

November 30, 2007

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HAND DELIVERED

Re: Comments on the BLM Moab Draft Resource Management Plan/Environmental Impact Statement submitted by the Southern Utah Wilderness Alliance (SUWA), the Wilderness Society, the Sierra Club, Peer Employees for Environmental Responsibility (PEER), Living Rivers/Colorado Riverkeeper, Great Old Broads for Wilderness, Red Rock Forests and the Center for Native Ecosystems.

Greetings:

Thank you for the opportunity to comment on the Draft Resource Management Plan (RMP)/Draft Environmental Impact Statement (EIS) for the Moab Field Office. We appreciate the BLM's efforts in developing this draft, and believe that a new RMP for the Moab area could go far in alleviating many of the resource impacts and conflicts here. 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 plan. Nor does it appear that the BLM has collected sufficient information on which to base this draft plan.

The Moab field office (MFO) 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 MFO. 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 a number 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, 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;
- Designated ORV routes are excessive, and would lead to damage in violation of BLM's own guidance, regulation and law;

- The draft plan fails to analyze and protect important wilderness resources in the Moab area;
- The draft plan and EIS must acknowledge the predicted impacts of climate change in the Moab area, and provide an analysis of the interplay between those changes and the various alternatives.

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 Draft RMP/EIS;
- ECOS Consulting (Charles Schelz) identifying inadequacies in BLM's analysis of riparian, soils, water, wildlife and fisheries resources.
- Megan Williams, identifying inadequacies in the Draft RMP/EIS 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 Moab Field Office. The Glen Canyon Group, a sub-entity of the Utah Chapter, regularly has members hiking on the public lands within Grand and San Juan Counties.

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.

Living Rivers/Colorado Riverkeeper promotes river restoration through mobilization. By articulating conservation and alternative management strategies to the public, we seek to revive the natural habitat and spirit of rivers by undoing the extensive damage done by dams, diversions and pollution on the Colorado Plateau. Living Rivers is funded entirely by contributions from individuals, corporations and foundations. Living Rivers is recognized as a 501(c)(3) charitable/educational organization.

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 Moab 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.

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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. "Off Highway Vehicle Uses and Owner Preferences in Utah (Revised)" Utah State University, 2002.
- 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

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 Moab Draft RMP for the past five years, the public is limited to 90 days to read, analyze and meaningfully comment on this voluminous set of tomes – over 1000 pages. A variety of groups and individuals submitted requests for an extension to the public comment period to the BLM, including commercial outfitters affected by the plan, concerned citizens, conservation groups, and Utah Congressman Jim Matheson. We are surprised that the BLM has not even provided an answer to SUWA to its request for an extension, and seem to have ignored 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, especially in light of the fact that these plans will govern the management of nearly half of all BLM lands in Utah, and some of the most beloved landscapes in the country for the next 15-20 years.

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 a detriment to the BLM which will not have the benefit of comprehensive public comment. The arbitrariness of the deadline taints the entire 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.

Additionally, the BLM has not made new and highly significant information about visitors to public lands in the Moab planning area publicly available. The National Visitor Use Monitoring (“NVUM”) survey conducted in the summer of 2006 contains information about the recreational uses of the public lands in the MFO which should form the very basis for BLM decisions about demands for certain kinds of recreation. This information is important and germane to review and analysis of several aspects of the RMP, especially socioeconomic effects and recreational opportunities. Had the public had access to this document, it would have been apparent that the BLM’s operative assumption about the need to provide more public lands for ORV use was plainly

unfounded. The public comment period should be extended to allow the public access to this important information that the BLM possesses.

Further, SUWA submitted a FOIA request to the BLM on August 23, 2007 requesting background documents to the RMP process. SUWA has not received these documents during the public comment period even though the deadline for the provision of those documents has expired. These documents contain information concerning the BLM's development of the draft RMP, and to the public's and SUWA's review and analysis of the plan. SUWA should not be disadvantaged by BLM's failure to observe its FOIA deadlines (particularly if it is to insist on the observation of its own self-imposed comment deadlines).

C. The Moab Draft RMP fails to acknowledge 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 MFO for this RMP revision. The MFO received 6,244 comments reflecting a pro-conservation position.

ORV management received the greatest number of comments, illustrating the importance of this issue to the users of BLM lands managed by the MFO: the number of comments favoring ORV restrictions outnumbered those wanting fewer restrictions by a margin of ten to one (10:1). Yet, the majority's concern that ORV use be restricted and that appropriate, resource-sensitive routes be designated has been largely ignored in the Draft RMP and travel plan alternatives. The BLM preferred alternative travel plan includes high route density and wanton designation of redundant routes devoid of clear purpose and need to the very real detriment of non-motorized recreation and resource preservation.

The unreleased draft of the National Visitor Use Monitoring survey indicates that only 6% of visitors to the planning area engage primarily in motorized ORV recreation or 4WD driving. However, these results have not been released for public consumption and have apparently not been incorporated into BLM's analysis of current use in Chapter 3, "Affected Environment." This is indicative of the government's rush to complete this planning process without taking into account all available information about the needs of recreation users in the planning area.

II. GENERAL LEGAL FRAMEWORK AND BLM OBLIGATIONS

The BLM's approach to management of the Moab Resource Area is unbalanced and does not utilize opportunities to preserve and enhance the biological diversity, riparian resources, 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 recreational opportunities which reflect the need and visitor preference for non-motorized recreation. This is borne out in the Travel Plan and the SRMAs, which heavily favor motorized OHV activity to primitive and unconfined recreation. The Moab

RMP/Draft EIS 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 Moab Field Office that will be governed by this RMP. FLPMA requires BLM to inventory its lands and their 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 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." 43 U.S.C. FLPMA § 1702(c). (emphasis added). 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 designation of only 63,252 acres of ACEC in the planning area of some 609,687 acres found eligible falls far short of FLPMA's mandate that BLM give "priority" to this resource. 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.

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).

Certain elements of the RMP, most strikingly the travel plan, fail the test of the UUD standard. By several measures, the proposed travel plan 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, and reduction of naturalness in areas with identified wilderness characteristics.

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

NEPA requires that an actual "range" of alternatives is considered, such that the Act will "preclude agencies from defining the objectives of their actions in terms so unreasonably narrow that they can be accomplished by only one alternative (i.e. the applicant's proposed project)." *Colorado Environmental Coalition v. 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). The Travel Plan included in this EIS is a key example of the aforementioned citations, with each alternative posing significant resource harms and no alternative that mitigates those harms (i.e. no alternative not designating the Hey Joe route along the Green River or up Hell Roaring Canyon).

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 Moab Draft RMP.

In order to evaluate the broad range of impacts encompassed 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.*

The existence of data, in this case the National Visitor Use Monitoring survey, giving the BLM significant baseline data from which to draft alternatives, calls into question the validity of the baseline analysis and shows that the BLM, in its rush to finish RMP work, ignored significant and new information regarding the affected environment.

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.

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

Recommendations: BLM must fully assess the potential environmental consequences of management decisions, as described above, and consider a true 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 draft RMP and EIS show 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 MFO.

An accurate description of the baseline conditions of the MFO 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. To answer the question of how much ORV use to allow in the future, you have to find out how much and what kind of damage it's doing now.

In this regard, 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 MFO. However, 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 is saying that "we can live with this level of impact" even though they don't know what that the level of impact is. See also 4-428 ("The impacts of travel along designated routes would have negligible impacts on vegetation because past and current use has already impacted these areas.") This is a circuitous argument; it is not analysis.

Similarly, what is the basis for Table 3.18 at 3-30? Could it be that ORV use is actually a "low" level use given that only 6% of visitors engage in it? Or that while the numbers are low the impact is high -- in which case it should be curtailed. And given this low level of use, why is the plan based on "accommodating" ORV use instead of managing it, curtailing the damage and minimizing conflicts with other users?

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 188 (attached)("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 organisms decrease in number and diversity. Flattened soil surfaces change the way crusts affect local hydrologic regimes 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,” *Journal of Arid Environments* 2002, <http://www.idealibrary.com>. (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. 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.
4. The impact of ORVs and other uses on riparian areas. ORV use exists in the MFO in most, if not all, of the MFO’s riparian areas, yet there is no description of the impact that such use has had on this rare and exceedingly important habitats. Soil erosion and the direct loss of native plants through trampling and crushing are key components to the analysis of this question.
5. The existing relative demand for various recreation opportunities. Here, BLM has failed to include the best available data on this point, and as a result, made a demonstrably false assumption about the demand for motorized recreation. BLM should have included a new study which it conducted on the different types of use in the MFO, especially the relative use of non-motorized and motorized

recreation. That study shows that non-motorized recreation is utilized by vastly more visitors to the MFO than motorized (ORV-based) recreation. Because this key piece of information was missing from the document, the BLM has created a false impression that the MFO is properly a location in which ORV use takes precedence over every other recreation pursuit. It skews the public comment, and takes the MFO down a management path the public does not want it to go. We emphasize, that this study is completely consistent with the scoping comments the public submitted to BLM which overwhelmingly requested the MFO to rein in ORV use – not create additional opportunities for riding or cement the current level of use which has already led to damage and user conflict.

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 Jerry Spangler 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 routes causes no *new* damage to cultural or other resources, any impacts as a result of designation of trails need not be evaluated. See e.g. 4-234 (Under Alt A "the impacts of recreation would be negligible, as B- and D- Class routes are currently being used for recreation access.") There is simply no basis or this assumption, and it contradicts numerous studies – even by sister-agencies in the Department of Interior – about the severe impacts from ORV use. Further, the assumption that designating trails does no additional damage even contradicts other portions of the plan. (See EIS discussion of ORV impacts to paleontological resources.) Moreover, designating trails does cause damage by facilitating backcountry use where enforcement and monitoring is extremely challenging.
2. ORV impacts to vegetation are largely ignored. For example, Chapter 4's discussion of this appears to be limited to two paragraphs, none of which is quantitative and none of which assess the probability of ORVs introducing and facilitating the spread of non-native species.
3. Chapter 4's discussion of soils at 4-279 and 280 provides that "no particular data on the distribution of biological soil crusts are available . . ." This lack of information is particularly troublesome because these soils are so important to the health of the desert ecosystem in the MFO. Without this basic information, it is impossible to make 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, the compaction of soils, alteration of the hydrologic function of the soil surface and other impacts.
4. The plan never considers whether current or proposed ORV use levels are sustainable over the long term.
 5. The analysis of the impacts of ORV use and roads on cultural sites omits information that supports the use of methodology BLM employed to estimate impacts. For example, at 3-19, the EIS describes BLM's methodology as involving identifying types of areas that have a high, medium or low probability of having cultural sites (noting that "a limited percentage of lands within the MPA have been physically inspected for the presence of cultural resources. . ." There is no information about whether there is any legal effect of the high, medium and low classifications or whether they are generally accepted by professionals in the field. Further, there is no information about whether basing the model on a non-random sample is valid or generally accepted by archaeologists. Did a professional archaeologist prepare this section of the EIS? The analysis of the impacts of the proposed plan to cultural showed that the model MISSED 1,156 known sites. In a relatively small sample size of 4,259, this seems like a significant number of sites that were overlooked completely. BLM represents that this is "sufficiently accurate," but again, there is no information on which to base that statement. Interestingly, the plan admits that this "model is not used to predict numbers of sites involved in decisions, nor should it be considered a replacement for full inventory for sites prior to surface disturbance or as a substitute for the Section 106 process of the National Historic Preservation Act." We urge the BLM to conduct a full inventory of sites and comply with the NHPA – what it has done here "is no substitute" for these steps.
 6. "Based on consultation with Native Americans, the BLM would consider sites, areas, issues, and objects important to their cultural and religious heritage." 1-13. There doesn't appear to be anything in chapter 4 that reflects the BLM's considerations of these issues and what it did to accommodate Native American interests.
 7. Given the over 2600 miles of ORV trails the plan proposes to designate (with an overall total of over 6000 miles of route when accounting for other roads in the MFO), the potential soil erosion is significant. Soil erosion is one of the primary impacts of ORV use. Yet nowhere in the document is the amount of soil lost to ORV use quantified. This information gap should be filled by inclusion of the best available data and methodology.
 8. At 4-405, there's a list of resources that are not considered in the section on impacts to travel management on the theory that whatever BLM does to manage grazing, for example, or other types of recreation, won't impact travel. However, wouldn't decisions to limit grazing based on riparian area destruction also impact

ORVs? As would decisions to protect areas based on visual resources, or wildlife? Please provide an explanation for this approach.

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

The EIS for the plan revisions generally provides little or no discussion of cumulative impacts or the effects of 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 synergist 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 says nothing about 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.

For riparian impacts, for example, the plan notes that adverse effects from a variety of uses occur in Moab'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, or any real quantitative analysis. For example, on 4-282, there's a discussion of the significant adverse impacts to riparian areas from grazing. Can these same areas also sustain ORV use? There is no data to support an answer to this question.

Further, while the plan says that all alternatives would ensure PFC, and that “the loss or degradation of riparian areas, wetlands and associated floodplains would be avoided or minimized; natural and beneficial values would be preserved and enhanced; and fish wildlife and special status species would be provided for,” 4-182, there is no explanation of how ORV use in these same streams affects that conclusion. There is an inherent inconsistency here that the BLM must resolve.

Additionally the grazing discussion at 3-35 mentions that there are 26,085 acres of riparian areas in the MFO and that 14,020 (54%) are in proper functioning condition, 8,962 (34%) are functioning-at risk, 2,947 (11%) are not functioning. The BLM should identify the areas in which ORV use is also permitted (where trails would be designated) and discuss the combined effects of grazing and ORVs on these riparian areas. Further, the draft plan also includes a list of “specific allotments of concern” at 3-38. Do these coincide with proposed designated ORV trails, and to what effect?

We also note that 4-228 says that “Under all the alternatives, riparian resources prescriptions would control recreational use, where necessary, and manage camping in riparian areas to reduce vegetation disturbances...” Then, “[c]ontrol of recreation in riparian habitat would be adverse in the long term for some potential surface-disturbing

recreational opportunities, such as OHV use, because these activities would be reduced.” 4-228-29. But there are still trails in riparian areas, and there doesn’t appear to be any criteria or methodology by which riparian areas are chosen for protective measures against ORV use. Additionally, while it appears that the BLM has focused on how (undefined) strategies to protect riparian areas would adversely affect ORV use, it does not analyze the much more important question of how ORV use damages riparian areas.¹

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

The BLM has based its ORV trail designations on maps provided by Grand and San Juan County and on information provided by ORV groups. The fact that the counties and ORV groups wanted the routes and advocated for the BLM to designate them was deemed sufficient to meet the purpose and need for the trails.

