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BLM – Richfield Field Office
150 East 900 North
Richfield, UT 84701

Re: Comments on the BLM Richfield 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 Richfield Field Office. As noted in the DRMP cover letter from the State Director, this will be the first RMP and EIS for the Richfield field Office. These lands are currently managed under four different Management Framework Plans, two RMPs, various amendments and administrative closure orders. SUWA appreciates the BLM’s efforts in developing this draft, and believe that an RMP and EIS for the Richfield 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 Richfield 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 (some 6,000 years old or more), riparian areas and water resources, critical wildlife habitat, and popular hiking trails all co-exist in many canyon bottoms of the Richfield 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, although the draft plan fails to include a site-specific analysis of the route designation impacts, will certainly lead to resource damage in violation of BLM's own guidance, regulation and law;
- The draft plan fails to analyze and protect important wilderness resources in the Richfield 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 redrock 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 Richfield 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 Richfield 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. Our 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.

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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. Central Utah Navajo Sandstone Endemics Conservation Agreement. USFWS, USFS, BLM and NPS, 2006.
- 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. Ensore, 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 Richfield DRMP/EIS for the past several years, the public is inappropriately limited to 90 days to read, analyze and meaningfully comment on this voluminous set of tomes – over 900 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. In its cursory dismissal of the requests for extension, the BLM has rejected all these well-founded requests for a reasonable extension of time, 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, yet BLM has denied SUWA an extension of time to submit comments (Letter 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 Richfield 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 Richfield Field Office for this RMP revision. The Richfield Field Office received over 2,000 comments during scoping; 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 a 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 that only appropriate, resource-sensitive routes be 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 Richfield 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 favor motorized OHV activity over primitive and unconfined recreation. The Richfield 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 Richfield 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. 2-90. The IMP requires management of the WSAs in the Richfield 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 Heart-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. Dombek*, 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 Richfield 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 cursory dismissal of the Heart-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 Heart-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 Richfield Field Office.

As noted in the DRMP cover letter, this will be the first RMP and EIS for the Richfield 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 were with little or no NEPA analysis or review, and thus, probably do not adequately inform the BLM and the public as to baseline conditions.

An accurate description of the baseline conditions of the Richfield 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 Richfield 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. 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. 3-70.

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. The DRMP/EIS also fails to acknowledge and integrate BLM’s responsibilities to the Central Utah Navajo Sandstone Endemics Conservation Agreement *See* Attachment M. *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. This is especially important in “open ORV areas” such as Swingarm City near Factory Butte, where ORVs can crush vegetation, including the federally listed Wright Fishhook Cactus and the Winkler Pincushion Cactus. 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 Richfield 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 possibly inaccurate 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 Richfield 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 Richfield 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.* 4-73 (Under Alt B 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 (8,400 acres) would be more likely to experience surface disturbance and destruction of vegetative resources in those areas.
3. Chapter 4's discussion of soils at 4-8 to 4-24 lacks well-considered, informed 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 5% of lands managed by the Richfield Field Office have been inventoried. The DRMP declares that the impacts of the preferred alternative will increase protection over Alternative N 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.
6. Given the 3,693 miles of ORV trails the plan proposes to designate, and given the proposed “open” ORV designation areas near Big Rock, Swingarm City and elsewhere, 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 Richfield'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 3-9 mentions that there are 1,179 acres of evaluated riparian areas in the Richfield Field Office and that 1,053 (89%) are in proper functioning condition, 103 (9%) are functioning-at risk, 23 (2%) 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 4,380 miles of "existing" routes augmented by route data provided by counties. This inventory of routes was considered by the interdisciplinary team and with consultation with county representatives. In the preferred alternative only 204 miles of route of the total inventory not be designated as OPEN to ORV use. Over 95% 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 few, if any places in the Richfield 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 only 274 miles of difference between the routes designated in Alternatives B, C and D – not a meaningful difference in light of the 1,300+ 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 Richfield 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 B.

4. The Richfield 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 Richfield 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 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 Richfield 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 Richfield 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 Richfield 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 11,500 miles of routes in the Richfield 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 Heart-of-the-Redrock Heritage Proposal

The BLM has not fully considered and analyzed the Heart-of-the-Redrock Heritage Proposal or meaningfully incorporated it into any of the alternatives. The Heart-of-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 Richfield. The Heart-of-the-Redrock Heritage Proposal is a forward-looking approach to managing the world-class scenery and landscapes near Richfield Field Office for current and future generations, and is focused primarily on travel management. As the Heart-of-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 Heart-of-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 Heart-of-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 Heart-of-the-Redrock Heritage Proposal in the Richfield 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 Richfield 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 Richfield RMP.

III. LANDS WITH WILDERNESS CHARACTERISTICS

A. GENERAL COMMENTS

The Richfield Field Office manages over 2 million acres of public lands in Wayne, Sanpete, Sevier, Piute and Garfield 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 682,600 non-WSA acres as possessing wilderness characteristics. Some of these lands were identified by the *1999 Utah Wilderness Inventory (Revised 2002)*. Additional areas were identified by the more recent wilderness review which looked at lands within the Utah Wilderness Coalition (UWC) wilderness proposal. In sum, the BLM has inventoried or reviewed a total of 848,500 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 Richfield Field Office. Indeed, the BLM now recognizes that 94%

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).

of the UWC wilderness proposal (outside of WSAs) possesses wilderness characteristics, which is an encouraging improvement.

The Richfield Field Office already manages 11 Wilderness Study Areas (WSAs) totaling 446,900 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 Richfield 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 Richfield 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 Richfield 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 682,600 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 Richfield 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 contentious 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. 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 damages 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 Richfield 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.

Within the Richfield DRMP/EIS, several wilderness quality lands have yet to be appropriately identified as possessing wilderness characteristics. The Richfield Field Office has failed to identify the full extent of lands with a natural appearance and not significantly impacted by man’s activity. As a result, BLM should utilize this new information, which includes information previously submitted by SUWA and supplemental new information described below, in an effort to accurately assess the wilderness resources within the Richfield Field Office.

Further, the recent WCR arbitrarily excludes or fails to identify two wilderness 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 including FS lands, and are not physically separated by a significant impact (rather, their only separation is an administrative boundary). The Richfield 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. The Utah BLM’s arbitrary interpretation does not comply with the intent of FLPMA.

However, 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, 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."

In addition to the above mentioned BLM lands contiguous to the Manti-La Sal National Forest Service, it appears the Richfield 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. *See* SUWA's March 15, 2004, Supplemental and New Wilderness Character and Character Information: Bull Mountain, Bullfrog Creek, Dirty Devil – French Spring, Dogwater Creek, Fiddler Butte, Fremont Gorge, Horseshoe Canyon South, Jones Bench, Labyrinth Canyon, Limestone Cliffs, Little Rockies, Long Canyon, Mount Ellen – Blue Hills, Mount Hillers, Mount Pennell, Muddy Creek – Crack Canyon, Notom Bench, Ragged Mountain, Red Desert, Wild Horse Mesa.

The Richfield 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 Richfield DRMP scoping period.

An example of the above-described problem is the Mount Ellen/Blue Hills WIA, where, near Sandy Creek, BLM staff identified the wilderness character boundary along an arbitrary section line. This section line feature fails to follow or utilize a significant impact, but rather runs across natural topography. As a result, SUWA provided substantial comments and photographs that clearly demonstrate that the BLM has not identified the full extent of the BLM lands to the west that retain naturalness. FLMPA directs the BLM to identify the extent of its resources. Another notable example is where the BLM does not assess the Indian Spring Benches area, which is located south of Mount Hillers. BLM's boundary isolated this natural area that was described in SUWA's previous comments as meeting wilderness criteria as a stand-alone wilderness character unit. If the BLM had properly identified the full extent of the wilderness characteristics, these benches would have been included. While we have highlighted just two examples where BLM failed on the identification of the existing wilderness resource, other examples abound. Therefore, BLM should refer to SUWA's previous scoping comments for the Richfield DRMP. *See* SUWA's March 15, 2004, Supplemental and New

Wilderness Character and Character Information: Bull Mountain, Bullfrog Creek, Dirty Devil – French Spring, Dogwater Creek, Fiddler Butte, Fremont Gorge, Horseshoe Canyon South, Jones Bench, Labyrinth Canyon, Limestone Cliffs, Little Rockies, Long Canyon, Mount Ellen – Blue Hills, Mount Hillers, Mount Pennell, Muddy Creek – Crack Canyon, Notom Bench, Ragged Mountain, Red Desert, Wild Horse Mesa.

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 Richfield 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 Richfield 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.

B. Site Specific Comments

Bull Canyon Wilderness Character Unit

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

Cane Spring Desert Wilderness Character Unit

Comment A – BLM has yet to analyze and assess the information SUWA provided to the BLM within the Cane Spring Desert new and supplemental information in *conjunction* with the public lands located within Glen Canyon National Recreation Area.

BLM's evaluation isolated the northern and southern portions of this roadless area from the central portion by justifying these do not meet the size requirement, therefore the only area that received a naturalness evaluation was the central portion. Concerning this central portions, BLM staff goes on to note that there are far more significant impacts than noted by SUWA.

As a result of this, BLM fails to identify any of the BLM lands that comprise the Cane Spring Desert wilderness character unit. BLM relies predominantly on GCNRA to be managing their portion of this roadless and wilderness character unit as Wilderness or as endorsed wilderness. This may have been the case when BLM first assessed this area, but it is not the case today. As a result, BLM and the ongoing planning effort 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 GCNRA is not justified.

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 separating federal agency lands or that when one agency must have made a formal recommendation for wilderness designation or not is a factor in identification of wilderness characteristics. As mentioned, SUWA did supply the Richfield BLM with supplemental and new information for the Cane Spring Desert wilderness character unit previously, this information remains valid and must be utilized again in assessing this area. BLM will need to correctly identify the area as retaining a wilderness character for all RMP planning purposes.

With regards to BLM's assessment there may be a few more significant impacts within the area, where these are present, an exclusion of these should be performed either by a cherry-stem or by the use of these as unit boundaries where necessary.

**Capitol Reef Adjacent Wilderness Character Units
(Also known by the BLM as Red Desert Extension)**

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

Dirty Devil Wilderness Character Unit

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

Fiddler Butte Wilderness Character Unit

Comment A – BLM fails to address SUWA’s previous comments which demonstrated that the BLM has yet to fully identify the wilderness character and characteristics that exist today. Therefore, BLM needs to perform the warranted assessment and inventory as detailed in SUWA’s Richfield DRMP scoping. *See* SUWA’s March 15, 2004, Supplemental and New Wilderness Character and Character Information: Bull Mountain, Bullfrog Creek, Dirty Devil – French Spring, Dogwater Creek, Fiddler Butte, Fremont Gorge, Horseshoe Canyon South, Jones Bench, Labyrinth Canyon, Limestone Cliffs, Little Rockies, Long Canyon, Mount Ellen – Blue Hills, Mount Hillers, Mount Pennell, Muddy Creek – Crack Canyon, Notom Bench, Ragged Mountain, Red Desert, Wild Horse Mesa.

Comment B – It appears that this area within the SITLA section may be BLM lands and if in fact this is the case, no wilderness character inventory has been performed recently. It is contiguous with the area already determined to have wilderness character and this area also possesses naturalness.

Fremont Gorge Wilderness Character Unit

Comment A – BLM only address a few of SUWA’s previous comments the clearly demonstrated that the BLM has yet to fully identify the wilderness character and characteristics that exist today. Therefore, BLM needs to perform the warranted assessment and inventory as detailed in SUWA’s Richfield DRMP scoping. *See* SUWA’s March 15, 2004, Supplemental and New Wilderness Character and Character Information: Bull Mountain, Bullfrog Creek, Dirty Devil – French Spring, Dogwater Creek, Fiddler Butte, Fremont Gorge, Horseshoe Canyon South, Jones Bench, Labyrinth Canyon, Limestone Cliffs, Little Rockies, Long Canyon, Mount Ellen – Blue Hills, Mount Hillers, Mount Pennell, Muddy Creek – Crack Canyon, Notom Bench, Ragged Mountain, Red Desert, Wild Horse Mesa.

Flat Tops Wilderness Character Unit

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

Horseshoe Canyon Wilderness Character Unit

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

Jones Bench Wilderness Character Unit

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

Kingston Ridge Wilderness Character Unit

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

Labyrinth Canyon Wilderness Character Unit

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

Limestone Cliffs Wilderness Character Unit

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

Little Rockies Wilderness Character Unit

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

Long Canyon Wilderness Character Unit

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

Mount Ellen/Blue Hills Wilderness Character Unit

Comment A – BLM only addresses a few of previous SUWA comments that demonstrated that the BLM has not fully identified the wilderness character and characteristics that exist today. Therefore, BLM needs to perform the warranted assessment and inventory as detailed in SUWA’s Richfield DRMP scoping. *See* SUWA’s March 15, 2004, Supplemental and New Wilderness Character and Character Information: Bull Mountain, Bullfrog Creek, Dirty Devil – French Spring, Dogwater Creek, Fiddler Butte, Fremont Gorge, Horseshoe Canyon South, Jones Bench, Labyrinth Canyon, Limestone Cliffs, Little Rockies, Long Canyon, Mount Ellen – Blue Hills, Mount Hillers, Mount Pennell, Muddy Creek – Crack Canyon, Notom Bench, Ragged Mountain, Red Desert, Wild Horse Mesa.

