by state lands, and the southern and western areas, all contiguous with roadless Forest Service lands.

We acknowledge that the northern tip, due to its size will not meet the requirements for wilderness unless a land trade is performed, but we find that the identification of the BLM lands along the south and west have yet been accurately performed. First, BLM’s area that has already been identified as having wilderness characteristics to the north does not arbitrarily end where BLM ends the wilderness characteristics identification. This is labeled on the accompanying map as “B.” It’s unclear why BLM did not continue with wilderness characteristic determination south of this arbitrary line, as the BLM lands here display and retain their natural appearance and characteristics.

Further, each of these currently unidentified wilderness character parcels are all part of the larger roadless area that contiguous with the lands managed by the Forest Service. In addition to being part of the larger public land wilderness character unit, much of the BLM areas here are also contiguous with the already identified RARE II. As result, BLM will need to identify all BLM lands with wilderness characteristics, regardless of the location of a land agency boundary. See Shay Mountain Map A and B.

We understand that BLM views the older chained area as continuing to be significant and as such the utilization of the edge of this past disturbance is used. See Shay Mountain Map A. Outside this area, all BLM lands shaded in green retain and posses natural and wilderness characteristics that have yet been identified.

The Utah BLM has directed each field office to only identify BLM lands of 5,000 acres or more, but this directive is not correct and the Monticello BLM will need to correct and identify these contiguous lands.

The Bureau Manual Handbook, Wilderness Inventory and Study Procedures (H-6310-1), from which “established” practices are derived was rescinded by the April 2003 settlement agreement (Utah Settlement) between Secretary of the Interior Gale Norton and the State of Utah (the terms of this settlement are found in the memorandum “Rescission of National Level Policy Guidance on Wilderness Review and Land Use Planning (IM 2003-195)”). Therefore, this “established” BLM wilderness inventory policy – that contiguous lands must be endorsed for wilderness designation in order to permit the local field office to consider cumulative areas with wilderness characteristics – is no longer valid.

Now, the BLM’s guidance for such situations must rely exclusively on the Wilderness Act and the FLPMA, neither of which contain any requirements that adjacent agency lands must be “administratively endorsed for wilderness” in order to permit cumulative review.

Again, the Monticello BLM relies strictly on the Forest Service to be managing their portion of this roadless and wilderness character unit as Wilderness or as endorsed wilderness. As a result this incorrect rationale, BLM does not account for the full range of lands retaining wilderness character. We’ve requested documentation of BLM’s policy that guides BLM’s decisions in these situations, but Utah State Office personnel stated that there is no specific BLM policy. Therefore, the exclusion of this natural area, adjoining and contiguous with the larger Forest Service Rare II area is not justified. It’s not the future management of these lands at issue it’s the identification of a wilderness resource.

The Wilderness Act (c)(3) states that an area meets the size definition, by having “...at least five thousand acres of land or is sufficient size to make practicable its preservation and use in an unimpaired condition.” Further, BLM’s guidance of the Federal Lands Policy and Management Act (FLMPA) directed the BLM to inventory its landscape for wilderness character. Section 603(c) to inventory “...those roadless areas of five thousand acres or more and roadless islands of the public lands, identified during the inventory required by section 201(a) of this Act as having wilderness characteristics described in the Wilderness Act of September 3, 1964...”

Nowhere does each of these current guiding policies state that a political boundary separates federal agency lands or that one agency must have made a formal recommendation for wilderness designation. For this area, SUWA did supply the Monticello BLM with supplemental and new information for the Shay Mountain wilderness character unit previously, this information remains valid and BLM will need to correctly identify the area as retaining a wilderness character for all RMP planning purposes. This information was supplied to the BLM in July 2007. The current no wilderness character determination is not accurate within BLM relevant policies and guidance and must be corrected prior to any Final Monticello RMP.

Sheep Canyon Wilderness Character Unit

Comment A – BLM has nearly identified the entire landscape correctly as retaining wilderness character. There is only one small area, all part of the same roadless area that still needs to be identified. This is indicated on the Sheep Canyon Map A. The current western boundary route proceeds into Glen Canyon National Recreation Area only a short distance and then terminates, in essence a cherry-stem. West of this cherry-stem natural and wilderness character lands remain. This area therefore, needs to be found as part of the wilderness character unit for all ongoing planning.

The Needle Wilderness Character Unit

The Needle Wilderness Character Unit

Comment A – Let us point out something interesting that is becoming a new approach to BLM’s identification of wilderness characteristics and resources. It happened here, as well as within the Monticello’s Shay Mountain and The Tabernacle WCRs. That is where the BLM separates contiguous BLM lands from one another by creating an arbitrary line or point to point boundary. Then after this arbitrary boundary is delineated, it accounts for one of the BLM “units,” in this case “Unit A” not being of sufficient size as a stand alone unit. We’ve indicated this at “B” on the accompanying map located at Exhibit D. This arbitrary separation of the units is not located along a human impact, significant or not, but runs completely across the natural landscape and terrain, although the BLM notes that it’s located along “surface intrusions.” We are here then requesting a field visit with BLM staff to understand and see first hand the rationale of this boundary and purported “surface intrusions” that justify this wilderness character identification approach. We expect this meeting prior to the final Monticello RMP.

As for The Needle wilderness character unit, it appears more that the fact there are state lands within the area justified this interesting, but deliberate artificial unit boundary. These situations are not proper and invalidate BLM’s WCR of the area making the DRMP misleading and wrong.

Concerning the task at hand for the BLM, it’s to identify all of its resources that it manages, which includes wilderness. Here, BLM’s WCR fails to account for the wilderness resources overwhelmingly present within The Needle area. Why yes, there has been an abundant amount of mineral explorations in the area, as noted in BLM’s WCR, but when view the lands on the ground and when assessing the wilderness character boundaries as defined by the UWC, it reveals BLM’s WCR either mistakenly or deliberately concluded that the entire Needle and Fry Canyon area has significant impacts. Even BLM’s maps that accompany the WCR do not reveal additional mineral routes within The Needle wilderness character area as proposed for wilderness by the UWC. This again exemplifies where BLM’s WCR process woefully fails to account for the wilderness character that is present within the field office.

As for BLM’s assertion that the unit contains multiple areas of past mining activity, water tanks, and a permanent cow camp, we assert that the lands within The Needle area remarkably free of areas of mining. Nearly all of this activity is outside the unit boundaries and located on Moss Back, to the south and on Fry Mesa to the east, all of

which are excluded through boundaries. The water tanks, as BLM claims may be present, but were never located or identified with the boundaries of the unit. As for the cow camp, we acknowledge this as well, but being outside the unit boundaries once again, this area does not affect of impact the natural characteristics that the area continues to demonstrate. BLM then asserts that with these features present, there is not an area of contiguous 5,000 acres. Completely false. Again, each of the purported features and the significant features are not within the unit, and what about BLM's arbitrary separation of the unit through the use of the point to point?

In addition to the accompany map labeled The Needle Maps A and B at Exhibit D that demonstrates that indeed there is a remaining natural area, free of significant human impacts, well in excess of 5,000 acres and yet to be identified for its wilderness resource, we include at Exhibit I, a more thorough and detail wilderness character submission. The information here, as well as with supplied wilderness character submission contains substantially new information than that of BLM's past evaluations and recent cursory WCR. Prior to any final RMP, BLM must conduct a thorough and on the ground inventory of its resources which includes wilderness here.

The Tabernacle Wilderness Character Unit

See Map at Exhibit D

Comment A – First, BLM arbitrarily separates The Tabernacle wilderness character unit into two separate units. This unjustified separation uses a point to point for some unclear reasoning other than to create a smaller and arbitrarily separated area from the rest of the larger wilderness character unit. BLM's WCR states that this was in order to exclude surface disturbing activities. This action is not accurate and is completely unacceptable with regards to performing any wilderness character reviews and inventories. The boundaries utilized by the UWC exclude the significant "surface disturbing activities" by using these as boundaries and one cherry-stem, opposed to BLM's inappropriate point to point separation. Further, this arbitrary separation of the natural areas is dramatically inherent when visiting Mendenhall Loop. From this location, the impression is not that there are significant impacts, but rather that the area has been primarily affected by the forces of nature. This observation is also confirmed and supplied with photographs at Exhibit E. As a result, BLM's assessment of The Tabernacle area in this area here has not been performed correctly and will need an additional and thorough evaluation.

Concerning the natural values of The Tabernacle, the BLM does in fact find, through its very cursory evaluation of the rest of wilderness character unit, has retained its natural character and is not significantly impacted by man's activity. We commend the BLM for this correct analysis of the area and situation. This initial BLM assessment confirms our multiple intensive inventories over the years for this overlooked wilderness character area of BLM lands.

Unsubstantiated, and even with the natural character finding of the area, BLM goes on to incorrectly evaluated that *not even one location* within the entire area could possibly have the opportunity for an *outstanding* solitude or primitive recreational experience. BLM

overly assumes that because the view point of Gooseneck State Park is present in the area, and the rarely visited Honaker Trail Trailhead, that there is nowhere within this impressive, entrenched and spectacular river canyon one can find a secluded location. Where there is a location where one has the ability to have an outstanding solitude experience or that the river itself and its river recreation is outstanding. Has the BLM personnel responsible for this flawed analysis never floated the San Juan River? Perhaps, because if in fact the BLM performed its analysis in the unit, opposed to the cursory paper exercises of the WCR, they would have properly found that the canyon system, as well as the upper benches of the lands here all offer and adequately provide the feeling and impression of “outstanding solitude *and* a primitive recreational activity.”

Further, BLM’s 1999 Utah Wilderness Inventory for the San Juan River unit, just upriver from The Tabernacle, found that “[t]he San Juan River offers exceptional opportunities for rafting, kayaking, or canoeing.” Wouldn’t this same “exceptional opportunity” exist down river within the Gooseneck section as well? We believe the BLM’s WCR made a fatal flaw with regards to both the solitude and primitive recreational evaluations.

This feeling of outstanding solitude and the primitive recreational character of the river happens regardless of the mere fact that the area has one of the most impressive view points (Gooseneck State Park) in the region. Due to the Monticello’s inability to assess the solitude and primitive recreation correctly, SUWA has contacted several individuals who have been on river trips in this impressive canyon system. Attached at Exhibit L is one letter that supplements BLM’s findings and confirming that an outstanding solitude, as well as a primitive recreational experience exists. This individual reviewed BLM’s WCR and compared this with his own experience within The Tabernacle wilderness character unit

Finally, at Exhibit H, SUWA provides the BLM with in depth, detailed and significant new information for The Tabernacle unit.

Tin Cup Mesa Wilderness Character Unit

Comment A – While never performing the warranted on the ground wilderness character inventory to date, the BLM assumes, only through their cursory assessment of the area, that there does not remain an area over 5,000 acres, all of which retains a natural appearance free of significant impacts. BLM notes that the area has many impacts and many of these are more prominent than in 1979. As the accompanying map depicts, exclusion of the significant impacts, which include several of the oil and gas wells and routes, the chainings, and additional county routes provided for a core area of natural values. See Attachment D. Within the area, there is no single human feature that would sever the unit into separate sub-units. The past route within Monument Canyon, while still present in locations is not significant in nature and with the little vehicle use, lack of maintenance and location in the wash bottom. While there several human disturbances exist in the unit, their individual and cumulative impact on the natural character is minor. Whether viewing the canyon itself or from one of the other locations such as Tin Cup Mesa or Bug Point, no single impact within the unit detracts from a natural impression. In addition to the area retaining natural values, the area also holds the opportunities for

visitors to ensure outstanding solitude. The unit is rugged and consist of ridges, valley bottoms and numerous side canyons all providing topography relief and screening opportunities. The Tin Cup Mesa wilderness character unit additional offers opportunities for camping, hiking, hunting, archeological resource viewing, and horseback riding. This area is an important ecological island in a surrounding sea of lands altered by agriculture. Further, the area is known to contain impressive archaeological sites, consisting of standing walls scattered throughout the unit.

This information here contains the most detailed wilderness character analysis of the Tin Cup Mesa wilderness character unit ever compiled by the public or the BLM. This further includes the accompanying photographs at Exhibit E. Outside this, BLM has only performed cursory evaluations, but no physical wilderness character inventory as required by FLMPA.

Comment B – Here, BLM’s WCR fails to account the adjoining Squaw and Papoose Canyon WSA is part of the larger Tin Cup Mesa wilderness character unit within the recent WCR. The UWC provide the BLM with this information during the comment period for the 1999 Utah Wilderness Inventory. It was noted that BLM’s wilderness character boundary follows a pack trail, with BLM’s response in the Revision was that “[t]he pack trail forms the boundary of the existing WSA and the previous HR 1500 legislation proposal that was the focus of the 1999 Utah Wilderness Inventory.” Therefore, BLM has already acknowledged that the pack trail does form the boundary, but didn’t expand the WC area. Now, BLM’s WCR did not expand these current WC in the WSA south and continually expand where wilderness characteristics exist.

Upper Red Canyon Wilderness Character Unit

The Monticello BLM has correctly evaluated and found that indeed the canyon systems and larger natural red rock formation of the Upper Red Canyon wilderness character unit retains wilderness character. As a result, SUWA does not have any additional information or comments here, but has included at Exhibit K, significant new wilderness character information that will supplement BLM’s recent and correct wilderness character determination for this remote area of Utah.

Valley of the Gods Wilderness Character Unit

Valley of the Gods is an impressive area and recently where the Monticello BLM has correctly evaluated and found this unique area retains wilderness character. As a result, SUWA does not have any additional information or comments here, but does include significant and new information on the area’s wilderness character that supplements BLM recent wilderness character determination. This is located at Exhibit H.

White Canyon Wilderness Character Unit

These comments are discussed both in the Cheesebox Canyon and Gravel and Long Canyons wilderness character unit comments above.

Additional Monticello BLM lands that retain and possess wilderness characteristics that have not yet identified for the ongoing Monticello Resource Management Planning process.

Besides the BLM lands within Arch Canyon, Hammond Canyon, Allen Canyon and Shay Mountain wilderness character units that are described in greater detail above and included within several Exhibits, each of these areas are contiguous to the roadless areas of the Manti – La Sal National Forest. These are detailed within the Abajo Mountain Wilderness Character Map at Exhibit D. The Monticello BLM is responsible for the management of these lands, all of which are additional BLM wilderness character units. In each instance here, these BLM lands are part of the larger roadless and wilderness character units, but have yet been fully accounted for their wilderness characteristics. As result, the Monticello BLM’s current planning effort does not accurately address the resource of wilderness within each of these areas.

For these areas to be identified, SUWA is providing the BLM with significant new information detailing each of these particular areas. Again, being contiguous to the larger public lands managed by the Forest Service, it’s inherent throughout these comments that the wilderness characteristics of solitude and primitive recreation exist already within the Forest Service lands, and therefore, the BLM parcels are not required to possess these values, although nearly every BLM parcel more than likely does. It’s the appearance of these BLM lands and their natural characteristics that are at issue here, and with a comprehensive wilderness character inventory performed on each and every area, it’s been identified that these areas indeed remain natural in appearance and possess this wilderness characteristics.

Concerning the wilderness characteristics of size, each of the BLM areas presented and supplied here are all of sufficient size to make them practicable to manage for wilderness character and for potential wilderness designation. Unfortunately, the Utah BLM currently relies on rescinded BLM policies with regards to the requirement of size. The Monticello and Utah BLM should not base the arbitrary exclusion of these areas on the fact that the Forest Service has not yet “administratively endorsed” their portion of the roadless area for wilderness designation, and therefore, these areas would have to meet the size requirements as a “stand alone unit.” This arbitrary BLM practice requires that lands within the Forest Service must be currently endorsed for wilderness designation in order for the adjacent Monticello BLM lands to meet the wilderness character and size requirement.

However, the Bureau Manual Handbook, Wilderness Inventory and Study Procedures (H-6310-1), from which this “established” practice is derived was rescinded by the April 2003 settlement agreement (Utah Settlement) between Secretary of the Interior Gale Norton and the State of Utah (the terms of this settlement are found in the memorandum “Rescission of National Level Policy Guidance on Wilderness Review and Land Use Planning (IM 2003-195)”). Therefore, this BLM wilderness inventory policy – that contiguous lands must be endorsed for wilderness designation in order to permit the local field office to consider cumulative areas with wilderness characteristics – is no longer valid.

Now, the BLM's current guidance for such situations must rely exclusively on the Wilderness Act and the FLPMA, neither of which contain any requirements that adjacent agency lands must be "administratively endorsed for wilderness" in order to permit cumulative review. Section 2(c)(3) of the Wilderness Act states that an area meets the size definition by having "at least five thousand acres of land or is of sufficient size to make practicable its preservation and use in an unimpaired condition." Further, FLMPA directs the BLM to inventory its landscape for wilderness character. Section 603(c) mandates that the BLM inventory "those roadless areas of five thousand acres or more and roadless islands of the public lands, identified during the inventory required by section 201(a) of this Act as having wilderness characteristics described in the Wilderness Act of September 3, 1964."

With regards to these BLM parcels, no one, including the BLM, nor the public at large, has detailed and provide this much significant information for these wilderness character units, until now. Thus, this makes this significant new wilderness character information, which includes the accompanying maps and comments below. With this, SUWA fully expect the Monticello BLM to analyze each of these BLM parcels in conjunction with the contiguous wilderness character units of the Forest Service public lands. Failure to do so reflect an incomplete assessment of the wilderness resource present within the Monticello field office and its ongoing planning efforts and violates FLPMA.

Abajo Mountains Wilderness Character Units

See Map at Exhibit D

See Abajo Mountain Wilderness Character Map – Surrounding the Forest Service lands of the Abajo Mountains exist several wilderness character units that have yet been identified by the Monticello BLM. These BLM areas are part of the larger roadless area of public lands within the Manti-La Sal National Forest, and all retain an overwhelming natural appearance and character. All consisting of native vegetation and undulating topography. These areas are free of any significant human impacts which create an overwhelming natural area that retains wilderness characteristics.

These 16 separate BLM parcels are located within:

Parcel 1 - Dark Canyon

T35S R17E, Sections 1, 11, 12 and 13
T35S R18E, Sections 7, 16-21, 29 and 33
T36S R18E, Sections 4 and 9

Parcel 2 - Dark Canyon

T34S R17E, Sections 23-26

Parcel 3 - Cathedral Butte

T T32S R20E, Sections 3-5

Parcel 4 - Stevens Canyon

T32S R20E, Section 1
T32S R21E, Sections 5 and 6

Parcel 5 - Cottonwood Canyon – Shay Mountain

T33S R21E, Section 5

Parcel 6 – Shay Mountain

T32S R21E, Sections 26-28 and 33

Parcel 7 – Shay Mountain

T32S R22E, Sections 15, 19-22 and 27-30

Parcel 8 – Recapture Creek

T35S R22E, Sections 22, 23, 26 and 27

Parcel 9 – Johnson Creek

T35S R22E, Section 24

Parcel 10 – Johnson Creek

T35S R22E, Section 24

Parcel 11 – Black Steer Knoll – Allen Canyon

T35S R22E, Section 19 and 30
T35S R21E, Sections 24-26 and 32-35
T36S R21E, Sections 3-5, 7-10, 15, 17, 21, 22, 27 and 28

Parcel 12 – Allen Canyon

T35S R21E, Sections 29 and 32

Parcel 13 – Allen Canyon

T35S R21E, Section 17 and 20

Parcel 14 – Allen Canyon

T35S R21E, Sections 17-20, 30 and 31
T35S R20E, Section 13

Parcel 15 – Arch Canyon

T36E, R21E, Sections 19, 30 and 31
T36S R20E, Sections 13, 24-27, 34, and 35
T37S R21E, Sections 6, 7 and 17
T37S R20E, Sections 1-15, 17, 18, 20-29 and 33-35
T37S R19E, Sections 1, 2, 11 and 12

Parcel 16 – Maverick Point – Arch Canyon

T37S, R19E, Sections 6, 7, 17 and 18
T37S R18E, Sections 1-3 and 10-13

As part of the Monticello's ongoing RMP process, all BLM lands that contain a wilderness resource must be identified. The Monticello BLM can not strictly rely on the Forest Service to be managing their portion of this roadless and wilderness character unit as Wilderness or as endorsed wilderness for this area. If BLM continues with the current practice of this, then BLM relies on incorrect rationale and BLM will not account for the full range of lands retaining wilderness character. Concerning these contiguous BLM and other public land situations, we've requested documentation of BLM's policy that guides BLM's decisions in these situations, but Utah State Office personnel stated that there is no specific BLM policy. Therefore, the exclusion of these natural areas, adjoining and contiguous with the larger Forest Service Rare II areas and additional wilderness character lands is not justified. It's not the future management of these lands at issue it's the identification of a wilderness resource.

The Wilderness Act (c)(3) states that an area meets the size definition, by having "...at least five thousand acres of land or is sufficient size to make practicable its preservation and use in an unimpaired condition." Further, BLM's guidance of the Federal Lands Policy and Management Act (FLMPA) directed the BLM to inventory its landscape for wilderness character. Section 603(c) to inventory "...those roadless areas of five thousand acres or more and roadless islands of the public lands, identified during the inventory required by section 201(a) of this Act as having wilderness characteristics described in the Wilderness Act of September 3, 1964..."

Nowhere does each of these current guiding policies state that a political boundary separates federal agency lands or that one agency must have made a formal recommendation for wilderness designation. Here, SUWA provides the Monticello BLM with supplemental and new information for the areas

IV. TRAVEL MANAGEMENT

A. The DRMP/EIS Overlooks Significant Problems Related to the Use of Off Road Vehicles (ORVs) in the Monticello Planning Area

Given the wide-ranging use of the public lands in the Monticello Field Office by off-road vehicles, and the significant damage caused by such use, the BLM's commitment to managing this use while "minimizing" its impact to the environment and to the experience of other non-motorized public lands users, will be the decisive factor in the long-term success of the RMP.

The BLM's decision to move to a designated trail system and largely abandon cross-country use by ORVs is a positive step forward which SUWA supports. However, this new approach will not successfully stem ORV damage and user conflict if the route designations are skewed too far in favor of ORV use. ORV routes must be designated, first and foremost, to protect the resources, promote public safety, and minimize conflicts among users. *See*, 43 C.F.R. § 8342.1. Providing routes and areas for ORV use on public lands must be done with great care and analysis, and BLM must assure that the resources on the nation's public lands will not be impacted by such routes and use areas.

SUWA's review of the DRMP/EIS shows that the BLM's approach to ORV management and its designation of over 2,820² miles of ORV routes has not taken into account a number of mandated regulatory, statutory and other considerations.

1. The Statutory and Regulatory Background

ORV use on BLM lands is governed by a number of statutes, regulations, executive orders, and internal BLM guidance documents. Each of these governing authorities is based on a common understanding of, and concern about, the destructive effects of ORVs, and the urgent need to manage those impacts to protect the environment and other users of the public lands. *See, e.g.* 43 C.F.R. § 8340.0-2 (“[t]he objectives of these regulations are to *protect* the resources of the public lands, to promote the safety of all users of those lands, and to minimize conflicts among the various users of those lands.”) (Emphasis added.) *Thus, the guiding principle of these authorities is built on the assumption that ORV use may only be approved under certain circumstances and based on specific analysis and findings. Any presumption in favor of ORV use in a particular area, or the approval of ORV use without the requisite findings or analyses, violates the very foundation of these governing authorities.*

a. FLPMA

FLPMA provides the broad framework for lands under BLM management. It requires that

the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air, atmospheric, and water resources, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use.

FLPMA § 1701(8).

FLPMA also requires the BLM to look beyond immediate, short-term considerations when making land management decisions, and instead to base its decisions on both a short-term basis and long-term view, and to consider the impact of such decisions on “future generations” and the “permanent” impact those decisions will have on the public lands.

The term “multiple use” means 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; making the most judicious use of the land for some or all of these

² The DRMP/EIS states that the preferred alternative would include 3,693 miles of ORV route – a large enough number. However, this also does not include routes crossing other lands but consequential to BLM designations.

resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; a combination of balanced and diverse resource uses that takes into account *the long-term needs of future generations* for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources *without permanent impairment of the productivity of the land and the quality of the environment* with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output.