To approach trail designation in this way is to completely 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. This approach flows from an identification of the purpose and need for various activities. Instead, BLM has largely turned over the trail designation process to a small spectrum of the public with little independent analysis or active management. This is particularly troublesome given the results of the scoping comments and the recreation study that BLM has yet to release to the public, which show that the vast majority of MFO visitors do not come to engage in ORV use. 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. How many trails designated in the plan are for ORVs and how many for hikers? See 4-237 (noting that “The miles of proposed [non-mechanized] routes range from 25 miles under Alternative B and 0 miles under Alternative C to 100 miles under Alternative D.”)

E. Miscellaneous Comments

1. At 2-17, and the description of the management common to all alternatives, the language is vague and difficult to apply: “where unacceptable damage . . . is anticipated or observed, BLM would seek to limit or control activities by managing the nature and extent of the activity or by providing site improvements that make the activity more sustainable . . . Such management would seek to reduce or eliminate the adverse impact while maintaining the economic benefits associated with a wide range of recreation uses.”

¹ The impact of ORVs on riparian areas is a much more important question given the rarity of riparian areas, their provision of valuable water resources, and the fact that they provide habitat for approximately 80% of native wildlife. On the other hand, ORV use is only permitted where environmental harm can be minimized, and in the MFO that use only accounts to a small fraction of visitors at any rate. There is no sound rationale for sacrificing riparian areas for the sake of ORV recreation.

- a. Why not just adopt the language of the federal regulations which requires closure where adverse effects occur? The language in the plan has no basis in the governing regulations.
 - b. The BLM doesn't know what the "economic benefits" of the range of recreational uses are, which deprives this standard of any real meaning. See Socioeconomic impacts comments submitted by The Wilderness Society.
2. The plan admits that most recreation use occurs on 53% of the MPA, mostly close to Moab. 4-200. So the closures and relatively fewer trail designations around I-70 don't really do much to address the core ORV impacts; and those areas close to I-70 are open to leasing anyway, right?
 3. Over one half of the wilderness characteristics lands in the Moab plan have VRMs of Class III or IV which would allow activities that will degrade wilderness values, and the area's world-famous scenic vistas. Yet there is no rationale for the application of the Class III/IV designations. See 4-154 et seq and 164.

C. 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.

Further, management of Wilderness Study Areas is also considered outside the scope of the plan. However, BLM should have a plan for management of these lands, which should include prescriptions for protecting WSA lands if they are released by Congress.

D. Lack of Reasonable Range of Alternatives

1. The Draft RMP Should Have Analyzed an Alternative with Fewer ORV Routes

Although the Draft RMP 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 512 miles of difference between the travel plan mileage in Alternative B and Alternative D— not a meaningful difference in light of the 2600 miles of designated ORV routes and over 5000 miles of route total when combined with other dirt roads and trails. Thus, the Draft RMP 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 Moab Draft RMP 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 an alternative that would designate new wilderness study areas. BLM's failure to fully consider and analyze such an alternative is fatal to this 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.

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

It is imperative that BLM not arbitrarily limit its review to the four alternatives set forth in the Draft RMP. 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 Moab Draft RMP does not fulfill the minimization criteria required by law

The Draft RMP fails to provide an alternative avoiding potential environmental effects of designating particular routes. There is little doubt that motorized 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. The 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 Draft RMP that the MFO has considered and analyzed the site-specific environmental consequences and impacts to natural resources and other users of designating particular motorized routes proposed in the Draft RMP. Additionally, the Draft Moab RMP fails to analyze the cumulative effects of such a widespread designation of motorized routes.

The Draft RMP fails to provide an appropriate allocation of recreational opportunities. Although the Draft RMP 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, non-motorized recreational opportunities, especially non-structured, primitive and unconfined recreation which is not afforded by narrowly defined “focus areas” that cater to specific niche recreation such as B.A.S.E. jumpers or sport climbers.

Increasing levels of motorized recreation have greatly reduced the opportunities for quiet, non-motorized recreation on BLM lands managed by the MFO. Allowing all uses (both

motorized and non-motorized) on almost all routes and in all areas might work if use levels are low. However, as ORV use levels increase, motorized recreation 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 destinations such as Gemini Bridges and Courthouse Wash because of the loud, dusty and unregulated use of ORVs.

There are currently more than 6,000 miles of routes in the Moab planning area on all lands, according to BLM's GIS information. Under the BLM preferred alternative, 84% of the MFO area south of Interstate 70 is within one-half mile of a motorized route, 96% is within one mile of a motorized route, and less than 1% is greater than 2 miles from a motorized route (see Recreation Opportunity Spectrum maps, Exhibit H). 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 these quieter opportunities most acutely in the Labyrinth Canyon area, including tributary canyons and mesas. This plan does not provide equal recreational opportunities for non-motorized uses.

This approach is supported by the Federal Regulations governing ORV use on BLM lands. The ORV regulations 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.

5. BLM Unjustifiably Rejected the Redrock Heritage Proposal

The BLM has dismissed the Redrock Heritage Proposal entirely, not even incorporating any of the excellent recommendations into the "conservation" alternative. The Redrock Heritage proposal was submitted to BLM as a reasonable alternative aimed at a more balanced approach to managing public lands near Moab. The Redrock Heritage Proposal is a forward-looking approach to managing the world-class scenery and landscapes near Moab for current and future generations, and is focused primarily on travel management. As the Redrock Heritage Proposal notes, the BLM did not anticipate the explosion in ORV use or the increase in overall recreation in southeastern Utah when the current RMP was drafted more than 20 years ago. The Redrock Heritage Proposal includes a proposed travel plan that would help correct the existing unplanned system of routes that are the result of historical seismic and mineral exploration activities, and would help protect scarce resources for future generations even after visitation levels have doubled or tripled and the public's desire for undeveloped places of respite have grown even stronger.

The Redrock Heritage Proposal's travel plan calls for:

- each route to serve an identifiable and compelling purpose;

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

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

BLM cites several factors for its baffling wholesale dismissal of the Redrock Heritage Proposal:

- Suggestion of closure of county “B” routes
- Claims that BLM cannot decide management of SITLA lands, which BLM alleges that SUWA proposes
- RHP focuses on lands south of Interstate 70, ignoring all the wilderness quality lands north of the Interstate and their recreational possibilities
- RRH only compares to county inventory, RRH should be compared with BLM’s preferred Travel Plan, especially with regard to total miles designated
- RRH ROS (Recreational Opportunity Spectrum) analysis fails to account for topographic differentiation, and such analyses unfairly demonstrate non-motorized recreational opportunities.
- RRH encompasses 46% of the lands in Moab FO and SUWA assumes that lands without motorized access are the only way to enjoy wilderness quality lands. The WSAs near town and nearby National Parks are filled with primitive recreational opportunities.
- The BLM cannot create new WSAs

Closure of “B” routes. The idea that the RHP should be totally dismissed because some county “B” routes were included in the proposal is an extreme response to an issue that could have been mitigated by simply adding the “B” routes as cherry-stems to the alternative. These routes were included in RHP because they were impassible to passenger vehicles at the time of evaluation and/or reclaiming. BLM could and should have amended the RHP alternative to either close these routes or exclude them from the proposal. Dismissal of the whole RHP was a disproportionate and excessive response to a citizen-submitted alternative.

SITLA lands in RHP. The BLM claims that the inclusion of SITLA land sections in the RHP warrants its elimination from consideration as a viable alternative. But, as the BLM has done elsewhere in WSAs and other lands with WC containing SITLA sections, requisite access is provided, in most instances, with county “B” route access. Where there is not “B” route access, the BLM could reserve administrative access for the state without designation of motorized access for the general public (which has no clear purpose and need to access every state-owned section).

The existence of protected lands and their primitive recreational opportunities north of Interstate 70 doesn’t solve the need for the protection of wilderness quality lands elsewhere in the MFO. SUWA agrees that there are large WSAs in the Book Cliffs north of I-70. This is a fact. However, the desirability of those areas for many

forms of primitive recreation is not addressed by this superficial response to the RHP. As a canoeist or a general hiker seeking a redrock experience in the world-renowned capital of the redrock, this admonishment to seek primitive-recreation refuge in the largely inaccessible and austere Bookcliffs ignores the enormous demand for non-motorized use near Moab. The protected portions of the Bookcliffs are an important resource, as many a hunter and wildlife enthusiast will attest. This does not mean that the vast protected areas in the Bookcliffs are somehow a justification to exclude primitive and non-motorized recreational opportunities elsewhere in the planning area. With outstanding roadless areas with wilderness character south of I-70 such as Mill Creek, the Dolores River corridor and Labyrinth Canyon, the claim that reasonable opportunities for a wilderness-like experience exist in the Bookcliffs fails to address a significant aspect MFO's planning area.

RHP compares to the county route inventory, not the BLM's preferred Travel Plan alternative. The BLM provided the public with a preview of what would ultimately become the preferred travel plan alternative as a pre-draft matrix. However, there was no indication or promise that this would reflect the actual BLM proposed alternative. While it is true that the BLM preferred alternative proposes less total miles of designated route than the original RHP, this is largely due to the subtraction of routes surrounding I-70. The "routes" suggested for non-designation in the RHP are largely unchanged in the BLM's preferred alternative. Stated differently, the reduction of miles of designated routes in the BLM's preferred alternative is in no way attributable to a reduction of route mileage in areas proposed for decreased motorized route designation by the RHP.

RRH ROS (Recreational Opportunity Spectrum) analysis fails to account for topographic differentiation, and such analyses unfairly impact non-motorized recreational opportunities. The employment of ROS as a tool for determining recreational opportunities, especially with regard to non-motorized recreational opportunities, has been used in other field offices to analyze these issues. While topographic differentiation is a factor for measuring the relative annoyance and conflict between user groups, sound pollution does not limit itself to a particular elevation. Motorized recreation, especially in areas confined by topographic features such as canyon walls, does indeed affect users at different elevations. An example reflected in citizen comments to this RMP is complaints of motorized users from boaters on the Green River and campers on the rims above bothered by the sounds of motors in the river or canyon corridor. This complaint is unique in that it applies to motorized users affecting other users at different elevations, but is not reversible because there are no complaints from motorized users about non-motorized users at different elevations.

SUWA assumes that wilderness character lands can only be enjoyed without motorized access and discounts the near-to-town opportunities for enjoyment of these wilderness characteristics. SUWA agrees that the near-to-town recreational opportunities afforded by the WSAs and their access points and the roadless lands within the National Parks are a valuable resource for primitive non-motorized recreation. However, this is not a justifiable argument for denying protection to the wilderness quality lands in other parts of the planning area. The relative accessibility of already-protected lands and lands managed by the NPS are not germane to the evaluation of lands

which already have been identified by the BLM as roadless and possessing a wilderness character. The BLM must protect the lands it identifies as retaining wilderness characteristics and provide and “spectrum” of recreational opportunities on lands it manages without regard to lands in other jurisdictions and some unsubstantiated notion that because near-to-town lands have WSA protections that the BLM is somehow freed from obligations to manage other wilderness quality lands to protect natural resources or manage for their wilderness characteristics.

BLM cannot create new WSAs. The RHP proposes that the BLM protect wilderness quality lands identified in the Moab planning area. We contend that the BLM can indeed establish new WSAs; this argument is substantiated in these comments (see Section III.A.2.a). Even if the BLM refuses to designate new WSAs, the BLM has the discretion to manage for the wilderness character that SUWA, through its recent and scoping comments, has supplied new and substantial information regarding the wilderness resource present on these lands. BLM admits as much in its February 2007 briefing filed with the Tenth Circuit Court of Appeals – that the agency retains full authority to protect and manage for wilderness character. This could include specific management to protect wilderness characteristics, oil and gas development stipulations proscribing surface disturbance, and not designating motorized routes that would impact the aforementioned resources and non-motorized recreational opportunities. Statements by Moab field office staff to the contrary – that BLM lacks this authority – are inconsistent with BLM’s declared position in federal court and agency guidance.

In the most recent ruling on the Utah Settlement challenge (State of Utah v. Norton, Case No. 2:96-CV-0870, Order and Opinion (D.Utah September 20, 2006)), Judge Benson found against the Conservation Groups for a number of reasons, including agreeing with the legal interpretation of FLPMA put forth by the State of Utah and the BLM (a finding we continue to dispute). However, the ruling also justifies the court’s interpretation by finding that the agency can provide virtually the same protection for lands with wilderness characteristics through administrative decisions as it can through designation of new WSAs, with the only material difference being that, while the agency can alter its own management decisions, only Congress can change a WSA designation. The court stated: “Both Utah and the BLM acknowledge that the BLM has the discretion to manage lands in a manner that is **similar to the non-impairment standard** by emphasizing the protection of wilderness characteristics as a priority over other potential uses.” Order and Opinion, p. 41 (emphasis added - excerpt **Attached**).

In a subsequent briefing to the U.S. Court of Appeals for the 10th Circuit, the Department of the Interior and the BLM reiterated that “the settlement does not preclude BLM from **inventorying public lands for wilderness-associated characteristics**” and that “the land management decision obtained through FLPMA § 202 process may **resemble management under FLPMA § 603’s non-impairment standard.**” In discussing how BLM will manage lands with wilderness characteristics, the brief refers to the “BLM’s discretion under FLPMA § 202 to **preserve their wilderness-associated characteristics.**” Brief of the Federal Appellees, State of Utah v. Kempthorne, Case No. 06-4240 (February 26, 2007), pp. 40, 43 (emphases added - excerpt **Attached**). Similarly, the Rawlins Field Office can and should protect lands with wilderness

characteristics from the damage likely to result from ongoing oil and gas development (including by imposing best management practices on already leased lands and by committing to no future leasing) and uncontrolled ORV use, both of which are likely to occur if these activities are permitted to occur on lands with wilderness characteristics.

The Redrock Heritage Proposal reflects a balanced approach to mitigate user conflicts, protect natural and cultural resources, and provide a spectrum of recreational opportunities to all user groups. Even if some elements of the proposal were deemed unusable by BLM, BLM should have, and could have easily modified, as necessary, and retained the key elements of the proposal as a viable alternative. The BLM shirks its NEPA and FLPMA obligations by wholesale dismissal of the Redrock Heritage Proposal.