Mount Hillers Wilderness Character Unit

Comment A – BLM only addresses a few of previous SUWA comments that demonstrated that the BLM has not fully identified the wilderness character and characteristics that exist today. Therefore, BLM needs to perform the warranted assessment and inventory as detailed in SUWA’s Richfield DRMP scoping. *See* SUWA’s March 15, 2004, Supplemental and New Wilderness Character and Character Information: Bull Mountain, Bullfrog Creek, Dirty Devil – French Spring, Dogwater Creek, Fiddler Butte, Fremont Gorge, Horseshoe Canyon South, Jones Bench, Labyrinth Canyon, Limestone Cliffs, Little Rockies, Long Canyon, Mount Ellen – Blue Hills, Mount Hillers, Mount Pennell, Muddy Creek – Crack Canyon, Notom Bench, Ragged Mountain, Red Desert, Wild Horse Mesa.

Mount Pennell Wilderness Character Unit

Comment A – BLM only addresses a few of previous SUWA comments that demonstrated that the BLM has not fully identified the wilderness character and characteristics that exist today. Therefore, BLM needs to perform the warranted assessment and inventory as detailed in SUWA’s Richfield DRMP scoping. *See* SUWA’s March 15, 2004, Supplemental and New Wilderness Character and Character Information: Bull Mountain, Bullfrog Creek, Dirty Devil – French Spring, Dogwater Creek, Fiddler Butte, Fremont Gorge, Horseshoe Canyon South, Jones Bench, Labyrinth Canyon, Limestone Cliffs, Little Rockies, Long Canyon, Mount Ellen – Blue Hills, Mount Hillers, Mount Pennell, Muddy Creek – Crack Canyon, Notom Bench, Ragged Mountain, Red Desert, Wild Horse Mesa.

Muddy Creek/Crack Canyon Wilderness Character Unit

Comment A – If BLM were to use the motorized communities’ arguments that the vehicle tracks on Mancos shale here then *all* of the vehicle impacts within these areas are gone from rain. (It’s known that it has rained more than once in this area, including the violent floods of October 2006) Therefore, these areas retain their natural and wilderness characteristics since the BLM has initiated the restriction order.

We note though, that due to BLM’s overdue motorized restrictions within the Factory Butte area, motorized use in these areas has dramatically lessened. As a result, lands that once saw heavy vehicle abuse are now experience less use. Therefore, these areas once again possess wilderness character. BLM needs to address this for its ongoing planning purposes.

Notom Bench Wilderness Character Unit

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

Phonolite Hill Wilderness Character Unit

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

Pole Canyon Wilderness Character Unit

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

Ragged Mountain Wilderness Character Unit

Comment A – BLM only addresses a few of previous SUWA comments that demonstrated that the BLM has not fully identified the wilderness character and characteristics that exist today. Therefore, BLM needs to perform the warranted assessment and inventory as detailed in SUWA’s Richfield DRMP scoping. *See* SUWA’s March 15, 2004, Supplemental and New Wilderness Character and Character Information: Bull Mountain, Bullfrog Creek, Dirty Devil – French Spring, Dogwater Creek, Fiddler Butte, Fremont Gorge, Horseshoe Canyon South, Jones Bench, Labyrinth Canyon, Limestone Cliffs, Little Rockies, Long Canyon, Mount Ellen – Blue Hills, Mount Hillers, Mount Pennell, Muddy Creek – Crack Canyon, Notom Bench, Ragged Mountain, Red Desert, Wild Horse Mesa.

Red Desert Wilderness Character Unit

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

Robbers Roost Flats Wilderness Character Unit

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

Rock Canyon Wilderness Character Unit

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

Rocky Ford Wilderness Character Unit

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

Sweetwater Reef Wilderness Character Unit

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

Wildcat Knolls Wilderness Character Unit

Comment A – BLM arbitrarily drops both Unit A and Unit C of the Wildcat Knolls wilderness character for different and unjustified reasons.

Concerning Unit A of this area, BLM attempts 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 has been rescinded. 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 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 Richfield 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 separating federal agency lands or that one agency must have made a formal recommendation for wilderness designation. For this area, SUWA did supply the Price

and Richfield BLM with supplemental and new information for the Wildcat Knolls 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. The current no wilderness character determination is not accurate within BLM relevant policies and guidance and must be corrected prior to any Final Richfield RMP.

Comment B – This small area, part of the larger roadless and wilderness character unit, was not properly identified by the Richfield BLM as having wilderness characteristics.

It appears that the Richfield 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.

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 Price and Richfield BLM with supplemental and new information for the Wildcat Knolls 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. The current no wilderness character determination is not accurate within BLM relevant policies and guidance and must be corrected prior to any Final Richfield RMP.

Comment C – BLM eliminated this entire area from possessing wilderness values arbitrarily. BLM states that the proposed coal haul road *will* impact the area, therefore, the agency eliminates the present wilderness resource prior to it being eliminated on the ground. This outcome is not appropriate, it would be the same analogy of BLM accounting for an endangered cactus in this area, and due to the proposed road, the cactus doesn't exist anymore, even though it does on the ground since the road has not been built. Until the road is physically built, the wilderness characteristics are present.

In addition, even when the road is built through this remarkable area, wilderness characteristics will remain present all contiguous to the Forest Service lands. This is due to the BLM lands and Forest Service lands here being part of a larger roadless and wilderness character area.

Concerning the wilderness characteristics of size for this area, the BLM area presented here is of sufficient size to make it 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 Richfield 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 Richfield 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 has been rescinded. 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, 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.”

BLM needs to identify the area as retaining wilderness characteristics for all ongoing planning.

Wild Horse Mesa Wilderness Character Unit

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

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

Besides the BLM lands within Wildcat Knolls wilderness character units that are contiguous to the roadless areas of the Manti – La Sal National Forest, the Richfield

BLM manages several additional BLM wilderness character units that are contiguous to roadless Forest Service lands. 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 Richfield 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. As 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 posses these values, although nearly every BLM parcel more than likely does. 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, its been identified that these areas indeed remain natural in appearance and posses 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 Richfield 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 Richfield 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 has been rescinded. 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 has provided this significant information for these wilderness character units until now. Thus this is significant new wilderness character information, which includes the accompanying maps and comments below. With this, SUWA fully expect the Richfield 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 Richfield field office and its ongoing planning efforts and violates FLPMA.

South Sevier Plateau Wilderness Character Unit

See Exhibit D for Maps

See Map A, South Sevier Plateau - South of the currently identified BLM area of Pole Canyon wilderness character unit lies a large area of BLM lands not yet identified as containing wilderness characteristics. This BLM area, is part of the larger roadless area of public lands within the Dixie National Forest and a RARE II area, retains an overwhelming natural appearance and character. Native vegetation, undulating topography and areas free of any significant human impacts create an overwhelming natural area that retains wilderness characteristics.

This BLM parcel is located within:

Parcel 1 - T31S R2W, Sections 21, 22, 27-31, 33 and 34
T32S R2W, Sections 3-11, 14, 15, 17-23, and 27-30

As part of the Richfield's ongoing RMP process, all BLM lands that contain a wilderness resource must be identified. The Richfield 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 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. Here, SUWA provides the Richfield BLM with supplemental and new information for the areas

North Sevier Plateau Wilderness Character Unit

See Maps B and C – The vast majority of the flanks or lower portions of the North Sevier Plateau is managed by the Richfield BLM. Within these areas, 20 separate BLM parcels have been identified that are part of the larger roadless and wilderness character units. These BLM areas are indicated on the accompanying Maps B and C as highlighted in yellow with red demarking wilderness character boundaries.

Of these 20 BLM parcels, there are a total of eight separate wilderness character units in total, all located within these BLM lands and adjoining and contiguous public lands managed by the Fish Lake National Forest.

These 20 BLM parcels are located within:

- Parcel 1** – T27S R1W, Sections 30 and 31
T28S R1W, Sections 5-8, 17-19, and 30,
T28S R2W, Sections 1, 11, 12, 23-26, and 35
- Parcel 2** – T29S R2W, Sections 1, 10-12, 14, 15, and 17
- Parcel 3** – T29S R2W, Sections 21-23, 26-28, 34 and 35
T30S R2W, Sections 3-10, and 17
- Parcel 4** – T29S R3W, Sections 28, 33 and 34
- Parcel 5** – T28S R3W, Sections 20, 29-32
T29S R3W, Sections 3-6
- Parcel 6** – T28S R3W, Sections 7 and 20
- Parcel 7** – T28S R3W, Sections 6-8
T28S R4W, Section 12
- Parcel 8** – T27S R4W, Sections 12 and 13
- Parcel 9** – T26S R3W, Sections 17-21, and 29
- Parcel 10** – T25S R3W, Sections 33
T26S R3W, Sections 4, 8, 9 and 17
- Parcel 11** – T25S R3W, Sections 22, 27, 33, and 34
- Parcel 12** – T25S R3W, Sections 11 and 14
- Parcel 13** – T24S R2W, Sections 30-32
T24S R3W, Section 25
- Parcel 14** – T24S R2W, Sections 21, 22, 28 and 29
- Parcel 15** – T24S R2W, Sections 13, 14, 22-24
- Parcel 16** – T24S R1W, Sections 20 and 29
- Parcel 17** – T25S R1W, Section 22
- Parcel 18** – T25S R1W, Section 35
- Parcel 19** – T26S R1W, Sections 27, 33, and 34
T27S R1W, Sections 3 and 4
- Parcel 20** – T27S R1W, Sections 17, 19 and 20

Each of these BLM parcels retain natural characteristics and are not significantly impacted by human activity.

As part of the Richfield's ongoing RMP process, all BLM lands that contain wilderness resources must be identified. The Richfield 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 characteristics. Concerning these contiguous BLM lands with other public land situations, we've requested documentation of BLM's policy that guides BLM's decisions in these situations, but Utah State Office personal 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 areas and Forest Service roadless areas is not justified. The future management of these lands is not at issue, but the identification of a wilderness resource is.

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 Richfield BLM with supplemental and new information for the areas.

Tushar Mountains Wilderness Character Units

See Maps D and E, Tushar Mountains - Just west of Piute Reservoir and along the benchlands of City Creek Peak and Circleville Peak remains several natural BLM parcels that are part of a larger roadless and wilderness character unit. Each of these seven BLM parcels is managed by the Richfield BLM. These BLM areas are indicated on the accompanying Map D as highlighted in yellow with red demarking wilderness character boundaries.

Consisting of two wilderness character unit, these seven BLM parcels are all located within these BLM lands and adjoining and contiguous public lands managed by the Fish Lake National Forest.

These 5 BLM parcels are within:

Parcel 1 – T27S R5W, Sections 13, 14, 24 and 25

- Parcel 2** – T28S R4W, Sections 19, 20 and 29
- Parcel 3** – T28S R4W, Section 29
- Parcel 4** - T28S R4W, Section 29
- Parcel 5** – T29S R4W, Sections 5, 6 and 8
- Parcel 6** – T29S R4W, Sections 7, 8, and 17-19
- Parcel 7** – T30S R5W, Sections 10, 11, 14 and 15

Each of these BLM parcels retain a natural characteristic and are not significantly impacted by mans activity.

As part of the Richfield’s ongoing RMP process, all BLM lands that contain wilderness resources must be identified. The Richfield 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 rational and BLM will not account for the full range of lands retaining wilderness characteristics. Concerning these contiguous BLM lands with other public land situations, we’ve requested documentation of BLM’s policy that guides BLM’s decisions in these situations, but Utah State Office personal 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 areas and Forest Service roadless areas is not justified. The future management of these lands is not at issue, but the identification of a wilderness resource is.

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 Richfield BLM with supplemental and new information for the areas.

Aquarius Plateau Wilderness Character Units

See Maps F, G and H, Aquarius Plateau – East of the community of Antimony consists of three separate BLM parcels that contain wilderness characteristics. Each of these BLM parcels are part of two larger wilderness character units that contain additional public lands within Dixie National Forest, an agency with the ability to manage lands for wilderness under the Wilderness Act.

In addition to these, the BLM lands surrounding the Aquarius Plateau have another 11 parcels that are part of the larger roadless and wilderness character units. These are near

the communities of Bicknell, Torrey and Grover. In all, these remaining BLM parcels surrounding Boulder Mountain overwhelmingly are natural. To date, the BLM has never fully accounted for these BLM parcels as possessing or retaining wilderness values. Therefore, we provide substantive information on these areas. Each of these parcels are indicated on the accompanying Maps F, G and H as highlighted in yellow with red demarking wilderness character boundaries.