FLPMA § 1702(c). Nor may the BLM permit the “unnecessary or undue degradation” of the public land. FLPMA § 1732(b).

b. Executive Orders and Implementing Regulations

Recognizing early the destructive effects of ORV use, President Nixon signed Executive Order Number 11644, 37 Fed. Reg. 2877 (Feb. 8, 1972), which declares that:

“The widespread use of such vehicles on the public lands—often for legitimate purposes but also in frequent conflict with wise land and resource management practices, environmental values, and other types of recreational activity—has demonstrated the need for a unified Federal policy toward the use of such vehicles on the public lands. “

* * *

It is the purpose of this order to establish policies and provide for procedures that will ensure that the use of off-road vehicles on public lands will be controlled and directed so as to protect the resources of those lands, to promote the safety of all users of those lands, and to minimize conflicts among various uses of those lands.

Executive Order Number 11644 Preamble and § 1.

Under Executive Order 11644 the BLM and other federal agencies are directed to “establish policies and provide for procedures that will ensure that the use of off-road vehicles on public lands will be controlled and directed so as to protect the resources of those lands, to promote the safety of all users of those lands, and to minimize conflicts among various uses of those lands.” *Id.* § 1. In addition, the Executive Order requires federal agencies to implement regulations that designate areas and trails for ORV use so that “such areas and trails will be based upon the protection of the resources of the public lands, promotion of the safety of all users of those lands, and minimization of the conflicts among the various uses of those lands.” *Id.* § 3.

In particular, ORV areas and trails must be designated to “minimize damage” to natural and other public land resources – including watershed and riparian areas, vegetation,

soils, cultural resources, and wildlife – and to “minimize conflicts between off-road vehicle use and other existing or proposed recreational uses” of public lands. *Id.* Such designations are to be open to public participation and comment. *Id.* See BLM Manual 8340.05 (Off-Road Vehicles – Generally) (1982) (defining the term “minimize ORV damage” as follows: “To reduce ORV effects to the maximum extent feasible short of eliminating ORV use, consistent with established land management objectives as determined by economic, legal, environmental, and technological factors.”).

In 1977, President Carter issued Executive Order 11989, which considerably strengthened Executive Order 11644 and reinforced the protective approach to ORVs that federal land managers are to adopt. It *requires* agencies to “immediately close” areas or trails to ORV use whenever the agency determines that “the use of off-road vehicles will cause or is causing considerable adverse effects on the soil, vegetation, wildlife, wildlife habitat or cultural or historic resources.” Exec. Order No. 11989, 42 Fed. Reg. 26959 (May 24, 1977). The areas or trails must remain closed until the agency makes a specific determination that the “adverse effects have been eliminated and that measures have been implemented to prevent future occurrence.” *Id.*

In 1979, BLM codified Executive Order 11644, as amended by Executive Order 11989, in its regulations at 43 C.F.R. Part 8340. See 44 Fed. Reg. 34,834 (June 15, 1979), and 53 Fed. Reg. 31,002 (Aug. 17, 1988). BLM’s regulations direct agency officials to designate public lands as open, closed, or limited to ORV use, and to generally follow the public participation requirements of the resource management planning process described in 43 C.F.R. §§ 1600 et seq. See 43 C.F.R. §§ 8340.0-1 and 8342.2.³

FLPMA’s planning provisions are the usual mechanism for the designation of ORV areas and trails. See FLPMA Section 202 and 43 C.F.R. § 8342.2(a) and (b).

c. Other Applicable Sources of Law and Regulation Governing ORVs.

Because of the intensity and scope of the damage caused by ORVs, a number of other statutory authorities and agency responsibilities are triggered by the Monticello Field Office’s designation of ORV routes. These include, for example, NEPA, the Clean Water Act, the National Historic Preservation Act, the Endangered Species Act, and the BLM’s own Handbook provisions on the protection and management of riparian areas. These additional authorities are discussed elsewhere in these comments as well as in the comments of others, including Jerry Spangler (regarding the DRMP/EIS trail designations and their impact on cultural resources), Charles Schelz (regarding ORV impacts on riparian areas, soil integrity, vegetation, and wildlife). We have also provided a bibliography with additional studies regarding the destructive effects of ORV use on public land. See Attachment Index and References.

In 2006, the BLM published IM 2006-173 “Clarification Guidance” for the development of ORV trails. Attachment 2 to that Guidance provides criteria which the BLM must apply in this process. Our review of the DRMP/EIS shows that the Monticello Field

³ See also Attachments RR and SS.

Office did not fully comply with this guidance. In particular, the guidance provides that as part of its trail designation process, the BLM “will include” the following:

- Definitions and additional limitations for specific roads and trails . . .
- Criteria developed to set parameters, to select or reject specific roads and trails in the final network, and to specify limitations. Examples of these criteria might include: desired future conditions for access, important destinations or roads or trails critical for particular activities, road and trail density or location criteria, goals related to conservation of visual resources, or sensitive habitat management.
- Guidelines for management, monitoring and maintenance of the limited area or sub-area road and trail system. Guidelines might include items such as: seasonal limitations, vehicle type and size restrictions, and road construction and maintenance standards.
- Indicators to guide future plan maintenance, amendments or revisions related to OHV area designations or the approved road and trail system within limited areas or sub-areas. Indicators could include results of monitoring data, new information, or changed circumstances.

Guidance at 2-1, IM 2006-173

Contrary to its own guidance, it appears that the BLM has provided no “definitions and additional limitations for specific roads and trails;” no “criteria” for the selection of specific roads and trails like those described in the Guidance; provided no “guidelines” for the management, monitoring and maintenance of the trails, and lastly, there are no “indicators” to guide future planning such as the result of monitoring data or other information. Thus, the travel plan violates the BLM’s own rules for designating trails.

Further, the Guidance emphasizes the need for proactive route management and designation, based on the identification of the desired future condition of the travel area, the transportation needs of the area, management of other resources and needs for all modes of travel. *See* IM 2006-173, Guidance at 2-3. In this regard it is important to note that the Guidance specifically warns against the reactive designation of trails based on little or no analysis of the above factors. The Guidance provides that the BLM should:

Choose individual roads and trails, rather than using inherited roads and trails. Most existing roads and trails on public lands were created by use over time, rather than planned and constructed for specific activities or needs. Instead of a decision-making process to decide which individual roads and trails should be closed or left open, consider a broader range of possibilities for management of individual roads and trails, including reroutes, reconstruction or new construction, as well as closures. These are tools that should be used to develop a quality travel system. A well-designed travel system can direct travel away from sensitive areas, yet provide quality recreational activities and access for commercial and recreational needs.

Guidance at 2-3, IM 2006-173

Based on our examination of the maps, DRMP/EIS and discussions with BLM personnel

involved in the RMP and travel plan development it is clear that the BLM did exactly what the Guidance warned against. Instead of proactively choosing routes based on sensible criteria like the need for access, desired future condition and the protection of natural and cultural resources, the BLM simply “inherited” roads and trails from county maps and from off-road vehicle advocates. The BLM’s proposed travel plan is merely a slightly modified inventory of tracks that can be found on the ground, rather than a well-planned system of routes that minimize natural and cultural resource impacts, and minimize conflicts with non-motorized users. The proposed travel plan will do little, if anything, to aid in enforcement issues, as there are few places that motorized use will be restricted, meaning that the one or two law enforcement officers will have to cover approximately 2 million acres of public lands.

Because of its central role in the effective management of ORV use, monitoring use and compliance with rules is emphasized by the BLM’s handbook. According to the BLM’s Land Use Planning Handbook, effective monitoring is key to the development of RMP/revisions:

Implementation monitoring is the process of tracking and documenting the implementation (or the progress toward implementation) of land use plan decisions. This should be done at least annually and should be documented in the form of a tracking log or report. The report must be available for public review (one way to accomplish this is an annual planning update which can be sent to those who participated in the planning process or have expressed an interest in receiving the report). The report should describe management actions proposed or undertaken to implement land use plan decisions and can form the basis for annual budget documents. In subsequent years, reports should document which management actions were completed and what further actions are needed to continue implementing land use plan decisions.

Effectiveness monitoring is the process of collecting data and information in order to determine whether or not desired outcomes (expressed as goals and objectives in the land use plan) are being met (or progress is being made toward meeting them) as the allowable uses and management actions are being implemented. *A monitoring strategy must be developed as part of the land use plan that identifies indicators of change, acceptable thresholds, methodologies, protocols, and timeframes that will be used to evaluate and determine whether or not desired outcomes are being achieved.*

Land Use Planning Handbook at 33 (emphasis added).⁴ See 43 CFR 8342.3 (travel management networks should be reviewed periodically to ensure that current resource and travel management objectives are being met).

Further, the BLM’s Handbook is based on the prescriptions set forth in the agency’s regulations concerning ORV designations. These provide that all public lands are required to have off-highway vehicle area designations (See 43 CFR 8342.1). Areas must

⁴ http://www.blm.gov/nhp/200/wo210/landuse_hb.pdf.

be classified as *open*, *limited*, or *closed* to motorized travel activities. Criteria for open, limited, and closed area designations are established in 43 CFR 8340.0-5(f), (g) and (h), respectively.

For areas classified as limited consider a full range of possibilities, including travel that will be limited to types or modes of travel, such as foot, equestrian, bicycle, motorized, etc.; limited to existing roads and trails; limited to time or season of use; limited to certain types of vehicles (OHVs, motorcycles, all-terrain vehicles, high clearance, etc.); limited to licensed or permitted vehicles or users; limited to BLM administrative use only; or other types of limitations. In addition, provide specific guidance about the process for managing motorized vehicle access for authorized, permitted, or otherwise approved vehicles for those specific categories of motorized vehicle uses that are exempt from a limited designation (*See* 43 CFR 8340.0-5(a)(1-5)).

BLM also has issued specific guidance pertaining to management of ORVs to protect cultural resources, which is also instructive for protecting the other resources of the public lands. IM No. 2007-030 addresses “Cultural Resource Considerations for Off-Highway Vehicle (OHV) Designation and Travel Management.” IM 2007-030 acknowledges the “overall beneficial effect of route designations on cultural resources.” The IM includes a broad recognition of the benefits to other resources from controlling motorized access, stating: “Sensitive resource areas may be protected through rerouting, reconstruction, and new construction, limitations on vehicle type and time or season of travel, in addition to closure.”

Further, in providing direction on developing management, the IM notes that: “Selection of specific road and trail networks and imposition of other use limitations should avoid impacts on historic properties wherever possible” and requires that “existing cultural information must be considered.” IM 2007-030 also identifies requirements for inventory of cultural resources under Section 106 of the National Historic Preservation Act,

As noted above, the DRMP/EIS does not demonstrate a full range of travel types and modes, or other limitations sufficient to protect the resources at risk from ORV use. In particular, while BLM proposes to designate nearly 3,000 miles of ORV routes, there appears to be zero miles of hiking trail proposed in the DRMP. And because of the obvious public safety and other conflicts present, allowing hikers to use ORV trails is not a solution.

B. Insufficient NEPA and Compliance Analysis of Proposed Route Network

As discussed above, NEPA requires the BLM to disclose the direct, indirect and cumulative impacts of its proposed actions and take these impacts into consideration when making decisions. NEPA further requires that the public be provided with sufficient information to comment on both the decisions and the manner in which the BLM made those decisions. In the context of designating routes for motorized use, the disclosure should include the manner in which the BLM assessed compliance with the directives of the ORV regulations and Executive Orders, such as minimizing damage to

riparian areas and floodplains, wildlife and wildlife habitat and minimizing conflicts with other recreationists, as well as compliance with obligations under the Endangered Species Act and National Historic Preservation Act.

The DRMP/EIS does not present this information with respect to the differing travel networks under consideration in the DRMP/EIS. There is no way for a reviewer to identify the basis for the specific route designations proposed or confirm that the BLM has ensured that these designations comply with the legal and policy obligations set out above.

In order to justify the suitability of the proposed route network, the BLM must provide information on the reasons for designating the routes (i.e., destination, use), impacts of the routes on other resources, how those impacts can otherwise be mitigated or avoided, and the manner in which designation of the route for the proposed use is consistent with the agency's obligations under its regulations and policy. Without this data, the public cannot provide meaningful comments on the inaccuracies in the BLM's analysis and conclusions and also may conclude that the BLM did not comply with its obligations.

To address these insufficiencies, the BLM must provide specific information on the purpose and need for the routes incorporated in each alternative, the potential impacts on other resources, and the potential conflicts with other users and the justification for designating the route with the proposed range of uses. The public should then have an opportunity to comment so that this input can be taken into account *before* issuance of a Proposed RMP/Final EIS.

D. Site Specific Comments & Recommendations

See Exhibit C for detailed table of impacts by route and area, including corresponding maps numbered to the table.

Recommendations:

ORV Open Areas: No open area should be designated without a more specific NEPA analysis of the impacts of such a decision to the specific open area. Cultural resource surveys and identification of all natural resource impacts should be carefully evaluated before designation of one of these "sacrifice zones."

SITLA Access: BLM should consider using administrative only access to SITLA or other lands which are situated within lands with wilderness characteristics, WSAs or other sensitive resource values, especially if there is no other clear purpose or need for a route other than access to SITLA lands.

Non-WSA lands with Wilderness Characteristics: BLM should strive in the final EIS to have no ORV route designation in these lands – *even if the BLM is not specifically choosing to protect those wilderness characteristics*. These areas represent the least fragmented wildlife habitat, and have the potential for the least-disturbed cultural resources, and the potential for the most intact native plant diversity and least-disturbed sensitive soils and biological soil crusts.

Routes within WSAs: SUWA opposes any route designation within WSAs, even if the route in question is an “existing way.” This does not include cherry-stems, but SUWA appreciates how the BLM did not designate every possible cherry stem. The best way to manage to the IMP standard, to least risk damage to the naturalness of the WSAs, is to refrain from designation of the “ways.”

Route density/duplicative routes: SUWA urges the BLM to take another look at route density and duplicative routes – which fragment habitat unnecessarily and degrade soils and other resources. This is especially evident along the fringes of the San Juan River, Harts Point, Cottonwood Wash and near Indian Head Pass WC areas, where seldom used tracks and reclaiming seismic lines are proposed for route designation. The sandy nature of these areas increases the damage on dune systems and soil loss with each unnecessary open route.

V. AREAS OF CRITICAL ENVIRONMENTAL CONCERN (ACECs)

A. General ACEC Comments

FLPMA mandates that BLM “give priority to the designation and protection of areas of critical environmental concern [ACECs].” 43 U.S.C. § 1712(c)(3). ACECs are areas “where special management is required (when such areas are developed or used or where no development is required) to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources, or other natural systems or processes.” 43 U.S.C. § 1702(a).

A critical aspect of this section is FLPMA’s “priority” requirement for ACEC designation. In short, BLM must prioritize ACEC designation in all alternatives under consideration, not simply the “conservation” alternatives B and E. BLM has not recognized this statutory mandate that the agency give preference to ACEC designation in the Monticello DRMP/EIS. To rectify this, once BLM has determined that certain areas in the Monticello Field Office contain the requisite relevant and importance values – which the Monticello Field Office has already done – the agency must prioritize the designation of those areas as ACECs over other competing resource uses. For example, BLM cannot reject designation of an area as an ACEC because it is attempting to balance development and conservation in Alternative C. This does not prioritize ACEC designation. Rather, BLM must explain in detail (*i.e.*, quantify) how much oil and gas it predicts would be not developed if the ACEC was designated and then weigh the loss of the two resources with a statutory preference for ACEC designation. The same holds true for other competing extractive and resource-impacting uses such as grazing, mining, and motorized recreation; ACEC designation must be prioritized above these uses.

BLM’s ACEC Manual (1613) provides additional detail on the criteria to be considered in ACEC designation, as discussed in the applicable regulations, as well. *See*, Manual 1613, Section .1 (Characteristics of ACECs); 43 C.F.R. § 8200. An area must possess relevance (such that it has significant value(s) in historic, cultural or scenic values, fish &

wildlife resources, other natural systems/processes, or natural hazards) and importance (such that it has special significance and distinctiveness by being more than locally significant or especially rare, fragile or vulnerable). In addition, the area must require special management attention to protect the relevant and important values (where current management is not sufficient to protect these values or where the needed management action is considered unusual or unique), which is addressed in special protective management prescriptions. An ACEC is to be as large as is necessary to protect the important and relevant values. Manual 1613, Section .22.B.2 (Size of area to receive special management attention). For potential ACECs, management prescriptions are to be “fully developed” in the RMP. Manual 1613, Section .22 (Develop Management Prescriptions for Potential ACECs).

The Manual also sets out more specific requirements for how consideration of ACECs should be conducted during the land use planning process. Manual 1613 specifically requires that each area recommended for consideration as an ACEC, including from external nominations, be considered by BLM, through collection of data on relevance and importance, evaluation by an interdisciplinary team and then, if a recommended area is not to be designated, the analysis supporting the conclusion “must be incorporated into the plan and associated environmental document.” Manual 1613, Section .21 (Identifying Potential ACECs). BLM’s treatment of proposed ACECs in the DRMP/EIS does not comply with either FLPMA’s mandate or the agency’s own internal guidance.

1. The threats from off-road vehicle use highlight the need to designate ACECs to protect special values.

FLPMA requires BLM to prioritize designation and protection of ACECs. Accordingly, where BLM has found special values that meet the relevance and importance criteria, and where impacts could or would occur to these identified values if no special management prescriptions are implemented, BLM then violates its FLPMA obligations by failing to designate the entire area as an ACEC. BLM has improperly ignored or discounted the threats to special places from oil and gas development and off-road vehicle use, and thus failed to designate and/or failed to incorporate sufficient protections for proposed ACECs.

BLM has repeatedly acknowledged the damage from oil and gas development and ORV use to the values of the public lands that can and should be protected by ACECs (spectacular scenic values, endangered species, geologic formations, cultural resources, and naturalness). Where ACEC or potential ACEC values include unique or outstanding scenic resources or naturalness or other non-renewable resources (i.e., paleontological resources) they are even more susceptible to irreparable damage from these activities.

2. BLM has specifically failed to designate ACECs to protect lands with wilderness characteristics.

As discussed in detail previously in these comments, we believe that BLM’s abandonment of its authority to designate any additional Wilderness Study Areas is

invalid and will ultimately be overturned in pending litigation⁵; and, therefore, does not prevent BLM from designating new WSAs.⁶

Regardless, BLM itself acknowledges that it has the ability to value wilderness character and protect it, including through ACEC designations. The Instruction Memoranda (IMs) Nos. 2003-274 and 2003-275, which formalize BLM's policies concerning wilderness study and consideration of wilderness characteristics contemplate that BLM can continue to inventory for and protect land "with wilderness characteristics," which are identified as natural or providing opportunities for solitude or primitive recreation, and specifically references ACEC designation. Indeed, the BLM's guidance in IM-2003-275 states that "where ACEC values and wilderness characteristics coincide, the special management associated with an ACEC, if designated, may also protect wilderness characteristics." While ACECs are not a substitution for the designation of wilderness, they can certainly be an important tool used to preserve wilderness characteristics – an outstanding feature in its own right. Similarly, in a February 12, 2004, letter to William Meadows, President of The Wilderness Society, Assistant Secretaries of the Interior Rebecca Watson and Lynn Scarlett stated that "through the land use planning process, BLM uses the ACEC designation or other management prescriptions to protect wilderness characteristics or important natural or cultural resources."

As discussed above, BLM has acknowledged the threats to lands with wilderness characteristics. However, the Monticello DRMP fails to support designation of ACECs to protect these values. BLM has identified approximately 582,360 acres of lands with wilderness characteristics. In addition, there are an additional 229,231 acres of lands with wilderness characteristics that are Citizen Proposed Wilderness lands, and are included in America's Redrock Wilderness Act, that have been submitted to BLM with new information to inform the BLM as to the wilderness character of these lands.

Proposed eligible ACECs with wilderness characteristics that BLM declines to protect in its preferred alternative include: Bridger Jack Mesa, Butler Wash, Cedar Mesa, Dark Canyon, Lockhart Basin, and Shay Canyon. **BLM should designate these ACECs and consider designating others to protect lands with wilderness characteristics; and these ACECs should include protective management prescriptions, such as closure to oil and gas leasing and ORV use, in order to protect wilderness characteristics.**

The Monticello Field Office received nominations from the public for 16 ACECs during scoping, totaling 512,318 acres. The BLM evaluated the nominations and found that 521,141 acres in 12 areas met the relevance and importance criteria. Alternatives B and E would designate all 521,141 acres of potential ACECs, while conversely, Alternative D

⁵ The recent withdrawal of court approval of the consent decree and the subsequent withdrawal by the State of Utah and the Department of Interior of the settlement as a consent decree at all, casts serious doubt upon BLM's current policy not to consider designating new WSAs.

⁶ Because the State of Utah and the Department of Interior have withdrawn their settlement and do not intend to seek a new consent decree, there is currently no binding consent decree and the BLM has failed to issue updated guidance, but instead, is continuing to apply its outdated, misguided, and illegal, policy. IM Nos. 2003-274 and 2003-275, which are explicitly based on an April 2003 settlement that no longer exists, are arguably invalid and do not apply to restrict BLM from designating new WSAs.

would designate 0 acres. The BLM's preferred alternative, C, would designate six ACECs totaling 76,764 acres. This would significantly decrease the acreage currently managed as ACEC -- ten units totaling 488,616 acres. That BLM has determined that 521,141 acres meet the relevance and importance criteria for ACEC designation, BLM must give priority to the designation of these ACECs in all alternatives, not merely Alternatives B and E.

However, the preferred alternative would designate only a small fraction of acreage (15%) evaluated by the BLM to meet the relevance and importance criteria. This is a violation of FLPMA's mandate that "priority" be given to designation of ACECs.

That the BLM proposes such a massive rollback of ACEC protections (a loss of 411,852 acres), and that BLM is proposing to not designate ACECs for 521,141 acres in 12 areas the agency found met the relevance and importance criteria suggests a craven political influence upon the process and at odds with the mandate of FLPMA. This is a fatal flaw in the plan and, if uncorrected, will likely result in a court setting aside the entire plan. The BLM must give priority to the designation of all potential ACECs meeting relevance and importance criteria.

VI. WILD & SCENIC RIVERS

The RMP planning process is an opportunity for the BLM to evaluate suitability of rivers and streams found eligible by the BLM for inclusion in the Wild and Scenic Rivers System, established by the "Wild and Scenic Rivers Act." Wild and Scenic River (WSR) designation is an important tool in the "Norton" toolbox for protecting outstanding natural resources on public lands. Suitability determinations are an important step towards eventual Congressional designation. Additionally, suitability gives the BLM the justification to manage the suitable rivers and streams in such a manner as to preserve and protect the outstandingly remarkable features that prompted the eligibility of the river.

Generally, the suitability and classifications expressed by the BLM in the Monticello RMP in Alternatives B & E are supported by SUWA. Appendix H goes into great detail on the merits justifying eligibility of each river and stream. The suitability findings and tentative classifications expressed in Alternatives B & E are the natural and logical outcome of the body of evidence presented in Appendix H in the eligibility findings.

The Monticello Field Office has reviewed and evaluated river and stream segments in the planning area and determined the eligibility of certain segments for inclusion in the Wild and Scenic River system. The Monticello RMP seeks to determine the suitability of these eligible streams and then the agency will forward these suitable segments for consideration by Congress for designation in the Wild and Scenic River System.

VII. OIL & GAS DEVELOPMENT

Summary

The BLM should select Alternative E – with a number of additional stipulations and closures – of the Monticello Draft RMP for oil and gas leasing stipulations. This alternative creates an excellent balance between resource protection and continued oil and gas development in an area of world class scenery and recreation. In addition, by Alternative E will not realistically decrease the reasonably foreseeable development (RFD) scenario for the planning area. Alternative E, while offering protection for a significant amount of land, still allows oil and gas development to proceed at the historic pace of the planning area.

The BLM should strengthen the Monticello Draft RMP by closing or imposing no-surface occupancy (NSO) stipulations on all proposed and existing ACECs and additional non-WSA lands with wilderness characteristics identified by SUWA in these comments to leasing. *See supra* (providing the BLM with new information regarding non-WSA lands with wilderness characteristics that were excluded or not identified in the Monticello Draft RMP). Almost all of these areas are found in the western portion of the planning area – which is neither developed to the same extent as the eastern portion of the planning area nor holds the same potential for development. In fact, the Monticello Draft RMP identifies very few existing leases or oil and gas fields in those areas. These restrictions would not realistically reduce any feasible and likely oil and gas development by a significant amount.