III. LANDS WITH WILDERNESS CHARACTERISTICS

A. GENERAL COMMENTS

The Moab BLM manages about 1.8 million acres of public lands in Grand and northern San Juan counties. This planning area includes approximately 814,000 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 266,485 acres as possessing wilderness characteristics. 191,312 were identified by the *1999 Utah Wilderness Inventory (Revised 2003)*. The additional 75,173 were identified by the more recent wilderness review which looked at lands within the Utah Wilderness Coalition (UWC) wilderness proposal but did not review any lands already covered by the *1999 Utah Wilderness Inventory (Revised 2003)*. SUWA recognizes and appreciates the BLM's efforts to inventory and identify all lands possessing wilderness characteristics in the MFO. Indeed, the BLM now recognizes that 76% of the UWC wilderness proposal possesses wilderness characteristics, which is an encouraging improvement.

The Moab FO already manages 11 Wilderness Study Areas (WSAs) totaling 348,815 acres. Under all alternatives these WSAs would continue to be managed under the non-impairment standard pursuant to IMP set forth in H-8550-1. Indeed, the management of WSAs is stated as beyond the scope of this RMP, which SUWA deems inappropriate.

1. Wilderness character is a valuable resource and an important multiple use of the lands governed by the Moab 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. These values should also be identified and protected through these planning processes. BLM should recognize the wide range of values associated with lands with wilderness character:

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 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 Moab planning area 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 Moab area.

g. Balanced use – The vast majority of BLM lands are open 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 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 and the BLM has not even issued any updated guidance seeking to continue applying this misguided and illegal policy.

Even if the Utah Settlement is reinstated, not as a consent decree, 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.

Further, if BLM continues to exclude designation of new WSAs from consideration in the Moab RMP, 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 266,485 acres of unprotected BLM roadless lands, the BLM preferred alternative would only manage portions of three areas (Fisher Towers, Mary Jane Canyon, and Beaver Creek), totaling a mere 47,761 acres, specifically to preserve those wilderness characteristics. This excludes 218,724 acres of BLM roadless areas from management that protects those wilderness characteristics. That represents a plan to protect only 18% of wilderness quality lands that aren't already protected. Worse, this BLM preferred alternative would only protect 10% of the non-WSA lands in the UWC citizen's wilderness proposal. Without specific management to preserve these identified wilderness characteristics, these roadless lands are threatened by oil & gas development and designation of motorized OHV routes fragmenting these areas.

The Moab RMP should provide real management protection for these BLM roadless lands, a significant non-renewable resource that is threatened by oil & gas development and unhampered OHV use both in Utah and throughout BLM lands across the western US. Until the contentious question of wilderness on BLM lands in Utah is settled by legislative means, the BLM should manage areas of known wilderness characteristics in a manner so as to prevent actions causing degradation of 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 which have not necessarily been identified as possessing wilderness characteristics but nonetheless are included in wilderness proposals that have been introduced before Congress (i.e. the UWC ARWA proposal). This type of management would include oil & gas development restrictions that would preclude surface disturbing activities (such as no surface occupancy stipulations) and extremely judicious motorized route designation that minimize trespass into areas with wilderness characteristics or areas included in the UWC proposal. Route designation, in particular, has grievous effects on areas proposed for wilderness. Impacts from open motorized routes threaten the wilderness characteristics of a place. The presence of wilderness characteristics should cause the BLM to become very cautious about route designation. Purpose and need must be carefully analyzed and weighed against the strong potential of disturbing the wilderness characteristic resource. Route density and redundancy, in particular, damage greatly the sense of naturalness surrounding and within proposed wilderness areas.

Both the *1999 Utah Wilderness Inventory (Revised 2003)* and the recent 2006 Wilderness Characteristics Review (WCR) are positive steps by the BLM to identify and inventory wilderness quality lands pursuant to Sect. 201 of FLPMA. 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 many 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).

Appendix P of the Moab RMP/DEIS, which deals with identification of non-WSA lands with wilderness characteristics, states that BLM had received no new information from SUWA other than naming units in the proposal in scoping comments for the Moab RMP in 2003. However, BLM received new and significant information on units in the UWC proposal from SUWA in June 2007, during the scoping period, before the Draft EIS was released. The BLM has reviewed these lands using only methods cited in Appendix P such as aerial photography and discussion among the Interdisciplinary Team (ID Team), but has failed to conduct the necessary on-the-ground inventory to adequately assess these areas. In light of the submission of new and significant information submitted by SUWA and the less-than comprehensive nature of the WCR, BLM must conduct a proper, on-the-ground inventory of these remaining wilderness quality lands within the UWC proposal but not identified yet by the BLM as possessing wilderness characteristics. See Exhibit D – Supplemental and New Information

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

SUWA has attached, at Exhibit D significant new information concerning lands that retain wilderness values and characteristics not yet identified by the Moab BLM. This new information contains site-specific comments on where wilderness characteristics exist outside the current WSA, WIA or within BLM's recent WCR.

SUWA's supplemental and new information is depicted by a letter on the accompanying unit map, such as Comment A or Comment B. Highlighted shades of green on these wilderness character unit maps depict lands that retain and possess wilderness characteristics, either adjacent to WSAs, WIAs or WCR. Several of these wilderness character units are accompanied by photographs that further demonstrate that these lands appear overwhelming natural and retain wilderness character.

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

SUWA has identified numerous instances in BLM's recent WCA reviews where BLM utilizes routes that appear either in Grand or San Juan Counties' GIS data as the wilderness character area boundary or in other instances where BLM does not identify any of the wilderness character unit at all. SUWA requested on several occasions BLM's inventory records for these routes outside the GIS data, but to date has not received any inventory records or conformation that BLM actually performed on the ground

assessments of the routes that these WCRs claim are “substantially noticeable.” Therefore, 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.

Further, the Moab BLM also utilized many natural features as the extent of natural values, such as cliff edges, ridges, contour lines and natural drainages. BLM fails to fully account for the adjacent lands that remain natural in appearance and character beyond the “natural features.” In other instances, BLM relies on section, ¼ and ½ section lines as wilderness character boundaries, but these more often than not, arbitrarily exclude lands that retain wilderness characteristics from the larger wilderness character unit. BLM must utilize the edge of the significant disturbance rather than relying on these arbitrary boundaries to account for the full extent of wilderness characteristics. In addition, the use of aerial photograph is a tool, not an accurate evaluation of the wilderness characteristics of an area, and cannot be substituted for an on-the-ground inventory.

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.” There are no significant impacts that detract from this naturalness impression. These observations area based on on-the-ground inventories and other records.

B. SITE SPECIFIC COMMENTS

Please see Exhibit D

IV. Travel Management

A. The Draft RMP Has Overlooked Significant Problems Related to the Use of Off Road Vehicles (ORVs) in the MPA

Given the wide-ranging use of the public lands in the MFO 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 revision.

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 trail designation process is skewed too far in favor of ORV use and lacks the necessary deference to resource protection and the availability of natural quiet and beauty. Our review of the draft RMP shows that the BLM’s approach to ORV management and its

designation of over 2,600² 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 studies, 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 a long-term horizon and to consider the impact of such decisions on “future generations” and the “permanent” impact those decisions will have on the public lands.

The term “multiple use” means the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these 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,

² The draft RMP states that the preferred alternative would include 2,642 miles of ORV route – a large enough number. But that does not include additional routes identified as Class B routes and routes crossing other lands but consequential to BLM designations in some circumstances that bring the total mileage in the MFO to over 6000 miles of route.

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 § 1782(c).

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.*

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.

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 authorities and agency responsibilities are triggered by the MFO's designation of ORV routes. These include, for example, NEPA, the Clean Water Act, the National Historic Preservation 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 draft RMP's trail designations and their impact on cultural resources), Charles Schelz (regarding ORV impacts on riparian areas, soil integrity, vegetation, and wildlife) and Allison Jones (regarding the impact of ORVs on certain desert ecosystems in the MFO). We have also provided a bibliography with additional studies regarding the destructive effects of ORV use on public land. See Attachment Index.

In 2006, the BLM published a new "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 draft RMP shows that the MFO 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:

- A map of roads and trails open for OHV use;
- 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.

Despite this 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. 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.

Based on our examination of the maps, draft RMP 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 demands of other resources, the BLM simply “inherited” roads and trails from Grand County maps and from off-road vehicle advocates. In fact, BLM staff informed us at a meeting in Salt Lake City on October 3, 2007, that it has not even visited each of the routes, but simply relied on a statistical sampling technique to confirm the information on the county maps.

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).³ See 43 CFR 8342.3 (travel management networks should be reviewed periodically to ensure that current resource and travel management objectives are being met).

Also from the 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)).

³ http://www.blm.gov/nhp/200/wo210/landuse_hb.pdf.

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 draft RMP 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 ORV routes to over 2,600 miles of trails, designated hiking trails amount to less than twenty miles. And because of the obvious 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 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.

However, the Draft RMP does not present this information with respect to the differing travel networks under consideration in the Draft RMP. There is no way for a reviewer to identify the basis for the specific route designations proposed or confirm that the BLM has ensure 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, 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.

C. Site Specific Comments & Recommendations

BLM should ensure resource protection receives planning priority in the final decision to be consistent with legal requirements enumerated in above sections. SUWA has prepared a comprehensive management proposal for the Labyrinth Canyon area (see Exhibit C). This area is bighorn sheep habitat, including lambing and rutting habitat in the canyon bottoms and cliffs, so special management care should be taken when travel planning to reduce habitat fragmentation and interruption to this species.

Please refer to Attachment I, which is an analysis of conflicts, purpose and need of routes on BLM lands, and Attachment A, a photographic exhibit of certain reclaiming routes in the preferred travel plan that SUWA objects to.

Horsethief Point

BLM should only designate routes with a distinct purpose and need south of the Mineral Bottom Road. Redundant routes and routes within areas found to possess WC should be closed. A wild buffer to protect resources within Canyonlands National Park is important to protect park resources.

Mineral Canyon

SUWA agrees with BLM that the route in Mineral Canyon (1217) should not extend past state section 16. BLM must sign and manage this route terminus to protect resources further up canyon from pioneering ORV users.

Mineral/Hell Roaring Canyon

North of the airstrip, about a mile north of the mouth of Mineral Canyon, the route along the Green River accessing Hell Roaring Canyon (1217) is washed out and impassible to vehicles other than ATVs or dirt bikes. BLM should close this route near the mine north of the airstrip for the following reasons:

- 1) the route has naturally closed and visitation north of the mine is light;
- 2) Hell Roaring Canyon is inappropriate for motorized use because it is a fairly narrow canyon the route would be located in the floodplain; such location is not recommended as it causes resource damages to the riparian area and water quality, as noted in Charles Schelz's comments. This route is also inappropriate

due to the presence of unsurveyed cultural resource that are put at increased risk for vandalism and damages, as noted in Jerry Spangler's comments;

- 3) Reduction of motorized routes along the Green River corridor is highly desirable to reduce user conflicts in Labyrinth Canyon, additionally; motorized activity in the river gorge is much more audible even on the mesa tops due to the amplification of sound by the cliffs;
- 4) BLM should take steps to protect the wilderness characteristics present in this canyon. Designation of motorized routes in the canyon is inconsistent with managing the WC resource.

The upper forks of Hell Roaring Canyon should also be protected by limiting the number of designated routes in the area that access the upper forks. Growing ORV use from Horsethief Campground and other informal camping areas threaten the natural character identified by the BLM in this canyon.

Mineral Point & Upper Mineral Canyon Area

The density of routes on Mineral Point is an embarrassing reminder of the unplanned nature of the existing routes in this field office. More embarrassing would be to designate every single one of these fading routes, which the BLM's preferred alternative would do (and which the BLM planning Handbook warns against). BLM should endeavor to close as many of these redundant, low-value routes as possible to reduce the nuisance of a web of motorized users and to prevent habitat fragmentation, and lower cumulative dust creation in the region. BLM should carefully analyze purpose and need of each route and only designate what is absolutely necessary to provide access to the Mineral Point or other reasonable destinations. The one arterial provides most access needs to this small mesa top area. Any further routes should be carefully assessed for resource and user conflicts.

The upper forks of Mineral Canyon should also be protected by not designating any routes west of route 1136 which runs north/south between the Mineral Point road and the Mineral Bottom road.

Deadman Point & Lands South of Spring Canyon

Again, reduction of route density and redundancy is paramount to this lightly visited point. BLM should consider leaving Deadman Point closed to ORV use past the state land (T25S R17E Section 36). At least, the number of routes in this area should be reduced, eliminating redundant routes and routes through lands identified as possessing WC.

Spring Canyon

The route into Spring Canyon (a.k.a. the Spring Canyon Bottom Road) provides unnecessary and inappropriate motor vehicle access to the Green River (the only point of motorized access between Ruby Ranch and Mineral Bottom). SUWA agrees with route designation to the end of the county "B" road, at the fork in the road. SUWA opposes

motorized designation beyond this point as it conflicts with other users in the Labyrinth Canyon corridor. Motorized use along the Green River conflicts with traditional canoeists and rafters, and also conflicts with commercial boating outfitters conducting trips along the Green River.

White Wash Sand Dunes

White Wash is a unique riparian ecosystem and a perennial stream that is proposed as an “open” ORV play zone in the BLM preferred alternative. The BLM admits to the uniqueness of this dune system, even proposing an OHV closure and ecological study zone in alternative B. Nevertheless, BLM proposes to sacrifice this area to satisfy unreasonable demands of ORV enthusiasts. In the absence of preventive and proactive management, ORVs have been permitted to run roughshod over this singularly unique landscape in southeastern Utah, damaging the resource (e.g. cottonwood community and sub-surface water flows). The BLM must manage this dune system in a way that is consistent with preservation of natural resources; the dunes must be closed ORV use.

Additionally, the designation of a motorized route in White Wash, itself, is harmful to the scarce riparian resource and damaging to the perennial stream associated with this wash.