These 14 BLM parcels are located within:

- Parcel 1** – T32S R1W, Sections 7, 18, and 19
T32S R2W, Sections 24 and 25
- Parcel 2** – T31S R1W, Sections 30 and 31
T31S R2W, Section 25
T32S R1W, Section 6
- Parcel 3** – T31S R1W, Sections 6, 7, 18 and 19
T31S R2W, Sections 12, 13, and 24
- Parcel 4** – T30S R2E, Sections 1, 12-14, 23-26 and 35
T31S R2E, Section 3
- Parcel 5** – T29S R3E, Sections 30 and 31
- Parcel 6** – T29S R3E, Section 29
- Parcel 7** – T29S R3E, Sections 17, 20, 21, 29 and 30
- Parcel 8** - T29S R3E, Section 15
- Parcel 9** - T29S R3E, Sections 13 and 14
T29S R4E, Section 18
- Parcel 10** – T30S R5E, Section 6
- Parcel 11** - T30S R5E, Sections 5 and 6
- Parcel 12** - T30S R5E, Sections 11-14
T30S R6E, Section 18
- Parcel 13** - T30S R6, Sections 17 and 18
- Parcel 14** - T30S R6, Sections 27, 34 and 35

Each of these BLM parcels retain a natural characteristic and are not significantly impacted by mans activity.

As part of the Richfield’s ongoing RMP process, all BLM lands that contain wilderness resources must be identified. The Richfield 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 rational and BLM will not account for the full range of lands retaining wilderness characteristics. Concerning these contiguous BLM lands with other public land situations, we’ve requested documentation of BLM’s policy that guides BLM’s decisions in these situations, but Utah State Office personal 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 areas and Forest Service roadless areas is not justified. The future management of these lands is not at issue, but the identification of a wilderness resource is.

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 Richfield BLM with supplemental and new information for the areas.

Thousand Lakes Mountain Wilderness Character Units

See Map I, Thousand Lake Mountain – Thousand Lake Mountain is a prominent geological feature within Southern Utah. Within this region, large areas of land retain a wilderness character and resource. Not only are these wilderness values including with the Forest Service lands, but additional includes BLM lands. Each of the five parcels are part of a larger roadless and wilderness character units, all of which area managed by the Richfield BLM. These BLM areas are indicated on the accompanying Map I as highlighted in yellow with red demarking wilderness character boundaries.

Consisting of two wilderness character unit, these five BLM parcels are all located within these BLM lands and adjoining and contiguous public lands managed by the Fish Lake National Forest.

These 5 BLM parcels are located within:

Parcel 1 – T27S R3E, Sections 11, 14, and 23

Parcel 2 – T27S R3E, Section 26

Parcel 3 – T27S R3E, Section 34

T28S R3E, Sections 3, 9, 10, and 15

Parcel 4 – T28S R3E, Sections 15, 22, and 25-27

Parcel 5 – T28S R3E, Section 25

Each of these BLM parcels retain a natural characteristic and are not significantly impacted by mans activity.

As part of the Richfield's ongoing RMP process, all BLM lands that contain wilderness resources must be identified. The Richfield 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 rational and BLM will not account for the full range of lands retaining wilderness characteristics. Concerning these contiguous BLM lands with other public land situations, we've requested documentation of BLM's

policy that guides BLM's decisions in these situations, but Utah State Office personal 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 areas and Forest Service roadless areas is not justified. The future management of these lands is not at issue, but the identification of a wilderness resource is.

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 Richfield BLM with supplemental and new information for the areas.

Wasatch Plateau Wilderness Character Units

See Map J, Wasatch Plateau – Located along Highway 72, these three BLM parcels are part of the larger roadless and wilderness character unit, mostly consisting of Forest Service lands. These BLM areas are indicated on the accompanying Map J as highlighted in yellow with red demarking wilderness character boundaries.

Consisting of two wilderness character unit, these three BLM parcels are all located within these BLM lands and adjoining and contiguous public lands managed by the Fish Lake National Forest.

These 3 BLM parcels are located within:

Parcel 1 – T27S R3E, Sections 11, 14, and 23

Parcel 2 – T27S R3E, Section 26

Parcel 3 – T27S R3E, Section 34

T28S R3E, Sections 3, 9, 10, and 15

Parcel 4 – T28S R3E, Sections 15, 22, and 25-27

Parcel 5 – T28S R3E, Section 25

Each of these BLM parcels retain a natural characteristic and are not significantly impacted by mans activity.

As part of the Richfield's ongoing RMP process, all BLM lands that contain wilderness resources must be identified. The Richfield 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 characteristics. Concerning these contiguous BLM lands with 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 this natural area, adjoining and contiguous with the larger Forest Service Rare II areas and Forest Service roadless areas is not justified. The future management of these lands is not at issue, but the identification of a wilderness resource is.

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 Richfield BLM with supplemental and new information for the areas.

Thousand Lake Mountain Wilderness Character Units

See Map I, Thousand Lake Mountain – Thousand Lake Mountain is a prominent geological feature within Southern Utah. Within this region, large areas of land retain a wilderness character and resource. Not only are these wilderness values including with the Forest Service lands, but additional includes BLM lands. Each of the five parcels are part of a larger roadless and wilderness character units, all of which area managed by the Richfield BLM. These BLM areas are indicated on the accompanying Map I as highlighted in yellow with red demarking wilderness character boundaries.

Consisting of two wilderness character unit, these five BLM parcels are all located within these BLM lands and adjoining and contiguous public lands managed by the Fish Lake National Forest.

These 5 BLM parcels are within:

Parcel 1 – T27S R3E, Sections 11, 14, and 23

Parcel 2 – T27S R3E, Section 26

Parcel 3 – T27S R3E, Section 34

T28S R3E, Sections 3, 9, 10, and 15

Parcel 4 – T28S R3E, Sections 15, 22, and 25-27

Parcel 5 – T28S R3E, Section 25

Each of these BLM parcels retain a natural characteristic and are not significantly impacted by mans activity.

As part of the Richfield’s ongoing RMP process, all BLM lands that contain wilderness resources must be identified. The Richfield 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 rational and BLM will not account for the full range of lands retaining wilderness characteristics. Concerning these contiguous BLM lands with other public land situations, we’ve requested documentation of BLM’s policy that guides BLM’s decisions in these situations, but Utah State Office personal 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 areas and Forest Service roadless areas is not justified. The future management of these lands is not at issue, but the identification of a wilderness resource is.

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 Richfield BLM with supplemental and new information for the areas.

Pahvant Range Wilderness Character Units

See Map J, Pahvant Range – These BLM parcels are near the community of Richfield, with each of these being part of the same roadless and wilderness character unit that also encompasses the Forest Service lands. Remaining natural in appearance and character, these parcels have yet to be included within the Richfield DRMP as possessing a wilderness resource. As a result, this information presented here needs to be addressed prior to the final RMP. These BLM areas are indicated on the accompanying Map J as highlighted in yellow with red demarking wilderness character boundaries.

These 4 BLM parcels are within:

Parcel 1 – T22S R2W, Section 3

Parcel 2 – T22S R2W, Sections 10, 13, 14, 22 and 23

Parcel 3 – T22S R2W, Sections 28 and 33

Parcel 4 – T22S R2W, Section 5

Each of these BLM parcels retain a natural characteristic and are not significantly impacted by mans activity.

As part of the Richfield's ongoing RMP process, all BLM lands that contain wilderness resources must be identified. The Richfield 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 rational and BLM will not account for the full range of lands retaining wilderness characteristics. Concerning these contiguous BLM lands with other public land situations, we've requested documentation of BLM's policy that guides BLM's decisions in these situations, but Utah State Office personal 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 areas and Forest Service roadless areas is not justified. The future management of these lands is not at issue, but the identification of a wilderness resource is.

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 Richfield 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 Richfield Planning Area

Given the wide-ranging use of the public lands in the Richfield 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 4,176² 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

² The DRMP/EIS states that the preferred alternative would include 3,693 miles of ORV route – a large enough number. But that does not include 483 miles of seasonally open routes that bring the total mileage in the Richfield Field Office to 4,176 miles of routes. This also does not include routes crossing other lands but consequential to BLM designations.

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 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 Richfield 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.

³ See also Attachments RR and SS.

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 Richfield Field 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 actively 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).

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

Also from BLM's Land Use Planning Handbook:

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 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 4,176 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 Dirty Devil/French Spring 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” alternative. BLM has not recognized this statutory mandate that the agency give preference to ACEC designation in the Richfield DRMP/EIS. To rectify this, once BLM has determined that certain areas in the Richfield Field Office contain the requisite relevant and importance values – which the Richfield 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 B. 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 ahead of 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 Richfield DRMP fails to support designation of ACECs to protect these values. BLM has identified approximately 682,600 acres of lands with wilderness characteristics. In addition, there are an additional 40,351 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: Badlands, Lower Muddy Creek, Dirty Devil/North Wash, Horseshoe Canyon, Little Rockies, Henry Mountains, Fremont Gorge/Cockscomb, and Kingston 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.**

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.

The Richfield Field Office received nominations from the public for 26 ACECs during scoping, totaling 1,562,100 acres. The BLM evaluated the nominations and found that 886,810 acres in 16 areas met the relevance and importance criteria. Alternatives C and D would designate all 886,810 acres of potential ACECs, while conversely, Alternative A would designate 0 acres. The BLM's preferred alternative, B, would designate two ACECs of 2,530 acres. This would significantly decrease the acreage currently managed as ACEC -- four units totaling 16,200 acres. That BLM has determined that 886,810 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 C and D.

However, the preferred alternative would designate only an incredibly small fraction of acreage (.3%) 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 13,670 acres), and that BLM is proposing to not designate ACECs for 886,810 acres in 16 areas the agency found met the relevance and importance criteria suggests a craven political influence upon the process and a breathtaking violation 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 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 Richfield RMP in Alternative D are supported by SUWA. Appendix 3 goes into great detail on the merits justifying eligibility of each river and stream. The suitability findings and tentative classifications expressed in Alternative D are the natural and logical outcome of the body of evidence presented in Appendix 3 in the eligibility findings.

The Richfield 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 Richfield 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.

Of special note are the tributary canyons of the Dirty Devil. These premier drainages are a Mecca for slot canyoneering, backpacking and primitive recreation generally. WSR protection would be a complementary part of a management strategy to maintain the naturalness and outstanding values of those canyons.

VII. OIL & GAS DEVELOPMENT

Summary

The BLM should select Alternative D – with a number of additional stipulations and closures – of the Richfield 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 BLM’s own admission selection of Alternative D will not decrease the reasonably foreseeable development scenario for the planning area. Alternative D, while offering protection for a significant amount of land, still allows oil and gas development to proceed at a pace well above the historic average for the planning area.

The BLM should strengthen the Richfield Draft RMP by closing all proposed ACECs and non-WSA lands with wilderness characteristics to leasing. In addition, it should also close or impose no surface occupancy stipulations in critical and crucial wildlife habitat for sage grouse, bison, pronghorn, desert bighorn sheep, and mule deer. Almost all of these areas are found in western Garfield County, Wayne County, and Piute County – which are neither developed to the same extent as Sevier County nor hold the same potential for development as Sevier County. In fact, the Richfield Draft RMP does not identify any active wells in those areas. These restrictions would not realistically reduce any feasible and likely oil and gas development.

None of the four alternatives analyzed in the Richfield Draft RMP would result in any practical difference in terms of oil and gas development. The reasonably foreseeable development scenario would be 454 wells under alternatives N, A, B, C, or D. Richfield Draft RMP at 4-318, A12-8 to -9. At a minimum, the Richfield Field Office should therefore select Alternative D as its preferred alternative since it would not result in any reduction to the reasonably foreseeable development scenario in the planning office while maximizing protection for sensitive resources. The oil and gas leasing alternatives should also be modified to increase protection for sensitive areas 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. In particular, outside of Sevier County and parts of Sanpete County, the planning area has produced very little oil or gas historically. Data compiled by the Utah Division of Oil, Gas and Mining (DOG M) 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 Garfield, Piute, Wayne, and Sanpete counties, which cover most of the planning area, 0% of the combined seven wells drilled all lands, public and private, since 2004 have produced oil or gas.⁸ Sevier County, during that same time has had fifteen wells drilled, 67% of which have been productive.⁹ 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 D. 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.

From 1990 to 2004, only thirteen wells have been drilled in the planning area for an average of 0.9 wells per year. Richfield Draft RMP at A12-4. From 1940 to 2004 the average number of wells per year has been slightly over three. *Id.* at A12-5. However, the Richfield Draft RMP evaluates an unjustifiably inflated reasonably foreseeable development scenario of 454 wells over a fifteen-year period – or over thirty wells per year. *Id.* at A12-8 to -9. This rate is ten times the historic average for the Richfield Field Office. It is more than twice as high as the most productive year, in the early 1980s, in the Richfield Field Office. *See id.* at A12-4 to -5. The combined areas 1 and 2 of oil and gas development, the southern half of the planning area and the eastern portions of Wayne and Garfield counties, are projected to see forty-five wells in fifteen years. *Id.* at A12-8 to -9. In other words, in these two regions of the planning area alone – none of which is currently producing any oil or gas or which BLM has ever shown to have produced paying quantities of oil and gas, *see* Richfield Field Office, BLM, Mineral Potential Report, Map 10 (March 2005) – the BLM now anticipate levels of development equivalent to the historical average for the entire planning area. Although oil and gas development may be subject to fluctuations, the reasonably foreseeable development scenario significantly and arbitrarily exceeds the historical reality 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; Rely 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 Richfield 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. A recent

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, 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.*

⁹ *See id.*

report, the *Scientific Inventory of Onshore Federal Lands' Oil and Gas Resources and Reserves and the Extent and Nature of Restrictions or Impediments to Their Development*, prepared by the United State Department of the Interior, Department of Agriculture, and Department of Energy shows that most of the southern and southwestern portions (Piute County and the Wayne and Garfield county portions) of the field office are identified as having the lowest possible concentrations of oil in the rating system used in the report, or no predicted oil whatsoever. *Id.* at 52 (2006).¹⁰ Those areas with higher concentration ratings in terms of oil are found within the Glen Canyon National Recreation Area and Canyonlands National Park, both outside the purview of the Richfield Draft RMP. *See id.* In terms of natural gas, the entire southern and southwestern portions of the planning area identified as having the lowest possible concentrations of gas in the rating system used in the report, or no predicted gas whatsoever. *Id.* at 101.

