

**DECISION RECORD**  
**ON**  
**SOUTHERN UTAH WILDERNESS ALLIANCE “PETITION TO**  
**PRESERVE ARCH CANYON’S NATURAL AND CULTURAL**  
**HERITAGE”**

**Introduction and Summary**

By letter dated December 23, 2006, the Southern Utah Wilderness Alliance (SUWA) submitted a petition entitled “Petition to Preserve Arch Canyon’s Natural and Cultural Heritage” to the BLM’s Monticello Field Office (BLM). SUWA submitted the Petition, dated December 22, 2006, on behalf of itself, the Navajo Utah Commission, Great Old Broads for Wilderness, Far Out Expeditions, Wild Rivers Expeditions, and Calf Canyon Bed & Breakfast. In the Petition, SUWA requested the BLM to close Arch Canyon to off-highway vehicle (OHV) use.<sup>1</sup> SUWA contended that OHV use was causing considerable adverse effects to riparian and cultural resources in the Canyon.

On June 4, 2007, the BLM denied the Petition. SUWA appealed the decision by filing a lawsuit in the federal district court of Utah. On February 17, 2010, while the lawsuit was ongoing, SUWA and the BLM entered into an agreement in which the BLM committed to reconsidering the Petition and issuing a new decision that would supersede the June 4, 2007 decision. The BLM has now completed that process. In that process, the BLM again reviewed all of the information presented in the Petition, as well as new information developed through additional studies. As summarized herein, the BLM has concluded that while OHV use in Arch Canyon, like other multiple uses of the area, has some impacts on the resources of the Canyon, these impacts are limited in scope and do not rise to the level of considerable adverse effects. Consequently, SUWA’s Petition is denied.

In December 2006, when SUWA submitted its Petition to the BLM, the BLM was in the process of developing a new land use plan for the public lands managed by the Monticello Field Office. The new plan, the Monticello Field Office Resource Management Plan (RMP), was adopted in October 2008. The development and adoption of the RMP was not a factor in the BLM’s reconsideration of the Petition, since whether to grant or deny the Petition turned on the on-the-ground conditions in Arch Canyon and not on planning decisions involving the future management of the area. Nonetheless, it is worth mentioning the RMP here because it includes several proactive management decisions intended to protect the resources of Arch Canyon. Among other things, under the RMP, Arch Canyon is not open to cross-country travel, the main route in the Canyon is designated as the only route open to OHV use, and the BLM has closed

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<sup>1</sup> The Petition uses the phrase “off-road vehicles (ORVs).” The phrase that is currently in use and which has the same meaning as “ORV” is “off-highway vehicle (OHV).” An OHV is defined, by the National Management Strategy for Motorized Off-Highway Vehicle Use on Public Lands (2001), as “any motorized vehicle capable of, or designated for, travel on or immediately over land, water, or natural terrain”.

the now-unauthorized spur routes leading off of the main route. The RMP also sets forth a number of management decisions intended to protect the resources of the Canyon, including:

- OHV use is limited to the designated route up to the U.S. Forest Service boundary year-round, a total of 8 miles one way (TM-16).
- Organized and commercial groups are required to obtain a Special Recreation Use Permit for uses in Arch Canyon (TM-17).
- Arch Canyon is closed to livestock grazing (GRA-17).
- No new surface-disturbing activities are allowed within active floodplains or within 100 meters of riparian areas unless it can be shown that: a) there are no practical alternatives or, b) all long-term impacts can be fully mitigated or, c) the activity will benefit and enhance the riparian area. Oil and gas leasing is no surface occupancy (NSO) in riparian areas. (RIP-5, RIP-3).
- Domestic pets and pack animals will not be allowed in cultural sites or on archaeological resources as defined by the Archaeological Resources Protection Act (ARPA) (CUL-18).
- Ropes and other climbing aids will not be allowed for access to cultural sites or archaeological resources as defined by ARPA (CUL-19).
- Cultural sites may be closed to visitation when they are determined to be at risk or pose visitor safety hazards (CUL-21).
- The Arch Canyon area is included in the Cedar Mesa Special Recreation Management Area (Cedar Mesa SRMA). SRMAs are established in areas where recreation use requires intensive management strategies in order to provide recreation opportunities and to protect resource values. To accomplish the objectives of the Cedar Mesa SRMA, the RMP requires the preparation of a more detailed management plan concentrating on recreation use and protection of cultural resources (REC-79, REC-81).