V. AREAS OF CRITICAL ENVIRONMENTAL CONCERN (ACECs)

A. General ACEC Comments

FLPMA mandates that the BLM to “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. BLM has not recognized this statutory mandate that the agency give preference to ACEC designation in the Moab Draft RMP. To rectify this, once BLM has determined that certain areas in the Moab FO contain the requisite relevant and importance values – which the Moab FO has already done – the agency must prioritize the designation of those areas as ACECs over other possible resource uses. For example, BLM cannot reject designation of an area as an ACEC because it is attempting to balance development and conservation in Alternative C and admittedly some additional measure of oil and gas would be developed if the area was not designated an ACEC. 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 uses such as grazing, mining, and 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). However, the treatment of proposed ACECs in the Draft RMP/EIS does not comply with BLM's obligations.

1. The threats from oil and gas leasing and development and 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 areas or large enough areas. BLM has improperly ignored or discounted the threats to special places from oil and gas development and off-road vehicle use, and so has 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 improper or excessive 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 rare scenic resources or naturalness, 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 in comments previously submitted (and incorporated herein by reference), 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 litigation⁴; and, therefore, does not prevent BLM from designating new WSAs.⁵

However, even the agency has contended that BLM retains 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 naturalness or providing opportunities for solitude or primitive recreation, and specifically reference ACEC designation. Similarly, in a February 12, 2004, letter to William Meadows, President of The Wilderness Society (copy attached for your reference), 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, BLM has failed to designate ACECs to protect these values. BLM has identified approximately 266,485 acres of lands with wilderness characteristics. In addition, there are an additional 198,292 acres of lands with wilderness characteristics that are Citizen Proposed Wilderness Lands that have been submitted to BLM, and are included in America's Redrock Wilderness Act.

Proposed ACECs with wilderness characteristics that BLM declines to protect in its preferred alternative include: Bookcliffs Wildlife Area ACEC, Westwater Canyon ACEC, Colorado River Corridor ACEC, Labyrinth Canyon ACEC, and Canyon Rims ACEC. **BLM should designate these ACECs and consider designating others to protect lands with wilderness characteristics; and these ACECs should include management prescriptions, such as closure to oil and gas leasing and ORV use, in order to protect wilderness characteristics.**

B. Site Specific ACEC Comments

ACECs overlapping WSAs –Concerning the nondesignation of ACECs that meet the relevance and importance within existing WSA, we are aware that former acting Utah State Director Henri Bisson instructed all resource management planners to not overlay any WSAs with ACECs; the rationale being that the IMP non-impairment standard

⁴ 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.

⁵ 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 not even issued any updated guidance seeking to continue applying this misguided, and illegal, policy. Consequently, 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.

adequately protects WSAs. This not only violates Congress' mandate under the FLMPA, but it fails to anticipate that Congress can either designate these WSAs wilderness or eventually release WSAs from the IMP standards. The outstanding wilderness resources, as well as the relevant and important values the areas possess would be endangered if Congress were to release WSA areas within in the RMP. Therefore, BLM must designate all WSAs as ACECs.

Behind the Rocks – The ACEC proposed in Alternative B gives enhanced protection to the identified relevant and important values, contrasted to the meager ACEC depicted in Alternative C that only accounts for the lands outside the WSA. The addition of the WSA to the ACEC protects the wilderness, cultural, scenic and other important values in the event of Congress' WSA release. The BLM has justified the relevance and importance of the ACEC described in Alternative B in detail in Appendix I; therefore under the “priority” mandate in FLPMA, BLM should prioritize designation of this ACEC.

Big Triangle – see below Dolores Drainage ACEC

Bookcliffs Wildlife Area ACEC – The ACEC proposed in Alternative B gives protection to the identified relevant and important resources. The addition of the WSA protects the wilderness values in the event of Congressional WSA release, and closes the entire ACEC to oil and gas development. The BLM has justified the relevance and importance of the ACEC described in Alternative B in detail in Appendix I; therefore under the “priority” mandate in FLPMA, BLM should prioritize designation of this ACEC. Additionally this ACEC gives protection to identified wilderness characteristics. This ACEC should be coextensive with the Cottonwood-Diamond ACEC

Cottonwood-Diamond Watershed ACEC – This ACEC should overlay the Bookcliffs Wildlife ACEC, so that when the fire damage heals, this lands in this ACEC will then be managed consistently with the greater wildlife themed ACEC that surrounds this ACEC.

Dolores/Big Triangle ACEC – This should combine the nominated Big Triangle and Dolores Drainage ACEC to cross the threshold of importance by establishing a large, regionally significant wildlife corridor linking the La Sal Mountains to Westwater WSA, to Black Ridge Wilderness and the McInnis Canyons National Conservation Area and the Uncompaghre Plateau uplands. Additionally this ACEC gives protection to identified wilderness characteristics.

Gemini/Poison Spider ACEC – This vast expanse of Navajo sandstone fins and slickrock is equally important as a scenic resource as the Behind the Rocks ACEC or Mill Creek Canyon ACEC. Few other similar areas on BLM lands exist outside of the MPA. Additionally, this land is threatened by increasing ORV use and oil and gas development. This ACEC also gives protection to identified wilderness characteristics.

Hatch Wash ACEC – This narrow canyon of high Wingate walls is geologically unique and important in the region, where such walls typically soar over vast expanses (such as the other side of Hatch mesa overlooking the Needles and Lockhart Basin). Given the

density of routes in the southern part of the MPA and lack of roadless areas containing identified wilderness characteristics, the BLM should give priority to the designation of this ACEC.

Labyrinth Canyon ACEC – To protect the internationally relevant and important resources contained in Labyrinth, the BLM must increase the scope of the ACEC to include the areas with identified wilderness characteristic lands and protect the area from unnecessary route density and oil and gas development on the mesas; and extend protections into side canyons. The BLM has justified the relevance and importance of the ACEC described in Alternative B in detail in Appendix I; therefore under the “priority” mandate in FLPMA, BLM should prioritize designation of this ACEC. In November 2007, the resources of this proposed ACEC are threatened by the lease of the Green riverbed by the state of Utah. This ACEC gives the BLM a tool to reduce the threat to surrounding lands from this action by Utah. *See* Labyrinth Canyon Comprehensive Management Proposal in Exhibit C.

Mill Creek ACEC – The ACEC proposed in Alternative B gives enhanced protection to the identified relevant and important resources, contrasted to the meager ACEC depicted in Alternative C. Designating this WSA as an ACEC protects the wilderness values in the event of Congressional WSA release and closes the entire ACEC to oil and gas development. The BLM has justified the relevance and importance of the ACEC described in Alternative B in detail in Appendix I; therefore under the “priority” mandate in FLPMA, BLM should prioritize designation of this ACEC.

Tenmile ACEC – The BLM correctly identifies this relevance and importance and includes this ACEC in the preferred alternative. However, the ACEC must be managed to protect the “critical” riparian and cultural resources, which is incompatible with motorized travel in this delicate riparian environment rich in cultural resources.

Upper Courthouse ACEC – The BLM identifies the relevance and importance of this ACEC in Appendix I, therefore should “give priority” to its designation pursuant to FLPMA.

Westwater ACEC – The ACEC proposed in Alternative B gives some protection to the identified relevant and important resources in the river corridor, but should be expanded to include the WSA to protect the wilderness values in the event of Congressional WSA release. The entire ACEC should be closed to oil and gas development. The BLM has justified the relevance and importance of the ACEC described in Alternative B in detail in Appendix I; therefore under the “priority” mandate in FLPMA, BLM should prioritize designation of this ACEC. Additionally this ACEC gives protection to identified wilderness characteristics.

White Wash ACEC – The BLM identifies the relevance and importance of this ACEC in Appendix I, therefore should “give priority” to its designation pursuant to FLPMA. The singular uniqueness of this delicate ecosystem and the myriad of sound, science-based reasons to protect the resources of this area from real and present ORV destruction, as

noted in the comments submitted by Colorado Plateau Archaeological Alliance and ECOS Consulting are sufficient reason to designate this as an ACEC.

Wilson Arch ACEC – The BLM identifies the relevance and importance of this ACEC in Appendix I, therefore should “give priority” to its designation pursuant to FLPMA.

Areas not yet identified for ACEC: ACEC nominations:

Upper Labyrinth ACEC – SUWA nominates the area south of the town of Green River and north of the Ruby Ranch. This nominated ACEC complements the already identified ACEC that the Price BLM has on the west side of the Green River. This ACEC would protect values associated with the upper part of this nationally recognized canoe destination.

This ACEC meets that relevant criteria due for scenic, historical, fish, and natural process associated with the river and its surrounding landscape; historic values ranging from Crystal Geyser to the Powell expedition; and fish and wildlife habitat. The scenery and landscape of this area is outstanding and offers visitors an outstanding primitive experience either by hiking or by canoeing.

This nomination meets the importance criteria for scenery and for historical values. In addition, the Green River is habitat to Threatened and Endangered fish and Labyrinth Canyon is an internationally acclaimed canoe trip through BLM lands. This area faces heightened threats from oil and gas development, with the state of Utah leasing portions of the riverbed. *See* map submitted in Exhibit D.

Highway 313 ACEC – SUWA nominates the Highway 313 corridor as an ACEC. This ACEC would protect scenic values and cultural resources (Sevenmile Canyon) along Highway 313 from Highway 191 to Dead Horse Point State Park and the spur of this highway leading to the Island in the Sky district of Canyonlands National Park. This ACEC would be 1 mile on each side of the highway or visual range on each side of highway as depicted on the accompanying map.

The ACEC meetings relevant criteria due to this route being already designated as a Scenic Byway, and is the highly scenic gateway to two destination parks. Countless visitors experience this area as part of a larger southern Utah driving and windshield tour to enjoy the exceptional scenery the landscape.

The importance criteria are met by the exceptional scenery as well as by the designation of Highway 313 as a Scenic Byway. Travelers from all over the world use this route to access adjoining BLM lands and both Canyonlands National Park and Dead Horse State Park. The ACEC is found to have more than local significance. This values and quality of the Scenic Byway and ACEC are threatened and currently being degraded by visible oil and gas development. *See* map submitted in Exhibit D.

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 (W&SR) 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 Moab RMP/DEIS in Alternative B are supported by SUWA et al. Appendix J goes into great detail on the merits justifying eligibility of each river and stream. The suitability findings and tentative classifications expressed in Alternative B are the natural and logical outcome of the body of evidence presented in Appendix J in the eligibility findings.

SUWA strongly disagrees with the suitability findings and tentative classifications presented in Alternative C. All streams except the main stem rivers are dropped from suitability, and the tentative classifications for the main stem rivers are all downgraded to less protective classifications. This purported “balanced” alternative flies in the face of the eligibility analysis found in Appendix J. Indeed, there is no basis for downgrading suitability except attempts to make the BLM preferred alternative more politically acceptable.

SUWA submits that the suitability determinations and the tentative classifications should correspond to the eligibility findings unless there are compelling socio-economic reasons that would change the suitability

A. Colorado River – The Colorado River is a nationally recognized and iconic river. It is appropriate that the BLM develop management solutions that maintain and protect for perpetuity this national treasure. The BLM suitability considerations in Appendix J suggest that suitability and classification on certain segments should be changed to reflect anticipated actions by private landowners included in the segment. However, the BLM does not have jurisdiction over these private parcels and future possible actions by private landowners are not specified in the Wild and Scenic Rivers Act as justification for lower protective classification.

1. Segment 1 - Should be suitable and classified scenic because BLM’s eligibility determination identifies regionally significant scenery, recreation, and regionally and nationally significant wildlife, fish and cultural resources.
2. Segment 2 – SUWA agrees with Alternatives B & C which find the Westwater section suitable and classifiable as wild.
3. Segment 3 – SUWA recommends the finding of suitable and classification of scenic for the entire stretch. All though there are occasional roads and farm development in the second half of the segment, these are few and minor to the

extent that the “shorelines or watersheds [are] still largely primitive and shorelines largely undeveloped.” Additionally, the more protective scenic designation affords more protection to the rare and outstandingly remarkable nesting site for the bald eagle located along this stretch.

4. Segment 4 – SUWA agrees that the recreational classification of this segment is appropriate given the development and highway along the river for much of this section.
 5. Segment 5 – SUWA submits that scenic or wild classification is most appropriate for this section. Pyramid Butte and spectacular scenery and geology as indicated in the eligibility documentation justify the increased protection of this segment.
 6. Segment 6 – SUWA supports the wild classification recommended in alternative B. There is no development in the river corridor and thus there is no rationale for any classification other than wild.
- B. Dolores River – The suitability considerations for these segments indicate that there are no serious conflicts or activities that would be curtailed as a result of W&S designation. Interest from various stakeholders is high and enthusiastic; private land is minimal along this river, so there are less possible concerns from landowners.
1. Segment 1 – The scenic classification is appropriate due to the primitive nature and lack of significant development along this segment.
 2. Segment 2 – The wild classification is appropriate because there is no development in this primitive segment.
 3. Segment 3 – The scenic classification is appropriate given some minor mining impacts. There is no clear rationale for the preferred alternative of recreational classification.
- C. Green River – The outstandingly remarkable features of this river are described in detail in Appendix J. The MFO should work with the Price Field Office to offer the highest possible protection to this truly wild and scenic river. Iconic sections that have been long a mainstay of boaters, such as lower Desolation/Gray Canyons and Labyrinth Canyon, and have much support from outfitters, private boaters and the community at large. Opposition by local government actors is indicative of an opposition to any special designation pursuant to a political philosophy that resents any federal controls on public lands. These political sentiments should in no way supersede relevant laws and IMs which guide land managers to make wise resource decisions.

The preferred alternative of the MFO does not match the preferred alternative of the PFO. The Price preferred alternative proposes suitability for the Green River between the Price River and Ruby Ranch; but the Moab preferred alternative finds this stretch not suitable. How can one side of the river be suitable, but the other side not suitable when no development is present that could influence this split? This inconsistency indicates a lack of collaboration within the BLM that should be resolved for a final decision to be coherent on the subject of Wild and Scenic river suitability.

An alternative plan for management of Labyrinth Canyon, including W&S designations, can be found in Exhibit C. This alternative presents a sound, defensible proposal to minimize user conflicts and protect the outstandingly remarkable features of Labyrinth Canyon.