None of the five alternatives analyzed in the Monticello Draft RMP would result in any practical difference in terms of likely oil and gas development, were the BLM to consider only locations likely to produce oil and gas in the next fifteen years. Areas that are unleased and have no known oil and gas fields are much less likely to produce oil and gas during the next fifteen years than those areas that are already leased and have known oil and gas fields. Alternative E would still allow oil and gas development in the productive parts of the planning area at rates comparable to any of the other alternatives. At a minimum, the Monticello Field Office should therefore select Alternative E as its preferred alternative since it would not result in any reduction to the true reasonably foreseeable development scenario in the planning office while maximizing protection for sensitive resources. In fact, every alternative should also be modified to increase protection for sensitive areas – particularly in the western portion of the planning area – that contain little or no oil and gas potential, as this will have little or no impact on the reasonably foreseeable development scenarios in the planning area.

The planning area is generally a more speculative and risky location for oil and gas development than the more productive parts of the State of Utah. Data compiled by the Utah Division of Oil, Gas and Mining (DOGGM) demonstrates this. For example, in Duchesne County, Utah 98% of the 832 wells drilled since 2004 have produced oil or gas and in Uintah County, Utah 94% of the 2,014 wells drilled since 2004 have produced oil or gas.⁷ However, in San Juan County, which totally encompasses the planning area and

⁷ See DOGM, Utah Oil and Gas, Drilling Results – 2004 – Completed or Abandoned by County, http://oilgas.ogm.utah.gov/Statistics/WCR_county5.cfm; DOGM, Utah Oil and Gas, Drilling Results – 2005 – Completed or Abandoned by County, http://oilgas.ogm.utah.gov/Statistics/WCR_county4.cfm; DOGM, Utah Oil and Gas, Drilling Results – 2006 – Completed or Abandoned by County,

includes additional lands outside the planning area, 47% of the thirty-four wells drilled on all lands, public and private, since 2004 have produced oil or gas.⁸ On average, between 1991 and 2004 41% of the wells drilled were dry. *See* Reasonably Foreseeable Development Scenario (RFD) for Oil and Gas, RFD for the Monticello Planning Area 4 (July 1, 2005) (RFD for Monticello Planning Area). If recent trends continue, planning area will continue to drop in terms of oil and gas productivity and success. The BLM must more fully quantify this risk – that of unproductive wells and the accompanying environmental impacts – as well as the potential for mineral recovery (and the likely amounts to be recovered) and compare them to the gains to the environment from the most well-balanced alternative, Alternative E. It would be inappropriate – and runs counter to FLPMA’s multiple use mandate – to sacrifice the outstanding environmental resources, visual resources, and recreational resources of the planning area to speculation and risk.

Productivity has recently declined in the planning area. RFD for Monticello Planning Area at 6-7. From 1999 to 2004, only seventeen wells were drilled in the planning area for an average of 3.4 wells per year. *Id.* at 5. However, the Monticello Draft RMP fails to adjust its reasonably foreseeable development scenario to reflect these current rates of development in the planning area. This rate of development, according to BLM’s own calculations, would be accommodated by Alternative E. Although oil and gas development may be subject to fluctuations, the reasonably foreseeable development scenario significantly exceeds the realities of the planning area and must be revised.

A. The BLM’s Oil and Gas Leasing Alternatives Fail to Consider Known Oil and Gas Locations and Existing Leases in Calculating RFD Scenarios; Relies on an Excessively High Reasonably Foreseeable Development Scenario; and Should Include Additional Stipulations and Closures in Order to Protect Sensitive Areas

One shortcoming common to every alternative analyzed in the Monticello Draft RMP is that the BLM has not endeavored to match oil and gas leasing stipulations with actual known geologic reserves of oil and gas and areas of historical development. Furthermore, the RFD scenarios are based on the mistaken assumption that every acre in the planning area is equally as productive as any other acre in the planning area. However, the current and historic patterns of leasing and development show that this is not the case and that most of the non-WSA lands with wilderness characteristics – and those additional lands with wilderness characteristics described in this document – tend not to be productive areas or areas pursued for leasing.

Almost all of the present development is found in the eastern edge of the planning area. *See* Mineral Potential Report for the Monticello Planning Area, Maps 6a-11b (July 1, 2005). Nearly all of the current, valid leases are found in that same area. *Id.* at Map 2. In essence, the Blanding Sub-Basin and the eastern third of the Paradox Fold and Fault Belt are the only areas demonstrated to be productive and provide all of the oil and gas

http://oilgas.ogm.utah.gov/Statistics/WCR_county3.cfm; DOGM, Utah Oil and Gas, Drilling Results – 2007 – Completed or Abandoned by County, http://oilgas.ogm.utah.gov/Statistics/WCR_county2.cfm (as of Jan. 3, 2008).

⁸ *See id.*

developed in the planning area. *See id.* at Maps 2, 6a-11b; Monticello Draft RMP at Map 48. Most of the lands that would be closed to oil and gas leasing in Alternative E, in order to protect non-WSA lands with wilderness characteristics, are located in the western portion of the planning area and do not conflict with leases lands or known oil and gas fields. None of the following non-WSA lands with wilderness characteristics contain either current leases or oil and gas fields: Nokai Dome, Grand Gulch, Mancos Mesa, Valley of the Gods,⁹ Upper Red Canyon, Red Rock Plateau, Fort Knocker Canyon, Sheep Canyon, White Canyon, Gravel and Long Canyon, Dark Canyon, Butler Wash, Cheesebox Canyon, Harmony Flat, Lime Creek,³ San Juan River, Comb Ridge, Road Canyon, Fish and Owl Creeks, Arch Canyon, Shay Mountain, Bridger Jack Mesa, Harts Point, Indian Creek, Hatch Lockhart, and Gooseneck. *See* Mineral Potential Report for the Monticello Planning Area, Maps 2, 7a; Monticello Draft RMP at Map 28. The following non-WSA lands with wilderness characteristics have leases located inside portions of the areas but no oil and gas fields: Hammond Canyon, Fish and Owl Creeks, and Squaw and Papoose Canyon. *See* Mineral Potential Report for the Monticello Planning Area, Maps 2, 7a; Monticello Draft RMP at Map 28. In addition, this SUWA has provided the BLM with new information showing that additional non-WSA lands have wilderness characteristics that were not identified by the BLM. *See supra* (providing the BLM with new information regarding non-WSA lands with wilderness characteristics that were excluded or not identified in the Monticello Draft RMP). Most of these lands are unleased and not located near oil and gas fields, these areas include: Copper Point, the Needle, the Tabernacle, Lockhart Basin, Dripping Spring Basin, Allen Canyon, Arch Canyon, Red Rock Plateau, and Harts Point – along with other minor areas that SUWA has identified as having wilderness character. *See id.*

The limited number of leases – and in most areas the complete lack of any leasing – in the western portion of the planning area has little, if anything, to do with BLM leasing restrictions. Since only the WSAs are closed to leasing under the present management framework and the majority of the planning area is open subject only to standard leasing terms or special stipulations, the limited to non-existent number of leases in the western half of the office has more to do with limited oil and gas resources and lack of interest on the part of oil and gas development companies. *See* Monticello Draft RMP at Map 23; Mineral Potential Report for the Monticello Planning Area, Maps 2, 6a-11b.

Despite the near complete lack of existing leases and oil and gas fields in areas with wilderness characteristics, both those identified by the BLM and not identified, the RFD scenario for Monticello Draft RMP suggests that Alternative E could result in nineteen fewer wells than the current management plan (Alternative A). *Compare* Monticello Draft RMP at 4-13, *with id.* at 4-24. The closures anticipated in Alternative E, beyond what any of the other alternatives would close, would almost exclusively take place in the western portion of the planning area. *Compare* Monticello Draft RMP at Map 27, *with id.* at Map 23-26. The RFD for the Monticello Planning Area itself states that in these western areas “[l]ittle, if any, development is anticipated.” *See* RFD for Monticello Planning Area at 10-11. Thus, it is inexplicable that the Monticello Draft RMP suggests

⁹ If there is some overlap between existing leases and this non-WSA land with wilderness characteristics it is miniscule.

that Alternative E would result in nineteen fewer wells than Alternative A and from twelve to twenty-one fewer wells than the other three alternatives. *See* Monticello Draft RMP at 4-13 to -24. Alternative E does not close the productive, leased areas of the planning area and it would not likely result in much practical difference in terms of oil and gas development over the next fifteen years.

The Monticello Draft RMP makes a number of inaccurate assumptions that lead to this error. First, the Monticello Draft RMP assumes that each acre of the planning area is likely to be just as productive as the next acre in terms of oil and gas development potential. Monticello Draft RMP at 4-87. However, this is clearly not the case as all known oil and gas fields are located in the eastern portion of the planning area, very few leases exist outside this area, and the BLM's own RFD for Monticello Planning Area suggests that different areas have different development potential. *See* Mineral Potential Report for the Monticello Planning Area, Maps 2, 6a-11b; RFD for Monticello Planning Area at 9-11. Simply applying an across-the-board calculation based on the percentage of available land does not accurately reflect the true likelihood of development in a given area. *See* Monticello Draft RMP at 4-87 (assuming that the number of wells likely to be drilled would be proportional to the acreage of land open leasing). Second, the Monticello Draft RMP assumes that areas with NSO stipulations are not available for leasing. *See id.* at 4-13, 4-18, 4-20, 4-22, 4-24. Such an assumption ignores the fact that the BLM offers leases with NSO stipulations all the time and the possibility that such areas might be reached by directional drilling.¹⁰ *See, e.g.,* BLM, Utah State Office,

¹⁰ Directional drilling allows companies to access fossil fuel reserves diagonally, thereby reducing the footprint of new extraction when located on existing pads and permitting operators to reach areas that are not located directly below the well pad. This approach has been demonstrated to be cost-effective on many BLM lands in Utah. The Executive Branch even touts the possibility of directional drilling at a distance of up to 5-6 miles (see below). Directional drilling from an existing well pad or outside an area with NSO stipulations allows for access to underground resources without disturbing surface areas that may contain NSO stipulations.

The Executive Branch has made it clear that directional drilling and the employment of low-impact drilling technologies should be a priority in the implementation of energy development on public lands:

Enormous advances in technology have made oil and natural gas exploration and production both more efficient and more environmentally sound. Better technology means fewer rigs, more accurate drilling, greater resource recovery and environmentally friendly exploration.

High-tech drilling allows us to access supplies *five to six miles* away from a single compact drilling site, leaving sensitive wetlands and wildlife habitats undisturbed . . .

“Overview,” *National Energy Policy*, The White House, May 2001 (emphasis added).¹⁰ The Energy Policy also touts “highly sophisticated directional drilling that enables wells to be drilled *long horizontal distances* from the drilling site . . .” *Id.* at “21st Century Technology: The Key to Environmental Protection and New Energy Production” (emphasis added). Pursuant to making these priorities effective “on the ground,” it is incumbent upon BLM, as custodian of the public lands, to actively encourage environmentally sound development by carefully considering directional drilling alternatives.

The Interior Board of Land Appeals has even rejected environmental analyses that did not contain fully analyze directional drilling. *See, e.g., Biodiversity Associates*, IBLA 2001-166 (2001) at 9 (where the Board set aside a BLM FONSI where “the record fails to . . . provide a rational basis for failing to analyze

Notice of Competitive Oil and Gas Lease Sale, February 19, 2008, at 1-13, 20-21 (offering the following leases, all of which have portions with NSO stipulations: UTU 85941, UTU 85942, UTU 85943, UTU 85944, UTU 85945, UTU 85946, UTU 85948, UTU 85949, UTU 85950, UTU 85951, UTU 85953, UTU 85954, UTU 85955, UTU 85956, UTU 85957, UTU 85959, UTU 85960, UTU 85962, UTU 85984, and UTU 85985). None of the other RMPs currently being drafted have used such an assumption. The Monticello planning area itself has even seen directional drilling. *See* RFD for Monticello Planning Area at 11.

Furthermore, Alternative E would protect unique, sensitive areas. Although, such areas may have little attraction to most oil and gas developers, the risk remains that a company could attempt a speculative endeavor in these sensitive lands. This sort of speculative development is almost certain to result in failure at a high cost to sensitive public lands. *See supra* (comparing drilling success rates in Duchesne and Uintah counties versus San Juan County and the planning area). For this reason the BLM should close or severely restrict oil and gas development in these environmentally sensitive lands with marginal oil and gas development potential.

Thus, BLM should modify alternatives B through E so that they will close additional environmentally sensitive areas to leasing – or to surface occupancy – since such closures are unlikely to limit feasible oil and gas production in the planning area. The BLM should either close to leasing or impose no surface occupancy restrictions on all proposed ACECs and all non-WSA lands with wilderness characteristics. Few, if any, of these areas contain authorized leases and all are extremely environmentally sensitive and deserving of protection from these damaging activities. *See supra* (discussing qualities of non-WSA lands with wilderness characteristics). These areas also contain such values as critical habitat for the Mexican spotted owl, bald eagle habitat, elk habitat, black bear habitat, bighorn sheep habitat, mule deer winter range, and crucial year-round mule deer habitat. Monticello Draft RMP at Maps 60, 65-68, 73-76, 86. All of these values could be placed at risk by leasing in these areas.

All lands containing critical habitat for the Mexican spotted owl should either be closed to leasing or restricted to no surface occupancy. *See* Monticello RMP at Map 86. Furthermore, the BLM should either close to leasing or place no surface occupancy stipulations on southwest willow flycatcher habitat and sage grouse crucial year-round habitat. *See id.* at Maps 66-68, 84.

As indicated above, productivity has recently declined in the planning area. RFD for Monticello Planning Area at 6-7. From 1999 to 2004, only seventeen wells were drilled

fully the alternative of directional drilling...”). In *Biodiversity Associates*, BLM had offered “without elaboration” directional drilling “[a]lternatives to the proposed action [that] were considered but dropped from analysis due to geologic and economic restraints at the time the EA was written.” *Id.* at 8.

The Monticello Draft RMP cannot simply dismiss the potential development of areas with NSO stipulations when the IBLA and the Executive Branch have made it clear that not only is directional drilling feasible, but that it must be considered by the BLM in oil and gas projects.

in the planning area for an average of 3.4 wells per year. *Id.* at 5. However, the Monticello Draft RMP fails to adjust its reasonably foreseeable development scenario to reflect these current rates of development in the planning area. Instead the Monticello Draft RMP uses an average yearly drilling rate of 13 wells per year. *Id.* at 12. However, had the BLM used RFD rates more reflective of the slowing in the planning area – 3.4 wells per year – the RFD scenario under Alternative E, even using the improper assumptions of the Monticello Draft RMP, would easily accommodate this figure. For the next fifteen years at 3.4 wells per year, the planning area could expect to see approximately fifty-one wells. Of these fifty-one wells in the planning area, only 38.2 % would be on BLM lands, thus only about nineteen wells would be drilled on BLM lands. *See* Monticello Draft RMP at 4-87. Alternative E, according to the BLM’s calculations, would result in approximately fifty-four wells on BLM lands, well above the present trends in oil and gas development. *See* Monticello Draft RMP at 4-24.

The BLM must develop a new reasonably foreseeable development scenario that is actually tied to productive oil and gas fields and that better reflects the current trends in oil and gas development in the planning area. The present method completely ignores the fact that not all portions of the planning area are as productive as other portions. None of the alternatives close certain, environmentally sensitive areas that should be closed, which hold little or no oil and gas production potential and are mostly unleased.

B. The BLM Must Consider a No Leasing Alternative

As part of its analysis the BLM must consider a no leasing alternative – in addition to a no action alternative. The current draft of the RMP fails to consider such an alternative. Federal courts have made clear that a no leasing alternative should be a vital component in ensuring that agencies have all possible approaches before them. *See, e.g., Bob Marshall Alliance v. Hodel*, 852 F.2d 1223, 1228 (9th Cir. 1988). The no action alternative, Alternative A, would simply be a continuation of the existing management plans. Monticello Draft RMP at 2-1 to -2. It does not analyze the possibility of a no leasing alternative. The no leasing alternative has never been analyzed in a prior, Monticello Field Office NEPA planning document. Hence, the BLM has never had before it the possibility of totally abandoning oil and gas leasing in the Monticello planning area, something it is required to do. *See Bob Marshall Alliance*, 852 F.2d at 1228.

C. The BLM Must Compare the Trade Offs, If Any, Between the Environmental and Recreational Benefits of an Alternative Even More Protective than Alternative E with the Preferred Alternative

The Monticello Draft RMP does not contain a rational analysis of the additional environmental and recreational benefits of Alternative E – as well as variation including the additional closures and stipulations discussed above – with the preferred alternative. The BLM must take a hard look at whether any actual trade off exists between the preferred alternative and the additional protections of an alternative that include all of the closures and stipulations found in Alternative E as well as the additional closures and stipulations recommended above. As discussed, if RFD scenarios were actually

reflective of current trends in oil and gas development in the planning area or were based on actual development potential rather than blanket average production rates, Alternative E would more than adequately accommodate oil and gas development rates. Although, the additional stipulations and closures discussed above in these comments could result in some slight decrease in the true RFD scenario for the planning area, the BLM has not endeavored to calculate how additional protections would affect the RFD scenario or whether the benefits from such additional closures and stipulations would not outweigh the preferred alternative. The BLM must clearly analyze these differences and present them to the public in a coherent and succinct format.

VIII. RECREATION

RECREATION AND SPECIAL RECREATION MANAGEMENT AREAS (SRMAS)

The recreation resource on public lands is becoming increasingly valuable: more people want to recreate on a finite amount of public land. Many recreationists desire solitude, clean air, clean water, vast undeveloped landscapes, and a place to witness healthy, natural systems thriving with native plants and wildlife. The Draft RMP should accommodate those desires.

As a preliminary matter, it appears that the BLM may have attempted to address the minimization criteria, requiring it to minimize ORV harm to the environment and conflicts with other users, simply by creating SRMA's. If this is the case, then we emphasize that the creation of SRMAs does not, in itself, satisfy the Executive Orders and regulations pertaining to ORV use. See, Executive Orders (Executive Order No. 11644 (1972) as amended by Executive Order No. 11989 (1977)) and BLM's regulations (43 C.F.R. § 8342.1). More particularly, it does not relieve the BLM from the duty to apply the minimization criteria to each of the ORV routes and areas it proposes to designate in the plan. The regulations and the criteria require minimization throughout the planning area, not just in specifically defined areas such as the SRMAs.

As an initial matter, there are several discrepancies between the total acreage provided in the summary of SRMAs on page 2-3 and the actual total acreage as added up in each of the alternatives. The following specific inconsistencies need to be corrected in the proposed final RMP, both in describing the SRMAs and responding to comments:

	Alt. A	Alt. B	Alt. C	Alt. D	Alt. E
SRMA Actual in Alternatives	229,490 ac.	508,856 ac.	508,512 ac.	505,018 ac.	508,856 ac.
SRMA Summary on p. 2-3	15,100 ac.	528,856 ac.	525,512 ac.	525,618 ac.	528,856 ac.
Difference Between Summary and Actual	- 214,390 ac.*	+ 20,000 ac.	+ 17,000 ac.	+ 20,000 ac.	+ 20,000 ac.

*** Canyon Basin SRMA (214,390 ac.) not included in the summary for Alt. A.**

In addressing the improvements needed to the agency's approach to recreation management, we first want to point out that we were encouraged to see the statement of stewardship ethic in appendix E. It is important that BLM provide the public with information as to how it envisions the lands it is entrusted to manage and what that means to the users and agency alike.

The methods used to inventory and provide management prescriptions for recreation in general need to be overhauled. There is a complete disconnect between the Recreation Opportunity Spectrum (ROS) that was used as an inventory tool (DRMP/EIS, p. 3-75; Map 29) and the undefined physical setting descriptions for each SRMA (DRMP/EIS, Appendix E). The failure to consistently apply the same methodology throughout the DRMP/EIS for recreation opportunity and recreation management prescriptions forecloses the public's opportunity to provide the agency meaningful comments on this aspect of the DRMP/EIS.

Of particular concern is that there are no definitions provided for the categories used for recreation management in Appendix E. Terms such as "backcountry, middlecountry, and frontcountry" are meaningless in this DRMP/EIS without describing what they are and the implications they have for recreation objectives and goals.

In addition, the BLM must name and describe the methodology it is using and how it will be applied. It is apparent from the title only on page E-6 that the BLM is applying Benefits Based Management (BBM). If the BLM wishes to use such a method, it must describe what this means and apply it uniformly throughout the DRMP/EIS.

There is no sensible way to interpret how the Monticello FO will manage recreation in this area and the public should not have to blindly guess at the methodology that the BLM is using going forward. This oversight is in direct contradiction to the purpose and intent of NEPA. These errors must be corrected and the public given a reasonable opportunity to comment on this important issue.

One example of a thorough analysis utilizing the ROS classifications is in the Price Field Office Draft RMP (Price DRMP). The Price DRMP uses the common six classification standards for recreation opportunity. (Price DRMP at 3-45). The classifications are clearly defined and provide criteria on how far each should be from a road, minimum size, and evidence of human use. (Price DRMP, Appendix 15). Moreover, the Price DRMP describes the methodology it is using and how it is using it.

The dual methods used in the DRMP/EIS for recreation standards are arbitrary. In order to classify explicable and comprehensible recreation opportunities, the BLM must identify and explain its methodology and this methodology used must be uniform throughout the DRMP/EIS.

We encourage the Monticello FO to follow the Price FO in using the classic ROS standards that are defined by detailed criteria and measurement data. The Monticello FO

should classify lands under the ROS **to both describe the inventory used and the management approach** using the most protective categories (such as primitive) in order to achieve the management goals and objectives as described in the DRMP/EIS.

Recommendations: It is inappropriate for the BLM to use one method to inventory recreation opportunity and another undefined method to set management prescriptions for recreation of SRMAs. The BLM must correct this in order for the public to provide meaningful comments on this aspect of the DRMP/EIS.

SPECIAL RECREATION PERMITS

The issuance of special recreation permits (SRPs) on public lands is becoming more of a concern due to some associated uses (namely, ORV events) causing increased degradation and disturbance. Many SRPs are issued to large groups that can have irreparable impacts on the land and can lead to a disruption of other users' experiences of public lands.

A. The BLM should revise and choose Alternative E for providing the most protective and reasonable criteria and restrictions on SRPs

In general, we support the BLM choosing Alternative E, rather than the current preferred alternative (C) in order to provide the proper protection for lands and other recreationists in the planning area. Criteria for requiring an SRP provided in Alternative E that are more appropriate for protecting resources than those in Alternative C include:

- Group size of up to 25 people for all day uses (15 for overnight) in the ERMA before an SRP is required.
- Motorized vehicles/ORVs up to 15 on designated routes before an SRP is required.
- Non-motorized, mechanized vehicles up to 15 on designated routes before an SRP is required.
- Group of up to 10 riding and/or pack animals before an SRP is required.
- No competitive mechanized or motorized events in non-WSA lands with wilderness characteristics or in WSAs.
- Commercial use permits authorized in conjunction with organized events or when the use supports resource protection and management.
- Arch Canyon closed to OHV use and commercial motorized/mechanized use.
- No commercial motorized/mechanized events/tours in crucial antelope habitat restrictions April 15 through June 30 (as opposed to May 1 through June 15 in Alt. C).
- No commercial motorized/mechanized events/tours in crucial deer and elk winter range November 1 through May 15 (as opposed to November 15 through April 15 in Alt. C).
- Balloon Festival limited to 35 balloons with their associated support vehicles.

- Commercial hiking tours in Comb Wash and Butler Wash limited to 10 individuals. A permit system would be established for commercial day and overnight use.
- Commercial camping limited to designated areas.
- Commercial hiking to cultural sites limited to designated trails, and human waste must be packed out.
- Ropes and other climbing aides not allowed to access cultural sites.
- Commercial guides using dogs to hunt/pursue mountain lion and black bears would not operate in areas where dogs are prohibited.
- No commercial motorized/mechanized use in Cedar Mesa ACEC.