### **Standard used in reconsidering the Petition**

The SUWA letter transmitting the Petition to BLM, and the Petition itself, indicate that it was submitted pursuant to Executive Orders 11644 and 11989 and the federal regulations found at 43 C.F.R. §§ 8341.2, 8342, and 8364.1. These cited authorities concern the use of OHVs on public lands, the designation in the planning process of areas and trails for OHVs, and closures and restrictions of public lands. The two Executive Orders preceded the promulgation of the regulations and are embodied in the 43 C.F.R. Part 8342 regulations, and especially in § 8341.2. Subpart (a) of the regulation states in part:

Notwithstanding the consultation provisions in § 8342.2(a), where the authorized officer determines that off-road vehicles are causing or will cause *considerable adverse effects*

upon soil, vegetation, wildlife, wildlife habitat, cultural resources, historical resources, threatened or endangered species, wilderness suitability, other authorized uses, or other resources, the authorized officer shall immediately close the areas affected to the type(s) of vehicle causing the adverse effect until the adverse effects are eliminated and measures implemented to prevent recurrence.

(Italics added). The other regulation cited by SUWA as grounds for its Petition, 43 C.F.R. § 8364.1, provides in part: “To protect persons, property, and public lands and resources, the authorized officer may issue an order to close or restrict use of designated public lands.” Given the language in the Petition and SUWA’s contentions that OHV use in Arch Canyon is causing considerable adverse effects, the BLM used that standard in its reconsideration of the Petition.

### **Reconsideration of the Petition**

The February 17, 2010 Agreement between the BLM and SUWA provided that in its reconsideration of the Petition, the BLM would focus on riparian habitat, fish populations and habitat, and cultural resources. Specifically, the Agreement provides that BLM would:

- Assess the effects of motorized vehicle use on riparian habitat in Arch Canyon by reviewing relevant literature, re-evaluating the properly functioning condition (PFC) data previously collected in Arch Canyon, and conducting such further studies in Arch Canyon as necessary;
- Assess the effects of motorized vehicle use on the fish populations and fisheries habitat in Arch Canyon by reviewing relevant literature and available data and reports prepared by the BLM and the State of Utah Division of Wildlife Resources (DWR) regarding fish populations and fisheries habitat in Arch Canyon, and by conducting such further studies in Arch Canyon as necessary. BLM, with DWR, shall conduct genetic testing to determine what fish population species and subspecies may be present in the Arch Canyon stream and consider the results of the testing in its assessment of the effects of motorized vehicle use.
- Assess the effects of motorized vehicle use on cultural resources in Arch Canyon by reviewing relevant literature and the results of the Class III archeological inventory information currently being collected on a 100-foot corridor bisected by the Arch Canyon road. The BLM shall also undertake and consider the results of a Class III archeological inventory of three sites outside the 100-foot corridor that the BLM is aware are visible from the road, and will consult with SUWA to determine whether there are other sites that because of visibility and accessibility should be inventoried.

Consequently, in the reconsideration process, BLM resource specialists completed the following:

- Reviewed all relevant information regarding cultural resources in Arch Canyon in order to assess the effects of motorized vehicle use on such resources. The information reviewed included that collected during the Class III cultural resource

inventory conducted along a 100-foot corridor along the road, and the information collected by the BLM from a Class III cultural resource survey conducted for 3 sites that are outside the 100-foot corridor and that are visible from the road.

- Reviewed all relevant information regarding riparian resources in Arch Canyon in order to assess the effects of motorized vehicle use on such resources. The previously completed Properly Functioning Condition (PFC) assessment for the riparian resources in Arch Canyon was also re-evaluated.
- Reviewed all relevant information regarding fish populations and fish habitat within Arch Canyon in order to assess the effects of motorized vehicle use on such resources. The BLM specialists also coordinated with Utah Division of Wildlife Resources (UDWR) to collect genetic samples and to conduct testing to determine what fish population species and subspecies are present in Arch Canyon, and considered the results of the testing.
- Completed staff reports to document the work undertaken and the assessments of the information considered.

## **Summary of Staff Reports**

### Cultural Resources

The essential contention in the Petition concerning cultural resources is that the OHV route in Arch Canyon provides easy access to archaeological sites, and this ease of access has resulted in adverse impacts, including wanton vandalism, illegal collecting of artifacts, and inadvertent damage by visitors who are unaware of proper site etiquette. Also, there is speculation in the Petition that the route itself crosses sites and that motorized vehicle use along the route adversely affects these sites.