1. Segments 1-3 – SUWA supports the tentative classifications found in the eligibility analysis and Alternative B of wild classification from Coal Creek to Nefertiti. SUWA asserts that Segment 2, however, from Nefertiti to Swasey’s Boat Ramp be classified as scenic. Although there is a route visible at times along this section, it is a primitive route and there are no significant developments above the Swasey’s campground. For comparison, BLM found that the presence of a dirt route along segment 6 doesn’t preclude that section from scenic classification. SUWA agrees with Alternative B that Segment 3 is appropriately classified recreational.
 2. Segments 4-6 – Segment 4 should begin at Crystal Geysir, not the I-70 bridge, and be classified as wild. There are no impacts or development until Ruby Ranch. The classification should downgrade to scenic or recreational only along the immediate frontage of Ruby Ranch, then resume wild classification. Segment 6 should be classified wild to Mineral Canyon and scenic from Mineral Canyon to the boundary of Canyonlands National Park. The ORV route to Hey Joe should be closed to motorized use because of user conflicts and resource conflicts. A trailhead and roadblock should be erected at the fork near the mouth of Spring Canyon to allow motorized access to the river corridor, but keep traffic out of the actual river corridor. The route and some mining impacts are not significant impacts relative to the scale of Labyrinth Canyon. The route along the river north from Mineral Bottom should be closed at Mineral Canyon to preserve natural resources and minimize user conflicts.
- D. Other Streams – Appendix J provides compelling documentation of why many other streams in the MFO possess outstanding values meeting eligibility requirements for inclusion in the Wild & Scenic River System. Remarkably, all these outstanding streams are omitted from the suitability recommendations in the BLM’s preferred alternative. Given that smaller streams encounter more political opposition to W&S designation, it gives the appearance that political considerations have trumped science-based resource management in the suitability determinations. These outstanding streams should be included to better manage the ecosystem and protect watersheds of the planning area. Additional reasons to protect these streams include:
- Climate Change – the outlook for the climate of the Colorado Plateau, in the context of global climate change, is warmer and drier. Watershed conservation is becoming a paramount concern. W&S protections are an important tool available to protect watersheds.

- Perennial streams are a rarity in the desert southwest. The presence of these streams and the riparian ecosystems they support are an outstandingly remarkable value.
- Many of the other streams found eligible for W&S inclusion are popular destinations for hikers (many cherished by local hikers avoiding crowds at the National Parks or motorized nuisances elsewhere in the MFO) and ought to be recognized for their outstanding recreational opportunities.

These other streams include but are not limited to:

Beaver Creek	Cottonwood Canyon	Mill Creek (both forks)
Negro Bill Canyon	Onion Creek	Professor Creek
Rattlesnake	Fisher Creek	Coates Creek
Tenmile Canyon	Hell Roaring Canyon	Little Dolores Creek

E. Tenmile Canyon – Tenmile Canyon should be found eligible and suitable for inclusion in the Wild & Scenic River System and tentatively classified as wild. This action is in concert with NOT designating a motorized route below Dripping Spring. The W&S should extend from Dripping Spring to the Green River. The outstandingly remarkable features are manifest in Tenmile:

- Rare perennial stream and riparian ecosystem in an otherwise dry corner of the planning area.
- Nationally and regionally significant cultural and archaeological resources. These resources are documented by Colorado Plateau Archaeological Alliance submissions and acknowledged by the BLM in the Moab RMP.

VII. OIL & GAS DEVELOPMENT

The BLM should select Alternative B of the Moab 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. Alternative B, 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 MPA.

The MPA is generally a more speculative and risky area for oil and gas development than the more productive parts of the State of Utah. Data compiled by the Utah Division of Oil, Gas and Mining (DOGGM) demonstrates this. For example, in Duchesne County, Utah 98% of wells drilled since 2003 have produced oil or gas and in Uintah County, Utah 94% of wells drilled since 2003 have produced oil or gas.⁶ However, in Grand

⁶ See DOGM, Utah Oil and Gas, Drilling Results – 2003 – Completed or Abandoned by County, http://oilgas.ogm.utah.gov/Statistics/WCR_county5.cfm; DOGM, Utah Oil and Gas, Drilling Results – 2004 – Completed or Abandoned by County, http://oilgas.ogm.utah.gov/Statistics/WCR_county4.cfm; DOGM, Utah Oil and Gas, Drilling Results – 2005 – Completed or Abandoned by County, http://oilgas.ogm.utah.gov/Statistics/WCR_county3.cfm; DOGM, Utah Oil and Gas, Drilling Results – 2006 – Completed or Abandoned by County, http://oilgas.ogm.utah.gov/Statistics/WCR_county2.cfm;

County, which covers most of the MPA, only 42% of wells drilled since 2003 have produced oil and gas.⁷ The BLM must more fully quantify this risk and compare it to the gains to the environment from the most well-balanced alternative, Alternative B. It would be inappropriate to sacrifice the outstanding environmental resources, visual resources, and recreational resources of the MPA to speculation and risk.

Historically, from 1891 through 2004, the MPA has averaged approximately eighteen wells per year. Moab Draft RMP at 3-44. Alternative B evaluates a development alternative that would result in a predicted 264 wells over a fifteen-year period – or eighteen wells per year. *Id.* at 4-90. Although the oil and gas industry is subject to fluctuations, Alternative B still provides a range that would allow for up to twenty-nine wells to be drilled in the MPA per year. *Id.* Recently, oil and gas development has proceeded at a much higher level than historically has been the case in the MPA: twenty-eight wells drilled in 2005, twenty-five drilled in 2006, and a predicted fifty in 2007. *Id.* at 3-44. Yet, from 1991 to 2004 the MPA averaged only five wells per year. *Id.* Thus, Alternative B would track historic drilling trends in the MPA, would easily accommodate the average level of drilling in the MPA since 1991, and would allow for the highest rates of yearly drilling cited by the BLM (but for the projected figures of 2007). *For this reason, Alternative B would allow ample opportunity for oil and gas development in the MPA.*

A. The BLM Fails to Consider Known Oil and Gas Locations in Evaluating Its Oil and Gas Leasing Stipulation Alternatives and Predicting Oil and Gas Development

One shortcoming common to every alternative analyzed in the Moab Draft RMP is that the BLM has not endeavored to match predicted oil and gas development figures with the actual known geologic reserves of oil and gas to determine whether proposed lease stipulations, in practice, would actually significantly limit the number of feasible wells. Instead, the Moab Draft RMP simply predicts future well numbers based on the total acreage available for leasing in each RFD Area. Moab Draft RMP at 4-4. This method does nothing to differentiate between areas that may be closed to leasing but completely unproductive (with no known oil and gas fields) with known oil and gas fields that will remain open. If the BLM were to analyze reasonably foreseeable development by acknowledging differentiating productive, known oil and gas fields from unproductive or unknown areas then it is likely that there may be little difference in the reasonably foreseeable prediction of well numbers in Alternative B compared to the other alternatives. Alternative B leaves most of the known oil and gas fields completely accessible to such development.

This failure completely infects BLM's analysis and it should be rectified before the BLM selects any of the oil and gas leasing stipulation alternatives.

DOGM, Utah Oil and Gas, Drilling Results – 2007 – Completed or Abandoned by County, http://oilgas.ogm.utah.gov/Statistics/WCR_county1.cfm (as of Nov. 29, 2007).

⁷ *See id.*

The Moab Draft RMP suggests that Alternative B would lead to a substantial decrease in the number of predicted wells, compared to alternatives A, C, and D – 264 wells compared to 451, 432, and 448 wells, respectively. *See* Moab Draft RMP at 4-88 to -95. This decrease in predicted wells is tied directly to the fact that in Alternative B, 44.3% of the BLM lands within the MPA would be open to oil and gas leasing either without restriction or with special stipulations. *See id.* at 4-89. As a side note, the BLM completely ignores no surface occupancy leases in this analysis, a critical failure as no surface occupancy leases may still allow for substantial access and development, possibly eliminating any significant difference between the various alternatives. The BLM must address this possibility. In Alternative A 78.5% of the MPA would be similarly available; in Alternative C 67% would be treated in this way; and in Alternative D 76% of lands would be available. *See id.* at 4-88 to -92. The Moab Draft RMP then treats development potential as essentially proportional (i.e. since Alternative A has 1,427,949 acres of land available for standard leasing or leasing subject to stipulations and that alternative would result in 451 wells over fifteen years, then Alternative B, which has 808,096 acres of land available for standard leasing or leasing subject to stipulations – slightly below 60% of the total of Alternative A – should result in roughly that same proportion of predicted wells – 264 wells, or slightly below 60% of the total in Alternative A. *See id.* at 4-88 to -90.

However, comparing the Moab Draft RMP's map of oil and gas fields with the various leasing stipulation maps shows that few known oil or gas fields would be impacted by the difference in leasing stipulations.⁸ That is, the actual known reserves of the MPA essentially remain accessible under every alternative. Considering that from 1995 through 2004 no new oil and gas fields were discovered in the MPA, there is little or no basis for BLM's prediction that the various alternatives with fewer leasing stipulations will result in significantly larger amounts of wells over the course of fifteen years. *See* Moab Draft RMP at 3-45.

The BLM must evaluate how the proposed leasing stipulations will actually impact access to the known oil and gas fields and reserves of the MPA. Only with such an analysis can a conclusion be reached about the potential of the various alternatives to impede or facilitate oil and gas development in the MPA. Likewise, the BLM must consider the technological capabilities of directional drilling to access areas that may potentially be designated as no surface occupancy for leasing. Currently, the Moab Draft RMP contains no evidence that this was ever considered by the BLM in predicting and assessing the likely future oil and gas development under the various leasing stipulation alternatives.

The BLM should also consider one additional alternative that would potentially eliminate the greatest difference between Alternative B and the remaining alternatives in terms of predicted oil and gas development: the removal of no surface occupancy stipulations in the productive portion of the Greater Cisco RFD Area. *See* Moab Draft RMP, Oil and

⁸ *See* Moab Draft RMP, Oil and Gas Leasing Stipulations, Alternative A; Moab Draft RMP, Oil and Gas Leasing Stipulations, Alternative B; Moab Draft RMP, Oil and Gas Leasing Stipulations, Alternative C; Moab Draft RMP, Oil and Gas Leasing Stipulations, Alternative D; Moab Draft RMP, Map 3-1, Moab Planning Area Oil and Gas Fields.

Gas Leasing Stipulations, Alternative B; Moab Draft RMP, Moab RFD Areas. Under Alternative A, the Greater Cisco RFD Area's number of predicted wells over a fifteen-year period is 105 fewer wells than under Alternative B. *See id.* at 4-90 to -91. This is by far the largest difference between these alternatives and the no surface occupancy stipulations in the Greater Cisco RFD of Alternative B are not found in Alternative C. *Id.* If, after conducting the necessary analysis discussed in the proceeding paragraph, the BLM found that these no surface occupancy stipulations would actually prevent such a significant decrease in access to known oil and gas fields, then the BLM should consider using special stipulations to protect valuable resources of the area – such as prairie dogs – while allowing for a significant increase in the amount of land available for oil and gas development. The BLM must justify why the remaining oil and gas stipulations in Alternative B would actually diminish oil and gas production in the MPA, even compared to Alternative A or D.

The BLM must develop a new method for calculating reasonably foreseeable development that is actually tied to productive oil and gas fields. The present method based purely on available acreage in each RFD Area completely ignores the fact that an unproductive location closed to drilling would result in no difference of practical outcome when compared to an alternative that leaves such a location open to leasing. Under neither alternative is that location likely to be developed. Ultimately, the BLM must also justify why significant leasing stipulations in the Labyrinth Canyon area; the area south of the Colorado River but north and west of the La Sal Mountains; portions of Hatch Canyon and Harts Point; the areas with wilderness characteristics in the Book Cliffs; and the Arth's Pasture, Big Flat, Tenmile area could not also be closed to leasing or have no surface occupancy stipulations under any of the alternatives. Based on the known oil and gas fields and reserves of the MPA, these areas do not contribute significantly, if at all, to oil and gas development and could be protected under every alternative.

B. The BLM Must Consider a No Leasing Alternative

As part of its analysis the BLM must consider a no leasing alternative – in addition to a no action alternative.. The current draft of the RMP fails to consider such an alternative. Federal courts have made clear that a no leasing alternative should be a vital component in ensuring that agencies have all possible approaches before them. *See, e.g., Bob Marshall Alliance v. Hodel*, 852 F.2d 1223, 1228 (9th Cir. 1988). The no action alternative, Alternative A, would simply be a continuation of the existing management plan. Moab Draft RMP at 2-2. It does not analyze the possibility of a no leasing alternative. The existing management plan, the Grand Resource Area RMP, did not consider a no leasing alternative either. *See* Draft Grand Resource Area RMP at 2-76 to -77; Grand Resource Area RMP at S-1, S-11. Finally, the brief mention and rejection in the 1976 Moab oil and gas environmental analysis report (Moab EAR) of the no leasing alternative was facially insufficient and cannot be relied upon now for that necessary analysis. *See Southern Utah Wilderness Alliance v. Norton*, 457 F. Supp. 2d 1253, 1262-64 (D. Utah 2006) (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 Moab planning area, something it is required to do. *See Bob Marshall Alliance*, 852 F.2d at 1228.

C. Matching Proposed Land Trade Legislation

The Moab Draft RMP completely ignores the pending Utah Recreational Land Exchange Act, S. 390, H.R. 1210, 110th Cong. (2007), and the proposed mineral withdrawals in that legislation. Under the Utah Recreational Land Exchange Act, the BLM would receive numerous sections presently owned and managed by the Utah School and Institutional Trust Lands Administration (SITLA). Many of these sections would be forever withdrawn from mineral entry. However, the BLM has not developed an alternative that anticipates this land exchange. None of the present alternatives have leasing stipulation boundaries that precisely match the SITLA sections that would be given to the BLM and withdrawn from mineral entry under this legislation. For example, Section 32 of Township 20 South, Range 25 E, Salt Lake Meridian, would be withdrawn under this legislation. Yet, under every alternative most of the lands surrounding this section would be open for leasing. Likewise, Section 16 of Township 26 South, Range 21 East would also be withdrawn from mineral entry under this legislation yet none of the alternatives close the surrounding lands to leasing. The BLM should extend the boundaries of its closed to leasing stipulations to encompass every potential section that might be acquired by the BLM in the Utah Recreational Land Exchange Act that would be withdrawn from mineral entry.