These criteria, presented in Alternative E, will assist BLM better protect the natural resources and is the most appropriate of the alternatives in the DRMP/EIS. The BLM should also adopt new criteria or revise several aspects of the criteria presented in order to effectively manage the increase in commercial and competitive group activities that can have a significant impact on the lands in the Monticello FO.

Although Alternative E is the best choice presented in the DRMP/EIS, there are several changes that the BLM should make before adopting this alternative, including:

- It should be made clear in both the management prescriptions for SRMAs and the SRPs what the criteria and restrictions for SRPs issued in individual SRMAs will be. Although restrictions are provided in the alternatives for SRMAs, it is unclear how SRPs in these areas will be administered to fulfill these prescriptions.
- There is a restriction in Alternative E for car camping of more than 10 vehicles or more than 50 people before an SRP is required. This conflicts directly with the first limitation on group size of 15 people for overnight use in ERMA.
- Allowing 350 vehicles for special commercial ORV events in all alternatives for an SRP could create an unmanageable and unenforceable situation for the BLM. Some of the largest ORV events in the nation, such as the Jeep Safari, Rhino Rally and the Tri-State ATV Jamboree, are held in Southern Utah on BLM lands. These events are growing in number of participants and BLM must analyze and assess the impacts of such large commercial events and the DRMP should set a cap of the number of vehicles allowed in order to minimize damage to natural resources and to minimize conflicts with other users. BLM should offer and choose an alternative that limits such events to a lower, manageable number of vehicles, specify what type of vehicles will be permitted, how BLM will mitigate environmental impacts from such events, and where and how often these events may occur. In addition to setting a cap for the number of vehicles for commercial ORV events, the DRMP must include a limit on the number of vehicles allowed on each "route" each day of a commercial event. BLM must weigh the impacts and displacement caused by large commercial events and mitigate these impacts by setting a reasonable per route/per day limit in the DRMP.

While the criteria and restrictions that the DRMP/EIS provides are a good start, further definition of how the criteria will be applied in future management actions should also be incorporated. This would provide the BLM and the general public a clearer and more complete picture of what is expected for SRPs to be issued in certain areas.

One method that the Monticello FO can use to show how to apply their restrictions can be found in the Price Field Office Draft RMP (Price DRMP). In Appendix 14 of the Price DRMP, there are around ten different factors used to evaluate how an SRP will be classified.¹¹ These factors are defined and then compared in a simple permit classification matrix consisting of Classes I through IV (with I being for smaller and less impacting events and IV being for larger, more impacting events). Each Class also has an example of the type of event that may fit into the category. After the Class is determined, the BLM can then look to see how permit types fit into ROS Classifications and/or SRMA/ERMA. Various SRMAs can be broken into classes and it is easy to see what types of uses and events should be permitted for each area.

B. The BLM has failed to take a hard look at the environmental impacts stemming from issuance of SRPs

The environmental consequences of the issuance of SRPs pursuant to the alternatives lacks the necessary detailed analysis that is required under NEPA. The BLM must take a “hard look” at the environmental consequences of a proposed action and the requisite environmental analysis “must be appropriate to the action in question.” *Metcalf v. Daley*, 214 F.3d 1135, 1151 (9th Cir. 2000); *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 348 (1989). In order to take the “hard look” required by NEPA, BLM is required to assess impacts and effects that include: “ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, **whether direct, indirect, or cumulative.**” 40 C.F.R. § 1508.8. (emphasis added). The NEPA regulations define “cumulative impact” as:

the impact on the environment which results from the **incremental impact of the action when added to other past, present, and reasonably foreseeable future actions** regardless of what agency (Federal or non-Federal) or person undertakes such other actions. **Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.**

40 C.F.R. § 1508.7. (emphasis added).

A failure to include a cumulative impact analysis of actions within a larger region will render NEPA analysis insufficient. *See, e.g., Kern v. U.S. Bureau of Land Management*, 284 F.3d 1062, 1078 (9th Cir. 2002) (analysis of root fungus on cedar timber sales was necessary for entire area).

The DRMP/EIS fails to take the requisite hard look at impacts that will occur from the issuance of SRPs. For example, in the discussion of impacts to the ERMA from the preferred alternative for SRPs, the DRMP/EIS reiterates what is required for the SRPs

¹¹ Evaluation factors include, but are not limited to: Sensitivity of Site, Potential Environmental Effects, Size of Area, Duration of Use, Number of Participants, and BLM Monitoring and Inspection Requirements.

and makes broad general statements; this is not an analysis of the impacts. On page 4-185, the DRMP/EIS provides:

Like Alternative B, providing SRPs for numbers of people, vehicles, and events at set limitations allows the BLM to maintain control of activities on public lands and also allows the BLM to guide large groups and events to areas where there is the least amount of conflict with or impacts to natural resources. However, number limits would be considerably higher under this alternative than under Alternative B, and therefore, there could be additional impacts from more people causing more surface disturbance.

What are these additional impacts that would not be present in Alternative B? What have been the impacts from SRP events and activities in the past and what impacts does the BLM expect from this use in the reasonably foreseeable future from current scientific data? Providing such details is not only feasible but necessary under NEPA, CEQ regulations, and the relevant case law in order for BLM to take a hard look at the impacts from its proposed actions.

Recommendation: Given the alternatives in the DRMP, BLM should choose Alternative E rather than the preferred alternative in order to better protect the planning area from damage caused by events requiring an SRP. However, the criteria provided in Alternative E should be refined to include more protective and manageable guidelines before an SRP is issued. The Monticello FO should also consider using the model provided by the Price Field Office Draft RMP for classification of SRPs to show what uses may be appropriate/inappropriate in specific areas.

In addition, the BLM must evaluate the direct, indirect, and cumulative impacts occurring from issuance of SRPs under the prescriptions in the DRMP/EIS in order to take a “hard look” under NEPA and provide the results for public review and comment.

IX. CULTURAL RESOURCES

SUWA incorporates comments submitted separately by Colorado Plateau Archaeological Alliance (CPAA).

X. MANAGEMENT OF WILDERNESS STUDY AREAS

A. Transportation Management within WSAs must minimize ORV motorized routes, which can impair wilderness characteristics.

As acknowledged in the DRMP/EIS, BLM is obligated to manage the WSAs in accordance with the Interim Management Policy (IMP) for Lands Under Wilderness Review (BLM Manual H-8550-1), which requires that WSAs are managed to protect their wilderness values. DRMP/EIS, p. 2-50. The IMP requires management of the WSAs in the Monticello Field Office in accordance with the nonimpairment standard, such that no activities are allowed that may adversely affect the WSAs’ potential for

designation as wilderness. As stated in the IMP, the “overriding consideration” for management is that:

. . . preservation of wilderness values within a WSA is paramount and should be the primary consideration when evaluating any proposed action or use that may conflict with or be adverse to those wilderness values. (emphasis in original)

The IMP also reiterates that WSAs “must be managed to prevent unnecessary or undue degradation.” Additional directives regarding management of ORVs in WSAs can be found in BLM’s regulations, which require BLM to ensure that areas and trails for ORV use are located “to minimize damage to soil, watershed, vegetation, air, or other resources of the public lands, and **to prevent impairment of wilderness suitability.**” 43 C.F.R. § 8342.1(a) (emphasis added). BLM is also obligated to close routes to ORV use if ORVs are causing or will cause considerable adverse effects on wilderness suitability. 43 C.F.R. § 8341.2.

The DRMP/EIS also acknowledges that WSAs must be managed as Visual Resource Management (VRM) Class I. DRMP/EIS, p. 2-50. All of the alternatives appropriately designate the WSAs as VRM Class I. DRMP/EIS, p. 2-58. The object of VRM Class I is “to preserve the existing character of the landscape” and management is so that the “level of change to the characteristic landscape should be very low and must not attract attention” *See*, BLM official Visual Resource Management information website at: <http://www.blm.gov/nstc/VRM/vrmsys.html>.

While portions of the DRMP/EIS set out an appropriate summary of the standards for managing WSAs and how those standards should apply to permitting continued use of ways in WSAs, the analysis and management approach set out in the document do not comply with these standards.

As a threshold matter, we would like to emphasize that continued motorized use in WSAs can damage wilderness suitability and therefore should be prohibited under both the interim management policy and the ORV regulations. Further, the use of ORVs and increases in their use would be inconsistent with VRM Class I. Alternatives B and E provide for all of the WSAs to be closed to ORVs, which is appropriate. Draft RMP/EIS, pp. 2-50. All motorized ways in WSAs should be closed and restored. The DRMP/EIS provides for designation of “routes” in the WSAs in the Preferred Alternative (Alternative C) and in Alternatives A and D. *Id.* In order to comply with the IMP, any designations should refer only to “ways,” rather than routes.

Further, the DRMP/EIS directs readers to “see below for miles of route per WSA” (*Id.*), but this mileage never appears anywhere in the DRMP/EIS. The DRMP/EIS (at p. 2-55) does identify the number of ways that are open in the Fish Creek, Road Canyon, Mancos Mesa and Grand Gulch WSAs for Alternative C, but again without any mileage (while Table 3.52 identifies miles of ways in each WSA, there is no indication how many ways this encompasses), and there is no information at all regarding the ways or mileage left open in Alternative D. The DRMP/EIS therefore prevents the public from assessing the degree of motorized use that the alternatives propose or comparing them and,

presumably, also indicates that the BLM has not actually made any such analysis. This conclusion is essentially proven by the analysis of impacts to WSAs in the DRMP/EIS which concludes that “there would be no impacts to the WSAs” without discussing the variation in motorized ways or the potential impacts that could arise from use of the ways or illegal travel from those ways (the types of impacts that are acknowledged elsewhere in the plan in association with ORVs), and yet somehow proclaims that “WSAs would limit OHV travel and to designated routes [*sic*] would enhance and protect the wilderness characteristics of these lands.” DRMP/EIS, p. 4-415. In this same section, the DRMP/EIS acknowledges that limiting ORV use will enhance and protect wilderness characteristics¹², yet declines to acknowledge that less ORV use will be of more benefit to the wilderness values. Accordingly, both the analysis and the conclusion regarding motorized use in WSAs are insufficient and unsupported.

The DRMP/EIS (at p. 2-50) does provide that use of designated routes “could continue as long as the use of these routes does not impair wilderness suitability” but “if use and/or non-compliance are found through monitoring efforts to impair the area’s suitability for wilderness designation, BLM would take further action to limit use of the routes, or close them.” Accordingly, continued use of these ways in the WSAs “is based on user compliance and non-impairment of wilderness values.” *Id.* However, there is no detail provided in the DRMP/EIS regarding the types of monitoring that will occur to determine if users are complying with use restrictions or if wilderness values are in fact being impaired; nor is there any commitment to the types of actions that would be taken if such problems are actually documented (there is only an allusion to possibly closing the ways, or simply imposing some type of “limit” on use).

The DRMP/EIS acknowledges that management of WSAs will yield “long-term, beneficial impacts” for cultural resources, providing protection by limiting “surface disturbing activities and access.” DRMP/EIS, pp. 2-70, 2-73. Similarly, the overlap with WSAs would provide long-term benefits to recreation resources, non-motorized and non-mechanized recreation users, and users of wild and scenic river segments. DRMP/EIS, pp. 2-97 – 2-99, 2-103 2-104. However, this DRMP/EIS omits any discussion of the important benefits to wildlife (including special status species), other biological or environmental characteristics from closing WSAs to ORV use.

In order to fulfill the mandates of the IMP, BLM should select the alternative which causes the least harm and provides the most benefits to the wilderness characteristics in the WSAs – Alternative E. In addition, any motorized routes left open in WSAs must meet the criteria of the IMP and the BLM’s ORV regulations, showing that they do not impair wilderness suitability. BLM must vigilantly monitor the conditions of these routes and their impact on wilderness suitability, and ensure that they are closed if use of the routes impair wilderness values. The approach set out in IM ID-2008-016 (Vehicle Use in Wilderness Study Areas (WSAs)) recently issued by the BLM Idaho State Office (and attached for your reference) is instructive.

¹² And, even though this DRMP/EIS inexplicably refuses to acknowledge it, the BLM well knows that generally “[u]se of OHVs within WSAs could impact wilderness characteristics.” *See*, Monticello Draft RMP/EIS, p. 4-415.

IM ID-2008-016 was issued “to reinforce existing policy and guidance” and, therefore, is equally applicable to the Utah BLM’s management of vehicle use in WSAs. The IM emphasize the importance of monitoring ORVS, due to “the rapid growth” of their use, to determine if the volume and nature of the uses is leading to impairment of wilderness character to provide “a basis for management decisions that address continuing restricting, or prohibiting existing vehicle uses.” The BLM’s obligations, as described in the IM, include “determining if past or existing vehicle use or mechanized transport in WSAs has caused impairment to wilderness character.” The IM also requires the BLM to document in an RMP:

- where and what vehicle uses were occurring in the WSA prior to the passage of FLPMA, which effectively creates a baseline
- past monitoring and those to be used “in the future to determine if wilderness values have been impaired or not by continued vehicle use”

In discussing monitoring, the IM reiterates that: “Because the preservation of wilderness values within a WSA is always of paramount importance, the BLM has an obligation to periodically evaluate the impact of use on ways that have been allowed to continue in relation to wilderness values, and if use of these ways is impairing such values, to take measures the end the impairment.” Incorporating the directives of this IM into the Monticello RMP and complying with them, will ensure that the BLM is in compliance with the IMP.

Recommendations: All routes designated in WSAs should be specifically identified in the RMP as “ways” and distinguished from “roads,” since WSAs are, by definition, roadless. All ways should also be identified as temporary. The RMP must acknowledge the likely damage from permitting ongoing ORV use in WSAs and the benefits to wilderness values from limiting such access, and complete a thorough analysis of each alternative. In general, in order to comply with the IMP and BLM’s regulations regarding motorized use, the RMP should seek to minimize ORVs in WSAs, permitting ways only if they do not impair wilderness suitability or damage wilderness characteristics. For any ways that will be retained, the BLM must show that they are permissible under the standards of the IMP and the regulations, and also show a compelling reason as to why it is necessary for the way to be open to ORV use. Further, the RMP must make specific commitments and include a protocol to monitor the potential impacts on wilderness suitability and wilderness characteristics of any ways left open to ORVs in WSAs and to immediately close these ways (and proceed with restoration) if impacts are identified. The BLM should adopt the approach to management set out in IM ID-2008-016, including creating a baseline of conditions in the WSAs, setting out a detailed monitoring program, incorporating standards for determining if use of these ways is impairing wilderness values, and committing to take measures to end any such impairment immediately, including through closure and restoration of ways.¹³

¹³ The Monticello Field Office has or should have monitoring data for the thirteen WSAs managed under this RMP, and must make this available in the RMP. In addition, if the monitoring data indicates that ORV use is impacting the WSAs (i.e. riders not staying on the ways, ORV use impacting the plants, soils,

Closure and restoration of all ways in WSAs is most consistent with the IMP and with protection of the other natural and cultural resources in the Monticello Field Office. Alternatives B and E are most consistent with applicable standards for management of WSAs.

B. If released, WSAs should be managed to protect their wilderness characteristics.

In designating WSAs, the BLM has recognized that these areas have wilderness characteristics. As discussed in greater detail in these comments, BLM has acknowledged the value of wilderness characteristics and provided for ongoing management to protect this resource outside WSAs. Accordingly, if Congress releases WSAs from management, then such areas can still be managed to protect these characteristics. This DRMP/EIS also identifies lands with wilderness characteristics outside WSAs and provides for such management.

The DRMP/EIS provides that if any of the WSAs are released from wilderness consideration by Congress, then “site-specific NEPA would be completed to change the management prescriptions” and otherwise “proposals in the released area would be examined on a case-by-case basis for consistency with the goals and objectives of the RMP decisions.” DRMP/EIS, pp. 2-7, 2-50. The DRMP/EIS does not provide for any other specific management, except for Alternative A, which includes Squaw Canyon and Cross Canyon WSAs in the “open” classification, permitting cross-county ORV use. DRMP/EIS, p. 2-54.

This approach does not give sufficient consideration to protecting the wilderness characteristics of these areas and designating these lands as “open” to cross-country ORV use would certainly destroy their wilderness values. The Supplement to the Price Field Office RMP and the Supplement to the Vernal RMP both provide for management of released WSAs to protect their wilderness characteristics. Supplement to Price RMP, p. 2-22; Supplement to Vernal RMP, p. 2-16.

Recommendation: In order to ensure ongoing protection of the wilderness characteristics in the WSAs, the Preferred Alternative should provide for the WSAs to be managed to protect wilderness characteristics in the event that all or part of any WSA is released by Congress.

XI. CLIMATE CHANGE

wildlife species, etc), then BLM must take appropriate action in the RMP and prohibit ORV use on the ways and the “open” area of the WSAs. If the Richfield Field Office has documentation of the condition of these ways and proposed open area prior to the passage of FLPMA and/or as of the date the WSAs were designated, this information must be included in the DRMP as well, and should be incorporated into BLM’s analysis and decision-making process.

The DRMP/EIS Failed to Analyze the Impacts of Climate Change to the Resources of the Monticello Field Office

There is broad scientific consensus that climate change is occurring, with sweeping changes that will affect all portions of the Earth, including the Monticello Field Office. Yet the DRMP/EIS fail to mention, much less analyze, predicted changes in the Colorado Plateau. This omission is a significant oversight given that federal departments and agencies including the Department of Interior, the Environmental Protection Agency, the U.S. Geological Survey and the Government Accountability Office have all published reports and/or provided public statements and congressional testimony acknowledging the impacts of climate change on public lands resources. This oversight amounts to a failure to take the necessary “hard look” at the challenge of resource management in the Monticello Field Office.

All agencies within the Department of Interior are required to make sure “climate change impacts are taken into account in connection with Departmental planning and decision making” according to an order from Secretary Babbitt from January 2001. This order specifies that agencies such as the BLM will “consider and analyze potential climate change impacts ... when developing multi-year management plans.” *See* SO#3226.

There is little doubt about whether the BLM is aware that climate change is an issue. Earlier this year, Department of Interior Deputy Secretary Lynn Scarlett told the House Interior Appropriations Subcommittee that global climate change could dramatically reshape America’s public lands with increased species extinctions and wildfire. Scarlett is quoted in media stories as saying, “On the ground, we’re seeing a lot of changes . . . some of them dramatic.” *See* <http://www.earthportal.org/news/?p=93>. Ron Huntsinger, the BLM’s own science coordinator, said, “[w]e can anticipate further reductions in the level of allowable uses on public lands due to the loss of productivity and capacity . . . The results are more fragile ecosystems, a greater susceptibility to the outbreaks of attacks by parasites and disease, increased vulnerability to wildland fire and erosion and an overall reduction in the carrying capacity of the land.” *Id.* (Ironically, this same article notes that “BLM and the Forest Service . . . considering climate change when they development management plans for individual units,” which is demonstrably untrue in the case of the Monticello draft plan.).

The BLM’s observations and predictions coincide with the findings of an array of climate specialists and other scientists. (We have provided just some of these studies as an attachment to these comments.) For example, a recent study by the U.S. Geological Survey predicts that precipitation in the upper Colorado River basin, which includes the Monticello Field Office, will decrease by 15-20%, and that temperatures will rise by 4-6 degrees Celsius due to climate change. *See* U.S.G.S., “Impacts of Climate Change on Water and Ecosystems in the Upper Colorado River Basin,” August 2007. Increased temperatures are expected to decrease runoff by as much as 30%, with dry soil conditions worse than those experienced during the Dust Bowl and subsequent droughts. *Id.* In fact, dust storms are predicted, some of which obscure highway visibility and create safety risks. These predictions are conservative. *Id.*

The report further notes that soil disturbing activities such as recreation, grazing and energy exploitation “reduce or remove the natural components that stabilize desert soils [which] increases soil loss through wind and water erosion.” *Id.* These uses also enhance the invasion of exotic vegetation, which are much more likely to exacerbate the frequency and intensity of wildfire. *Id.* This creates a feedback loop in which soil disturbance decreases ecosystem resilience to land use impacts [like roads and ORV use] and further increases the frequency and magnitude of erosion events. *Id.* Impacts to riparian areas and the native wildlife that depend on them will be devastating where ORV use denudes soil, creating gullying and dropping the water table too deep for plants to reach. *Id.*

A U.S. Climate Change Science Program working group published a report on September 11, 2007 which predicts and elaborates on the widespread impact of climate change on public lands in areas like the cold deserts of the Colorado Plateau. *See* “The effects of climate change on agriculture, land resources, water resources and biodiversity,” <http://www.climatescience.gov/Library/sap/sap4-3/default.php>. The report notes that “the climate changes that we can expect are very likely to continue to have significant effects on the ecosystems of the United States.” *Id.* at 3. These impacts include:

- Climate effects on disturbances such as fire, insect outbreaks and wind and ice storms are very likely important in shaping ecosystem structure and function;
- Grasslands will transform into woody shrub lands with reduced capacity for water absorption and greater vulnerability to channelization and erosion;
- Droughts early in the 21st Century are likely to increase rates of perennial plant mortality in arid lands, accelerate rates of erosion and create opportunities for exotic plant invasions;
- Proliferation of non-native annual and perennial grass is virtually certain to predispose sites to fire. The climate-driven dynamics of the fire cycle is likely to become the single most important feature controlling future plant distribution in U.S. arid lands;
- Climate change is likely to result in shrinking water resources and place increasing pressure on montane water sources to arid land rivers, and increase competition among all major water depletions in arid land river and riparian ecosystems;
- Major disturbances like floods and droughts that structure arid land river corridors are likely to increase in number and intensity (with associated increases in erosion and native plant loss);
- Land use change, increased nutrient availability, increasing human water demand and continued pressure from exotic species will act synergistically with climate warming to *restructure* the rivers and riparian zones of arid lands;
- Climate change will increase the erosive impact of precipitation and wind;
- Surface soils will become more erodible; and
- Increases in wind speed and gustiness will likely increase wind erosion.

The report also notes that “[g]iven that many organisms in arid lands are near their physiological limits for temperature and water stress tolerance, slight changes in temperature and precipitation . . . that affect water availability and water requirements

could have substantial ramifications for species composition and abundance, as well as the ecosystem goods and services these lands can provide for humans.” Id. at 9. While these findings are dramatic, the report further notes that “[i]t is likely that these changes will increase over the next several decades in both frequency and magnitude, and it is possible that they will accelerate.” Id. at 23. See, also, the Government Accountability Office’s recently issued “Climate Change: Agencies Should Develop Guidance for Addressing the Effects on Federal Lands and Water Resources” (August 2007) <http://www.gao.gov/new.items/d07863.pdf>,

The BLM should have discussed all of these predicted effects of climate in Chapter 3’s assessment of existing conditions and in Chapter 4’s discussion of the impacts of the various alternatives. **A strong argument can be made that over the life of the RMP, no other factor will affect the resources of the Monticello Field Office more than climate change;** it must figure as a prominent aspect of the future management of the area and BLM must demonstrate that it has begun to grapple with the management challenges that climate change presents. Indeed, the Government Accountability Office’s recently issued “Climate Change: Agencies Should Develop Guidance for Addressing the Effects on Federal Lands and Water Resources” (August 2007). <http://www.gao.gov/new.items/d07863.pdf>

This is more than a theoretical exercise. First, as demonstrated above and in the attachment to these comments, the existence of climate change and its effects on arid lands is no longer a matter of debate, but a matter of scientific consensus. Second, a description of the effects of climate change on existing conditions such as the prevalence of exotic plant species, the availability of water and the health of riparian areas, zones of soil erosion or vulnerability to erosion, all provide critical baseline information necessary to the BLM’s ability to determine whether the Monticello Field Office resources can sustain any of the proposed alternatives for either the long or short term. Without this basic foundational information about the existing health of the land, it is impossible to make any informed decision about the level, location and kind of activities it can support in the future.