Almost all of the present leasing is found in either Sevier or Sanpete counties. Richfield RMP at Map 3-11. The Richfield Draft RMP identifies a cluster of authorized leases northeast of Hanksville and a cluster of authorized leases southeast of Hanksville. However, it should be noted that these leases are all the subject of current and pending litigation challenging their validity.

The limited amount of lands presently under lease 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, the limited leasing of the southern half of the office – particularly Wayne and Garfield counties – has more to do with limited oil and gas resources and lack of interest on the part of oil and gas development companies. *See* Richfield Draft RMP at Map 2-34, 3-11.

Despite the limited extent of oil and gas resources and the historically concentrated area of oil and gas development, the BLM has left open areas of little or no interest in terms of oil and gas leasing to the detriment of environmentally 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 County versus Garfield, Piute, Sanpete and Wayne Counties) 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.

The BLM should modify alternatives A through D 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

¹⁰ U.S Department of the Interior, BLM, EPCA Phase II Inventory, EPCA Phase II Report, <http://www.blm.gov/epca/>.

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, crucial pronghorn habitat, crucial desert bighorn habitat, sage grouse brooding habitat, crucial mule deer habitat, and crucial bison habitat. Richfield Draft RMP at Map 3-4 to -6. In addition, these areas also contain numerous threatened, endangered, and sensitive species. *See supra*. 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 id.* Richfield RMP at Map 3-4. Furthermore, the BLM should either close to leasing or place no surface occupancy stipulations on sage grouse brooding areas and crucial habitat for desert bighorn sheep and pronghorn. *See id.* at Map 3-5.

It is improper for the BLM to suggest that the more restrictive oil and gas alternatives, C and D would result in any practical preclusion of oil and gas exploration since the reasonably foreseeable development scenarios would not change under any alternative. *See* Richfield Draft RMP at 4-340 to -341. Furthermore, as discussed below, these scenarios are significant inflations and overstatements of the historical drilling averages of the planning area.

The BLM's reasonably foreseeable development (RFD) scenario is arbitrary and capricious and ignores historic development trends in the planning area. As discussed above, from 1990 to 2004, the planning area has had only thirteen wells drilled on private and public lands. Richfield Draft RMP at A12-4. Thus, within the fifteen year time span from 1990 to 2004 the Richfield Field Office has averaged just under one well drilled per year. From 1940 to 2004 the yearly average has been slightly over three. *Id.* at A12-5. However, the Richfield Draft RMP evaluates an inflated RFD scenario of 454 wells over a fifteen-year period – or over thirty wells per year. *Id.* at A12-8 to -9.

The BLM provides no justification for this figure. Despite historical evidence to the contrary, the BLM ultimately settles on an RFD scenario of over thirty wells per year. Richfield Draft RMP at A12-8 to -9. This RFD scenario is arbitrary, capricious, and unrealistic. No fifteen-year period in the history of the planning area has ever seen such a high rate of development. The RFD scenario projections divide the planning area into four distinct planning areas. *Id.* Inexplicably, the RFD scenario then applies the historic rate of development for the entire planning area to Areas 1 and 2 combined, which comprise only a portion of the planning area. *See id.* There is no justification for why this fraction of the planning area is expected to see drilling rates that have only been seen historically in the combined planning area. Furthermore, the RFD scenario applies this same fractional miscalculation to Area 3, suggesting that it alone would expect to see as many wells drilled per year in the future as the entire planning area has historically averaged per year. *See id.* Area 4 also includes excessive, inflated figures. The RFD scenario projects 360 wells for this area alone over the next fifteen years. *Id.* This figure comes from comparing Area 4 to productive fields located outside of the planning area, which have seen much greater rates of development than ever experienced historically in

Area 4. *See id.* The Richfield Draft RMP's calculations are clearly excessive for Area 4. The RFD calculation in the Richfield Draft RMP projects that in the first half of 2005 alone this area would see thirteen wells. *Id.* However, figures from the Utah Division of Oil, Gas & Mining show that all of Sevier, Sanpete, Piute, Wayne, and Garfield counties had only seven wells drilled in 2005.¹¹ Whereas the RFD figures would have resulted in thirteen wells for the first half of the year, the actual development only tallied seven wells in the entire planning area for the entire year. BLM's RFD scenarios dramatically inflate the drilling rates of the region, thereby exaggerating any possible impact from alternatives with higher levels of drilling closures and restrictive stipulations.

The BLM must develop a new reasonably foreseeable development scenario that is historically accurate and actually tied to productive oil and gas fields. The present method completely ignores historical trends and declining production. 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 N, would simply be a continuation of the existing management plans. Richfield Draft RMP at 2-2 to -3. It does not analyze the possibility of a no leasing alternative. Of the existing management plans, four are management framework plans (MFPs), which are not NEPA documents and thus do not constitute adequate pre-leasing analyses that considered a no leasing alternative. *Southern Utah Wilderness Alliance v. Norton (SUWA)* 457 F. Supp. 2d 1153 (D. Utah 2006) (holding that BLM's decision to sell four oil and gas leases in the Richfield FO was arbitrary and capricious because – in part – BLM failed to fully analyze the no-leasing alternative); *Southern Utah Wilderness Alliance et al.*, 164 IBLA 118 (2004). The remaining two plans, which are RMPs, do not evaluate no leasing alternatives. The Cedar-Beaver-Garfield-Antimony RMP does not evaluate the no leasing alternative. *See Cedar-Beaver-Garfield-Antimony Final Environmental Impact Statement* 3.1 to .4. Neither does the San Rafael RMP evaluate the no leasing alternative. Finally, the brief mention and rejection in the Henry Mountain MFP; the Sevier River and Henry Mountain Supplemental Oil and Gas Leasing EA; and the 1976 Oil and Gas Leasing Program, Richfield District, Environmental Analysis Report (EAR) of the no leasing alternative are facially insufficient and cannot be relied upon now for that necessary analysis. *See SUWA*, 457 F. Supp. 2d at 1262-64 (concluding that Price and Richfield EARs failed to adequately analyze the no leasing alternative). Hence, the BLM has never had before it the possibility of totally abandoning oil and gas leasing in the Richfield planning area, something it is required to do. *See Bob Marshall Alliance*, 852 F.2d at 1228.

¹¹ DOGM, Utah Oil and Gas, Drilling Results – 2005 – Completed or Abandoned by County, http://oilgas.ogm.utah.gov/Statistics/WCR_county4.cfm.

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

The Richfield Draft RMP does not contain a rational analysis of the additional environmental and recreational benefits of Alternative D – 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 D as well as the additional closures and stipulations recommended above. The Richfield Draft RMP already states that none of the current alternatives would result in any changes to the RFD. Richfield Draft RMP at 4-318, A12-8 to -9. Although, the additional stipulations and closures discussed above in these comments could result in some slight decrease in the 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

A. 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 DRMP/EIS 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 SRMAs. 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 trails 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.

BLM's designation of SRMAs is far from complete. The BLM Land Use Planning Handbook (H-1601-1), Appendix C, provides certain criteria that BLM must use for each recreation management area, including:

- A primary market-based strategy for each SRMA determined by whether each will be managed under a **destination, community, or undeveloped** recreation-tourism market. BLM is required to “**state that determination in the land use plan.**”
- A description of the corresponding market (who and where) to the specific recreation management strategy.
- Delineate **discrete recreation management zone (RMZ) boundaries** and make the following land-use allocation decisions:
 1. Identify the corresponding recreation niche to be served;
 2. write explicit recreation management objectives for the specific recreation opportunities to be produced and the outcomes to be attained (activities, experiences, and benefits);
 3. prescribe recreation setting character conditions require to produce recreation opportunities and facilitate the attainment of both recreation experiences and beneficial outcomes, as targeted above (the recreation opportunity spectrum is one of the existing tools for both describing existing setting character and prescribing desired setting character); and
 4. briefly describe an activity planning framework that addresses recreation management, marketing, monitoring, and administrative support actions (e.g., visitor services, permits and fees, recreation concessions, and appropriate use restrictions) necessary to achieve explicitly-stated recreation management objectives and setting prescriptions.

BLM Manual (H-1601-1), Appendix C, p. 15-16.

The RFO has completely ignored this section of their Handbook. There have been neither market-based strategies developed nor determination of each SRMA’s recreation-tourism market. There are no RMZs designated and thus there are no corresponding land-use allocations. This is a gross oversight on the RFO’s part and should have been offered at this level of the planning process. BLM should supplement the DRMP/EIS with this necessary information in order to be in compliance with its own planning handbook and NEPA.

Relative to the fact that there is no identifiable market-based strategy, benefits-based strategy, or RMZ designations, it is impossible to fully assess the direct, indirect and cumulative impacts of the management alternatives, as required by NEPA. 40 C.F.R. § 1508.8; *see also, Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 348 (1989). Although the DRMP/EIS contains a few management actions for each SRMA identified, it is unclear what methodology, if any, the BLM is using to identify these management actions. For example, the preferred alternative identifies Big Rocks SRMA as having an OHV emphasis. DRMP/EIS, p. 2-45. The management actions state that the SRMA will “provide for motorized recreational use, including competitive motorized recreation events,” and goes on to provide:

- Manage motorized recreational activities to sustain natural resources while meeting social and economic needs.

- Provide access ranging from moderate to easy through a full range of motorized vehicle types with little self-reliance and a high or moderate level of interaction between users.
- Provide signing and interpretation as needed.
- Develop facilities to support motorized and dispersed recreational activities, such as restrooms, staging areas, loading facilities, and parking areas.

These general statements without a more searching and detailed definition of criteria, prescriptions, and objectives is arbitrary and insufficient to adequately evaluate impacts under NEPA.

Big Rocks and Factory Butte SRMA

SUWA recommends full NEPA analysis before the establishment of these open areas. See travel planning comments on open areas.

SUWA also notes that the potential Big Rocks SRMA, managed for cross-country vehicle travel is within a sensitive cultural area. As a result, the potential open designation would degrade and significantly impact the cultural resources of this unique geologic area. Therefore, the Big Rocks area should not become an open motorized area and all route designations should protect the cultural resources of this cultural area. BLM will need to perform a cultural inventory as well prior to the Final RMP and the potential open motorized designation.

In addition, BLM needs to set clear guidelines on benchmarks for the Factory Butte SRMA. Placing the responsibility on the users of the motorized area to follow all protective designations within the surrounding area, and when violations are exceeded, a closure of this adjacent open area may occur.

See travel planning comments on open areas.

Dirty Devil SRMA

SUWA supports the vision for maintaining primitive values in this area. The BLM should help preserve the outstanding primitive recreational opportunities of this area with judicious route designation, avoiding WC areas to the extent possible.

Capitol Reef Gateway SRMA

SUWA supports the vision of this SRMA described in Alternative D. The BLM has the opportunity to preserve outstanding opportunities for solitude and recreation at the doorstep of a national park and near a growing town, Torrey. Primitive management of these lands will increase the natural amenities that stimulate Torrey's economy and protect the sensitive/relict species found in this area.

Henry Mountains SRMA

SUWA supports the vision guiding the Henry Mountains SRMA to provide non-motorized trails, protect archaeological resources, and protect WSAs to the IMP standard. SUWA urges the BLM to protect WC lands in this SRMA as well.

Recommendation: The RFO should provide an identifiable and definitive strategy for each SRMA and delineate discrete RMZs at this level of the planning process pursuant to the BLM planning handbook and in order to fully assess impacts of such actions under NEPA. A supplemental NEPA document should be completed along with a sufficient comment period in order to correct this gross oversight.

B. 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.

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 a hard look at the impacts from the issuance of SRPs in the planning area. Rather, the DRMP/EIS makes a broad statement that management decisions for the issuance of SRPs “would allow for a variety of SRPs to be issued while providing greater resource protection. DRMP/EIS, p. 4-289. Being that there is no difference among the action alternatives, this analysis is the same for all of the other

action alternatives. This claim is not substantiated with any data or evidence, and does not discuss impacts to the environment or cultural resources. This is a major oversight and does not fulfill the requirement of taking a hard look at environmental consequences of the proposed action.