D. The BLM Must Compare the Environmental and Recreational Benefits of Alternative B (or a Close Variation) with the Forgone Oil and Gas Resources of the Preferred Alternative

The Moab Draft RMP does not contain a succinct and coherent analysis of the additional environmental and recreational benefits of Alternative B – or a close variation such as the potential removal of no surface occupancy stipulations in the Greater Cisco RFD Area – with the predicted decrease in well development of this alternative compared to the others. The BLM must take a hard look at whether the trade off between the additional protections of Alternative B and the potential forgone oil and gas from the more restrictive lease stipulations. This analysis is not readily apparent or accessible in the Moab Draft RMP. Although Alternative B may result in decreased oil and gas potential for the MPA, this decrease is more than likely made up for by the additional protective benefits of the additional leasing stipulations. The BLM must clearly analyze these differences and present them to the public in a coherent and succinct format.

E. The BLM Must Analyze Directional Drilling and Require All Operators to Submit Directional Drilling Plans at the Site Specific Phase

The Moab Draft RMP must analyze the potential for directional drilling to access areas that it may have considered inaccessible in developing RFD scenarios. In addition, the Moab Draft RMP should develop a requirement that all site specific analysis of proposed oil and gas development must include a directional drilling alternative.

BLM has the authority to deny applications for permits to drill altogether or to impose other restrictions on development in the MPA to protect its important ecological and cultural values, such as requiring directional drilling from existing well pads to ensure limited disturbance.

NEPA requires the BLM to consider alternatives to the proposed action that would allow the action to go forth in a less environmentally damaging manner, such as directional drilling. 42 U.S.C. §§ 4332(2)(C)(iii), 4332(2)(E). Agencies must “rigorously explore” all reasonable alternatives to the proposed action and “[d]evote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits.” 40 C.F.R. § 1502.14(a).

Directional drilling allows companies to access fossil fuel reserves from existing well pads, often by drilling at an angle, thereby reducing the footprint of new extraction. This approach has been demonstrated to be cost-effective on many BLM lands in Utah. The Executive Branch even touts the possibility of directional drilling at a distance of up to 5-6 miles (see below). Directional drilling from an existing well pad seems a feasible alternative to disturbing additional acreage in this highly valuable area, where irreplaceable wildlife habitat and cultural resources may be destroyed.

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

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

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

“Overview,” *National Energy Policy*, The White House, May 2001 (emphasis added).⁹ The Energy Policy also touts “highly sophisticated directional drilling that enables wells to be drilled *long horizontal distances* from the drilling site . . .” *Id.* at “21st Century Technology: The Key to Environmental Protection and New Energy Production” (emphasis added). Pursuant to making these priorities effective “on the ground,” it is incumbent upon BLM, as custodian of the public lands, to actively encourage environmentally sound development by carefully considering directional drilling alternatives.

The necessity to rigorously explore and objectively evaluate reasonable alternatives that include directional drilling has been recognized by the Interior Board of Land Appeal.

⁹ The National Energy Policy, an official document and governing policy of the Executive Branch, is available online at <http://www.whitehouse.gov/energy/>.

Biodiversity Associates, IBLA 2001-166 (2001) at 9 (where the Board set aside a BLM FONSI where “the record fails to...provide a rational basis for failing to analyze fully the alternative of directional drilling...”). In *Biodiversity Associates*, BLM had offered “without elaboration” directional drilling “[a]lternatives to the proposed action [that] were considered but dropped from analysis due to geologic and economic restraints at the time the EA was written.” *Id.* at 8.

Another factually similar case held that BLM’s analysis of alternatives was inadequate when it relied unquestioningly upon statements by the project applicant that the alternative in dispute was not feasible. *Southern Utah Wilderness Alliance v. Norton*, 237 F.Supp.2d 48, 52-53 (D.D.C. 2002)(*SUWA*). *SUWA* provides that courts reviewing NEPA claims under the arbitrary, capricious, or abuse of discretion standard of the Administrative Procedures Act (APA) are required to consider:

(1) whether the agency accurately identified the relevant environmental concerns; (2) once the agency identified the problem, whether it took a 'hard look' at it in preparing the EA; (3) if a finding of no significant impact was made, whether the agency made a convincing case for its finding; and (4) if the agency identified an impact of true significance, whether the agency found that changes or safeguards in the project sufficiently reduce the impact to a minimum, which would justify not preparing an EIS.

Id. at 52 (citing *Grand Canyon Trust v. FAA*, 290 F.3d 339, 340-41 (D.C. Cir. 2002)).

In ruling that the case should be remanded to IBLA for further consideration consistent with the court’s findings, the Court held:

- “[I]n examining alternatives to the proposed action, an agency’s consideration of environmental concerns must be more than a pro formal [*sic*] ritual. Considering environmental costs means seriously considering alternative actions to avoid them.”
- Environmental plaintiffs challenged “the sufficiency of BLM’s analysis, and particularly BLM’s unquestioning acceptance of the statements” of the project applicant that certain alternatives advanced by plaintiffs would not allow the proponent to meet the project objections. The court found that it was “undisputed BLM neither conducted nor commissioned an independent analysis of alternatives.”
- “Congress has directed federal agencies to the fullest extent possible to study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources.”
- “BLM failed to adequately study, develop, and consider appropriate alternatives to recommended courses of action” and “BLM’s hurried analysis was not the ‘hard look’ required by law.”

Id. at 52-55 (internal citations omitted).

BLM therefore cannot dismiss consideration of directional drilling from existing wells on the basis of assertions by operators. Thus, the Moab Draft RMP should require all site specific analysis of proposed oil and gas projects to include a directional drilling alternative. Likewise, the BLM should analyze now what additional areas may become available as a result of directional drilling.

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. See scoping comments. The Draft RMP should accommodate those desires.

As a preliminary matter, it appears that the BLM may have attempted to address the minimization criteria, requiring it to minimize ORV harm to the environment and conflicts with other users, simply by creating SRMA's. If this is the case, then we emphasize that the creation of SRMAs does not, in itself, satisfy the regulations. 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 MFO, not just in specifically defined areas such as the SRMAs.

The current amount of land designated as SRMAs in the planning area is around 135,094 acres. Alternative B will expand this to around 1,029,243 acres and Alternative C will expand to 658,642 acres. As a preliminary matter, it should be noted that the combined acreage provided in Table 2.1 of the alternatives (pp. 2-17 to 2-29) does not always match the summary of the SRMAs in Table 4.69 (p. 4-204 to 4-208), nor does it match Table 4.21, SRMA Acreage by Alternative (p. 4-55). These numbers should be corrected to represent the accurate acreage of the SRMAs in the final RMP.

BLM is required to identify SRMAs during the land use planning process. BLM Land Use Planning Handbook, H-1601-1, Appendix C, p. 15. Anything not delineated as an SRMA is an extensive recreation management area (ERMA). *Id.* at 16. According to the Draft RMP, the areas in the MPA "with the greatest numbers of visitors and those that are in the greatest need of special management are currently within the Grand ERMA." RMP at 3-74. This statement speaks to the need for more evaluation of the Grand ERMA for values associated with SRMAs in order to properly identify and address recreational needs. We urge the BLM to choose the greatest expansion of SRMA acreage as provided in alternative B in order to ensure that the MPA is directing its resources to these areas in need of special management.

Under FLPMA, BLM must "**maintain on a continuing basis**" an inventory of public lands and their values, including recreation, and rely on the inventory during the development and revisions of land use plans. 43 U.S.C. §§ 1711, 1712. The BLM is also

required to “**coordinate the land use inventory** . . . with the land use planning and management programs of other Federal departments and agencies.” 43 U.S.C. § 1712. In addition to inventory and coordination, under the regulations implementing NEPA, the BLM must **identify the methodology** they are using and explicitly reference to the sources relied upon for conclusions in environmental impact statements. 40 C.F.R. § 1502.24.

In order to classify recreation opportunities for the Special Recreation Management Areas, the Draft RMP contains a modified version of the Recreation Opportunity Spectrum (ROS). (Draft RMP at Appendix F). The classic ROS was adopted from the Forest Service and provided six classification standards: primitive, semi-primitive non-motorized, semi-primitive motorized, roaded natural, rural, and urban. It is unclear where the Moab Field Office adopted the five standards for the Draft RMP (primitive, back country, middle country, front country, and rural). Moreover, there is no explanation for why these standards were created and used in this plan.

One example of a thorough analysis utilizing the ROS classifications is in the Price Field Office Draft RMP (Price DRMP). The Price DRMP uses the common six classification standards for recreation opportunity as described above. (Price DRMP at 3-45). The classifications are clearly defined and provide criteria on how far each should be from a road, minimum size, and evidence of human use. (Price DRMP, Appendix 15). Moreover, the Price DRMP describes the methodology it is using and how it is using it. There is simply no reason for the Moab BLM to neglect this important step, and no rationale for the BLM to deviate from the practical, feasible and thoughtful approach of its neighboring field office.

The Draft RMP current definitions of recreation standards are arbitrary and an abuse of discretion. In order to classify recreation opportunities in the Draft RMP, the BLM must identify and explain its methodology. We encourage the Moab Field Office to follow the Price Field Office in using the classic ROS standards as originally developed by the Forest Service and to further define these categories by way of detailed criteria and measurement data.

C. Site Specific Comments

1. Bookcliffs SRMA – This large undeveloped SRMA is included in Alternative B, but not in the BLM’s preferred alternative, and would protect the recreational values associated with horse riding, hiking, backpacking and big game hunting. The BLM should include this SRMA to protect these values in the Final RMP.
2. Canyon Rims SRMA – SUWA agrees that the existing SRMA should be expanded to include a Hatch Wash Hiking and Backpacking Focus Area.
3. Colorado Riverway SRMA – SUWA agrees that this area of high use be managed to protect resources, especially the commitment to keep the north shore undeveloped. We recommend the inclusion of Top of the World and Entrada Bluffs as outlined in Alternative B. SUWA objects to establishment of any facilities or improvements associated with the proposed BASE jumping

focus area at Kane Creek on lands identified as possessing wilderness characteristics.

4. Dolores River Undeveloped SRMA – SUWA agrees that this SRMA should be established.
5. Labyrinth Rims/Gemini Bridges SRMA – SUWA cautions the BLM to not designate this large, convoluted SRMA because it is biased toward motorized recreation and aggressive facility development. Some elements seem worthy such as the non-mechanized focus area for Goldbar and Corona Arch and the Labyrinth Canoe Focus Area. SUWA recommends the establishment of the White Wash Dunes Ecological Study and Hiking Focus Area as described in Alternative B; this being the only alternative that protects the outstanding natural features of the dune field. Overall, SUWA would like to see the western half of this SRMA (roughly from Dubinky Wells Road to the Green River) managed as a primitive and undeveloped SRMA. We recommend the establishment of the Tenmile Hiking and Equestrian Focus Area. We applaud the BLM plan to close the spur route to Gemini Bridges. SUWA takes strong exception to the establishment of a motorized focus area at Dee Pass as this area is proposed for wilderness in America’s Redrock Wilderness Act, pending before Congress.
6. Sand Flats SRMA – SUWA mostly agrees with the recommendations of this SRMA, except that closing the Slickrock Trail to motorized use best protects the mountain biking and hiking opportunities in the area. However, closure of this trail to ATVs and 4x4 vehicles is better than current management.

Recommendation: BLM should designate all of the SRMAs found in alternative B to support appropriate use of natural resources in the MPA, preserving their special character while permitting local communities to receive the resulting economic benefits. ROS classifications should also be made using a recognized methodology that is well-defined and leaves little room for questioning what type of recreational opportunities are available and encouraged within the specific areas.

C. 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, OHV 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. By issuing SRPs for a “wide variety of uses,” without further clarity other than a limitation on numbers of vehicles, BLM invites situations in which it is foreseeable that unintended damage to the land will ultimately occur. It is for this reason that the Moab Field Office should provide a sufficient and thorough alternative that adequately defines when SRPs will be issued.

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 Draft RMP fails to take a hard look at the impacts from the issuance of SRPs in the planning area. The Draft RMP states that “[d]ue to **recent increases in recreational use** in the MPA that **exceed monitoring capability and available space**, priority for authorization of new SRPs for land-based commercial and competitive events is given (where conflicts exist) to applicants proposing uses that:

- Do not duplicate existing uses;
- Take place outside the months of March, April, May and October;
- Use lands and facilities off public lands for overnight accommodation of guests;
- Display and communicate the Canyon Country Minimum Impact Practices; and
- Focus visitation on sites and areas capable of withstanding repeated use.

Draft RMP at 3-84.

The rationale for the creation of these guidelines indicates that the Moab Field Office does not have the necessary resources available to adequately manage, monitor, and mitigate impacts from recreational use in the planning area, let alone recreational uses that are in need of a special permit due to their size. However, the Draft RMP does not explore direct, indirect, or cumulative impacts of events and uses associated with SRPs, even though it is well known that large-group events, like jeep jamborees and OHV races, that require such a permit can have significant impacts on ecological and cultural resources. To the contrary, the section entitled “Environmental Consequences of Alternatives” fails to discuss these impacts at all. For example, the paragraph devoted to the environmental consequences of issuing SRPs as proposed in alternative C makes cross-reference comparisons to alternatives A and B, but neither A nor B discuss impacts. Draft RMP at 4-227. Rather, the Draft RMP makes general statements that the alternatives will be beneficial in the long-term for recreation resources and user experiences, but do not substantiate this claim with any data or evidence, and do 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.

The Draft RMP also 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).

In the Draft RMP, the BLM attempts to differentiate among the alternatives by defining the limit of vehicles that would require an organized group to obtain an SRP. Draft RMP at 2-30. This type of broadly designed range of alternatives is not the kind of range that NEPA contemplates. It is unreasonable for the *only* choices among alternatives to be whether 15, 25, or 50 vehicles used by an organized group will be the threshold for obtaining a permit.

One example that the Moab Field Office 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.¹⁰ 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 Draft RMP for management of a particular area provides the ideal forum to

¹⁰ 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.

list such factors by which each SRP should be weighed in future actions. At a minimum, the Draft RMP should address the following:

- Duration of permit – all permits should be limited to a 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. For example, a ten-year SRP would be an abuse of discretion on the agency’s behalf.
- Number of vehicles permitted – although the Draft RMP does contain a limit on vehicles allowed, the BLM should revise its limit on the number of vehicles to reflect the specific type of vehicle and corresponding damage to environmental and cultural resources.
- 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. However, the current Draft RMP does not define what constitutes a “vehicle” for the purpose of SRPs
- Number of persons permitted – a threshold should be set for how many people within a group will trigger the need to apply for an SRP. Even without vehicles, large group activities can have a significant impact on environmental and cultural resources. Thus, management of such events will need greater attention/restrictions in order to mitigate these impacts.
- Location of SRPs – the Draft 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, and any lands that currently are being evaluated or managed for their primitiveness and sense of solitude. 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.
- 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).