The cultural resources information provided in the Petition is found within the main text and the supporting report presented in its Exhibit B. The report in Exhibit B is titled “Site Condition and Vandalism Assessment of Archaeological Sites, Lower and Middle Arch Canyon, San Juan County, Utah, by Jerry Spangler, professional archaeologist (November 2006).

In assessing the specific contentions in the Petition, and preparing the BLM Staff Report for Cultural Resources the BLM cultural resource specialists considered the Spangler report and all other relevant cultural resource information for Arch Canyon, including that from:

- Interviews with six professional archaeologists who have experience involving the cultural resources in Arch Canyon about their knowledge of sites or other information that would assist with assessing the impacts of OHV use on cultural resources in the Canyon.
- The Draft Interim Report of Selected Findings, Arch Canyon Block, Comb Ridge Heritage Project (Hurst, 2010), which includes archaeological site inventories at the mouth of Arch Canyon in an area where the heaviest visitation occurs.

- Site visits in Arch Canyon by BLM archaeologists to eleven of the sites inventoried by Spangler to assess whether any impacts from OHV use had occurred since 2006.
- A Class III cultural resource survey of the 100-foot wide corridor bisected by the route in Arch Canyon (Larmore and Croll, 2010).
- A Class III cultural resource inventory by BLM archaeologists (2010) of three sites visible from the route in Arch Canyon and outside the 100-foot wide route corridor.
- Consultation with Native American Tribes.

The conclusion reached in the Staff Report is that motorized vehicle use along the designated route within Arch Canyon is not causing considerable adverse effects to cultural resources. Some adverse effects to cultural sites from human activities have been identified in Arch Canyon; however, the sites have not lost their significance in terms of their eligibility for listing in the National Register of Historic Places and therefore the effects are not found to be “considerable”. Almost all of the adverse effects that were identified are a result of activities that took place years and even decades ago and such effects cannot be attributed to OHV use. The effects are minimal in the upper portions of Arch Canyon and are more pronounced toward the mouth of the canyon. The route crosses one significant site in an area of sparse artifact distribution and no subsurface features or deposits; however, travel on this section of the route is not adversely affecting the site’s values.

As mentioned above, under the recently adopted Monticello Field Office RMP, Arch Canyon is included within the Cedar Mesa SRMA. In connection with this designation, the BLM is undertaking to develop a plan for management of the cultural resources in Arch Canyon to further protect these resources. Potential actions for consideration in the plan include: developing procedures for promoting strong public awareness and site etiquette, increasing site monitoring by BLM staff and site stewards, restricting the use of campfires and the collection of wood, restricting the disposal of human waste, restricting camping locations, prohibiting pets, and marking foot-trails to and through site areas.

### Riparian Resources

The Petition also contends that motorized vehicle use in Arch Canyon is resulting in adverse effects to riparian resources. In making this contention, SUWA relies on a 2006 assessment, included in the Petition, which concludes that the riparian area in Arch Canyon is Functioning at Risk and indicates that the primary cause for the assessment’s conclusion is from the route up the Canyon crossing the streambed approximately 60 times. The Petition also states that the road in Arch Canyon contributed to substantially more erosion and destruction of vegetation, than what would have occurred if the route didn’t exist, as a result of the high water flood event that occurred in Arch Canyon in October 2006

The riparian resource information provided in the Petition includes the reports attached to it as Exhibit E and Exhibit F. The report in Exhibit E is titled “Arch Canyon Condition Assessment

and Management Recommendations” by Charles Schelz, ecologist (August 2006). The report in Exhibit F is an Addendum (December 2006) to the Schelz report included in Exhibit E which discusses the effects of flooding in Arch Canyon in October 2006.

In assessing the specific contentions in the Petition, the BLM specialists considered the Schelz reports and all other relevant riparian resource information for Arch Canyon, including that from:

- Arch Canyon field inspection to determine the extent of riparian vegetation (Curtis and Carling, 2007).
- Arch Canyon Properly Functioning Condition (PFC) assessment (Stager et al., 2007).
- Review of Mr. Schelz Arch Canyon condition assessment (Prichard, 2007).
- Arch Canyon PFC assessment (Prichard et al., 2007).