In addition, the DRMP/EIS does not provide a reasonable range of alternatives under NEPA for the issuance of SRPs. 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.** 40 C.F.R. §§ 1502.14(a), 1508.25(c). 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.” *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).

The RFO has failed to consider a reasonable range of alternatives for management actions in regard to the issuance of SRPs. Instead, the DRMP/EIS provides a range of issues in relation to SRP use (i.e. commercial, competitive, and organized group), but no variation whatsoever among the action alternatives. This is against the intent of NEPA, the CEQ regulations, and case law.

One example that the RFO can use in provided an adequate range is the adjacent Price Field Office 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.¹² These factors are 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.

Recommendation: The BLM should go back and take the requisite hard look necessary for evaluating how SRPs will impact environmental and cultural resources as contemplated by NEPA. This means that direct, indirect, and cumulative impacts should all be analyzed for the various events that require SRPs. Such an analysis can then be used to develop a reasonable range of alternatives for how SRPs will be classified by use and when they will be issued pursuant to those classifications. A good framework for this classification process can be found in the Price DRMP at appendix 14.

There are several factors the BLM should always take into account before an SRP is issued. The DRMP/EIS provides the ideal forum to list such factors by which each SRP

¹² 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.

should be weighed in future actions. At a minimum, the DRMP/EIS should address the following:

- Duration of permit – all permits should be limited to a specific temporary and short-term activity. SRPs should only be issued on a one-time basis and should not last for an inordinate amount of time. Although the initial threshold is if the activity will last more than two hours, there is no time limit on the duration of SRPs.
- Number of vehicles permitted – the DRMP/EIS should include a limit on the number of vehicles permitted under an SRP to reflect the specific type of vehicle and corresponding damage to environmental and cultural resources. Although the Draft RMP does contain an initial threshold of 10 or more vehicles, there is no set limit on the allowable amount of vehicles under an SRP.
- Type of vehicles – the BLM should delineate these categories and the number permitted by type before an SRP is needed. Different categories of vehicles (e.g., kayaks, motorized boats, mountain bikes, dirt bikes, ATVs, UTVs, high-clearance jeeps (“rock crawler”)) have different impacts and require different management prescriptions. The current DRMP/EIS does not define what constitutes a “vehicle” for the purpose of SRPs.
- Number of persons permitted – an alternative should be presented that sets a lower threshold than fifty or more participants within a group for an SRP. Even without vehicles, large group activities can have a significant impact on environmental and cultural resources depending on the use. Thus, management of such events will need greater attention/restrictions in order to mitigate these impacts.
- Location of SRPs – the Richfield RMP should specifically identify areas that are not appropriate for the issuance of SRPs. Such areas should include Wilderness, Wilderness Study Areas, non-wilderness study area lands with wilderness characteristics, any lands that currently are being evaluated or managed for their primitiveness and sense of solitude, lands with unsurveyed cultural resources, and areas with species and/or habitat of species listed under the Endangered Species Act. Conversely, there should also be locations identified where SRPs may be acceptable. This can be done through the designated of SRMAs/ERMAs, using the ROS as a baseline. The DRMP/EIS provides that no *competitive* events will be allowed in WSAs, however, this should include *all* SRP activities and should be expanded to Wilderness areas and lands with wilderness characteristics.
- Number of permits per year – there should be a cap on how many SRPs may be issued within a specific area. This can be done through the designated of SRMAs/ERMAs, using the ROS as a baseline. Limiting the number of SRPs will help the Moab Field Office implement its policy of better prioritizing uses associated with SRPs by only permitting activities that fit squarely with the best management of each area.

IX. CULTURAL RESOURCES

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

Reference to many cultural sites in the Torrey, Teasdale and Grover areas are made in BLM comments regarding a proposed 2006 land exchange with SITLA. There are specific locations mentioned in the report on this exchange issued by SITLA.¹³ These lands have been retained by the BLM and consideration of the impacts of route designation and other management decisions on these cultural resources should be incorporated into the DRMP/EIS.

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. 2-90. The IMP requires management of the WSAs in the Richfield 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 IM 2000-096 directs WSAs be managed as Visual Resource Management (VRM) Class I. DRMP/EIS, p. ES-10. All of the alternatives appropriately designate the WSAs as VRM Class I. DRMP/EIS, p. 2-90. The object of VRM Class I is "to preserve the existing character of the landscape" and

¹³ "Lands Evaluation and Planning for Torrey, Bicknell and Grover Areas of Wayne County: Report for Phase 1" SITLA. Bear West: August, 2006. *See* BLM files.

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>.

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 C and D provide for all of the WSAs to be closed to ORVs, which is appropriate. Draft RMP/EIS, pp. 2-8, 2-90. 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 B) and in Alternative A. DRMP/EIS, p. 2-90. In order to comply with the IMP, any designations should refer only to “ways,” rather than routes.

The DRMP/EIS (at p. 2-73) does provide that use of designated routes:

. . . would be subject to the condition that it not impair the area’s wilderness suitability (as that concept is described in the IMP). The continued use of these routes is conditioned on non-impairment of wilderness suitability. If such use were to impair wilderness suitability, the BLM would take appropriate steps including use of restrictions or closures, installation of additional signs and barricades, and restoration of affected areas, etc.

Similarly, in analyzing the impacts of the various management alternatives, the DRMP/EIS (at p. 4-364) sets out the guiding assumptions as:

- Managing WSAs according to the IMP will protect the wilderness characteristics of WSAs in a manner that will not “impair the suitability of such areas for preservation as wilderness” (FLPMA Section 603(c)).
- Management actions that enhance biological or environmental characteristics would improve the wilderness quality and suitability of the WSAs.

The DRMP/EIS also proclaims (at p. 4-363) that “WSAs would be managed pursuant to the non-impairment standard, and as such, the BLM cannot allow activities to occur within WSAs that would impair their suitability for preservation as wilderness.”

These 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. However, the analysis and management approach set out in the RMP do not comply with these standards.

The DRMP/EIS acknowledges that management in accordance with the IMP “effectively adds another layer of protection to the cultural resources in those areas by limiting motorized access and just about all of the activities that could adversely affect archaeological and historic sites.” DRMP/EIS, p. 4-68. The DRMP/EIS reiterates that appropriate management of WSAs would provide the same protection for paleontological resources. DRMP/EIS, p. 4-85

For special status species, the DRMP/EIS (at p. 4-133) acknowledges that “management of WSAs under the IMP would limit surface disturbing activities that could adversely affect special status species.” Similarly, for fish and wildlife resources, the DRMP/EIS (at p. 4-167) discusses the benefits from management of WSAs in detail:

Wilderness is important to the conservation of wildlife species that are prone to conflict with humans and vulnerable to human-caused mortality. Wilderness-dependent wildlife species are those vulnerable to human influence whose continued existence is dependent on and reflective of wild, extensive, undisturbed habitat. Continued management of WSAs under the IMP would limit surface disturbing actions that could adversely affect wildlife species. WSAs are closed to oil and gas leasing, precluding any impact from oil and gas development on wildlife species within these areas, and are managed as VRM Class I, which further restricts surface disturbing activities.

The DRMP/EIS acknowledges generally that “[u]se of OHVs within WSAs could impact wilderness characteristics.” Draft RMP/EIS, p. 4-366. The Preferred Alternative would actually increase the mileage of routes open to motor vehicle use over the no action alternative (Alternative N), thus “resulting in more potential impacts to wilderness characteristics than Alternatives N, C and D.” Id.

The DRMP/EIS (at pp. 4-367) acknowledges that Alternatives C and D, which close all eleven WSAs to ORV use, “would eliminate any short-term impacts, thereby preserving opportunities for solitude and primitive recreation.”

Despite the acknowledgments of the impacts from ORVs and the benefits to wilderness characteristics from closing the WSAs to ORVs, as well as the benefits to other resources from enhancing wilderness characteristics in WSAs, the BLM concludes that “[a]lthough impacts on natural resources within WSAs could occur from a variety of uses, they would be non-impairing and therefore would not result in long-term impacts to the wilderness characteristics of the WSAs.” DRMP/EIS, p. 4-363. Further, there is no discussion in this section of the DRMP/EIS regarding the important benefits to biological or environmental characteristics, or cultural and paleontological resources, 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 D. 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.

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 Richfield 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. 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.¹⁴

¹⁴ The Richfield Field Office has or should have monitoring data for the eleven 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, 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

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 Richfield Field Office. Alternatives C and D 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 RMP 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 the areas would be examined “on a case-by-case basis for consistency with the goals and objectives of the RMP decisions,” but does not provide further specificity. DRMP/EIS, p. 2-91. This approach does not give sufficient consideration to protecting the wilderness characteristics of these areas. The Supplement to the Price Field Office RMP and the Supplement to the Vernal RMP 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

The DRMP/EIS Failed to Analyze the Impacts of Climate Change to the Resources of the Richfield 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 Richfield 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

designated, this information must be included in the DRMP as well, and should be incorporated into BLM’s analysis and decision-making process.

failure to take the necessary “hard look” at the challenge of resource management in the Richfield 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 Richfield 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 Richfield 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 Richfield 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 Richfield 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 Richfield 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 Richfield plan. Alternative C 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 Richfield 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 Richfield 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 Richfield 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 Richfield Field Office, an alternative that minimizes the extent of soil disturbance and reduces to the fullest extent the Richfield 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 Richfield 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

Richfield Draft RMP DEIS – Comments on the Socioeconomic Analyses

These comments refer to the socioeconomic analyses for the Richfield Draft RMP Draft EIS (DRMP/DEIS). Where appropriate or necessary we will also refer to other sections of the DRMP/DEIS 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 Richfield DRMP/DEIS 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 DRMP/DEIS does not account for the non-market values associated with undeveloped wild lands.
3. The DRMP/DEIS does not address the potential benefits to the local area economies from management to protect the natural amenities of the Richfield Field Office.
4. The Alternatives in the DRMP/DEIS 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.

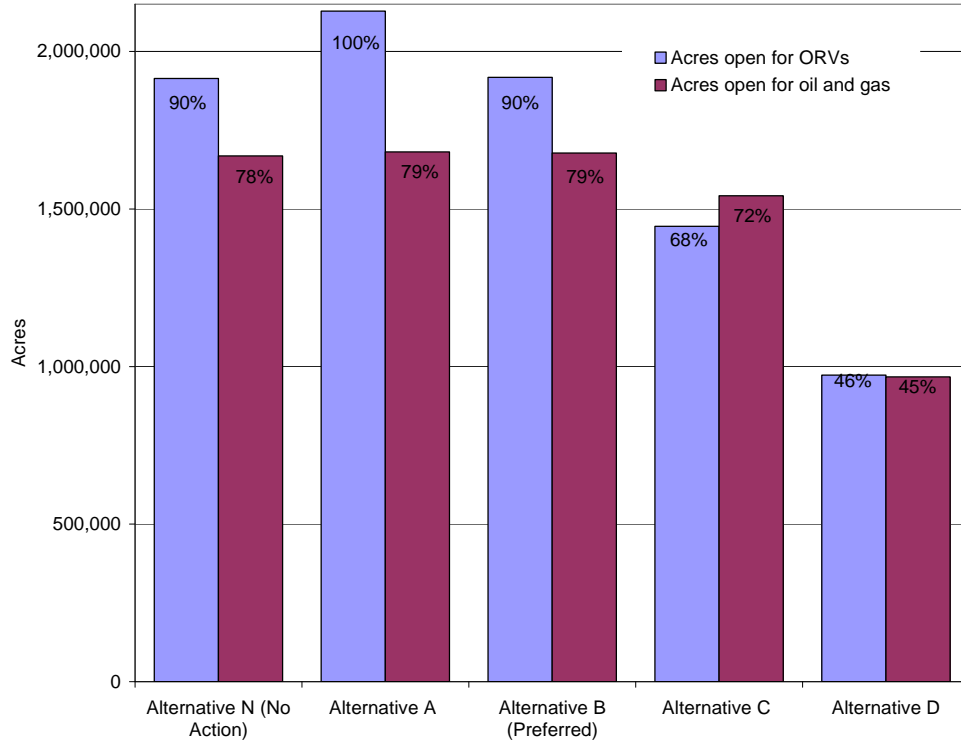
- a. The realities of recreation participation trends are overlooked in the formulation of alternatives and in the analysis of the impacts of the alternatives.
 - b. The DRMP/DEIS fails to address the potentially significant costs associated with off-road motorized recreation.
 - c. The DRMP/DEIS does not discuss the benefits of non-motorized recreation on public lands
5. The DRMP/DEIS does not address the potential socioeconomic costs associated with coal mining and oil and gas drilling.

1. Range of Alternatives

It is bizarre that the BLM has developed a pro-development alternative which actually increases the amount of land in the Richfield Field Office that is available for both oil and gas drilling and for off-road motorized recreation over and above the already excessive amount available under the “no action” alternative. They then decrease these amounts slightly for the agency preferred alternative to essentially the same levels as the no action alternative (in fact the agency preferred alternative actually makes slightly more of the planning area available for oil and gas drilling than the current management).