X. WILDERNESS STUDY AREAS (WSAs)

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

As acknowledged in the Draft RMP, 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. Draft RMP, p. 2-43. The IMP requires management of the WSAs in the Moab Field Office in accordance with the non-impairment 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.

As a threshold matter, SUWA notes that continued motorized use in WSAs can damage wilderness suitability and therefore should be prohibited under both BLM interim management policy and the ORV regulations. Alternative B provides for all of the WSAs to be closed to ORVs. All motorized ways in WSAs should be closed and restored. The Draft RMP provides for designation of "routes" in the WSAs. Draft RMP, p. 2-43. In order to comply with the IMP, any designations should refer only to "ways."

Although Alternative B provides for WSAs to be closed to motorized use, the other alternatives, including the Preferred Alternative, provide for designation of some distance of routes. However, the Draft RMP does provide that these designations "are only conditionally open to vehicle use" and are open "based on user compliance and non-impairment of wilderness values." Draft RMP, p. 2-43. The Draft RMP also acknowledges that any designated ways could be closed if monitoring shows that use impairs an area's suitability for wilderness designation. Draft RMP, p. 2-43. This is an appropriate summary of the standards for permitting continued use of ways in WSAs and should be emphasized in the RMP.

The Draft RMP (at p. 4-351) acknowledges that:

Travel management decisions which close WSAs to motorized travel promote opportunities for primitive and unconfined recreation, prevent additional intrusions, and enhance supplemental values; within the designated OHV

category, those decisions which allow the least number of miles open to motorized travel are the most beneficial to these values and WSA management.

Further, the Draft RMP acknowledges that: “Alternative B is the most restrictive of motorized travel with WSAs” and, consequently, “Alternative B adversely impacts wilderness values the least.” Draft RMP, p. 4-351. 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 B. 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 continue to monitor the conditions of these routes and their impact on wilderness suitability, and ensure that they are closed if the routes impair wilderness values.

Recommendations: Motorized ways in WSAs should be closed and restored. All routes 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 why the way is needed. 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.

Alternative B is 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 they can still be managed to protect these characteristics. This RMP also identifies lands with wilderness characteristics outside WSAs and provides for such management.

The Draft RMP 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. Draft RMP, p. 2-43. This approach does not give sufficient consideration to protecting the wilderness characteristics of these areas. The Supplement to the Price Field Office RMP provides for management of released WSAs to protect their wilderness characteristics. Supplement to Draft RMP, p. 2-22.

XI. CLIMATE CHANGE

The Draft RMP and EIS Failed to Analyze the Impacts of Climate Change to the Resources of the MFO

There is broad scientific consensus that climate change is occurring, with sweeping changes that will affect all portions of the Earth, including the Moab Field Office. Yet the plan and 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, and U.S. Geological Survey have all published reports and/or provided public statements and congressional testimony acknowledging the impacts of climate change on public lands resources. This oversight amounts to a failure to take the necessary “hard look” at the challenge of resource management in the MFO, and an important aspect of that problem.

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 Moab 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 Moab FO, 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.climatechange.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.

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 MFO 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.

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 Moab FO 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 Moab FO, 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 2,600 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 Moab plan. Thus we encourage BLM to adopt Alternative B as the best choice of those presented; however, we strongly urge BLM to design an alternative that would be even more effective in limiting surface disturbance and protect the Moab FO as much as possible from the predicted effects of climate change.

Instead, without the information of about the effects of climate change in the Moab 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 with these uses to impact the resources of the MFO.

To conclude, we urge the BLM to develop and adopt, based on a full consideration of the effects of climate change on the MFO, an alternative that minimizes the extent of soil disturbance and reduces to the fullest extent the Moab FO’s 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. Under the authority of 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.” 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* IBLA 98-144, 98-168, 98-207 (1998). The RMP must make clear that compliance with VRM classes is not discretionary.

BLM should ensure that scenic value is a resource that is 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 or 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 lookout points 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

Comments on the Socioeconomic Analysis - Moab Resource Management Plan Draft EIS

The Socioeconomic Analysis in the Draft EIS is not adequate to inform a policy decision as important as the Resource Management Plan which will guide the use of and development of lands in the Moab Field Office for 20 years. In some cases these land use decisions will have irreversible consequences and these have not been analyzed adequately if at all.

It is interesting to see that the BLM noted the issues and concerns outlined in The Wilderness Society’s document “*Socio-Economic Framework for Public Land Management Planning: Indicators for the West’s Economy*” (attached), however it concerns us that these issues were not analyzed in any way in the Draft RMP EIS document. We request that the BLM re-read our briefing paper and conduct a more thorough analysis of the socioeconomic impacts associated with the RMP Alternatives as described in the paper.

Two major land uses – oil and gas development and off-road motorized recreation use – will have lasting, even permanent, impacts on the lands in the Moab Planning Area (with 80% of the area open to both uses), and yet in neither case does the analysis of the socioeconomic impacts (which are inextricably linked to the health of the land) do any quantitative assessment of the costs of these actions. In fact the cursory assessment of the benefits is, in most cases, only qualitative as well. This is a grossly inadequate analysis upon which to base long-term land use planning.

The analysis of social and economic impacts is entirely speculative. Over and over the document makes vague and unsubstantiated predictions that do not have any support, either from actual data collected in the planning area or any evidence from other research results. This is inadequate and inappropriate. These land management decisions

will have very real and lasting social and economic impacts that should be assessed much more thoroughly. And BLM's lack of data is no excuse for failing to analyze the issues at all. If primary data are not available.

The BLM must collect and analyze actual data on the economic impacts of the alternatives. Some suggested analyses and sources of data can be found in "Socio-Economic Framework for Public Land Management Planning: Indicators for the West's Economy" (attached).

2. The assumption that BLM would have the funding and work force to implement the selected alternative is dubious. The very real possibility that the funding and personnel will be inadequate to carry out the monitoring and enforcement of impacts and regulations must be considered and analyzed. This is especially important given that most of the planning area is open for off-road motorized recreation and/or oil and gas development, both of which are potentially damaging, and which will require high levels of monitoring and enforcement in order to protect the other values of these public lands.

The issue of funding, especially for enforcement (both of visitor behavior and development actions), must not be postponed until the implementation of the resource management plan. If the off-road motorized recreation or the oil and gas development proposed in the Draft EIS is allowed to proceed, it is imperative that restrictions on off-road recreation and the conditions of approval for oil and gas development be enforced, that the activities of visitors and operators be monitored, and that any infractions are detected and halted (and that appropriate sanctions are applied). These management duties require adequate funding. It is inappropriate to proceed with potentially irreversible actions under such a potentially false assumption.

The NEPA analysis for Draft RMP EIS should be based on reasonable budget expectations, which should be clearly stated. In 1992, the U.S. General Accounting Office reviewed federal land management budgets and found that the funding received by public land management agencies has been significantly less than the budgets required to fully implement plans. The lower-than-planned budgets have prevented public agencies from producing many of the outputs projected in land management plans, and implementing mitigation measures promised in NEPA documents.¹¹

The BLM must include a fiscal analysis of alternative implementation and mitigation costs. We are especially concerned with a potential lack of analysis of the costs to mitigate the environmental consequences of oil and gas development and motorized recreation. Ignoring budget constraints is completely unrealistic and misleading to the public, because planners have not considered the costs of implementing each alternative and the costs of mitigating the potential damage to the Moab area resources from each alternative. While the budget available to manage the Moab field office should be considered constant across alternatives, the costs to implement each management alternative are not equal. For example, an alternative resulting in resource damage will require more money to mitigate this resource damage than a less damaging alternative. It makes no sense for taxpayers to subsidize a more damaging and costly

¹¹ Morton, P. 1997. Sustaining recreation resources on the Southern Appalachian National Forests. *Journal of Park and Recreation Administration*. Vol. (15):4, pp61-78.

alternative when a less damaging, less costly alternative is available. There is simply no justification for any assumption that funding will be sufficient to implement each alternative and that all resource damage will be fully mitigated – unless costs and budgets are fully analyzed.

According to a Council of Environmental Quality memorandum on NEPA requirements [cited in NEPA Compliance Manual, 2nd Edition (1994)]:¹²

[T]o ensure that environmental effects of a proposed action are fairly assessed, the probability of the mitigation measure being implemented must also be discussed. Thus the EIS and the Record of Decision should indicate the likelihood that such measures will be adopted or enforced by the responsible agencies. (Section 1502.16(h), and 1505.2)

The “probability of mitigation measures being implemented” is directly related to how much the mitigation will cost and how those costs relate to the expected budget available. In order to fully comply with NEPA, the BLM must include an analysis of the costs of implementing each alternative, and the costs of the mitigation plans contained within each alternative. These costs must then be compared to the expected budget level to assess the probability of mitigation measures being fully implemented.

Successful organizations can rarely afford to ignore budgets when developing long-term plans. Without acknowledging budget constraints, the mitigation plans and hence resource protection described in the Draft RMP/EIS will not be attainable. Rather than presenting the maximum production potential of public lands unconstrained by budgets, the agency should consider presenting the public with a more accurate picture of what can actually be accomplished given expected appropriations. Williams (1998) says, “policy is the effective result of ‘what is intended’ and ‘what actually happens.’”¹³ One of the purposes of the NEPA process is to produce documents that will help set policy for the future management of an area. The BLM should therefore, as part of the NEPA process, include a reasonable budget limitation and evaluate a set of management alternatives that are constrained by that budget level.

The BLM must include a fiscal analysis of alternative implementation and mitigation costs. In order to fully comply with NEPA, the BLM must include an analysis of the costs of implementing each alternative, and the costs of the mitigation plans contained within each alternative. These costs must then be compared to the expected budget level to assess the probability of mitigation measures being fully implemented. The should include a reasonable budget limitation and evaluate a set of management alternatives that are constrained by that budget level.

3. The total planning area acreage varies by alternative. The Draft EIS states that variation in acreage totals may exist between disciplines, however in the tables summarizing both the OHV designations (Summary Table A, p. 2-2) and the oil and gas

¹² Freeman, L.R.; March, F.; Spensley, J.W. 1994. NEPA Compliance Manual, 2nd Edition. Government Institutes, Inc., Rockville MD.

¹³ Williams, P.B. 1998. Considering the role of science within the policy and planning process for the Grand Staircase-Escalante National Monument. In: Learning from the Land: Grand Staircase-Escalante National Monument Science Symposium proceedings. Hill, L.M. and Koselak, J.J. (eds.) 455-465. U.S. Dept. of Interior, Bureau of Land Management, Grand Staircase-Escalante National Monument, BLM/UT/GI-98/006+1220. (p. 456)

designations (Summary Table C, p. 2-3) by alternative, the total acres is higher for each action alternative than for the “no action” alternative. This cannot be explained by variances between the methods or data used by the different resource specialists. While these additional acres (apparently created by the various alternatives) are not large, they do imply systematic inaccuracy in the acreage reported by alternative.

The BLM should carefully examine and correct the inconsistencies in the acreage totals used to evaluate the impacts of the alternatives. These inconsistencies also indicate that there is a possibility that other, less readily apparent, data may also be inaccurate or inconsistent throughout the analysis.

4. The BLM should analyze any additional leasing in the alternatives (including any in the “no action” alternative) as gains to the oil and gas industry in order to provide a true baseline of oil and gas development from which to compare the rest of the alternatives. When the BLM assumes that leasing will continue along a certain trajectory it incorrectly assumes that these development activities are the “status quo” and biases the comparison of the alternatives toward those which favor development by presenting the opportunity costs of protecting other multiple values under an assumption that they represent a “loss” to the oil and gas industry. This is not the case if the areas have not yet been leased, regardless of whether the existing RMP would allow leasing. Rather additional leasing (regardless of whether it occurs under the current RMP or the new one) should be analyzed as a “gain” for the oil and gas industry with potential costs to other multiple use values that provide direct and indirect benefits to the local and regional economy.

In order to accurately assess the potential impacts of the alternatives the BLM must treat any additional oil and gas leasing (regardless of whether it would have occurred under the existing management plan) as an industry **gain**, rather than assuming that leasing is a given. The currently leased land should be regarded as the status quo, not any additional leasing that may take place under any of the alternatives. Comparisons of all the alternatives should be made against this status quo.

5. The socioeconomic analyses conducted for the Draft EIS focus almost exclusively on the potential benefits of increased oil and gas drilling and off-road motorized recreation in the Moab Planning Area. There is no corresponding analysis of the costs associated with these activities, both of which damage certain resources and can have negative economic consequences. See Morton et al. (2004) and the attached document “*The Economic and Social Impacts of Oil and Gas Development*” for more details on the potential costs of oil and gas development. A detailed discussion of the costs associated with off-road motorized recreation appears later in this comment document.

Section 4.3.12.2.7 – Impacts of Minerals on Social and Economic Conditions does not include any analysis of the economic and social costs of mineral extraction. It is utterly irresponsible for the BLM to exclude this analysis from this section. All mineral extraction will impose social and economic costs on the communities in the planning area and these must be assessed and accounted for in the Final RMP EIS.

The costs of oil and gas drilling are not mere abstractions. The communities of the Rocky Mountain region have been experiencing many economic and environmental costs over the last several years. These costs include the increased traffic from the oil and gas

fields – which increases wear and tear on the area’s roads necessitating additional public expenditures. Increased traffic also results in more accidents, which means greater demand for emergency services such as police, ambulance and hospital services. This increased traffic also means there is a need for additional traffic-related law enforcement efforts. These are but a few of the socioeconomic costs associated with increased oil and gas drilling. Other negative impacts include the documented difficulty that local business in towns with high levels of oil and gas drilling are experiencing in hiring and retaining employees, increased housing costs, increased costs of other goods and services, and an overall loss of the quality of life that long-time residents and newcomers alike have come to appreciate in the area. The analysis in the Draft RMP EIS fails to adequately address these and other costs and thus presents a biased picture of the long-term impacts of the proposed management

The BLM must make a full assessment of the social and economic costs that will accrue as a result of implementing the oil and gas drilling in the alternatives as described in “*The Economic and Social Impacts of Oil and Gas Development*” (attached).