From this flows the third point, which is that an understanding of the predicted impact of climate change, and the forces that we can expect to affect the Monticello Field Office, would likely shape in important ways the various alternatives under consideration by the BLM. For example, given that so many of the predicted outcomes of climate change center on increased soil erosivity, dust storms, shrinking water resources, loss of riparian areas, invasion of exotic plants, and the spread of hotter, larger wildfires, it is entirely reasonable to expect the BLM to design alternatives that minimize soil disturbance as much as possible. And given that ORVs are associated with both the ignition of wildfires, increased erosion, and the spread of exotic weeds, it is likewise reasonable to expect that the BLM would design – and even designate as preferable – an alternative with far fewer than the 4,176 miles of backcountry ORV routes that the current preferred alternative contains. (We note that one Montana study documented that on a 10-mile ATV course in Montana, 2000 exotic plant seeds were dispersed in just one trip. This study is attached to our comments.) As noted above, the BLM’s own science coordinator

noted that the effects of climate change should result in an anticipated reduction in the allowed use of certain activities on BLM lands – yet such an option was not presented in the Monticello plan. Alternative E is the best choice of those presented in the DRMP; however, we strongly urge BLM to design an alternative that would be more effective in limiting surface disturbance and protect lands and resources of the Monticello Field Office as much as possible from the predicted effects of climate change.

Instead, without the information about the effects of climate change in the Monticello Field Office, the plan proposes a mix of exactly the kinds of actions that would compound these effects. This is most notable in the BLM’s overly-expansive network of roads and ORV trails, which were adopted without analysis after county officials and ORV groups presented the agency with trail map “wish lists.” Yet experts note that the “response of arid lands to climate change will be strongly influenced by interactions with non-climatic factors at local scales” including pressure related to the use of motorized off-road vehicles and grazing. *See* Ryan, MG “Land Resources” Section of the Climate Change working group report at 8 (attached). *See* also *id.* at 35 (noting that grazing may reinforce and accentuate the effects of climate change, a result that is probably true for ORV use as well).

Not surprisingly, the Intergovernmental Panel on Climate Change noted in 2001 that “for the future of rangelands, it is important to reduce the vulnerability of these systems to climate change. This is likely to be achieved by considering social and economic factors that determine land use by human populations . . . Soil stability and thus maintenance of water and nutrient cycles are essential in reducing the risk of desertification. Any changes in these processes could make rangelands particularly vulnerable to climate change.” http://www.grida.no/climate/ipcc_tar/wg2/41.htm. Likewise, BLM’s sister agency, the U.S. Geologic Survey notes that “understanding interactions of landscape with changing environmental conditions, and their relative influence on the severity of drought, are important for natural resources planning and land use sustainability.” <http://geomaps.wr.usgs.gov/navajo/drought.html>.

We have noted elsewhere that the EIS has not discussed the cumulative effects of various uses like ORV recreation and grazing on, for example, riparian areas. These cumulative effects should also be considered in the context of climate change and how these uses act synergistically to impact the resources of the Monticello Field Office.

To conclude, we urge the BLM to develop and adopt, based on a full consideration of the effects of climate change on the lands and resources managed by the Monticello Field Office, an alternative that minimizes the extent of soil disturbance and reduces to the fullest extent the Monticello Field Office’s resources to the vulnerability to the effects of climate change.

XII. VISUAL RESOURCE MANAGEMENT

It is BLM policy that visual resource management (VRM) classes are assigned to all public lands in RMPs. The objective of this policy is to “manage public lands in a

manner which will protect the quality of the scenic (visual) values of these lands.” BLM Manual MS-8400.02. Pursuant to FLPMA, the BLM must prepare and maintain on a continuing basis an inventory of visual values for each RMP effort. 43 U.S.C. § 1701; BLM Manual MS-8400.06. In addition, NEPA requires that measures be taken to “. . . assure for all Americans . . . aesthetically pleasing surroundings.” 42 U.S.C. § 4331(b)(2). Once established, VRM objectives are as binding as any other resource objectives, and no action may be taken unless the VRM objectives can be met. *See generally Southern Utah Wilderness Alliance*, 144 IBLA 70 (1998). The DRMP/EIS must make clear that compliance with VRM classes is not discretionary.

The Monticello Field Office should ensure that scenic value is a resource that will be conserved and must establish clear management direction describing areas inventoried and possessing high scenic importance with clearly defined objectives that limit surface disturbance within important viewsheds, including:

1. Lands proposed for wilderness designation, WSAs or lands with wilderness characteristics should be managed as Class I to “preserve the existing character of the landscape.”
2. Lands within popular and easily accessible vantage points should be managed for visual resources, such as VRM Class II to “retain the existing character of the landscape,” including clear provisions dealing with oil and gas development and other human disturbance.
3. ACECs and other special management designations and prescriptions should be used to protect scenic landscapes and viewpoints within the resource area with stipulations specifically addressing and managing human development impacts, including VRM Class I to “preserve the existing character of the landscape” or VRM Class II to “retain the existing character of the landscape” as appropriate.
4. Lands within America’s Red Rock Wilderness Act should be managed VRM Class I to “preserve the existing character of the landscape” or VRM Class II to “retain the existing character of the landscape” until Congress has the opportunity to consider these areas for wilderness designation.

XIII. SOCIOECONOMIC

These comments refer to the socioeconomic analyses for the Monticello Draft EIS (Draft EIS). Where appropriate or necessary we will also refer to other sections of the Draft EIS as they relate to the information or assumptions used to make the socioeconomic analyses or upon which conclusions about the socioeconomic situation or impacts are based.

Several notable deficiencies in the Monticello Draft EIS are noted here and discussed in more detail below.

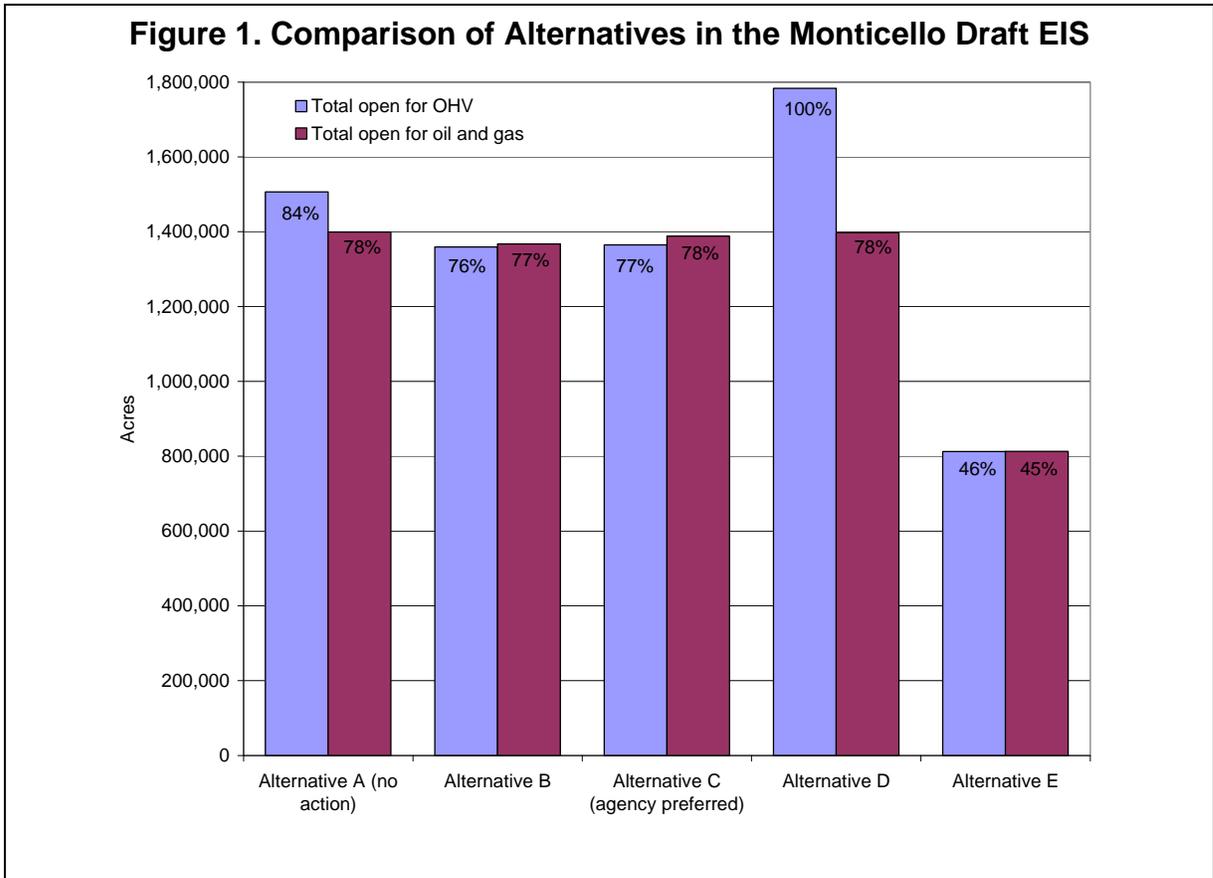
1. The range of alternatives proposed shows a bias toward off-road motorized recreation and oil and gas development.
2. The Draft EIS does not account for the non-market values associated with undeveloped wild lands.

3. The Draft EIS does not address the potential benefits to the local area economies from management to protect the natural amenities of the Monticello Field Office.
4. The Alternatives in the Draft EIS all place a heavy emphasis on off-road motorized recreation without a realistic assessment of current recreation impacts and trends or an adequate assessment of the potentially significant impact that such an emphasis is likely to have.
 - a. The realities of recreation participation trends are overlooked in the formulation of alternatives and in the analysis of the impacts of the alternatives.
 - b. The Draft EIS fails to address the potentially significant costs associated with off-road motorized recreation.
 - c. The Draft EIS does not discuss the benefits of non-motorized recreation on public lands
5. The Draft EIS does not address the potential socioeconomic costs associated with coal mining and oil and gas drilling.

1. Range of Alternatives

It is inappropriate that the BLM has developed a pro-development alternative which actually increases the amount of land in the Monticello Field Office that is available for off-road motorized recreation to 100% (well over the already excessive amount available under the “no action” alternative). This amount is then decreased slightly to make the agency preferred alternative essentially the same levels as the no action alternative.

With the exception of Alternative E, all of the alternatives (even Alternative C, one of the so-called protective alternatives) opens most of the planning area for oil and gas drilling (Figure 1). The lack of variability among the proposed alternatives indicates that the Draft RMP is predisposed to this industrial development. Only Alternative E proposes any balance between protection of wildlands and natural resources and motorized recreation and industrial development.



Recommendations: The BLM must develop alternatives which explore the full range of multiple uses of the lands in the Monticello Field Office, including the protection of undeveloped lands and lands with wilderness characteristics from motorized recreation and industrial development. Proposing a set of alternatives which each open the vast majority of the planning area to such uses ignores the important public values associated with protecting these lands and the potential positive economic impacts that such protection is likely to have on the planning areas communities.

2. Non-Market Values

The Draft EIS does not account for the non-market values associated with undeveloped wild lands. Non-market values have been measured and quantified for decades. There is a well established body of economic research on the measurement of non-market values, and the physical changes (decreases in the source of these values) brought about by oil and gas development and motorized recreation are very easy to measure quantitatively.

One of the most important purposes of public lands, including those of the BLM in the Monticello Field Office, is the provision of public goods. Non-market goods often fall into the category of public goods. These are things like opportunities for solitude, outdoor recreation, clean air, clean water, the preservation of wilderness and other undeveloped areas that would be underprovided if left entirely to market forces. The BLM

has an inherent responsibility to see that these public goods are provided and in quantities that meet the demand, not just of local residents, but of every U.S. citizen.

This analysis is especially important when considering the protection lands with wilderness characteristics since these lands produce benefits and values that are seldom captured in the existing market structure. The literature on the benefits of wilderness is well established and should be used by the BLM to estimate the potential value of the lands with wilderness characteristics in the Monticello Field Office. Krutilla (1967) provides a seminal paper on the valuation of wilderness lead the way for countless others who have done research all providing compelling evidence that these lands are worth much more in their protected state. Morton (1999), Bowker et al. (2005) Krieger (2001) and Loomis and Richardson (2000) provide an overviews of the market and non-market, use and non-use values of wilderness and wildlands. See Walsh et al. (1984), Bishop and Welsh (1992), Gowdy (1997), Cordell et al. (1998), Loomis and Richardson (2001) and Payne et al (1992) for several more examples.

Peer reviewed methods for quantifying both the non-market and market costs of changing environmental quality have been developed by economists and are readily applicable to the present case. For a catalog of these methods see Freeman (2003). For a complete socioeconomic analysis, BLM should adapt these methods to conditions in the Monticello Field Office to obtain a complete catalog of estimates of the economic consequences of the proposed Alternatives.

Recommendations: *The BLM must measure and account for changes in non-market values associated with the level of off-road motorized recreation, oil and gas drilling and other development proposed in this RMP. To do otherwise omits a very important socioeconomic impact that is the direct result of management actions. The BLM must assess the non-market economic impacts on the owners of the lands in the Monticello Field Office – all Americans. This analysis must include the passive use values of undeveloped lands such as the lands with wilderness characteristics.*

3. Economic Impacts of Natural Amenities

We commend the BLM for noting the potential long-term beneficial impacts that will arise from the protection of the cultural resources in the Monticello planning area. Not only will the protection of these cultural resources benefit the local economy, the overall protection of the lands in the planning area, especially those with wilderness characteristics (both inside and outside of WSAs) will also have long-term beneficial impacts. The economic impact that wilderness and wilderness quality lands have on local economies is well documented and has grown in importance as the U.S. moves from a primary manufacturing and extractive economy to one more focused on service sector industries. This shift means that many businesses are free to locate wherever they choose. The “raw materials” upon which these businesses rely are people, and study after study has shown that natural amenities attract a high-quality, educated, talented workforce – the lifeblood of these businesses. To narrow the range of alternatives and the analysis of the potential impacts of land management on the local communities fails to address this important facet of today’s economy.

For alternatives A - D the Draft EIS states, “No actions to maintain wilderness characteristics on lands outside of WSAs are proposed under this alternative, resulting in

no additional impacts on socioeconomics (p. 4-344).” This is patently false. Study after study has shown that the presence of protected public lands has a positive impact on local economies – strongly correlated with growth in both jobs and income. It stands to reason that the converse is also true. Leaving these lands unprotected will likely have long-term negative impacts on the local economies. The Draft EIS does mention the potential benefits of protected public lands, but does so in a superficial way, and further states, “It is difficult to predict whether the potential socioeconomic gains described above will outweigh the socioeconomic losses which could result from this alternative (p. 4-345).” One can make a reasonable estimation about these tradeoffs by looking at the relative contribution of extractive industries to the economy of San Juan County. The professional and service sector accounts for 17% of total personal income, while oil and gas extraction accounts for only 3%. At least some of the income and employment in the professional and service sector is attributable to the natural amenities provided by protected public lands such as the BLM lands managed by the Monticello Field Office.

More and more evidence has accrued indicating that the West is not a resource-dependent region. The public lands, including those managed by the BLM in the Monticello Field Office are increasingly important for their non-commodity resources – scenery, wildlife habitat, wilderness, recreation opportunities, clean water and air. A vast and growing body of research indicates that the economic prosperity of rural Western communities depends more and more on these amenities and less and less on the extraction of natural resource commodities. See Bennett and McBeth 1998, Deller et al. 2001, Duffy-Deno 1998, Johnson and Rasker 1993 and 1995, Johnson 2001, Lorah 2000, Lorah and Southwick 2003, McGranahan 1999, Morton 2000, Nelson 1999, Power 1995 and 1996, Rasker et al. 2004, Reeder and Brown 2005, Rudzitis 1999, Rudzitis and Johansen 1989, Shumway and Otterstrom 2001, Snepenger et al 1995 and Whitelaw and Niemi 1989 for some examples.

The Center for the Study of Rural America, at the Federal Reserve Bank of Kansas City (the Rural Center) has developed a set of Regional Asset Indicators that are linked to the potential for economic growth in rural counties (Weiler 2004). The Rural Center describes the regional asset indicators as providing “...new, forward-looking metrics that regions can use to better understand their economic assets and to help inform private, public, and nonprofit regional development strategies.”¹⁴ These Regional Asset Indicators often corroborate and extend the findings of Rasker et al (2004).

An area’s amenities often act as a key driver of economic prosperity. The Rural Center has developed an index to measure the level of human amenities for each county, which includes a measure of natural amenities (developed by the U.S. Department of Agriculture), access to healthcare, innovation (which is also measured separately as an additional Regional Asset Indicator below), recreation areas and restaurants. These are then standardized into one index for each county (Center for the Study of Rural America 2006a).

¹⁴ Federal Reserve Bank of Kansas City, Regional Asset Indicators. The Regional Asset Indicators for every U.S. County can be downloaded here, along with documentation on the development of the Indicators and additional research showing their importance to rural economies.
<http://www.kansascityfed.org/home/subwebnav.cfm?level=3&theID=9602&SubWeb=12>

As the Rural Center points out, the human amenity index is highest in coastal and mountain regions. This helps to explain the high score for San Juan County as well as the state of Utah (Table 2). The scores may well reflect the presence of the protected lands in the Monticello Field Office as well as the many other scenic amenities and recreation opportunities available on other nearby public lands including National Parks and Monuments, state parks, other BLM lands in the surrounding area and nearby National Forests.

One of the facets that the Rural Center includes in its Human Amenities Index is the Natural Amenities score calculated by the U.S. Department of Agriculture. It is instructive to pull this score out by itself. The index is based on climate factors (warm winters and mild summers), proximity to water bodies and varied topography. San Juan County has a Natural Amenity Scores that is much higher than the U.S. average and slightly higher than the state average (Table 1).

	Human Amenities Indicator ^a	Natural Amenities Scale ^b
San Juan County	35	3.6
Average of all Utah Counties	31	3.4
Average of All U.S. Counties	29	0.06

^a Calculated by the Center for the Study of Rural America, Summer 2006
^b U.S. Department of Agriculture, Economic Research Service, Natural Amenities Typology

Other Regional Asset Indicators reflect the quality of a region’s workforce. Because areas which have abundant amenities are more able to attract and retain a high quality workforce, the Human Amenity Index is very important for the region as it may well be the key to enhancing and maintaining the other important workforce and demographic indicators discussed below. Human amenities have been found to be positively correlated with both income and employment growth (Center for the Study of Rural America 2006a).

Workforce indicators include the entrepreneurship, the general availability of skilled workers and the proportion of a region’s workforce in creative occupations. A creative work force increases a region’s human capital and its level of innovation and entrepreneurship - this index measures the level of specialized, highly creative occupations that are unique to an area, making a distinction between these unique concentrations and creative jobs that can be found in almost any location. Research has shown that both a highly creative workforce and a high level of entrepreneurship are correlated with economic growth (Low 2004, Thompson et al. 2006). The management actions outlined in Alternative E are more likely to result in the kinds of local natural amenities, scenic values and recreation opportunities that will attract the kinds of workers and entrepreneurs that can have a beneficial impact on the economy of San Juan County.

The Draft EIS states “Population changes in San Juan County that could be associated with the implementation of alternatives under consideration of this EIS would likely be linked to employment changes (p. 4-331).” While this may sometimes be the

case, more and more in communities in the Intermountain West that are rich in natural amenities (such as those in the Monticello planning area), people move to the area either bringing jobs with them or creating new businesses – “jobs follow people” as noted by Vias (1999) who found that employment growth followed population growth in this region. The influence of amenities in the West’s economies is discussed in more detail above and in the attached documents: “*Socio-Economic Framework for Public Land Management Planning: Indicators for the West’s Economy.*” See also Haeefele et al (2007) for an additional discussion of the amenity economy.

New residents in the rural West often bring new businesses, and more and more of these are not tied to resource extraction. Some are dependent directly on the recreation opportunities on the surrounding public lands. Other entrepreneurs are attracted to the area for the same resources. The Federal Reserve Bank of Kansas City has found that the level of entrepreneurship in rural communities is correlated with overall economic growth and prosperity (Low 2004). These businesses may be harmed or deterred if the quality of the scenic and natural amenities is harmed due to the high levels of motorized off-road recreation and industrial uses allowed under the preferred alternative in the Draft EIS.

Retirees and other who earn non-labor income are also important to rural western communities. This income is important for San Juan County – making up 23% of total personal income. This makes investment and retirement income one of the largest sources of income in the planning area.¹⁵ Retirees are attracted by natural amenities that are available on undeveloped public lands. The potential impact that a management plan which is so heavily weighted toward development and motorized recreation will have on this source of income and economic activity must be accounted for.

The Draft EIS also states, “Overall, the local socioeconomic conditions would not experience substantial adverse impacts from BLM resource management under Alternatives A-D (p. 4-355).” As the preceding discussion makes clear, this statement is false. The relatively modest protections of lands with wilderness characteristics and other natural and cultural amenities proposed in Alternative E (a) will not have adverse impacts on the socioeconomic conditions in the planning area and (b) are much more likely to have positive socioeconomic impacts.

Recommendations: The BLM must collect and analyze actual data on the economic impacts of the alternatives, including Alternative E. Some suggested analyses and sources of data can be found in “*Socio-Economic Framework for Public Land Management Planning: Indicators for the West’s Economy*” (attached).

The BLM must make a thorough examination of the full socioeconomic impacts likely to occur if the management alternatives are implemented. These analyses must take into account the impacts that BLM land management actions will have on the surrounding communities, including the added cost of providing services and infrastructure, the long-term costs of the likely environmental damage, and the impacts on other sectors of the economy. The BLM must examine the role that protected public lands (including lands with wilderness characteristics) play in the local economy.

¹⁵U.S. Department of Commerce, Bureau of Economic Analysis, Regional Economic Information System (<http://www.bea.gov/>)

4. Recreation

a. Overall Recreation Participation

While it is a step in the right direction to close most of the planning area to cross-country motorized recreation, it by no means sufficiently reduces the potential costs associated with this recreation. The Draft EIS cites OHV registration as evidence that motorized recreation has been increasing in recent years. It is highly likely that some of these registrations are for work or farm vehicles in which case these numbers may overstate the amount of OHV use. In any case, the BLM must recognize that **all** recreation participation (and use of public lands) has been increasing and is likely to continue to increase.

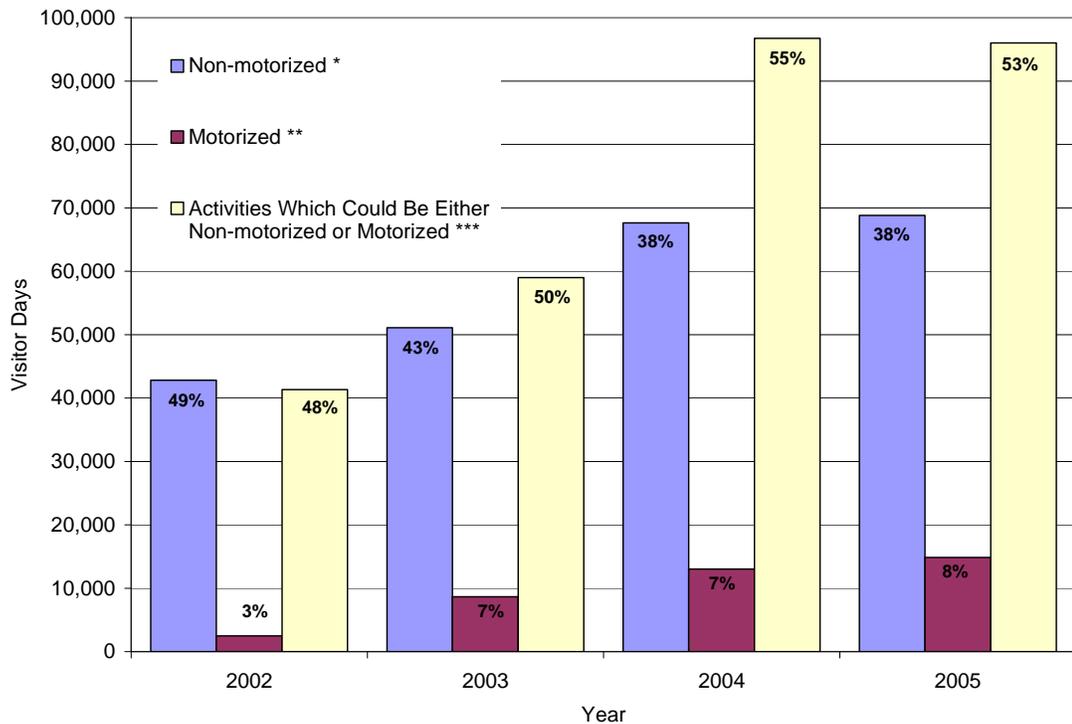
Study after study of Americans' recreation activities shows that the vast majority of people participate in non-motorized recreation – not motorized. A national study by Roper (2003) looked at participation rates over time (1995-2003) and found that off-road vehicle activities consistently ranked below non-motorized activities with walking, hiking and backpacking accounting for two-thirds or more of recreation visits, while OHV driving accounted for less than ten percent.