The so-called protective alternatives are the only ones with notable differences and one of these (Alternative C) still opens the majority of the planning area for oil and gas drilling and off-road motorized recreation. (Figure 1). Only Alternative D proposes any balance between protection of wildlands and natural resources and motorized recreation and industrial development.

Figure 1. Comparison of Alternatives in the Richfield DRMP/DEIS



Recommendations: The BLM must develop alternatives which explore the full range of multiple uses of the lands in the Richfield 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 DRMP/DEIS 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 Richfield 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 Richfield 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 Richfield 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 Richfield 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

The Richfield DRMP/DEIS fails to fully address the impacts that the alternatives will have on the local economy. 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 each of the alternatives except D, the DRMP/DEIS 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. 4-458, p. 4-466, p. 4-469 and p. 4-472).” 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.

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

Richfield 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 Draft EIS states “Changes in employment and income can then cause indirect socioeconomic impacts, such as changes in population... (p. 4-455).” A similar statement is made on page 4-479. 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 Richfield planning area), people move to the area either bring jobs with them or creating new businesses – “jobs follow people” as noted by Vias (1999) who found that employment growth followed population growth. 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 DRMP/DEIS.

Retirees and other who earn non-labor income are also important to rural western communities. This income is important for the counties impacted by the Richfield DRMP/DEIS – making up as much as 31% (in Piute County) and at least 27% (in Sevier and Sanpete Counties) of total personal income in all of the Richfield Field Office counties, making it 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.

Recommendations: The BLM must collect and analyze actual data on the economic impacts of the alternatives, including Alternative E. Some suggested analyses and sources

¹⁵U.S. Department of Commerce, Bureau of Economic Analysis, Regional Economic Information System (<http://www.bea.gov/>) Investment and retirement income as a percentage of total personal income: Piute County – 31%, Sanpete County – 27%, Sevier County – 27%, Wayne County 30%, Garfield County – 27%

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.

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. As noted by the BLM, motorized recreation has been increasing in recent years. On page 4-460, the DRMP/DIES states, “Demand for OHV recreation is likely to increase over time in the RFO...” While this may be the case, what the agency fails to note is that **all** recreation is likely 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) cited in the DRMP/DIES shows that non-motorized recreation far outweighs OHV use, and it seems unlikely that the use patterns for the Richfield Field Office would differ.

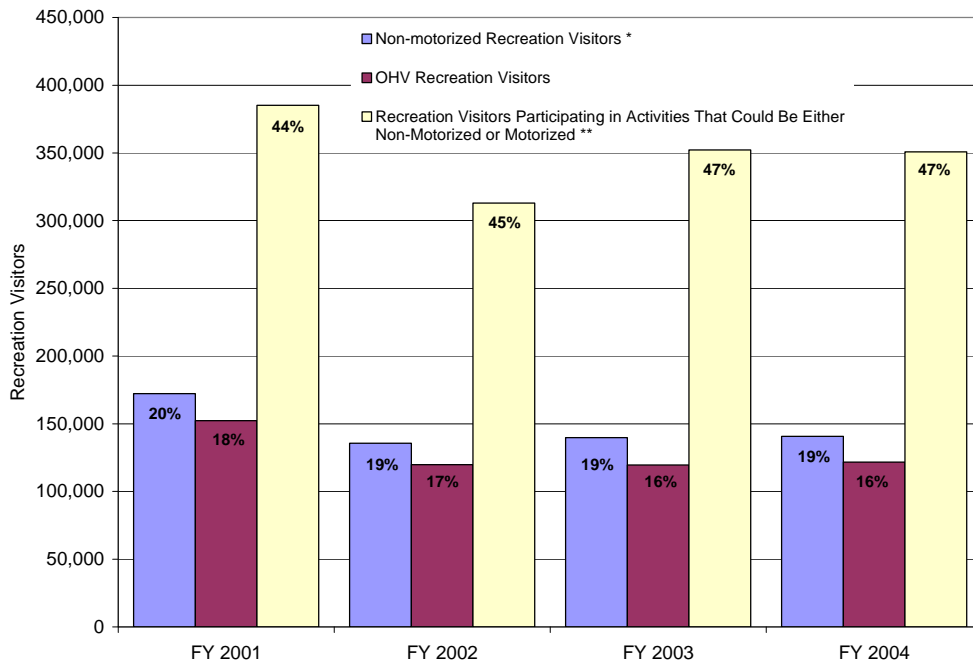
Data from the Recreation Management Inventory System (RMIS) for the state of Utah show that in Fiscal Year 2006 motorized recreation accounted for just 20% of total visits, while non-motorized recreation visits were 52% of the total.¹⁷ The Richfield DRMP/DEIS does present some RMIS data for the Richfield Field Office. These data also show that recreation visitors engaging in ORV use do not represent even one quarter

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

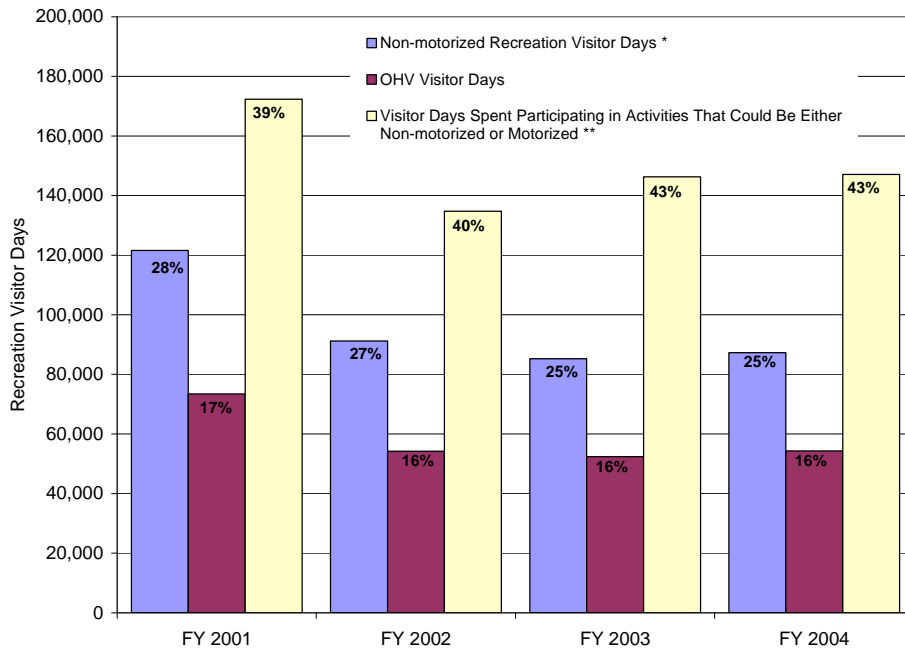
of total visitors in any year (Figure 2) and furthermore, according to the Richfield data, non-motorized visitors spend far more days recreating in the Field Office (Figure 3).

Figure 2. Recreation Visitors – Richfield Field Office



*Backpacking, Climbing, Hiking/Walking/Running, Horseback Riding, Pack Trips, Snow Play, Swimmint/Water Play
 ** Camping, Environmental Education, Fishing, Gathering Non-commercial Products, Hunting (All Types), Picnicking, Rockhounding/Mineral Collecting, Target Practice, Viewing (All Types), Other
 Source: Richfield DRMP/DEIS Table 3-22, Page 3-68.

Figure 3. Recreation Visitor Days – Richfield Field Office

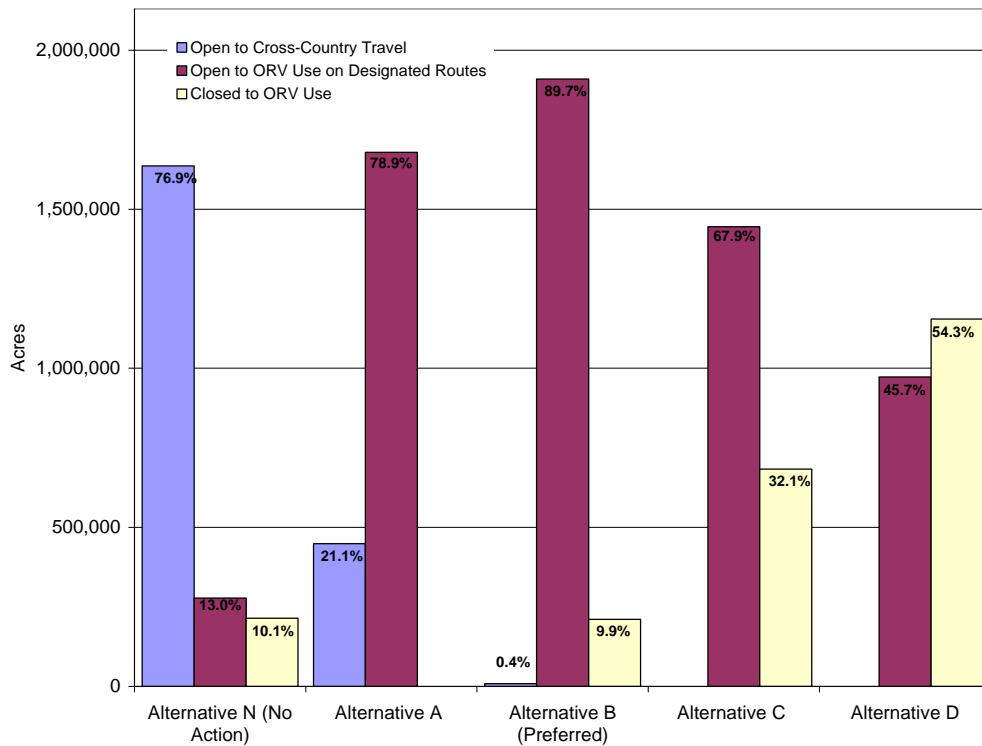


*Backpacking, Climbing, Hiking/Walking/Running, Horseback Riding, Pack Trips, Snow Play, Swimmint/Water Play
 ** Camping, Environmental Education, Fishing, Gathering Non-commercial Products, Hunting (All Types), Picnicking, Rockhounding/Mineral Collecting, Target Practice, Viewing (All Types), Other
 Source: Richfield DRMP/DEIS Table 3-22, Page 3-68.

Visitor days are ultimately more important. 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 RMP EIS analysis.

Even the most protective alternative offered by the BLM (Alternative D) still proposes to make nearly half of the planning area available to a group which represents 20% of total users (Figure 4). 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 Richfield Field Office.

Figure 4. Access for OHVs – Richfield DRMP/DEIS



b. Cost of Off-Road Motorized Recreation

The RMP DEIS 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 Richfield 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 Richfield 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 Richfield Field Office most likely also provide excess supply for roaded recreation, even the so-called protective alternative which makes nearly half of the planning area available for a recreation activity engaged in by at most 20% 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 Richfield 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 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

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.

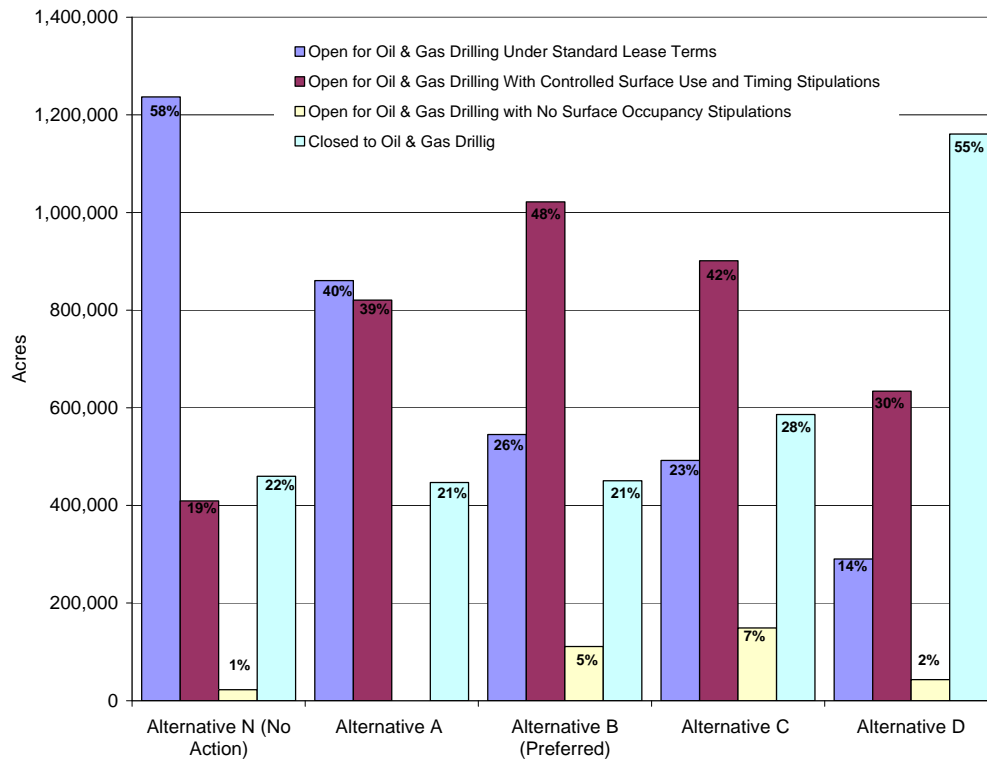
Recent research has shown that public land visitation is increased when the recreation and scenic values of the land is recognized through official designations. Weiler (2005) found that over the course of 20 years National Park Service Monuments that were re-designated to National Parks saw an increase 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 study the relationship between National Park visitation and recreation demands on BLM lands, the types of recreation activities pursued by National Park visitors, the impact of such visitation on recreation visits to BLM lands and the impact that the potential degradation of surrounding BLM lands due to off-road motorize recreation may have on National Park visitation.