As set forth in the Riparian Resources Staff Report, the BLM conducted two proper functioning condition (PFC) assessments (2007) of the riparian area in Arch Canyon. Both of these assessments found that the riparian area was Properly Functioning as opposed to the assessment of Functioning at Risk that is a part of the Petition.

The PFC assessments completed by the BLM specialists provide a more accurate assessment of riparian conditions than the PFC assessment completed by Mr. Schelz. As set forth in the Riparian Resources Staff Report, the method utilized by Mr. Schelz for his PFC assessment is not based on accepted BLM methodology and is designed more for a small headwater stream located in the Rocky Mountains rather than a desert stream system such as Arch Canyon (Prichard, 2007). The accepted methodology utilized by the BLM for PFC assessments is based on TR 1737-15, *A User Guide to Assessing Proper Functioning Condition and the Supporting Science for Lotic Areas* (Prichard et al., 1998). Don Prichard was instrumental in developing this methodology and is nationally recognized in the BLM as a technical expert on riparian area management. He also served as an interdisciplinary team member on one of the BLM PFC assessments (Prichard et al., 2007) for Arch Canyon.

In the BLM PFC assessment conducted by Prichard (et al., 2007), it was determined that the difference in the assessments is due to how the channel was typed, the role landform plays in the different channel types, the method used to assess the riparian condition, and understanding intermittent and interrupted systems relative to the capability and potential to produce riparian wetland vegetation. The findings in the BLM PFC assessment do not agree with Schelz’s assessment pertaining to the impacts resulting from the high water flood event that occurred in Arch Canyon in October 2006. According to the BLM PFC assessment, this event is a good indicator that the riparian system is stable and properly functioning as shown by the condition of pre- and post-flood riparian vegetation.

Because the BLM assessments found the riparian area in Arch Canyon to be Properly Functioning, the Riparian Resources Staff Report concludes that motorized vehicle use along the

designated route within Arch Canyon is not causing and is not expected to cause adverse effects to the riparian resources in the Canyon.

### Fisheries Resources

The stream in Arch Canyon supports three native fish species, including the flannelmouth sucker, a state sensitive species which is genetically unique and a likely candidate for listing under the Endangered Species Act. According to the SUWA Petition, adverse effects to fisheries resources in the Canyon are resulting from the loss of suitable habitat due to the destruction of the stream banks and vegetation by motor vehicles.

The fisheries resource information provided in the Petition includes the report attached in Exhibit E. The report in Exhibit E is titled “Arch Canyon Condition Assessment and Management Recommendations” by Charles Schelz, ecologist (August 2006).

In assessing the specific contentions in the Petition and preparing the BLM Staff Report for Fisheries Resources, resource specialists considered the Schelz report and all other relevant fisheries resource information for Arch Canyon, including that from:

- Fisheries genetic sampling conducted by the BLM and the Utah Division of Wildlife Resources (UDWR) to determine what fish population species and subspecies may be present in the Arch Canyon stream.
- A genetic assessment of Flannelmouth Sucker in Arch Canyon and comparison to populations across the Colorado River Basin (Douglas, 2010).
- A report completed by the UDWR in 2009 titled, “The Status of Native Fish Living in Arch Canyon”.
- Cooperative fish sampling in Arch Canyon by the BLM and UDWR in 2007, 2008, and 2010.
- Water quality monitoring, macroinvertebrate sampling, and an assessment of hydrologic conditions for Arch Canyon (Aubry, 2007 and 2010).
- Personal communications (2010) with Dr. Marlis R. Douglas, Curator of Ichthyology at the Illinois Natural History Survey regarding the analysis of genetic samples and Scott W. Miller, Ph.D., Director of the Bureau of Land Management and Utah State University National Aquatic Monitoring Center regarding macroinvertebrate conditions.
- Arch Canyon PFC assessment (Prichard et al., 2007).

As presented in the Fisheries Resources Staff Report, the results of genetic sampling and assessment found that flannelmouth suckers in Arch Canyon are not genetically different or unique from flannelmouth suckers in other parts of the Colorado River Basin, but instead represent “typical” flannelmouth suckers. Genetic sampling and assessment results also indicate

that the bluehead sucker species discussed in the Schelz report in Arch Canyon are actually mountain suckers and are not genetically unique. Cooperative fish sampling efforts by the BLM and UDWR found multiple age classes of all three species of native fish, which indicates the habitat is suitable for successful reproduction and development of life stages of native fish found in the stream within Arch Canyon. The existing condition of suitable fish habitat in Arch Canyon is primarily a result of the natural landform and hydrology that is typical of most canyon slickrock landforms that experience thundershowers and frequent flood events resulting in a flashy system. The isolated disturbances to fish habitat as a result of motor vehicle crossings in Arch Canyon are minimal compared to the natural alteration associated with these flashy desert stream systems. Therefore, the Fisheries Resources Staff Report concluded that motorized vehicle use along the designated route within Arch Canyon is not currently causing adverse impacts to fish populations and fish habitat.