Data from several states as well as national studies (the USDA Forest Service National Visitor Use Monitoring Program, the National Survey on Recreation and the Environment [see Cordell et al. 2004], and BLM's Public Lands Statistics)¹⁶ all show that motorized use is consistently a small portion of total public lands recreation visits. A study using NVUM data for the BLM Moab Field Office (U.S. Forest Service 2007) shows that non-motorized recreation far outweighs OHV use, and it seems unlikely that the use patterns for the Monticello Field Office would differ. Data from the Recreation Management Inventory System (RMIS) for the state of Utah show that in Fiscal Year 2006 motorized recreation accounted for just 20% of total visits, while non-motorized recreation visits were 52% of the total.¹⁷ Finally, the Monticello Draft EIS presents recreation data for the field office which also shows that non-motorized users account for a much larger proportion of the total visitor days than motorized user (Figure 2).

¹⁶ National Forest Visitor Use Monitoring Program National Project Results, January 2000 through September 2003. http://www.fs.fed.us/recreation/programs/nvum/national_report_final_draft.pdf
National Survey on Recreation and the Environment: <http://www.srs.fs.usda.gov/trends/Nsre/nsre2.html>
U.S. Department of the Interior, Bureau of Land Management, Public Lands Statistics:
http://www.blm.gov/wo/st/en/res/Direct_Links_to_Publications/ann_rpt_and_pls/2006_pls_index.html

¹⁷ Source: Tina McDonald, Outdoor Recreation Planner, Recreation Management Information System (RMIS) Project Manager, USDI Bureau of Land Management, 2850 Youngfield St., Lakewood, CO 80215, Email Tina_McDonald@blm.gov

Figure 2. Recreation Visitor Days – Monticello Field Office



Source: Table 3.21, page 3-85, Monticello Draft EIS

* Boating (non-motorized), Hiking, Backpacking, Non-motorized Events and Activities, Mountain Biking, Pack Trips

** OHV Use, Driving for Pleasure

*** Camping, Viewing Cultural Sites, Hunting

Stynes and White (2005) have shown that motorized and non-motorized visitors spend the same amount per day on tourism-related services. Given the preponderance of evidence that most visitors are engaging in non-motorized recreation, it is likely that most of the benefit to the local communities from hotel and restaurant spending, as well as other spending by visitors is due to the non-motorized recreation opportunities in the area. It is also likely that as the landscape becomes degraded and overrun by off-road vehicles the “cash cow” tourists seeking non-motorized opportunities are likely to choose other destinations. The impact on the local economy of this shift must be assessed as part of the Final EIS analysis.

Even the most protective alternative offered by the BLM (Alternative E) still proposes to make nearly half of the planning area available to a group which represents only a small proportion of total users. This would be inappropriate given the important values which will be lost to all Americans and the potential high costs that will be imposed on Utah and the rest of the region from higher levels of off-road motorized recreation in the Monticello Field Office.

b. Cost of Off-Road Motorized Recreation

The Draft EIS does not mention, let alone analyze the well-documented and potentially significant costs associated with off-road motorized recreation. Ouren et al. (2007) provide a comprehensive synthesis of the literature on the environmental impacts of off-road motorized recreation on BLM lands. These impacts and others will have

significant economic costs to the American public. The following section presents an additional sampling of the vast body of research which provides evidence of these costs.

- **Increased soil compaction and erosion and disrupted hydrologic function**

A study of the impacts of recreation use on trails (Mortensen 1989) found that off-road vehicle use produced the most serious trail impact, and was “too widespread and pervasive to be assigned individual impact areas.” Results indicated that off-road motorized recreation was associated with tread widening, loss of ground vegetation, increased soil exposure, and entrenchment erosion. The trail tread had been widened to more than 40 m (130 ft) in some places, indicating that off-road recreationists had taken different routes to the top (in effect, becoming scramble runs). [Normal tread width is about 1 m (3.3 feet).] Mortensen also notes major implications for soil erosion and esthetic characteristics. Compaction can lead to a loss of pore space for air infiltration, reduced water infiltration, increased erosion and runoff, and reduced germination of woody seedlings. Additionally, vegetation in disturbed areas was also harmed. Areas with moderate to severe disturbance had, on average, 50% as much healthy understory vegetation. It is interesting to note that even though off-road vehicles are prohibited except on current and old logging roads in the particular area studied, the author found pervasive intrusion of off-road vehicles and noted that their impacts were more pronounced than other recreational uses.

Less obvious but equally damaging is the soil compaction caused by off-road vehicles. Studies have shown that soils are far more compacted in disturbed areas than in undisturbed regions (Raghavan et al. 1976). Soil erosion is another result of off-road motorized recreation. Kalisz (1996) studied the impacts of off-road motorized recreation in the mountains of Kentucky and found that such use resulted in increased erosion which undermines the biological capability of the soil, results in the loss of valuable topsoil, and leads to increased streambed siltation. OHV trails also serve as corridors for invading exotic plants and animals, and as attractive dumps for human trash. Areas with OHV disturbance have three times as many damaged overstory trees as undisturbed sites. Predictably, loss of vegetation results in further erosion, thus perpetuating the cycle of desolation.

Riparian areas are also impacted by off-road motorized recreation. Chin et al (2004) assessed the effects of all-terrain vehicle (ATV) trails on stream characteristics. The authors compared selected pool characteristics in two watersheds with ATV trails to those in two control watersheds without ATV trails. They found that the watersheds with ATV trails had pools with higher percentages of sands and fines (siltation), lower depths, and lower volumes. Effects of sedimentation were visibly apparent in the ATV-affected stream pools. Median pool depths were about 20-25cm in the affected pools and nearly 50cm in the unaffected. Pools serve as the primary habitat for many fish; lower pool depths and volumes suggest possible damage to ecological function in areas affected by ATV use.

- **Air pollution**

An often overlooked effect of off-road motorized recreation is the air pollution and fossil fuel demand created by such types of recreation. The Environmental Protection Agency (Fritsch 1994) estimates that small engines account for 5% of total air pollution,

with a significant portion of this being contributed by off-road vehicles. In addition, one study estimated the yearly national fuel expenditure for OHV operation to be roughly half a billion gallons.

Durbin et al. (2004) found that off-road vehicles make a disproportionately high contribution to the emissions inventory. The authors found that hydrocarbon (HC) emissions from 2-stroke engine-equipped motorcycles are about 10 times greater than those from a comparable 4-stroke engine on a per-mile basis. Cramer (1998) studied population growth and air quality in California and found that population growth has a significant and large effect on all types of emissions from off-road vehicles. Air pollutants from off-road vehicles include reactive organic gases (ROG) and oxides of nitrogen (Nox), the precursors of ozone; oxides of sulfur (Sox); and carbon monoxide (CO).

- **Impacts on vegetation**

Another impact of the use of off-road vehicles is the spread of invasive species. A single ATV can disperse over 2,000 knapweed seeds in a 10-mile radius. Knapweed seeds are more likely to germinate and crowd out native plants in areas where soil has been compacted (Montana State University Extension Service 1992). The economic impact to agriculture and wildlands from these weeds is substantial. The potential annual loss to Montana's economy from spotted knapweed alone is estimated to be \$42 million (Duncan et al. 2001). If knapweed continues to invade highly vulnerable lands, the potential annual loss to Montana's livestock industry would be \$155 million each year. In a planning area such as the Monticello Field Office, where the livestock industry is presumed to be an important part of the local culture, similar losses might be expected and should be analyzed in the Final EIS.

Invading non-indigenous species in the United States cause major environmental damages and losses adding up to more than \$138 billion per year (Pimentel et al. 1999). There are approximately 50,000 foreign species and the number is increasing. About 42% of the species on the Threatened or Endangered species lists are at risk primarily because of non-indigenous species. Non-native weeds cause at least \$25 billion in crop and forage losses annually. Noxious weeds are estimated to have a direct cost to all Idaho lands of \$300 million annually (Idaho Department of Agriculture 2007).

Vegetation suffers directly and indirectly from the passage of off-road vehicles. The effects can last decades or even centuries. Compaction and erosion impair the ability of plants to absorb nutrients and carbon dioxide and experience proper root growth. Disturbance of soils by off-road vehicles has long-term effects that favor the establishment of weedy species (Blackburn et al. 1994).

- **Impacts on wildlife**

Losos et al. (1995) classified threats to species endangerment and found that 69% of federally-listed species were known to be threatened at least in part by resource extraction and recreation activities. They found recreation threats to 23-26% of species. The most destructive recreational practices were off-road vehicle use (motorcycles, four-wheel drive vehicles, snowmobiles, dune buggies, all-terrain vehicles, and other vehicles with high ground clearance) and general recreation (all unspecified recreation threats).

Stritthold and Dellasala (2001) study the importance of roadless areas on biodiversity and find that these areas are important for species protection.

- **Foregone passive use benefits**

Jerrel (1995) estimated the benefits of protecting 6.9 million acres of desert land in California. The value to California residents of designating 76 new wilderness areas and creating three new national parks was found to be between \$177 and \$448 million per year. The 1993 version of the California Desert Protection Bill restricted vehicle access in the parks and prohibited motorized and mechanized recreation in the wilderness areas. Similar benefits can be expected to accrue to undeveloped lands protected from off-road motorized recreation in the Monticello Field Office. Conversely, the failure to protect these lands will result in the loss of passive use benefits.

- **Foregone wilderness/roadless recreation benefits**

Swanson and Loomis (1996) used a benefit-cost analytical method that translates recreation use into economic benefits. Recreation in 1990 on public lands (USFS and BLM) in the Pacific Northwest (western Washington, western Oregon, northern California) generated public benefits of \$1.6 billion. Recreation demand exceeded supply in some areas—the greatest gap was in “semi-primitive non-motorized” recreation. Authors measured the effects of four alternative management scenarios to estimate their ability to meet demand. Economic benefits were maximized under a redistribution that shifted acres from “semi-primitive motorized” to “semi-primitive non-motorized.” This scenario resulted in an additional \$916 million in public benefits. Authors found that existing public land allocations in the region provided excess supply for roaded recreation. The proposed alternatives for the Monticello Field Office most likely also provide excess supply for roaded recreation given the relatively small proportion of use by motorized recreationists. Even the most protective alternatives makes nearly half of the planning area available for a recreation activity engaged in by only a small proportion of total participants.

- **Foregone psychological benefits**

In addition to traditional economic benefits, undeveloped lands have important psychological benefits. One study points out the well established link between urban stressors such as air and noise pollution and negative psychological consequences (Mace et al. 2004), noting that these stressors have “...short- and long-term consequences for psychological well-being, social relationships and human performance.” They also note that there are proven therapeutic benefits to being away from these stressors in areas free of noise and air pollution – such as parks and wilderness areas. Increased visitation and motorized recreation create air pollution and noise and are thus degrading the experience and the potential benefits for visitors to undeveloped lands.

- **Personal safety and injury**

According to the Consumer Product Safety Commission (CPSC 2005), there have been 7,188 ATV-related deaths since 1982 – 2,178 of these were children under the age of 16. In addition, over 1.8 million ATV-related injuries were treated in hospitals and doctors’ offices in the same time period. The CPSC reports that in 2005 children under the age of 16 accounted for 30% of annual ATV-related injuries. These deaths and

injuries impose costs on society, according to Helmkamp (2002), the average annual comprehensive economic loss resulting from ATV deaths in West Virginia through the 1990's was estimated to be between \$10 million and \$34.2 million. Similar costs can be expected with off-road motorized recreation in the Monticello Field Office and these costs must be estimated and included in the economic impact analysis for the RMP. Moore and Magat (1997) and Heiden and Lenard (1995) offer additional information on the costs and risks associated with all-terrain vehicle injuries and deaths.

- **Law enforcement**

The Draft EIS details a number of horrifying illegal actions by OHV users in the Monticello Field Office and/or local governments (p. 3-87). which indicate that the need for enforcement of OHV rules and regulations may be particularly great in the area.

The need for law enforcement to ensure that OHV rules and regulations are followed and are effective imposes costs on society as well. The General Accounting Office (1995) studied the use and impacts of off-highway vehicles after their increasing use lead to damage to natural or cultural resources, or their use clashed with other forms of outdoor recreation (e.g., hiking, picnicking, horseback riding). The report found that agencies (BLM and Forest Service) gave lower priority to monitoring off-road motorized recreation than to other programs, that they relied heavily on states for financial support of law enforcement, that off-road motorized recreation was being monitored casually rather than systematically and that levels of compliance were mixed. The report also found that adverse effects were seldom documented.

The states of Michigan and Washington both document spending on OHV enforcement. The State of Michigan appropriated \$1,374,500 in fiscal year 2003 to support county sheriff's departments for enforcing OHV laws (State of Michigan, Department of Natural Resources 2003). The State of Washington (Interagency Committee for Outdoor Recreation) administers the Non-Highway and Off-Road Vehicle Activities (NOVA) Program, which funds grants to counties to support maintenance, education, and enforcement activities. Washington spent over \$1.8 million on non-highway and off-road vehicle road projects, and education and enforcement in 2003 (Interagency Committee for Outdoor Recreation 2004).

Mortensen (1989) found that off-road motorized recreationists intruded into areas where their access was prohibited. Not only do these intrusions extend the physical impacts of off-road motorized recreation, they imply that enforcement of closures is necessary and will certainly lead to increased law-enforcement costs.

- **Costs to taxpayers**

OHV activity on public lands can be costly to taxpayers who subsidize the basic construction, maintenance, and management of the required infrastructure and the restoration and repair of damaged lands and who pay the price for ecotourism opportunities lost because of degraded habitat (Defenders of Wildlife 2002). For example, Defenders of Wildlife found that OHV damage in the Chattahoochee/Oconee National Forest (Georgia) is estimated at \$990,000 (\$1,800 per acre) to repair 550 miles of illegal trails.

Recommendations: *BLM must develop recreation management directives which reflect the proportional use of the area by non-motorized and/or non-OHV users.*

BLM must collect and analyze more thorough and accurate data on the costs of off-road motorized recreation in order to make an accurate assessment of the impacts of the alternatives. BLM must recognize that increasing off-road motorized recreation implies the need for increased restrictions, and increased law enforcement, not opening more land for open cross-country travel.

c. Public Land Visitation Benefits

As noted in the Draft EIS, the Monticello planning area is surrounded by a number of other public lands and natural attractions. This rich collection of recreational opportunities and the natural amenities provided by these lands are an economic asset for San Juan County.

Much research has been done on the recreation behavior and preferences of visitors to public lands. Kaval and Loomis (2003) examine the values associated with recreation in National Parks. This analysis compiles estimates of the per day value to recreation users for 30 activities. While these studies do not address visitor numbers or visitor days, they do provide estimates of the value recreation visitors place on various forms of recreation, and they find that on average non-motorized recreation activities (backpacking, hiking, horseback riding, mountain biking, rock climbing and river rafting/floating) are worth about twice as much per day than off-road vehicle driving (\$42 per day compared to \$19 per day). In a similar study Rosenberger and Loomis (2001) compile an extensive review of the literature and the economic valuation of recreation and present methods that can be employed to apply these estimates for various other locations.

While the previous two studies focused on consumer surplus values, it should be noted that non-motorized recreation also has more tangible economic impacts. According to the Outdoor Industry Foundation, 162 million Americans participate in non-motorized outdoor recreation each year (Outdoor Industry Foundation 2006a), spending more than \$298 billion on gear and recreation annually (Outdoor Industry Foundation 2006b). This spending spurs other spending in local economies that generates significant local tax revenue—making the total national economic contribution of outdoor recreation more than \$730 billion (Outdoor Industry Foundation 2006b). More than three-quarters (78 percent) of Americans living in the West participate in non-motorized outdoor activities (Outdoor Industry Foundation 2006a). In Utah, activities like hunting and fishing, hiking, bicycling, and skiing contribute \$5.8 billion to the state's economy, generating 65,000 jobs. Outdoor recreation by residents and tourists alike is an important component of western economies.

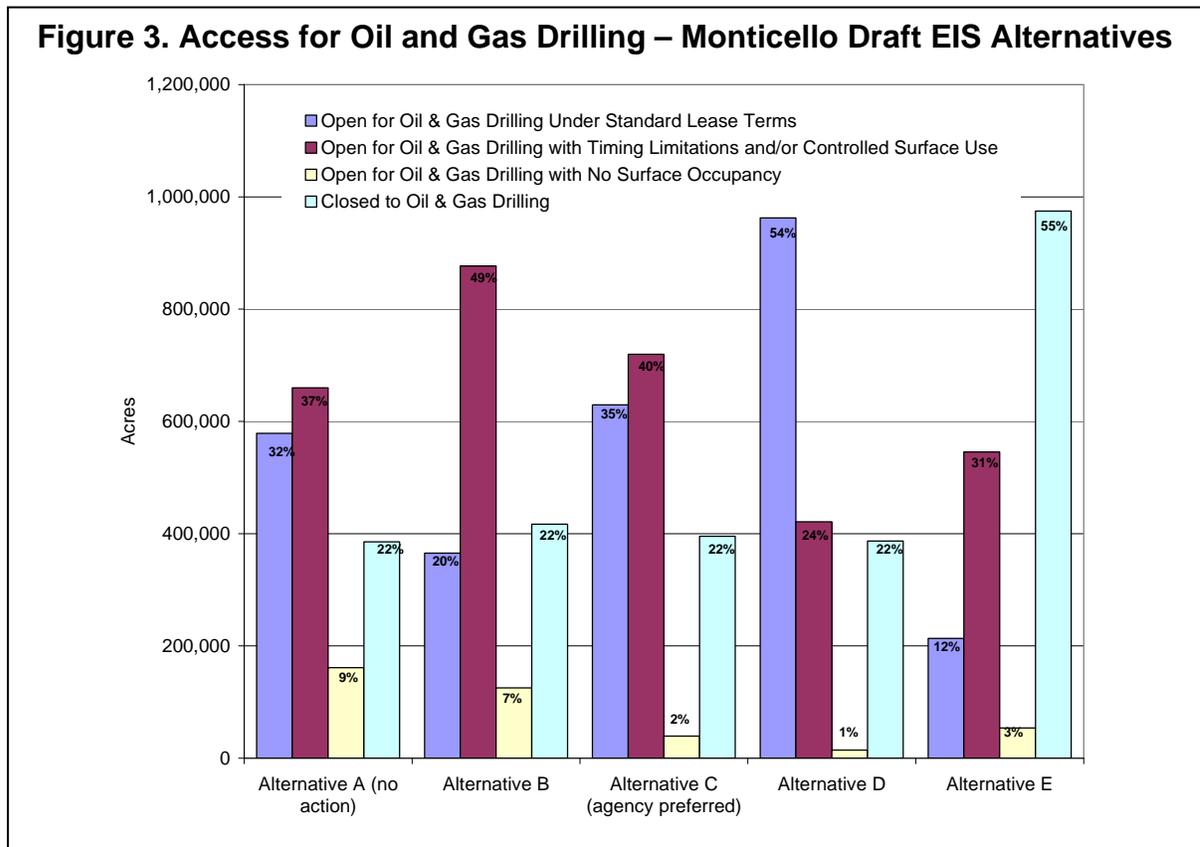
Recent research has shown that public land visitation is increased when the recreation and scenic values of the land is recognized through official designations. Weiler (2005) found that over the course of 20 years National Park Service Monuments that were re-designated to National Parks saw an increase in of nearly 13,000 annual visits. Furthermore, the increase in visitation came mostly from those traveling large distances to visit the new National Parks. These visitors are likely to stay longer in the area, especially if surrounding BLM lands can provide increased opportunities for the types of recreation they are seeking. It is also interesting to note that visitation to the National Parks in the study increased even in times of economic downturn, indicating that the presence of highly visible public lands may be an asset to communities that can help

mitigate the vagaries of the national economy. As people’s income contracts, such natural areas may be seen as affordable family vacation destinations, while other, more expensive, options may suffer.

Recommendations: The BLM should examine and acknowledge the benefits of public land recreation, especially in the context of the surrounding National Parks, National Monuments, State Parks, Forest Service lands and other BLM lands in the planning area.

5. Costs of Extractive Industries

While the Draft EIS asserts that the potential oil and gas development will likely be small the alternatives almost all open nearly the entire planning area for leasing (Figure 3). Even Alternative E, the most protective still makes almost half the planning area available for this industrial use. Opening these vast acreages to oil and gas drilling will have costs for the communities in the planning area and these costs must be analyzed and addressed in the Final EIS.



The boom and bust cycles which are a well-know feature of the resource extraction industries have well documented negative impacts. In fact the Draft EIS notes that San Juan County is already quite familiar with the problems of boom and bust cycles (p. 3-98). The alternatives proposed in the Draft EIS are all heavily weighted toward energy extraction and are likely to have long-term negative impacts on local communities. There is a considerable body of peer-reviewed academic literature on the social structure and economic performance of resource dependent communities. This research has indicated that an emphasis on resource extraction results in inherently

economically unstable communities (Fortmann et al. 1989, Freudenburg 1992, Freudenburg and Gramling 1994). This instability in income and employment is usually a result of labor saving technological improvements and fluctuations in world resource markets - macroeconomic forces completely outside local control. Such economic instability and lack of local control can be expected with both coal and oil and gas development.

Other communities within Utah and throughout the region have been experiencing rapid oil and gas development that has confirmed the observations in the research noted above. Smith (1986) observed that oil and gas drilling booms extend drilling into marginal areas that were abandoned when prices dropped – leading to the bust portion of the boom-and-bust cycle. Smith also noted that the areas with the largest rate of growth also experienced the largest rate of decline. Goldsmith (1992) and Guilliford (1989) have also documented the problems associated with the boom and bust nature of resource extraction.

Another major concern is the relatively higher risk of death or injury in extractive industry jobs versus jobs in the service sector or in tourism and recreation (Loomis et al. 2007). While jobs in the oil and gas industry do in fact pay more than many in the service sector, this higher wage reflects the greater risk. The authors also note that the higher wages in oil and gas extraction may also be necessary in part to compensate workers for the greater probability of job loss due to market fluctuations. Finally, many of the jobs in tourism and services offer other forms of compensation such as pleasant work and flexible hours.

Other negative impacts include changes in the local social and cultural make up of communities as drilling crews and workers migrate into the area (Merrifield 1984, Davenport and Davenport 1980), changing populations and often leading to increased demand for housing which raises prices (Brabant and Gramling 1997). In addition to the social and economic instability, natural resource extraction also has negative impacts on the landscape (Morton et al. 2004). The attached brief, “The Economic & Social Impacts of Oil and Gas Development,” discusses some of these costs in more detail, which while focused on oil and gas drilling, can certainly be experienced with other resource extraction.

Recommendations: We recommend that the BLM to consider the long-term negative impacts associated with over-dependence on the resource extraction sectors and approve a plan which protects the area’s lands with wilderness characteristics to the fullest, as these are much more likely to be the stable, long-term source of the region’s economic prosperity.

XV. AIR QUALITY

SUWA incorporates the air quality comments submitted separately by Megan Williams.

XVI. RS 2477

THE BLM SHOULD NOT DESIGNATE ROUTES OPEN TO MOTORIZED USE BASED ON THE EXISTENCE OF UNPROVEN CLAIMS UNDER R.S. 2477.

The Draft RMP also includes implementation level travel planning, such that both areas and routes are designated with respect to their use of ORVs – with specific routes within “limited” areas that are open to motorized travel designated and all motorized travel confined to those routes. *See*, Draft RMP, pp. ES-5 – ES-6. In this context, motorized routes should be designated based on their characteristics as necessary routes for travel and/or recreation, consistent with the management objectives for the area and affected resources. Routes and/or areas should not be designated based upon the existence of assertions under Revised Statute (R.S.) 2477 assertions. Regardless of what is asserted as an R.S. 2477 right-of-way, the BLM is obligated to designate any route that does not display characteristics that are in line with the desired future conditions of an area as “closed.”