5. Costs of Extractive Industries

While the DEIS asserts that the potential oil and gas development will likely be small, each alternative opens almost the entire planning area for leasing (Figure 5).

Figure 5. Access For Oil and Gas Drilling – Richfield DRMP/DEIS



The boom and bust cycles which are a well-known feature of the resource extraction industries have well-documented negative impacts. The alternatives proposed in the DRMP/DEIS are all heavily weighted toward energy extraction and may 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-6 – ES-7. 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 1.5.1.2.2 of the DRMP/EIS, “Issues beyond the Scope of the RMP,” includes R.S. 2477 claims, noting that, while claims may exist, the plan “does not adjudicate, analyze, or otherwise determine the validity of claimed RS 2477 rights-of-way” but also does not extinguish any valid rights that may exist. DRMP/EIS, p. 1-10. However, the Draft RMP also provides: “Once a claimed right-of-way is recognized by the BLM

through administrative determination, or a right-of-way is determined to be valid by a court of law, any use restriction imposed by this RMP shall no longer apply to it.” *Id.* BLM must make clear that any changes to the transportation plan 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 design and implementation of the travel network. The BLM Land Use Planning Handbook (H-1601-1) and the federal 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**

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).

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. 2-90.
- 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. 2-99.
- Water resources be managed would be managed for maintenance and/or restoration, including through reducing “erosion, stream sedimentation and salinization of water.” DRMP/EIS, p. 2-12.
- Non-WSA lands with wilderness characteristics will be managed to maintain wilderness characteristics, “to preserve their undeveloped character and scenic quality” and “to provide opportunities for primitive and unconfined recreational activities and experiences of solitude.” DRMP/EIS, p. 2-37.

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.

A. Navajo Sandstone Endemics Conservation Agreement

The DRMP/EIS fails to plan for or analyze how any alternative will fulfill the BLM's obligations to the Central Utah Navajo Sandstone Endemics Conservation Agreement. The agreement is designed to ensure multi-agency coordination in an effort to protect the following sensitive plant species: the Rabbit Valley gilia, Mussentuchit gilia, Harrison's milkvetch, Pinnate spring-parsely, and Maguire's daisy. The agreement, dated August 2006, provides a framework for protecting habitat for these Navajo sandstone endemics in cooperation with Fishlake National Forest, Capitol Reef National Park, US Fish and Wildlife Service and the BLM.

The distribution for the Rabbit Valley gilia and Pinnate spring-parsley includes the Fremont Gorge area, including the WSA and also non-WSA lands with wilderness characteristics. Distribution for the Mussentuchit gilia is mostly in CARE and BLM lands managed by the Price FO. However, non-WSA wilderness characteristic areas such as Limestone Cliffs, Jones Bench, Muddy Creek and Red Desert Ext. all contain habitat for this endemic. Habitat for Maguire's Daisy includes non-WSA WC areas such as Muddy Creek/Crack Canyon and Red Desert. Protecting the above WC lands would best protect these unique and sensitive species.

B. Other Areas of Concern

The DRMP/EIS also fail to plan for the protection or even consideration of certain vegetative resources. The BLM cites a native grass community unaffected by grazing, one of few native range ecosystems that remain, in or near T29S R4E Section 9.¹⁹ There is also no consideration of the relict bristlecone pine stands located in T30S R5E Section 14. *Id.* The BLM must analyze and develop management alternatives that consider management of these resources and impacts upon these resources from management decisions.

¹⁹ BLM comments on proposed land exchange "Lands Evaluation and Planning for Torrey, Bicknell and Grover Areas of Wayne County: Report for Phase 1" SITLA. Bear West: August, 2006. *See* BLM files.

XX. WILDLIFE²⁰ 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 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 affects 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

²⁰ 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?

- **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 Draft RMP. 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 Kanab Field Office; the BLM should acknowledge its full extent.

One recent study that is particularly relevant to the Richfield 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 Richfield DRMP/EIS fails to conduct a sufficiently detailed analysis of fragmentation, which impairs the consideration of impacts of the various alternatives and prevents an informed comparison. In describing general management approaches to both special status species and fish and wildlife, the DRMP/EIS sets out an appropriate goal to “[u]se strategies to avoid or reduce habitat fragmentation such as collocating facilities, employing directional drilling, reclaiming redundant roads, reclaiming roads no longer serving intended purpose, reducing road densities, and using topographic and vegetative screening to reduce influence of intrusions.” DRMP/EIS, pp. 2-24, 2-26

The DRMP/EIS also acknowledges the critical damage that can be caused by habitat fragmentation, noting that: “increased habitat fragmentation” can impact survival of special status species and “[e]ven minor changes to vegetation communities have the potential to affect special status species.” DRMP/EIS, p. 4-116. Similarly, for fish and wildlife habitat, the DRMP/EIS (at p. 4-153) provides:

Impacts on fish and wildlife include actions that result in habitat alteration, fragmentation, or loss; wildlife displacement; and habitat maintenance and enhancement. Habitat alteration occurs when decisions change the existing habitat character. Surface disturbing activities, development, or other activities that degrade habitat lead to habitat alteration, fragmentation, or loss. Habitat alteration, fragmentation, and loss affect the usable ranges and routes for wildlife movement. Wildlife displacement occurs when land use activities result in the movement of wildlife into other habitats, increasing stress on individual animals, and increasing competition for habitat resources. Impacts to fish and wildlife from displacement depend on the location, extent, timing, and/or the intensity of the disruptive activity or human presence. Occurrence of these disruptive activities in areas adjacent to fish and wildlife habitat could cause displacement of wildlife. Impacts from displacement would be greater for wildlife species with limited existing habitat and/or a low tolerance for disturbance. Habitat maintenance and enhancement can maintain or improve the condition of vegetation and levels of forage species or reduce soil loss through vegetation treatments, and restrictions on surface disturbing activities.

In terms of the types of activities that can lead to fragmentation, the DRMP/EIS concludes that: energy and mineral “[e]xploration and production activities could result in increased human presence, increased noise levels, habitat fragmentation, and displacement of individuals”; and “[d]evelopment of roads associated with oil and gas development is possibly the greatest contributor to habitat fragmentation.” DRMP/EIS, pp. 4-132, 4-498.

While there is specific mention of various special status species and measurements of acreage open to drilling and cross-country ORV use, as well as mileage of ORV trails, there is no analysis of the existing levels of fragmentation in wildlife habitat or actual fragmentation of habitat that is likely to occur. The metrics summarized above, such as road density, core areas and functional habitat, do not appear in the Draft RMP. This

omission prevents a thorough analysis of the impacts of the management alternatives and a meaningful comparison of the alternatives.

In discussing the benefits to special status species from designating ACECs, the DRMP/EIS concludes that:

Under all alternatives, management actions such as prohibiting the destruction, adverse modification or fragmentation of listed species habitat, maintaining the integrity of special status species habitat, and habitat improvements would benefit special status species. In Alternatives A, B, C and D, additional strategies (such as utilizing seasonal and spatial buffers for surface disturbing activities and complying with raptor protection guidelines for power line construction) would be employed to protect raptors and their habitat. These actions would minimize or eliminate impacts to the special status species relevant and important values. *See, e.g., DRMP/EIS, p. 4-444.*

However, this discussion is the same for the ACECs and does not include any details regarding the varying levels of fragmentation and the actual benefits to different species.

Similarly, in discussing the effects of travel management, the DRMP/EIS provides only a general discussion of the relative benefits and damage from fragmentation. In discussing the Preferred Alternative, the DRMP/EIS (at p. 4-301) notes that:

Impacts from management strategies to avoid or reduce habitat fragmentation would be the same as described under Alternatives N and A. Management actions would limit OHV use to designated routes in 646,000 acres of deer and elk crucial winter range and close 4,000 acres; limit OHV use to designated routes in bison crucial habitat and sage grouse brooding habitats, but do not include area closures. Seasonal restrictions would be addressed on a case-by-case basis. Overall impacts would depend on the number of restricted miles necessary, but extensive limitations are not anticipated.

In comparing Alternative D to the other alternatives, the DRMP/EIS (at p. 4-305) notes:

Impacts from management strategies to avoid or reduce habitat fragmentation would be the same as described under the previous alternatives, except that this alternative would have the most acreage closed for fish and wildlife protection. Under this alternative, 258,000 acres of deer and elk crucial winter range and 207,000 acres of crucial bison habitat would be closed to OHV use. These management decisions would greatly reduce motorized access and result in moderate impacts.

While the data provided is relevant, it is not sufficient. Without this information, the BLM cannot fully assess the direct, indirect and cumulative impacts of the management alternatives, as required by NEPA. 40 C.F.R. § 1508.8; *see also, Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 348 (1989). Further, without specific metrics to set a baseline and assess impacts, the DRMP/EIS also fails to set specific management

objectives for fragmentation levels. As a result, the commitment to “[r]equire reclamation of redundant road systems and/or roads that no longer serve their intended purpose in order to reduce road density and reduce habitat fragmentation” (DRMP/EIS, p. 2-122) is not meaningful or enforceable, and does not fulfill NEPA’s requirement that mitigation measures be specific and reasonably likely to be successful in order to justify an agency’s reliance upon them. *See, Communities, Inc. v. Busey*, 956 F.2d 619, 626 (6th Cir. 1992).

The Utah BLM has the capacity to measure habitat fragmentation and has been conducting this type of analysis. For instance, the Draft RMP/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. *See, Vernal Draft RMP*, 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.

Also, in assessing the potential impacts to sage-grouse habitat and developing management, the BLM does 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 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 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 Richfield 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 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. Further, the BLM should 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 Draft RMP does not present alternatives that would provide sufficient unfragmented habitat.

The DRMP/EIS makes important acknowledgments of the potential damage from habitat fragmentation, including from oil and gas, roads, and ORV use, as well as the benefits of restricting such impacts, as discussed in detail above. Unfortunately, the range of disturbance among the various alternatives does not include an alternative that would substantially restrict surface-disturbing activities. Alternative D, which would cause the least amount of habitat fragmentation, would still designate 2,493 miles of ORV trails and maintain 972,800 acres available for ORV use. DRMP/EIS, pp. ES-6 – ES-7. Further, Alternative D would provide 967,500 acres for oil and gas development; and all of the alternatives would yield 454 new oil and gas wells. Draft RMP, pp. ES-8, 4-101.

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. With respect to oil and gas development, cited as “the greatest contributor” to habitat fragmentation, the DRMP/EIS does not even consider an alternative that would lead to a reduced number of project new wells to be drilled over the life of the plan.

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 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.

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 and outstanding opportunities for solitude or primitive and unconfined recreation.” DRMP/EIS, p. 3-58. Alternative D considers management of non-WSA lands with wilderness characteristics to protect these values, including their naturalness; the other alternatives do not consider protecting any of these lands. DRMP/EIS, p. 2-37. Under Alternative D, in preserving their naturalness, non-WSA lands with wilderness characteristics would be managed to minimize surface disturbance, including by:

- closure to ORV use;
- closure to oil and gas leasing;
- avoidance of new rights-of-way;
- being made unavailable for further consideration for coal leasing; and
- closure to mineral material sales.

Id. While these prescriptions would prevent habitat fragmentation and other impacts on wildlife, there is only a limited discussion in the DRMP/EIS of these benefits.

With respect to special status species, the DRMP/EIS acknowledges that protection of non-WSA lands with wilderness characteristics would “limit the impacts to special status species and their habitat” and specifically:

- Of 365,500 acres of Mexican spotted owl critical habitat within the RFO, 157,300 acres (43%) are within the non-WSA lands with wilderness characteristics. Protecting the wilderness characteristics areas would reduce or eliminate potential impacts to the owls and owl habitat within these areas.
- Of 364,300 acres of potential habitat for the Wright fishhook cactus, 206,400 acres (57%) are within the non-WSA lands with wilderness characteristics. Protecting the wilderness characteristics areas would likewise protect the cacti from surface disturbing activities, notably cross-country OHV use, in over half of their identified habitat.

DRMP/EIS, p. 4-150. The discussion of the benefits to fish and wildlife species is even more cursory, stating only:

Protecting the non-WSA lands with wilderness characteristics would provide habitat for wildlife species vulnerable to human influence, whose continued existence is dependent on and reflective of wild, extensive, undisturbed habitat. Species within the RFO that benefit from the isolation and lack of disturbance afforded by these areas include bison and desert bighorn sheep.

DRMP/EIS, p. 4-182. The lack of consideration provided to the benefits from reduced habitat fragmentation that would result from management of non-WSA lands with wilderness characteristics is compounded by the lack of sufficiently detailed information on the degree of fragmentation, as discussed above.