### **Visitor Register, Travel Counter, and Patrol Data**

In its Petition, SUWA contends that OHV use has dramatically increased in and near Arch Canyon in the past several years. SUWA also contends that new unauthorized routes have been pioneered at most of the stream crossings, and new trails have been pioneered through vegetation in areas with archaeological sites, causing damage to cultural and natural resources.

The BLM agrees that OHV use in Arch Canyon has increased over the past 10 years and across San Juan County in general. However, the BLM visitor register in Arch Canyon shows that from 2004 through 2009 motorized vehicle use has remained fairly constant during this time frame. According to the register, there were 232 motorized vehicles in 2004, 218 in 2009, a peak of 334 in 2008, and an average of 199. A traffic counter installed in Arch Canyon in 2009 indicates that the actual use is about five times greater than the register numbers. The traffic counter data for 2009 as compared to the first six months of 2010 shows a downward trend which is most likely due to the harsh winter. The BLM patrol data collected from March 2010 to July 2010 have not documented routes pioneered through vegetation and damaging archaeological sites. The patrols do document the closures of several spur routes off the main route in Arch Canyon that are not authorized according to the OHV travel restrictions in the RMP (2008).

The visitor register, travel counter, and patrol data are attached to this decision document.

### **Decision**

After carefully reconsidering the Petition and its attached reports, and reviewing the BLM's resource specialists' staff reports, for the reasons summarized above, it my conclusion that motorized vehicle use in Arch Canyon is not causing or threatening to cause considerable adverse effects to cultural, riparian or fisheries resources in the Canyon. Consequently, SUWA's Petition is denied.

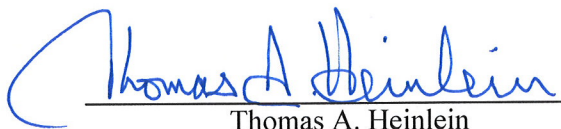
As discussed above, the management decisions in the recently completed Monticello Field Office RMP underscore the resource values of Arch Canyon and the BLM's need to be proactive in protecting such resources. Those decisions should provide a significant framework for preventing adverse effects to such resources. Although visitor register, traffic counter, and patrol



data show that motorized vehicle use in Arch Canyon has not increased dramatically in the past several years, the BLM recognizes that a large increase in OHV use beyond the current levels in the Canyon could pose future risks to such resources. Therefore, the BLM is planning on taking the following actions to prevent those possible future risks from occurring:

- 1) Maintain the visitor register and traffic counter in order to assess the numbers of motorized vehicles utilizing the route in Arch Canyon.
- 2) Continue the patrols of the route along Arch Canyon on a regular basis.
- 3) Monitor fisheries habitat and selected cultural resource sites.
- 4) Begin preparation of a detailed management plan for Arch Canyon (fiscal year 2011) as a component of the Cedar Mesa SRMA. The management plan will primarily focus on recreation use and protection of cultural resources but it will also include provisions for the protection of riparian and fisheries resources. The following types of potential actions will be considered in the plan:
  - Using visitor information and interpretation as tools to protect cultural and natural resources and discourage vandalism.
  - Marking foot-trails as necessary to protect cultural resources.
  - Establishing a permit system for day and overnight use to protect cultural resources.
  - Restricting visitor numbers, wood collection, camping and camp fires, disposal of human waste, and travel as necessary to protect cultural or natural resources.
  - Conducting additional inventory of cultural resources to determine numbers and types of sites and their significance in order to prioritize preservation efforts.

While this plan is being developed, management of Arch Canyon would continue as described by the management decisions specified in the Monticello Field Office RMP.

  
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Thomas A. Heinlein  
Monticello Field Office Manager

10|13|2010  
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Date

Attachments:

Arch Canyon Visitation Statistics which includes Visitor Register and Traffic Counter Data  
Patrol Data  
Staff Report for Cultural Resources  
Staff Report for Riparian Resources  
Staff Report for Fisheries Resources