Section 1.3.3 of the DRMP/EIS, “Issues beyond the Scope of the Plan,” includes R.S. 2477 claims, noting that, while claims may exist, the plan “does not adjudicate, analyze, or otherwise determine the validity of claimed rights-of-way” but also does not extinguish any valid rights that may exist or alter “the legal rights the state and counties may have to assert and protect R.S. 2477 rights or challenge in federal court or other appropriate venues any use restrictions imposed by the RMP that they believe are inconsistent with their rights.” DRMP/EIS, p. 1-11. However, the DRMP/EIS must make clear that any changes to the transportation plan to remove restrictions or make other changes to incorporate acknowledgment of R.S. 2477 assertions will require an amendment to the RMP and full compliance with NEPA.¹⁸

NEPA applies to all discretionary agency actions. BLM’s decision to issue any non-binding, administrative determination (“NBD”) is an exercise of agency discretion. It is not a decision required by law. *See* BLM IM 2006-159 (“The State or Field Offices may make NBDs for claimed R.S. 2477 rights-of-way for its own land use planning and management purposes”). The Tenth Circuit’s SUWA v. BLM decision recognized that BLM had the authority, but not the duty, to make NBDs. NEPA thus applies to any BLM approval or issuance of an NBD. BLM cannot assume that an NBD makes no decision that has any impact on the ground and therefore can have no environmental impacts. Changing the nature of public highways – even restoring a route to some “status quo” of years ago – will have environmental and other impacts. Further, we are unaware of any categorical exclusion under which an NBD could be made. Given the potential environmental consequences and the substantive changes to the resources uses and terms of the RMP, BLM cannot revise the transportation plan to acknowledge R.S. 2477 rights-of-way without completing a formal RMP amendment.

The language in the DRMP/EIS also fails to clearly distinguish between the counties’ R.S. 2477 assertions and the factors used for design and implementation of the travel network. The BLM Land Use Planning Handbook (H-1601-1) and the federal

¹⁸ This type of change in use cannot be accomplished through “plan maintenance,” because it would constitute a substantive change to the travel network. In contrast, “maintenance is limited to further refining or documenting a **previously approved decision incorporated in the plan**” and “shall not result in expansion in the scope of resource uses or restrictions, or change the terms, conditions, and decisions of the approved plan.” 43 C.F.R. § 1610.5-4 (emphasis added).

regulations cited therein give the BLM the authority to designate all off-highway vehicle (OHV) management areas. The regulations also expressly mandate that the BLM classify these areas as “*open, limited, or closed* to motorized travel activities.” *BLM Handbook*, H-1601-1, Appendix C, p. 18 (3/11/2005). The regulations set criteria for designations of the OHV areas and the location of routes for motorized recreation in 43 C.F.R. § 8342.1 (emphasis added):

- (a) Areas and trails shall be located to **minimize damage to soil, watershed, vegetation, air, or other resources of the public lands, and to prevent impairment of wilderness suitability.**
- (b) Areas and trails shall be located to **minimize harassment of wildlife or significant disruption of wildlife habitats.** Special attention will be given to protect endangered or threatened species and their habitats.
- (c) Areas and trails shall be located to **minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands, and to ensure the compatibility of such uses with existing conditions in populated areas, taking into account noise and other factors.**

The DRMP/EIS acknowledges that motorized routes in the planning area will have some of these effects, stating, for example: “Travel on- or off-roads could cause soil compaction and loss of protective vegetation cover, thereby increasing soil erosion and fugitive dust emissions. Increased soil erosion can adversely impact riparian-wetland areas through increased soil sedimentation”; and “Development of roads associated with oil and gas development is possibly the greatest contributor to habitat fragmentation.” DRMP/EIS, pp. 4-497 – 4-498.

The DRMP/EIS also includes management objectives for various areas and/or resources that should guide designations of ORV routes, for example:

- WSAs will be managed to preserve their “wilderness character” and will be managed in accordance with the Interim Management Policy for Lands Under Wilderness Review, which requires that they be managed so as not to impair their suitability for designation as wilderness. DRMP/EIS, p. 2-50.
- Areas of Critical Environmental Concern will be managed “to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources, or other natural systems or processes.” DRMP/EIS, p. 2-34.
- Water resources be managed would be managed to “[m]aintain and/or restore overall watershed health and reduce erosion, stream sedimentation, and salinization of water.” DRMP/EIS, p. 2-33.
- Non-WSA lands with wilderness characteristics will be managed to maintain wilderness characteristics, “for their undeveloped character, and to provide opportunities for primitive recreational activities and experiences of solitude.” DRMP/EIS, p. 2-20.

To the extent that the DRMP/EIS bases its designations of areas or routes as open to motorized use based on the existence of R.S. 2477 assertions and not on the priorities

established in the applicable regulations and the RMP, the BLM will be in violation of its duty under the governing regulations.

Recent court and IBLA decisions involving BLM land use planning in Utah uphold BLM's right to determine the suitability of routes for motorized use regardless of the existence of R.S. 2477 claims and to implement the resulting travel system. For example, in Kane County v. Kempthorne, 495 F. Supp. 2d 1143 (D.Utah 2007), the court applied the ruling of the U.S. Court of Appeals for the 10th Circuit in Southern Utah Wilderness Alliance v. Bureau of Land Management, 425 F.3d 735 (10th Cir. 2005) ("SUWA v. BLM"), to conclude that: "the Counties' assertion of R.S. 2477 claims by itself cannot forestall the BLM implementation of the travel route system formulated through its planning process." Kane County, 495 F. Supp. 2d at 1157. The court further emphasized that: "[i]t is for the Counties as R.S 2477 claimants to step forward and pursue their unresolved R.S. 2477 claims in a proper forum, demonstrating the historical existence of rights-of-way that they now assert to exist." Id. Other courts and the IBLA have reached the same conclusion. See Williams v. Bankert, 2007 WL 3053293, *7 (D. Utah Oct. 18, 2007) ("The BLM was not obligated to resolve R.S. 2477 issues as a part of the Travel Plan. The Travel Plan has not precluded a finding on these rights-of-way, and Defendants acknowledge that the Travel Plan can be amended if the rights-of-way are demonstrated. To mandate that an agency make a determination on thousands of R.S. 2477 claims during the decision making on the rest of the Travel Plan could paralyze an agency."), upholding the IBLA decision concerning the San Rafael Route Designation Plan in Rainer Huck, 168 IBLA 365, 2006 WL 1644645 (2006) ("BLM did not need to decide the validity of the R.S. 2477 assertions in order to make its route designations, especially since it did not intend its analysis to affect any R.S. 2477 validity determinations and indicated that the Plan would be adjusted to reflect any R.S. 2477 decisions.").

The BLM is not obligated to evaluate R.S. 2477 claims in developing resource management plans and travel management plans or in implementing restrictions or closures on motorized use based on those plans. As the court in SUWA v. BLM found, the burden is on the party claiming an R.S. 2477 right-of-way to prove that its claim is valid and only a court can make such a final, binding determination. If an R.S. 2477 claimant wants to have its alleged right-of-way legally recognized, then the claimant can bring the matter to the federal courts under the Quiet Title Act. In addition, it may seek to preserve access to an area by applying for a right-of-way under Title V of FLPMA. A claimant cannot, however, require the BLM to make a determination on a claim (or multiple claims) before making travel planning decisions or before implementing restrictions. BLM may properly exercise control over lands within its borders unless and until a county proves it possesses a right-of-way in a court of law. See, The Wilderness Society v. Kane County, 470 F. Supp. 2d 1300, 1306 (D. Utah 2006).

Therefore, BLM must make decisions regarding motorized use based on its legal obligations. According to these recent court decisions, the BLM need not make determinations regarding R.S. 2477 claims as part of its resource management and/or travel management planning processes. BLM should make planning decisions that protect the resources of our public lands and should not keep routes open to motorized

access based on claims that may never even be pursued. If the BLM chooses to designate all R.S. 2477 assertions merely because they have been claimed as routes under R.S. 2477, then the BLM will be in violation of its duty to minimize damage, harassment, and conflicts under the federal regulations

Recommendations: The BLM is legally obligated to identify and protect the many natural resources found in the public lands under its management, including wildlife habitat, scenic values, cultural resources, recreation opportunities and wilderness character, and to avoid unnecessary or undue degradation of these resources. 43 U.S.C. § 1701 *et seq.* Similar considerations are required when the BLM assesses whether to permit motorized use of areas or routes. 43 C.F.R. § 8342.1. The agency must adhere to applicable laws and policies while conducting travel planning, and must forego any approach that could lead to a legally-questionable validation of R.S. 2477 rights-of-way claims. Further, the designation of routes should be consistent with the management objectives set out in the RMP to prioritize certain uses and protect specific values. The RMP must also be corrected to state that any changes of route designations that are made after completion of the travel plan based on BLM's administrative acknowledgment of R.S. 2477 assertions will be incorporated through an RMP amendment and NEPA – and not through plan maintenance.

XVII. SOILS

SUWA incorporates the comments submitted separately by ECOS Consulting.

XVII. RIPARIAN AREAS

SUWA incorporates the comments submitted separately by ECOS Consulting.

XIX. VEGETATION

SUWA incorporates the comments submitted separately by ECOS Consulting.

XX. WILDLIFE¹⁹ AND HABITAT FRAGMENTATION

SUWA submits the following comments, as well as directing the BLM's attention to the comments submitted by ECOS Consulting, which address the impacts of roads and ORV routes on wildlife habitat and the resulting effects to wildlife.

A. The DRMP/EIS does not provide a sufficient analysis of the effects of habitat fragmentation.

Roads and ORV routes are now widely recognized in the scientific community as having a range of direct, indirect and cumulative effects on habitats and wildlife (Trombulak and

¹⁹ In addition to its responsibilities to comply with the Endangered Species Act, BLM must also ensure that its management decisions are consistent with its Sensitive Special Manual 6840. Specifically, the decisions authorized in the RMP must not lead to the listing of plants and animals identified on Utah BLM's current sensitive species list. How has BLM assessed its compliance with this requirement?

Frissell 2000). Effects range from direct removal of habitat to long-term displacement of species from preferred habitat. The indirect and cumulative effects are hardest to measure, but are increasingly studied through analysis of habitat fragmentation.

Habitat fragmentation has been defined as the “creation of a complex mosaic of spatial and successional habitats from formerly contiguous habitat” (Lehmkuhl and Ruggiero 1991). Habitat fragmentation alters the distribution of wildlife species across the landscape and affects many life functions such as feeding, courtship, breeding, and migration. Transportation networks are one of the most significant causes of habitat fragmentation, and negatively impact wildlife well beyond the surface area disturbed by an actual road or motorized trail. In fact, habitat fragmentation from roads and other human infrastructure has been identified as one of the greatest threats to biological diversity worldwide (Wilcove 1987).

The adverse effects of routes on wildlife have been well documented in several extensive literature reviews (Trombulak and Frissell 2000, Gucinski et al. 2001, Gaines et al. 2003, Wyoming Game and Fish Department 2004, New Mexico Department of Game and Fish 2005, Confluence Consulting 2005). The hundreds of scientific papers in these literature reviews illustrate the preponderance of evidence that routes ranging from narrow dirt tracks to paved roads can and do cause adverse effects on wildlife. This volume of science simply cannot be ignored in a major land management planning effort such as this Draft RMP (or any travel management planning effort).

Examples of direct, indirect and cumulative impacts of roads on wildlife and their habitats identified in the biological literature include (Trombulak and Frissell 2000, New Mexico Department of Game and Fish 2005):

- **Fragmentation of connected habitats** including the loss of core habitat areas and habitat connectivity for wildlife movements and dispersal
- **Adverse genetic effects** such as reducing genetic diversity by isolating populations
- **Increased potential for extirpation of localized populations** or extinction of narrowly distributed species from catastrophic events
- **Modifications of animal behavior** through reductions in habitat use due to human activity and interference with wildlife functions such as courtship, nesting, and migration
- **Disruption of the physical environment** in many ways including direct removal of habitat due to route construction, reduction of cover and habitat security, increasing dust and erosion
- **Alteration of the chemical environment** through vehicle emissions and herbicides
- **Changes in habitat composition** by direct loss of vegetation from road construction and changes in microclimates in road edge habitats potentially resulting in changes in type and quality of food base and reduction in habitat cover
- **Spread of exotic species** that may lead to competition with preferred forage species

- **Degradation of aquatic habitats** through alteration of stream banks and increased sediment loads
- **Changes to flows of energy and nutrients** such as changes in temperatures in microclimates created at road edges
- **Increased alteration and use of habitats by humans** through activities including increased unethical hunting practices and increased dispersion of recreation impacts, particularly by off-road vehicles due to a proliferation of roads
- **Mortality from construction of roads**
- **Mortality from collisions with vehicles**

As documented by the comprehensive literature reviews cited above, the existence of motorized routes can result in habitat fragmentation and, depending on the use of the route, have impacts extending well into surrounding habitats. Such fragmentation from transportation networks is immediate and can lead to a range of risks to the survival of wildlife. Sound science and spatial analysis must be used to evaluate impacts from any network of travel routes before its adoption through a planning process. There are many ways to measure habitat fragmentation to determine where and how corrective action should be taken. Three of the most useful metrics for their ease in calculation and direct connection to biological field research on wildlife impacts are road density, number and size of core areas, and distance to a road. *Road density* can be calculated by measuring the length of road divided by the area in a given region and reported as miles of road per square mile (mi/mi²). *Core areas* are defined as the area of land beyond a given distance, or road effect zone, from transportation routes (Forman, 1999). The number and sizes of core areas can be measured, as can the *total amount of core area beyond a given distance or effect zone from roads*. Because wildlife species respond at varying distances to road disturbances (and depending on the road type and activity level), it is important to determine measures of core area for a range of effect zone widths associated with disturbances for specific species (e.g., of 100 ft., 500 ft. and 1320 ft.). Measuring the *amount of land within a given distance to a road or within an effect zone* is the inverse of measuring the acreage of core areas, and represents a measure of the affected habitat.

Wildlife literature can be tied directly to these metrics through field studies for specific species measuring the effects of particular road densities, the size requirements for core areas, and the widths of road effect zones (NMGF 2005, WGFD 2004, Gucinski et al. 2001, and Gains et al. 2003). For instance, field monitoring of bighorn sheep response to vehicle and mountain bike activity on roads by Papouchis et al. (2001) found that, on average, bighorn alerted at a distance of 1190 feet and fled at 433 feet from the disturbances on roads. Route densities were used in an elk field study by Lyon (1983), whose work suggests that road densities of 1 mile per square mile in forested landscapes reduce elk habitat effectiveness by 25 %. An ongoing study by Sawyer et al. (2005, 2004, 2001) of GPS collared deer on the Pinedale Anticline observed that deer utilized habitat progressively further from roads and well pads over three years of increasing gas development and showed no evidence of acclimating to energy-related infrastructure. Similar data is also summarized in the reports prepared by the NMGF and WGFD, and the literature cited in those reports.

The available literature is not limited to the effects of paved roads, but also specifically discusses the impacts of ORVs and unpaved roads, as should the Monticello DRMP/EIS. A book by Haylick (2002) devoted to roads and motorized recreation on public lands describes that numerous species of wildlife including birds, reptiles and large and small mammals are disturbed by ORV traffic and show a variety of physiological effects including accelerated heart rate and metabolic function, increased stress, and reproductive failure.

A literature review by Taylor (2006) addresses many of the impacts on wildlife and their habitat such as how sounds generated by ORVs “present danger to the well being of the natural wildlife of the arid regions.” Taylor ends his paper with a discussion of the rapidly growing pressures from ORVs and the difficulty of restoring arid landscapes from the impacts of ORVs, concluding, “The effect this demand has on our natural resources needs to be carefully considered and strategic plans developed to cope with conflicts, which will certainly arise in the future.” These conflicts are already present in the Monticello Field Office; the BLM should acknowledge its full extent.

One recent study that is particularly relevant to the Monticello Field Office is Brooks and Lair (2005) that specifically addresses ecological impacts of a range or route type from ORV routes to highways in the Mojave Desert. This study looks at the effects of the different route types on soils, vegetation and wildlife with an appendix reviewing literature on the Mojave. In addition, Wisdom et al. (2004) found that ORV use on public lands caused substantially higher movement rates and probabilities of flight response in mule deer when compared to control periods of no motorized activity. This finding came out of a study at a long-term research site which looked at many issues including the effects of ORVs on wildlife in open sagebrush landscapes in eastern Oregon. Many studies discussed in these comments include studies on low use, unpaved roads and ORV routes.

Despite the accepted and readily available scientific study and methods, the Monticello DRMP/EIS does not conduct a sufficiently detailed analysis of fragmentation, which impairs the consideration of impacts of the various alternatives and prevents an informed comparison.

The DRMP/EIS acknowledges the critical need to minimize habitat fragmentation in order to sustain wildlife populations. In its goals for managing special status species, the DRMP/EIS commits to “[d]evelop conservation measures to minimize long-term habitat fragmentation through avoidance and site-specific reclamation to provide habitat quality and quantity adequate to fulfill the life history requirements and to support a natural diversity of species.” DRMP/EIS, p. 2-50. Similarly, in the goals for wildlife and fisheries resources, the DRMP/EIS commits to “[m]inimize long-term habitat fragmentation as much as possible through avoidance and site-specific reclamation to provide habitat quality and quantity adequate to fulfill the life history requirements and to support a natural diversity of species.” DRMP/EIS, p. 2-59. However, none of the alternatives include any specific fragmentation metrics as part of their management prescriptions.

There are also no metrics of the degree of habitat fragmentation that exist in the current “affected environment” in Chapter 3 of the DRMP/EIS. NEPA requires BLM to assess the environmental consequences of a proposed action. 42 U.S.C. § 4331. In preparing an EIS, BLM is required to provide a “full and fair discussion of significant environmental impacts.” 40 C.F.R. § 1502.1. These impacts include: “ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative.” 40 C.F.R. § 1508.8.

In order to evaluate the broad range of impacts encompassed by a NEPA analysis, it is critical that BLM adequately and accurately describe the environment that will be affected by the proposed action under consideration – the “affected environment.” 40 C.F.R. § 1502.15. The affected environment represents the baseline conditions against which impacts are assessed. The importance of accurate baseline data has been emphasized by the U.S. Court of Appeals for the Ninth Circuit, which stated that “without establishing . . . baseline conditions . . . there is simply no way to determine what effect [an action] will have on the environment, and consequently, no way to comply with NEPA.” Half Moon Bay Fisherman’s Marketing Ass’n v. Carlucci, 857 F.2d 505, 510 (9th Cir. 1988). The court further held that, “The concept of a baseline against which to compare predictions of the effects of the proposed action and reasonable alternatives is critical to the NEPA process.” Ibid.

Chapter 3 of the DRMP/EIS includes an overview of habitat condition, but no specific metrics that can be used as a baseline. For instance, with respect to pronghorn, the DRMP/EIS notes that current populations are only at 43-50 percent of population objective and that portions of the habitat “are in less than desired condition.” DRMP/EIS, p. 3-165. However, without establishing the current condition with specificity, the DRMP/EIS cannot present an accurate analysis of the impacts to habitat from the alternatives. Because the BLM has failed to adequately establish baseline conditions for habitat fragmentation in the DRMP/EIS, the analysis of the impacts of the alternatives cannot be accurately determined and is inadequate.

The DRMP/EIS also acknowledges that certain activities may increase habitat fragmentation. For instance, in summarizing the effects of travel management decisions on wildlife and fisheries resources from Alternative A, the no action alternative, the DRMP/EIS (at p. 2-143) acknowledges “Habitat fragmentation and degradation and the spread of noxious weeds also result from OHV use.” 611,310 acres would be open to OHV use.

In discussing the impacts of permitting oil and gas development, geophysical work, mineral entry and disposal of mineral materials on the values for which the Cedar Mesa ACEC was designated, the DRMP/EIS acknowledges that, in addition to the surface disturbance, “[t]here would be indirect negative impacts to wildlife and fish due to sedimentation, habitat fragmentation, and noise from construction and operational activities.” DRMP/EIS, p. 4-392. Similarly, in assessing the potential effects of

Alternative A not managing certain river segments to protect their values under the Wild and Scenic Rivers Act, the DRMP/EIS (at p. 4-412) acknowledges that:

where mineral leasing (with standard stipulations or timing and controlled surface use), entry, or disposal would be allowed the outstandingly remarkable values of these rivers may be at risk from surface disturbance, habitat fragmentation, loss of visual integrity, and noise from construction and operation of mineral development infrastructure.

For special status species, the DRMP/EIS (at p. 4-423) confirms that:

Impacts to special status species from recreation include direct impacts from use of mechanized and non-mechanized vehicles, ground disturbance from trail development, trampling of individuals, habitat fragmentation, and increased access to secluded fragile habitats and species.

For Gunnison sage grouse, the DRMP/EIS confirms that the major threats to this special status species “include roads, fences, and power poles that fragment habitat.” DRMP/EIS, p. 427.

The Monticello DRMP/EIS conducts an analysis of habitat fragmentation from the various management alternatives, including an entire section (4.3.19.3.19) on “Impacts of Habitat Fragmentation on Wildlife.” This section provides standards at which habitat is considered “unfavorable” and identifies the percent of the planning area that is unfavorable for certain species under each alternative. At the outset, we would note that there is no comparable section for special status species. As a result, for instance, the analysis of the impacts of travel planning decisions in Alternatives B and E is addressed by identifying the acreage classified as “open,” “closed” or “limited,” and then concluding that “[t]he impacts of these alternatives are comparable to Alternative C impacts. There are fewer acres of special status species habitat subject to adverse surface-disturbing impacts, which contribute to habitat fragmentation, under this alternative than under Alternative A or D.” DRMP/EIS, p. 4-459. The lack of habitat fragmentation metrics in this analysis impairs the analysis of the impacts of the alternatives on special status species.

The analysis of fragmentation on mule deer, elk, bighorn sheep and various birds associated with vegetation habitat types, using GIS modeling and accepted fragmentation metrics is more consistent with accepted scientific principles. However, additional species, such as pronghorn, should be included. For instance, the DRMP/EIS released by the Vernal Field Office in January, 2005, included extensive measurement of potential habitat fragmentation using a range of effect zones and specific impacts to be expected for different affected species, including pronghorn and raptors. *See*, Vernal DRMP/EIS, Appendix I and Section 3.19.2. The recently-released Vernal Supplement also presents detailed information on habitat fragmentation from oil and gas development, including measurements of route density and percent of the area outside three functional habitat loss zones. Vernal Supplement, pp. 4-128 – 4-130. Without this information, not only

the public, but also the agency is deprived of the opportunity to make an informed decision.

Further, while Section 4.3.19.3.19 acknowledges that “roads associated with minerals and travel decisions also fragment adjacent (undisturbed) habitat,” the DRMP/EIS only assesses the impacts from oil and gas development, resulting in an underestimation of impacts. DRMP/EIS, p. 4-598. In assessing the impacts of the other management alternatives, the lack of assessment of fragmentation caused by each alternative on a sufficient range of species, including special status species, is compounded by the comparison of effects among the alternatives being limited to a comparison to Alternative A. For instance, in summarizing the effects of travel management decisions on wildlife and fisheries resources from Alternative A, the no action alternative, the DRMP/EIS (at p. 2-143) acknowledges that:

OHV use has short- and long-term adverse impacts on wildlife by causing damage to vegetation used as wildlife forage and cover, as well as causing noise. Habitat fragmentation and degradation and the spread of noxious weeds also result from OHV use. 611,310 acres would be open to OHV use.

In comparing the impacts from the other alternatives, the DRMP/EIS draws the same conclusion for Alternatives B through E, that “[a]dverse impacts same Alternative A, but to a lesser degree” and then goes on to provide the acreage open to ORV use – 0 acres for Alternatives B and E, 2,311 for Alternatives C and D. DRMP/EIS, p. 2-143.