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.

D. Concerning the Utah Prairie Dog

Special Status Species: Utah prairie dog

The Utah prairie dog (*Cynomys parvidens*) is listed as threatened under the Endangered Species Act. This species has not recovered due to the slew of threats it continues to face, including loss and degradation of habitat on public lands. BLM lands are of primary importance to the Utah prairie dog, including those within the purview of the Richfield Field Office. The draft RMP failed to include the Utah prairie dog in its list of federally listed species at Appendix 9. More substantively, the draft RMP fails to provide adequate protection for suitable Utah prairie dog habitat (both unoccupied and occupied) by not sufficiently curtailing land uses deleterious to prairie dogs and their habitat. The primary land uses at issue are livestock grazing, oil and gas drilling and exploration, and ORV use.

Harms from livestock grazing include depletion of forage available for prairie dogs, proliferation of non-native weeds (such as cheatgrass) which provide inadequate nutrition for prairie dogs and outcompete native plants, alteration of fire ecology, shrub encroachment (and subsequent loss of nutritious forbs and grasses), and destruction of swale habitats upon which Utah prairie dogs depend. *See* Attachment II: Forest Guardians et al. 2003. Petition to the U.S. Fish and Wildlife Service to reclassify the Utah prairie dog as an endangered species under the Endangered Species Act.

Harms from oil and gas activities include loss of habitat from wellpads, roads, pipelines, and other infrastructure; disturbance to Utah prairie dogs from seismic exploration, including hearing loss; proliferation of noxious weeds which displace native plant communities important for prairie dog foraging; road-building, which increases human ingress and the potential for illegal prairie dog shooting; and habitat contamination. *See Ibid.*, Attachment JJ: SUWA and Forest Guardians. Comments on Parowan Gap Geophysical Project EA, BLM Cedar City Field Office. Dated November 2, 2006. BLM continues to lease extensive amounts of Utah prairie dog habitat despite the clear impediment oil and gas activities present to prairie dog recovery – and even bare survival. *See* Attachment KK: Center for Native Ecosystems and Forest Guardians protest of Utah BLM February 2007 oil and gas lease sale. While the BLM seems to maintain that oil and gas and other surface disturbance can actually benefit prairie dogs by creating open areas, the DEIS is correct that these areas will only be beneficial if reclamation is successful (DEIS at p. 4-130 to 131).

Harms to Utah prairie dogs from ORV use include loss of habitat, proliferation of noxious weeds, increased illegal prairie dog shooting, and disturbance of prairie dogs, resulting in interruption of above-ground foraging and other life-sustaining activities. *See* Attachment II.

The measures the draft RMP provides for Utah prairie dogs in Appendix 14 (pp. A14-18 to 19) are inadequate to protect this listed species:

- These are Best Management Practices (BMPs), which are non-binding guidelines. There is no assurance that the BMPs would be implemented or implemented sufficiently to ensure the survival or recovery of the Utah prairie dog.
- BMP #1 provides only that projects “may” be modified in occupied prairie dog habitat.

- BMP #2 similarly includes discretionary language about whether surface disturbance within 0.5 miles of active Utah prairie dog colonies will be limited. Moreover, limiting surface disturbance within 0.5 mile of active Utah prairie dog colonies fails to protect unoccupied habitat which is important for colony expansion. It also fails to consider Utah prairie dogs dispersing to find adjacent colonies or to establish new ones.
- While BMP #3 “prohibits” (although again, these BMPs are just guidelines) permanent surface disturbance or facilities in suitable habitat, this fails to consider how “temporary” activities, such as seismic exploration, may cause habitat loss and degradation and disturb prairie dogs in the vicinity.
- While BMP #4 states that “unavoidable” surface-disturbing activities in Utah prairie dog habitat should be seasonally restricted, given the imperilment of this species, there must be no surface-disturbance, regardless of time of year. There will be impacts to prairie dogs both above-ground and in their burrows all year long. There should be no surface disturbance in Utah prairie dog habitat: even directional drilling should be limited if that requires wellpad enlargement.
- Regarding BMP #5, only native seeds should be used for reclamation.
- BMP #6 and #7 fail to make enforceable commitments vis-à-vis ORV impacts, despite the important harms these activities present to prairie dogs and their habitat.
- BMP #8 fails to provide sufficient protection to the Utah prairie dog by advising directional drilling only where “technically and economically feasible.” This is unacceptable: directional drilling should be required. However, directional drilling itself should be assessed for impacts on Utah prairie dogs, given that even this drilling approach causes significant surface disturbance.
- BMP #9 fails to provide sufficient protection to the Utah prairie dog by only advising that fencing be considered.
- Regarding BMP #10, BLM should monitor whether the 25-mile per hour speed limit (see p. A11-24) is still resulting in prairie dog mortality. If it is, this speed limit should be adjusted downward. If BLM needs to work with other federal and state agencies to promulgate enforceable speed limits, it should.
- Regarding BMP #11, we are concerned about vehicle or equipment maintenance only 350 feet from prairie dog colonies. This buffer should be increased to more than 0.5 mile.
- The BLM has included no restrictions on livestock grazing in Utah prairie dog suitable habitat. Livestock grazing should be significantly restricted in Utah prairie dog habitat where it is impeding species survival and recovery.

The leasing stipulation at Appendix 11 (p. A11-24) fails to provide sufficient protection for Utah prairie dogs from oil and gas development. It contains the same qualifying language seen in BMP #8 on directional drilling, the same deficient 0.5 mile buffer as BMP #2, and the same weak language on fencing as BMP #9. It only requires an unquantified “limit” on new disturbance and access routes.

The discussion of affected environment fails to include livestock grazing, ORV use, oil and gas drilling, and other land use impacts (and human behaviors, such as prairie dog

shooting) on the Utah prairie dog. See DEIS at p. 3-32. Some impacts of livestock grazing and ORV use on Utah prairie dogs are disclosed in the environmental consequences discussion (pp. 4-128 to 129), but adequate limitations on livestock grazing and ORV use that is harming Utah prairie dogs are not provided by this plan.

The primary approach for Utah prairie dog recovery undertaken by the BLM, U.S. Fish and Wildlife Service, and the Utah Division of Wildlife Resources is the translocation of Utah prairie dogs from private lands to public lands. However, this approach has resulted in low survival rates: FWS reports survival rates of 10%, while the BLM reports survival rates of less than 5%. See Attachment LL: U.S. Fish and Wildlife Service Biological Opinion dated December 8, 2006. Attachment MM: Forest Guardians et al. 2005. Administrative Procedure Act petition to the U.S. Fish and Wildlife Service for a rule to significantly restrict translocation of Utah prairie dogs and to terminate the special 4(d) rule allowing shooting of Utah prairie dogs.

While several factors might explain the failure of the translocation program, one important cause is the generally poor condition of habitat on the federal lands – including BLM lands – to which the prairie dogs are being translocated. BLM could, and must, take steps to protect and restore this degraded habitat. Instead, the BLM continues to authorize livestock grazing and other land uses which set back Utah prairie dog recovery. For instance, the BLM authorized livestock grazing during drought at translocation sites despite the faltering status of translocated populations. See *Ibid.*.

Related to drought, an increasing threat for Utah prairie dogs is climate change. Occasional rangewide increases in UPD populations are likely tracking precipitation. If predictions of a multi-decadal drought in the southwest come true, there may be long-term declines in UPD populations. If there are many wet and warm years, there may be an increased threat from plague. See Attachment NN: Ensore, Russell E. et al. 2002. Modeling relationships between climate and the frequency of human plague cases in the southwestern United States, 1960-1997. *Am. J. Trop. Med. Hyg.* 66(2):186–196 and Attachment OO: Parmenter, Robert R. et al. 1999. Incidence of plague associated with increased winter-spring precipitation in New Mexico. *Am. J. Trop. Med. Hyg.*, 61(5):814–821. Given uncertainties either way for the UPD, livestock grazing, oil and gas, and other harmful land uses should all be circumscribed in anticipation of these broad dynamics over which humans can exert little immediate influence.

The Utah prairie dog is in serious trouble, as prairie dog colonies are disappearing more rapidly than new colonies are being established (naturally or through translocation). Numbering fewer than 10,000 adults, without upgraded protections and a revised recovery strategy, the Utah prairie dog may well go extinct. See Attachment PP: Forest Guardians et al. 2007. Comments to the U. S. Fish and Wildlife Service on the Utah prairie dog five-year review. Dated April 22, 2007. Especially in the face of climate change, all other anthropogenic threats – including, but not limited to, livestock grazing, oil and gas drilling and exploration, and ORV use – must be eliminated. The Richfield draft RMP fails to address these threats adequately, therefore violating Endangered Species Act requirements that federal agencies must avoid jeopardizing and promote conservation of listed species.

XXI. MANAGEMENT OF ADJACENT LANDS

Activities that occur in the planning area for the Richfield Field Office may also have significant impacts on adjacent and nearby lands. The DRMP/EIS should incorporate and coordinate management objective and actions in order to be consistent with the conservation purposes of the National Parks and National Recreation Areas nearby.

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 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.

The Richfield 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 RFO 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 Southeastern portion of the planning area in order to preserve the conservation landscape bordering Capitol Reef National Park and Glen Canyon NRA. Such designations include WSA, Non-WSA lands with wilderness characteristics, ACECs, and Wild and Scenic Rivers. Alternative D provides the utmost protection for this landscape in the DRMP/EIS, and should be chosen over the inadequate preferred alternative for the purpose of consistency.

The adjacent NPS-managed lands and their borders have a backdrop of high visibility for the scenic vistas common to this landscape. In order to preserve such qualities, the Richfield RMP should choose Alternative D, which assigns a VRM Class I status to most of the bordering lands managed by the NPS.

Major objectives and standards should be set in the Richfield RMP for air quality and visibility concerns for the NPS-managed lands. For areas listed as Class I under the Clean Air Act, the Richfield RMP should have objectives on how the RFO plans on managing lands under their jurisdiction in a way to keep these areas in attainment under the Act.

Consistent recreation management with adjacent NPS lands is best represented by Alternative D. By designating and managing various SRMAs in the Southeast portion of planning area for primitive, semi-primitive, and dispersed recreation, the RFO is in a

better position to manage these lands in cooperation with the NPS on a landscape-level basis. This is especially true for management of the Capital Reef Gateway as provided on p. 2-53 of the DRMP/EIS.

The DRMP/EIS provides that the RFO should “[c]oordinate OHV route designations with U.S. Forest Service, National Park Service, State of Utah, counties and communities, where possible.” DRMP/EIS, p. 2-71. Alternative D will best meet this objective by closing or limiting most of the bordering NPS-managed land to ORV use to provide the most protective management alternative for this sensitive and scenic landscape.

Recommendation: The Richfield 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.

As is stated in the Draft RMP, “Even minor changes to vegetation communities have the potential to affect special status species” (p. 4-116), consideration must be given to the affects that even dirt roads have on ecosystem stability. 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) While the effects of OHV use is well documented in scientific literature, the draft RMP does not recognize the obvious effects of such use, “In areas where there are no surface damage restrictions, impacts (such as decreased air quality, erosion, soil compaction, introduction of exotic noxious weeds, crushing of plants, and habitat modification.) *could cause incidental take of species.*” p. 4-123 [italics added] While the possible effects are noted, the wording used to describe this loss is not substantial enough to convey the real effects of such use, as human disturbance is a well documented source of population decline. (Bender, 1998) The BLM should acknowledge the true impacts of human interference in arid ecosystems, especially when measuring the worth of special status species.

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.

The Draft RMP seems to contradict itself on issues of ecological significance. In one paragraph stating, “The clearing of woodlands could open areas that could be utilized by the Utah Prairie dog for both burrows and forage.” While in the next paragraph, “Most of the special status species located within the RFO are not located in forested areas that would be impacted by commercial timber harvesting. However, construction of roads through viable and occupied habitat of special status species to access the timber could adversely affect special status species” p. 4-126. Within two paragraphs of the RMP, ecological contradiction is found. The area that would be “open” to prairie dog use would be at the biological cost of a host of other species, especially species that are not yet special status, but through deforestation could easily reach the list.

OHV use through ecologically important areas affects several different aspects of the ecosystem. In addition 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 forest and the creation of uncounted roads leading to forest clearing areas viable in order to produce habitat for the Utah Prairie Dog; habitat produced at the cost of uncounted other species.

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 RMP, 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 thrive.

The draft RMP once more uses vague language to describe the effects that cattle grazing can have on special status species. Citing that, “The construction of fences or livestock ponds have the potential to indirectly affect special status plant species by leading to concentrations of cattle in occupied habitat resulting in trampling of plants.” p. 4-127. The BLM then follows this statement with, “The alteration of habitat [from grazing] could have an *indirect adverse effect* on habitat for the pollinators of special status species.” P. 4-127 (italics added) The wording here is not strong enough to convey obvious effect that cattle trampling large areas of natural ecosystem would have on pollinators, and all other individuals in the area. Trampling large areas of special status species habitat will have a very direct effect on the pollinators of special status species, and on the special status species themselves.

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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