While a comparison of the acreages open to oil and gas drilling and ORV use is informative, the comparison is not complete without a full assessment of the fragmentation of habitat, how such fragmentation relates to relevant data on metrics for affected species, and how each alternative compares to the documented needs

Also, in assessing the potential impacts to sage-grouse habitat and developing management, the BLM proposes to use the Connelly *et al.* (2000) guidelines. However, these guidelines do not adequately account for the findings and recommendations of noted experts, including those of Holloran (2005) regarding the impacts of development activities and those of Braun (2006), both of which have also led to more recent guidelines that the BLM should employ instead. A multi-state effort to coordinate interpretation of recent science related to sage-grouse and oil and gas development, in which the Utah Division of Wildlife Resources participated, led to a summary of current research and findings, set out in a document entitled: “*Using the Best Available Science to Coordinate Conservation Actions that Benefit Greater Sage-Grouse Across States Affected by Oil and Gas Development in Management Zones I-II (Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming)*” (attached and incorporated herein by reference). In addition, “*A Blueprint for Sage-grouse Conservation and Recovery*” (authored by Clait Braun, attached and incorporated herein by reference) details the habitat requirements for successful and sustaining sage-grouse populations. This document provides that, “no surface occupancy should be allowed within 5.5 km of all active sage-grouse leks.” The summary of best available science prepared by the state wildlife agencies and the proposed management for protection of sage-grouse habitat as

outlined in the Blueprint should be taken into consideration for permitting motorized use and oil and gas development throughout the Monticello Field Office.

Recommendations: In order to comply with the requirements of NEPA to conduct a thorough analysis of impacts of the management alternatives and to facilitate meaningful public participation and review of the DRMP/EIS, the BLM must thoroughly analyze the specific impacts of habitat fragmentation on affected species, including special status species, pronghorn, and raptors, and provide a comparison of the management alternatives, as described in detail above. This analysis should include the impacts of ORVs and motorized routes, as well as roads from oil and gas development. Further, the BLM should utilize the science set out in *“Using the Best Available Science to Coordinate Conservation Actions that Benefit Greater Sage-Grouse Across States Affected by Oil and Gas Development”* and apply the guidelines for sage-grouse management set out in *A Blueprint for Sage-grouse Conservation and Recovery*. The public should be provided with an opportunity to review and comment on a compliant analysis of habitat fragmentation *before* a proposed RMP is adopted by the BLM.

B. The DRMP/EIS does not present alternatives that would provide sufficient unfragmented habitat.

As summarized above, the DRMP/EIS makes important acknowledgments of the potential damage from habitat fragmentation and the need to minimize habitat fragmentation to protect sufficient habitat. The DRMP/EIS also identifies oil and gas development and ORV use as likely to cause habitat fragmentation and notes the benefits to natural and cultural values from restricting these activities.

In comparing the alternatives with respect to their effects on special status species due to permitting ORV use, the DRMP/EIS concludes (at p. 4-459) that: “There are fewer acres of special status species habitat subject to adverse surface-disturbing impacts, which contribute to habitat fragmentation, under this alternative [C] than under Alternative A or D.” The prior sentence also notes that the impacts of Alternatives B and E “are comparable to Alternative C impacts.” *Id.* Consequently, while acknowledging the benefits of limiting surface-disturbing activities for wildlife, by reducing fragmentation, the DRMP/EIS simultaneously acknowledges that there are not substantive differences in the impacts from most of the alternatives.

Unfortunately, the range of disturbance among the various alternatives does not include an alternative that would substantially reduce the amount of habitat considered “unfavorable” due to habitat fragmentation. The no action alternative (A) would result in 53.2% of mule deer habitat and 49.9% of elk habitat being considered unfavorable. DRMP/EIS. The most protective Alternatives (B and E), would still lead to 50.1% of mule deer habitat and 49.2% of elk habitat being considered unfavorable, while the Preferred Alternative C would result in 52.9% of mule deer habitat and 52.2% of elk habitat being unfavorable, and the least protective alternative (D) would lead to 54.4% of mule deer habitat and 52.9% of elk habitat being unfavorable. DRMP/EIS, p. 4-599. Similarly, for bighorn sheep, Alternative A would result in 879,033 acres of suitably large patches of habitat, while Alternatives B and E would lead to 888,051 acres of

suitably large habitat patches, and Alternative C would result in 807,328 acres. DRMP/EIS, p. 4-600. For migratory birds, Alternative A would result in 1,364,649 acres of impacted vegetation habitat types, while Alternatives B and E would still lead to 1,290,158 acres of impacted vegetation habitat, and Alternative C would lead to 1,383,055 acres impacts. DRMP/EIS, p. 4-601.

NEPA requires BLM to “rigorously explore and objectively evaluate” a range of alternatives to proposed federal actions. *See* 40 C.F.R. §§ 1502.14(a) and 1508.25(c). Further, an agency violates NEPA by failing to “rigorously explore and objectively evaluate all reasonable alternatives” to the proposed action. City of Tenakee Springs v. Clough, 915 F.2d 1308, 1310 (9th Cir. 1990) (quoting 40 C.F.R. § 1502.14). This evaluation extends to considering more environmentally protective alternatives and mitigation measures. *See, e.g., Kootenai Tribe of Idaho v. Veneman*, 313 F.3d 1094, 1122-1123 (9th Cir. 2002) (and cases cited therein). In the context of wildlife habitat, protecting more habitat is also consistent with the BLM’s obligations to coordinate with the State of Utah, which has management authority for the wildlife depending upon the habitat on federal lands. The current range of alternatives does not include significant levels of improvement from the “no action” alternative and the Preferred Alternative does not give sufficient priority to managing to protect wildlife habitat.

Recommendations: The DRMP/EIS should not only fully analyze the impacts of habitat fragmentation but also consider and adopt a management alternative that substantially reduces the levels of fragmentation in the planning area; the public should be provided with an opportunity to review and comment on a compliant range of alternatives *before* a proposed RMP is adopted.

C. Managing lands to protect their wilderness characteristics reduces fragmentation and provides better habitat; the DRMP/EIS should acknowledge these benefits and consider more alternatives to protect habitat.

p. 4-445

As discussed in detail above, the DRMP/EIS acknowledges that areas with less surface disturbance will lead to less habitat fragmentation and other damage to fish and wildlife habitat, including special species habitat. The DRMP/EIS identifies non-WSA lands with wilderness characteristics as areas with “naturalness, opportunities for solitude, and outstanding opportunities for primitive and unconfined recreation.” DRMP/EIS, p. 2-6. Alternative E considers management of non-WSA lands with wilderness characteristics to protect these values, including their naturalness. *Id.* The other alternatives do not consider protecting any of these lands. *Id.* Under Alternative E, in preserving their naturalness, non-WSA lands with wilderness characteristics would be managed to minimize surface disturbance, including by:

- closure to oil and gas leasing;
- closure to ORV use;
- proposed for withdrawal from mineral entry;
- exclusion of new rights-of-way;

- closure to mineral material disposal;
- closure to private and commercial woodland harvest; and managed as VRM I, where the object is “to preserve the existing character of the landscape” and management is so that the “level of change to the characteristic landscape should be very low and must not attract attention” (*See*, BLM official Visual Resource Management information website at: <http://www.blm.gov/nstc/VRM/vrmsys.html>) .

See, DRMP/EIS, p. ES-5. While these prescriptions would prevent habitat fragmentation and other impacts on wildlife, there is a limited discussion in the DRMP/EIS of these benefits.

The DRMP/EIS acknowledges that protecting the wilderness values in the Cedar Mesa ACEC “would benefit the relevant and important (scenic, wildlife, and fish) values of the ACEC within this area by reducing visual impacts, habitat fragmentation, and surface disturbance.” DRMP/EIS, p. 4-393. For special status species, the DRMP/EIS finds that protection of non-WSA lands with wilderness characteristics in Alternative E “would have long-term beneficial impacts on special status species and their habitat by reducing the potential for surface disturbances, noise, and alteration of habitat.” There is not even this rather cursory assessment of the benefits from managing non-WSA lands with wilderness characteristics on fish and wildlife in the DRMP/EIS.

Recommendations: The DRMP/EIS should be revised to give sufficient weight to the benefits to wildlife, including special status species, from managing areas to maintain wilderness characteristics, including by reducing fragmentation. The management alternatives, including the Preferred Alternative, should include managing more lands outside WSAs to maintain wilderness characteristics.

XXI. NATIONAL PARK SERVICE COOPERATION

THE DRMP/EIS DOES NOT GIVE ADEQUATE CONSIDERATION TO NATIONAL PARK SERVICE LANDS.

A. The National Park Service should have been a cooperating agency.

While the Draft RMP states that the BLM consulted to some degree with the National Park Service (NPS), NPS is not listed as a cooperating agency and, apparently, was not invited to be one. Draft RMP, p. 5-10. Denying NPS cooperating agency status necessarily reduced the involvement of this agency in the planning process – a significant concern given the likely impacts of the management decisions made in this RMP on national parks and other units managed by the NPS. As notes in the DRMP/EIS, the NPS manages more than 528,000 acres in the planning area. DRMP/EIS, p. 1-2. Canyonlands National Park is within the northwestern portion of the planning area, Glen Canyon National Recreation Area is within the southwestern portion, and Natural Bridges National Monument is also contained in the planning area. *Id.*

Cooperating agencies are those agencies that have “jurisdiction by law” or “special expertise.” 40 C.F.R. § 1508.5. In addition to having jurisdiction by law over the

management of the national parks that will be affected by decisions made in the Monticello DRMP/EIS, the NPS clearly has special expertise, defined as “statutory responsibility, agency mission, or related program experience.” 40 C.F.R. §§ 1508.15 (jurisdiction by law), 1508.26 (special expertise).

Designation as a cooperating agency provides that agency with special opportunities to participate in the planning process. The Glossary in the DRMP/EIS notes that the cooperating agency “[a]ssists the lead Federal agency in developing an Environmental Analysis or Environmental Impact Statement.” Draft RMP, p. X-31. The amount of assistance provided by the cooperating agencies in preparation of the DRMP/EIS is also acknowledged in the DRMP/EIS (at p. 5-10):

Many meetings were held with the cooperating agencies throughout the planning process, occurring between March 2003 and March 2006. EIS/RMP-related topics discussed in these meetings included socioeconomics, Wild and Scenic River suitability, ACEC relevance and determination, travel plans, and the development of alternatives.

In fact, effective in 2005, during preparation of this Draft RMP, the BLM revised its internal guidance and applicable regulations to clarify that inviting the participation of relevant agencies as cooperating agencies and the involvement of cooperating agencies in nearly every step of the planning process was mandatory. The regulations now state that:

When developing or revising resource management plans, **BLM State Directors and Field Managers will invite eligible Federal agencies**, state and local governments, and federally recognized Indian tribes **to participate as cooperating agencies**. 43 C.F.R. § 1610.3-1(b) (emphasis added).

Cooperating agencies are required to be involved in: identification of issues (43 C.F.R. § 1610.4-1); development of planning criteria (43 C.F.R. § 1610.4-2); inventory data and information collection (43 C.F.R. § 1610.4-3); analysis of the management situation (43 C.F.R. § 1610.4-4); formulation of alternatives (43 C.F.R. § 1610.4-5); estimating effects of alternatives (43 C.F.R. § 1610.4-6); selection of preferred alternative (43 C.F.R. § 1610.4-7); and selection of resource management plan (43 C.F.R. § 1610.4-7). See also, BLM’s “A Desk Guide to Cooperating Agency Relationships.”

The exclusion of the NPS from cooperating agency status has limited the input from this most qualified agency on the import of effects on Canyonlands National Park, Natural Bridges National Monument and Glen Canyon National Recreation Area and on the preferred approach to managing these effects.

Recommendations: BLM must invite the National Park Service to act as a cooperating agency for the remainder of the RMP revision, including assessment of comments and recommendations for revising the Preferred Alternative. In addition, the NPS should be given the opportunity to review the information previously provided to the other cooperating agencies, and then provide input on the analysis of effects and management

recommendations pertaining to Canyonlands National Park, Natural Bridges National Monument and Glen Canyon Recreation Area.

B. Management of BLM lands adjacent to NPS-managed lands should prioritize protection of the values for which the NPS units were created.

Activities that occur in the planning area for the Monticello Field Office may also have significant impacts on lands managed by other agencies within the planning area or on adjacent lands. The DRMP/EIS should incorporate and coordinate management objective and actions in order to be consistent with the conservation purposes of the areas managed by the National Park Service within the planning area.

Due to the extraordinary surroundings of the planning area and landscape, there are several areas that have been withdrawn for the purpose of conservation. These special places include:

- Canyonlands National Park
- Capitol Reef National Park
- Glen Canyon National Recreation Area

The DRMP/EIS acknowledges the importance of these areas, highlighting as a concern, “[m]anaging and developing oil and natural gas resources in Lockhart Basin to limit impact on the outstanding scenic values of the area, as viewed from both within the basin and adjacent public lands and national parks.” DRMP/EIS, p. 1-6. The DRMP/EIS should include management prescriptions for how the landscape will be managed as a whole in order to not impair the conservation objectives of these places. Alternative E includes recommended withdrawals for much of the lands adjacent to the NPS-managed lands. *See*, Map 9.

The Monticello RMP should include an evaluation of and prescriptions for how the plan will be consistent with the land use plans for the nearby NPS-managed lands pursuant to 43 C.F.R. § 1610.3-2. The DRMP/EIS should not only declare that the plan is consistent with these other plans, but should strive to manage the lands in conjunction with the standard of conservation that these Parks use. Such management will ensure that the resources are being balanced in a way that will “best meet the present and future needs of the American people,” under FLPMA, 43 U.S.C. § 1702.

Special designations should be a prioritized within the portions of the planning area that border Canyonlands National Park, Natural Bridges National Monument, and Glen Canyon National Recreation Area. Such designations include WSA, Non-WSA lands with wilderness characteristics, ACECs, and Wild and Scenic Rivers. Alternative E provides the most protection for these landscapes in the DRMP/EIS, and should be chosen over the inadequate Preferred Alternative for the purpose of consistency. For instance, Alternative E will close or limit most of the bordering NPS-managed lands to ORV use to provide the most protective management alternative for this sensitive and scenic landscape. *See*, Map 53. Similarly, the Monticello RMP should prioritize

classification of VRM Class I for these lands. The NPS-managed lands and their borders have a backdrop of high visibility for the scenic vistas common to this landscape and Alternative E would assign VRM Class I to the adjacent BLM lands. *See*, Map 59.

Major objectives and standards should be set out in the Monticello RMP for air quality and visibility concerns for the NPS-managed lands. For areas listed as Class I under the Clean Air Act, the Monticello RMP should have objectives setting out the manner in which the BLM will manage its lands to ensure that affected Class I areas will maintain attainment under the Act.

Recommendation: The Monticello RMP should be consistent with the management of the NPS-managed lands in the area and should provide management objectives and prescriptions that protect and do not impair the conservation values of these lands. This should include, but is not limited to, VRM Class I designations, lower-impact and quiet recreation uses (including restrictions on ORV use), and an overall landscape-level approach to ensure long-term preservation of the outstanding values of this special area.

XXII. Special Species

Protecting large areas of land from human interference has been documented in many places in the scientific community as being a major means of increasing biomass and preventing the loss of biodiversity. (Brooks, 2000 and 1995, Bender, 1998, Dolman, 1995) The loss of biodiversity is of special importance to special status species, as their already sensitive nature prevents them from being as tolerant to changes in their habitat.

Species with smaller populations, and thus a smaller diversity of genetic material for the population to rely on for continued existence, are more sensitive to change. This is the reason for the designation of Special Status Species. Bowles stated, “The long term goal of any conservation or restoration policy must be to preserve the evolutionary potential of a species.” (2004) Preserving the evolutionary potential of a species is preserving the ability of that species to continue to exist, and thus should be at the forefront of any serious attempt to protect special status species. Special status species are described as those species being federally listed as threatened, endangered, or proposed. Additionally, both the BLM and the state of Utah maintain lists of special status species.

A. Draft RMP does not account for the potential loss to species that are not yet considered special status species, nor realize the full threat to already designated special status species.

The draft RMP neglects to account for several factors that play a role in ecology, “Air quality and paleontology will not be analyzed in this in detail in this section because protecting air quality...would neither inhibit or enhance the protection of federally listed wildlife and plant species under the endangered species act.” P. 4-417 However, believing that factors such as air pollution can be exempt from any serious consideration of special status species does not provide an accurate account. Air pollution does affect ecosystems, and as a result does affect special status species.

Bill Freedman states in his book, "Because pollution related stresses decrease exponentially with increasing distance from point sources, these ecosystem changes [changes in species composition, loss of productivity, litter decomposition and nutrient cycling] eventually become manifest in continuous gradients of community change along transects that originate at the source of pollution." (1995) Clearly pollution is an important effecter of change in an ecosystem and cannot be ignored when the primary contributors of pollution in sensitive desert ecosystems are OHVs, oil and gas development, and cattle grazing.

A major tenant of the BLM's outlook toward special species not only includes protecting special species, but preventing other species from reaching the point of special status. Without critical concern for all species within the affected area the potential impacts of the planned use of OHVs cannot be underestimated. The effects of OHV use creates a positive feedback loop, as Ralf Buckley stated, "Loss of plant cover increases soil erosion, nutrient loss, and sometimes surface temperature, and all these factors contribute to habitat loss."

Habitat loss is one of the most destructive forces to ecosystems that can occur, especially toward already sensitive species, "The effect of habitat loss is obvious: when habitat is lost from the landscape, the animals that are subsequently displaced may also be lost, producing a population decline." (Bender, 1998) Studies like the one Bender conducted give us clear insight into the potential effects of major events like habitat loss, species loss, etc. However the draft RMP states, "Attempts are made to address potential impacts for resource management decisions, but the discussions are often qualitative due to the difficulty in measuring such changes." P. 4-420 With the potential for such vast loss to occur as the result of these management decisions, it is critical that the BLM take the time and difficulty to conduct studies, and reference work already conducted, in order to accurately measure the effects of the RMP. Making decisions with little quantitative backing, regardless of the difficulty in conducting the work, will not result in an accurate plan for the management of these sensitive habitats.

The reality of population decline is that the decline in an individual species has a chain reaction in the ecosystem. In Mathew Brooks' study of the effects of OHVs and grazing on areas of the Mojave Desert, certain areas were fenced in to prevent human disturbance. Seed biomass of desert shrubs increased inside of the fence, along with percent cover, and this was largely contributed to, "the greater diversity and density of Merriam's Kangaroo rats (*Dipodomys merriami*), long-tailed pocket mice (*Chaetodipus formosus*), and southern grasshopper mice (*Onychomys torridus*) in the protected area." (Brooks, 1995) He further stated, "These results show that protection from human disturbance has many benefits, including greater overall community biomass and diversity." Human disturbance occurs when OHVs are allowed in an area, whether that be through oil and gas development or recreation, and the results are a decrease in biomass and diversity. The effects of the loss of habitat and/or species as a result of use that is not carefully measured could affect special status species already residing in the area, or further contribute to the growing list of special status species in Utah.

In order to sustain special status species, continued fragmentation of habitat for human use cannot occur. In a similar paper, Brooks once more analyzes the impacts of having large areas of land removed from human interference, and the benefits from doing so. He states, "Recovery plans for threatened and endangered species often require protection of very large areas from disturbances that threaten the species." He further

acknowledges research from Hudson (1991) and Hoss (1992), “Conservation biologists generally agree that these protected areas provide ecological benefits that extend far beyond the individual species for which they were created. (Hudson 1991, Hoss 1992)” (Brooks, 2000) Therefore, protecting large areas of land for the benefit of the many special status species found in Utah includes benefits that extend beyond just those special status species, and this must be considered by the BLM.

Recommendations: The BLM must consider the large scope of impacts that human intervention in ecological systems is known to cause, in particular the effects that Off Highway Vehicles generate. Also, the possible effects of such proposed use must be worded in such a way that the impacts therein are actually understood. The use of vague and drawn out phrases to describe the loss of sensitive species does not convey exactly the loss that will likely be incurred if habitat loss goes unchecked and these impacts should be not discounted or muffled. The literature cited above provides clear direction in regards to sensitive species, and the obvious sensitivity they have toward unbridled change.

B. Draft RMP does not take proper measures to identify species of concern in affected areas; their populations, needs, and habits are not thoroughly understood.

OHV use through ecologically important areas affects several different aspects of the ecosystem. In addition to the aforementioned problems faced with OHV use in untouched areas, an important problem is noise disturbance and sometimes hearing loss (Brattstrom and Bondello, 1983). Species both on the special status list and off are affected by this, yet the BLM considers the destruction of habitat and the creation of uncounted roads leading to forest clearing areas viable, despite the overwhelming consequence to natural systems.

OHVs are also found to increase the energy load on organisms when they are disturbed by inciting flight responses that would not normally occur, and increasing their level of alertness. (Buckley, 2004) Desert and arid environments are places where resource management is critical for endemic species, and organisms that are not accustomed to OHV intrusion and in most cases are not capable of becoming accustomed, this added strain can be the indirect end of their survival. This strain becomes especially important in light of the looming issue of invasive species. Invasive species have already been shown to often come equipped with an advantage when competing with endemic species. They have biochemical and physical “weapons” that have little effect on their natural neighbors as a result of co evolution, but which have a drastic effect on species that have no natural experience with them. (Callaway and Ridenour, 2004) The added strain placed on endemic species from OHV use can leave them at a critical disadvantage, both from natural competition for sparse resources, and from direct interactions with looming invasive species.

In some cases the BLM has entirely ignored the presence of sensitive species within the RMP area, and without acknowledging the presence of said species; the BLM cannot claim to be helping to protect them. In the Central Utah Navajo Sandstone Endemics Conservation Agreement five species of Navajo Sandstone plants are acknowledged and plans are made to protect the viability of the species, of which the

Richfield field office is a signatory. These five species: *Aliciella cespitosa*, *Aliciella tenuis*, *Astragalus harrisonii*, *Cymopterus beckii*, and *Erigeron maguirei*, are all entirely absent from the draft RPM. Without consideration for these and other similar species in the draft RPM, the BLM cannot claim to have a completely balanced plan to protect sensitive species, especially in cases where field offices have specifically signed on to conservation plans.

Recommendations: The BLM must be fully aware of the species that reside within the proposed areas of the draft RPM, and in doing so must take special care in planning for special status species. The BLM must take measures to understand the ecology of the proposed areas and avoid contradictory statements, especially ones with little or no scientific backing. Further literature is cited above in regards to OHV use and the strain these vehicles place on species already fighting for survival.

C. Draft RMP does not account for Special Status Species reliance on other species and habitat necessary to survive.

The draft RMP seems to have scientific data regarding the adverse effects of grazing by acknowledging the potential for population loss, disruption of ecosystem functions, and changes in community organization, but almost entirely neglects the information. Stating, "Livestock grazing allotments occupy approximately 99% on all lands within the Monticello PA." p 4-442 Allowing almost the entirety of the available land to be grazed will obviously have the effects stated above. Sensitive species, as well as many other important species in the ecosystem that are not on the special status species list occupy these same areas and will be adversely effect by such overuse. Uncounted scientific papers explain the negative effects that cattle grazing has on desert ecosystems, and rarely do the findings show positive ecological consequences to such use. (Waser 1981, Winkel 1991, Jones 1998)

Many species of plant have a high sensitivity to the depth at which their seeds are buried in order to germinate properly or at all. Winkel (1991) stated in his paper, "Although high percentages of seeds were buried on plots heavily trampled, imprinted, and root plowed or ripped, many of these seeds were too deep for seedling emergence." Cattle have been shown here to directly increase the mortality of seeds, causing direct mortality on plant species whether they are on the sensitive species list or not.

The grazing of cattle in arid regions has the potential to affect almost all areas of the ecosystem, and as a result species can be threatened indirectly by losses down the food chain, or by damage to critical environment. Thomas Fleischner stated about grazing, "The ecological cost of this nearly ubiquitous form of land use [grazing] can be dramatic. Examples of such loss include loss of biodiversity, lowering of population densities for a wide variety of taxa; disruption of ecosystem functions, including nutrient cycling and succession; change in community organization; and change in the physical characteristics of both terrestrial and aquatic habitats." (1994) He further acknowledges the potential loss to highly sensitive areas, "Because livestock congregate in riparian ecosystems, which are among the biologically richest habitats in arid and semiarid regions, the ecological costs of grazing are magnified in these sites." With such a vast array of consequences related to grazing, the implementation of grazing must be carefully measured, especially in regards to sensitive desert vegetation and riparian areas that are found throughout the RMP affected area.

Recommendations: Riparian areas are some of the most important in semiarid and arid areas, such as those located within the areas affected by the RMP. Consideration must be given to these areas, and the richness of species involved. The loss of any species has the potential to impact sensitive species and their ecosystems, and the BLM must take this into consideration when attempting to create a plan for the management of these systems, particularly in regards to OHV use and grazing.

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