6. The Draft RMP EIS fails to adequately address the impacts that the preferred alternative will have on the local economy, which the authors acknowledge has changed in recent years. 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 Moab Planning Area 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.

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 by the potential single-use industrialization of vast public land areas allowed under the preferred alternative in the Draft RMP EIS.

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.

7. The Draft EIS does not account for the non-market values associated with undeveloped wild lands. Non-market values have been measured and quantified for

decades. There is a well established body of economic research on the measurement of non-market values, and the physical changes (decreases in the source of these values) brought about by oil and gas development and motorized recreation are very easy to measure quantitatively.

One of the most important purposes of public lands, including those of the BLM in the Moab Planning Area, 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.

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 Moab Planning Area to obtain a complete catalog of estimates of the economic consequences of the proposed Alternatives.

The BLM must measure and account for changes in non-market values associated with the level of oil and gas drilling and motorized recreation 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 Moab Planning Area – all Americans. This must include the passive use values of lands with wilderness characteristics.

8. The significance criteria are incomplete because they only consider employment and population. Many of the actions in the proposed RMP are likely to have impacts on the income of residents in the area and this should also be considered a significant impact. As discussed above, many of the area's residents are attracted by the natural amenities of the BLM lands. When these lands become severely degraded by motorized recreation and oil and gas and other development some of these residents will likely leave the area. This will reduce the non-labor income flowing into Moab as well as income for business which rely on retirees both directly and indirectly.

A complete analysis of the economic trends and socioeconomic impacts in the Moab Planning Area should include an analysis of total personal income, including all sources of income, rather than relying solely on employment and population. A full accounting of income is necessary to an understanding of the important role that non-labor income — such as retirement income, interest payments, rents, and profits — plays in the regional economy. Investment and retirement income makes up 32% of total personal income in Grand County and 23% in San Juan County, which would make it the top "industry" in the region. An economic impact analysis that excludes this income is inadequate and misleading.

Areas with high levels of natural amenities attract residents, many of whom rely on non-traditional sources of income (Duffy-Deno 1998, Nelson 1999, McGranahan 1999, Rudzitis 1999, Shumway and Otterstrom 2001, Lorah and Southwick 2003). When an investor living in a community receives dividends on his or her investments, that money represents an influx of income for the local community. The same thing is true of a retiree's

income. Due to the high levels of natural amenities in the coastal and mountain regions of the West, these non-labor sources of income are concentrated in those areas (Nelson 1999).

An influx of retirees in those rural communities has been shown to have positive effects on both income and employment (Deller 1995), with non-labor income fueling increases in income and employment for many other sectors including health, financial and real estate services. Figure 2 shows the trend in total personal income for the five-state Rocky Mountain region. Service sector income has been rising in recent years while extractive industry income has fallen. Non-labor income makes up the largest proportion of total personal income.

BLM should include the any changes in total personal income (including non-labor income) in the significance criteria.

9. Section 4.3.12.2.8 Impacts of Non-WSA Lands with Wilderness Characteristics Decisions on Social and Economic Conditions. This section merely mentions a briefing paper by the Wilderness Society without actually doing any of the analyses requested in the paper. It is almost certain that the reduction in lands managed to maintain wilderness characteristics from 15.2% in Alternative B to only 2.6% in the preferred alternative will result in vastly different social and economic conditions in the planning area, as would an analysis that examined the conditions associated with recognizing the full acreage in America's Red Rock Wilderness Act, and/or all the lands inventoried by BLM and found to have wilderness character. The BLM must conduct the analysis of these impacts on the income of businesses in the area which do not rely on extraction of resources but rather on the presence of protected public lands.

In fact there is no difference in the amount of the planning area (over 80%) which is available for motorized recreation between the "so-called" protective Alternative B and the preferred alternative.

The BLM must examine the role that protected public lands (including non-WSA lands with wilderness characteristics) play in the local economy.

10. Section 4.3.12.2.10 Impacts of Recreation and Travel on Social and Economic Conditions. This section fails to acknowledge that the vast majority of recreation visits to public lands are non-motorized and makes broad assumptions about the positive impacts of motorized recreation versus non-motorized. There are several instances where the contribution to local revenues from hotel taxes, restaurants and other sales and services is implied to be attributable to motorized recreation. Nowhere in the document do the analysts actually break spending down among motorized and non-motorized recreationists. **The statement on page 4-271 that the preferred alternative is "most responsive to those who feel that a balance of uses should be allowed with in the MPA" is patently false.** Indeed, we are aware that the BLM has new data which it has not released to the public, which shows that the overwhelming number of visitors to the Moab area do NOT participate in motorized recreation. This alternative opens 80% of the planning area to off-road motorized recreation and oil and gas leasing. This is in no sense of the word "balanced"

The following unsubstantiated quote further illustrates this obvious bias toward motorized recreation:

“Given the continuing increase of OHV use within the MPA, a decrease in use by motorized users could be of greater significance than a decrease in use by non-motorized users. Although it is not certain how much money each user group contributes on a daily basis in the Moab area, it is possible that local government revenue from hotel, restaurant, and sales tax on goods purchased would be reduced under Alternative B, should OHV use decline.” (p. 4-269)

This is utterly without merit and reflects the bias on the part of BLM toward these minority users. **All** recreation use is increasing - to open 80% of the planning area to a group which represents 15% of total users is absolutely ridiculous. And to imply that the meager protections provided in Alternative B (which also opens 80% of the planning area to motorized users) would somehow harm the off-road motorized recreation community or reduce revenues is simply false.

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.

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)¹⁴ all show that motorized use is consistently a small portion of total public lands recreation visits.

Data from the Recreation Management Inventory System (RMIS) for the state of Utah show that in Fiscal Year 2004 motorized recreation accounted for just 15% of total visits, while non-motorized recreation visits were over 50% of the total.¹⁵ National Visitor Use Monitoring System data for the Moab Planning Area show a similar pattern,

¹⁴ 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

¹⁵ 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

with just 18% of visitors engaging in motorized recreation as their primary activity and 42% participating in non-motorized activities.

Making 80% of the planning area open to off-road vehicles is inappropriate given the small numbers of participants, 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 Moab planning area. Furthermore off-road motorized recreation has well documented costs and these have been completely ignored in the Draft RMP EIS. In fact, on page 4-268 the authors reveal their bias toward motorized recreation by noting that there are “Recreational users who *require* motorized access...(emphasis added)” It is highly unlikely that most, if any, of the visitors who *choose* to use off-road vehicles are required to do so.

Furthermore, motorized recreation has well-documented and potentially significant costs which the analysis in the Draft RMP EIS fails to address. The following sections presents a representative sample 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 of a trail in southern Indiana (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 in the Ouachita National Forest in Arkansas. 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 (NO_x), the precursors of ozone; oxides of sulfur (SO_x); 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.

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 and Davis 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.

- **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, and 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.

- **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 Moab Planning Area 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, 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).

- **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.

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.

XV. AIR QUALITY

SUWA incorporates the comments submitted separately by Megan Williams.

XVI. RS 2477

**THE BLM SHOULD NOT DESIGNATE ROUTES OPEN TO MOTORIZED USE
BASED ON THE EXISTENCE OF POSSIBLE 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. Draft RMP, p. 2-2. 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, or that does not minimize impacts to natural or cultural resources, as “closed.”

Section 1.3.2.4 of the Draft RMP, “Issues Eliminated from Detailed Analysis Because They Are Beyond the Scope of the Plan,” includes “Settlement of RS 2477 claims.” Draft RMP, p. 1-12. The Draft RMP acknowledges that claimed rights-of-way may exist, then clarifies that the plan “does not adjudicate, analyze, or otherwise determine the validity of claimed ROWs” but also does not extinguish any rights that may exist. *Id.* However, the Draft RMP does not clearly distinguish between those 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 existing conditions in populated areas, taking into account noise and other factors.**

The Draft RMP acknowledges that motorized routes in the planning area will have some of these effects, stating, for example: “In addition to directly disturbing wildlife habitat, roads associated with minerals and travel decisions also fragment adjacent (undisturbed) habitat, thereby degrading its value to wildlife.” Draft RMP, p. 4-482.

The Draft RMP 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 wilderness character. Draft RMP, p. 2-43.
- 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.” Draft RMP, p. 2-33.
- Riparian areas would be managed “for properly functioning condition” and to “avoid or minimize the disturbance, loss, or degradation of riparian, wetland, and associated floodplains,” to “preserve and enhance natural and beneficial values,” and to “provide for fish, wildlife and special status species habitats.” Draft RMP, p. 2-30.
- Non-WSA lands with wilderness characteristics will be managed to maintain wilderness characteristics, “for their undeveloped character” and “to provide opportunities for primitive recreational activities.” Draft RMP, p. 2-16.

To the extent that the Draft RMP basis 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.

A recent court decision upholds 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. *Kane County v. Kempthorne*, --- F. Supp. 2d. ---, 2007 WL 1892492 (D.Utah June 29, 2007). In this decision, 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 v. Kempthorne*, at *11. 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.

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 the Federal Land Policy and Management Act. 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.

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 the agency's duty not 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.

XVII. SOILS

SUWA incorporates the comments submitted separately by ECOS Consulting.

XVII. RIPARIAN AREAS

SUWA incorporates the comments submitted separately by ECOS Consulting.

XIX. VEGETATION

SUWA incorporates the comments submitted separately by ECOS Consulting.

XX. WILDLIFE

HABITAT FRAGMENTATION

SUWA incorporates the comments submitted separately by ECOS Consulting. In addition, we have the following comments.

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 effects on wildlife. This volume of science simply cannot be ignored in a major land management planning effort such as this Draft RMP (or any travel management planning effort).

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

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

- **Increased alteration and use of habitats by humans** through activities including increased unethical hunting practices and increased dispersion of recreation impacts, particularly by off-road vehicles due to a proliferation of roads
- **Mortality from construction of roads**
- **Mortality from collisions with vehicles**

As documented by the comprehensive literature reviews cited above, the existence of motorized routes can result in habitat fragmentation and, depending on the use of the route, have impacts extending well into surrounding habitats. Such fragmentation from transportation networks is immediate and can lead to a range of risks to the survival of wildlife. Sound science and spatial analysis must be used to evaluate impacts from any network of travel routes before its adoption through a planning process.

A. The Draft RMP does not present alternatives that would provide sufficient unfragmented habitat.

The Draft RMP makes important acknowledgments of the impacts of roads or ORV routes, acknowledging that both recreational use and oil and gas development lead to additional motorized routes and stating: “In addition to directly disturbing wildlife habitat, roads associated with minerals and travel decisions also fragment adjacent (undisturbed) habitat, thereby degrading its value to wildlife.” Draft RMP, p. 4-482. The Draft RMP goes on to quantify the impacts of habitat fragmentation on deer, elk, desert bighorn sheep, Rocky Mountain bighorn sheep, sage grouse, and migratory birds; and, while it is not quantified, the Draft RMP, also acknowledges the likely impacts through habitat fragmentation to other species, such as amphibians, reptiles, small game and raptors. *Id.* We appreciate the acknowledgment of habitat fragmentation from both ORVs and oil and gas development activities, as well as the use of GIS analysis to effectively analyze the impacts of projected oil and gas development and travel system for each alternative. Unfortunately, once presented with the results of the analyses, the Draft RMP does not seem to take advantage of the scientific knowledge and data on the impacts of roads or ORV routes to develop and select appropriate desired conditions or management actions.

BLM acknowledges that Gunnison and Greater sage grouse are important species of concern, that they need protection for not just leks but also nesting and brood-rearing habitat, that roads fragment the habitat and effectively reduce nesting because of both the noise and the physical disturbances, and that the Moab planning area already contains “a large proportion of fragmented habitat.” Per the calculations set out in the RMP, 75% of Gunnison sage grouse habitat and 37% of greater sage grouse habitat are already impacted by fragmentation, based on impacts existing in a range of 400 meters from each side of proposed roads. Draft RMP, pp. 4-372 - 373

However, under the Preferred Alternative 74% of Gunnison sage grouse and 35% of greater sage grouse habitat remain affected. Even under the most protective alternative, Alternative B, 69% of Gunnison sage grouse and 33% of greater sage grouse habitat remain impacted by fragmentation. Under all of the alternatives, there is no unfragmented or favorable habitat for desert bighorn sheep within the entire planning

area. Draft RMP, pp. 4-484 – 485. For Rocky Mountain bighorn sheep, the “no action” alternative (Alternative A) has only 17% of the planning area in unfragmented patches larger than 159 km³, but both the preferred alternative (Alternative B) and the preferred alternative (Alternative C) would only improve conditions such that 20% of the planning area would be unfragmented above this threshold. Draft RMP, p. 4-485. For migratory birds, close to 50% of habitat would be impacted in all but the “no action” alternative. Draft RMP, pp. 4-485 – 486.

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.

Recommendation: The Draft RMP should not only 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.

B. The Draft RMP improperly underestimates the impacts of habitat fragmentation.

Although the Draft RMP acknowledges that ORV routes and oil and gas development fragment wildlife habitat and provides calculations of the effects on certain species, the overall analysis underestimates the true impacts.

The Draft RMP makes a specific analysis of fragmentation of habitat from both minerals and travel for deer and elk, desert bighorn, Rocky Mountain bighorn, sage grouse, and migratory birds. Even though other species will also be impacted, the Draft RMP does not attempt to analyze the fragmentation levels and resulting impacts on habitat for amphibians, reptiles, small game or raptors. Draft RMP, p. 4-482. The agency states that the species selected for analysis are those of “high interest,” for which there are published studies available for thresholds of impacts and BLM has GIS data available. *Id.* However, no explanation is provided as to why other species are not of sufficient interest. Further, as discussed in detail below, there are studies readily available regarding the impacts of routes on these species.

In considering the impacts of oil and gas development, the Draft RMP does not consider individual wells, even though the Reasonable Foreseeable Development Scenario acknowledges that each well pad covers approximately 2-3 acres. Draft RMP, p. 4-482; Reasonable Foreseeable Development Scenario, pp. 20, 22, 23, 25, 27. The Draft RMP

also does not account for the thousands of miles of surface disturbance projected to be caused by geophysical exploration, which can also contribute habitat fragmentation. Draft RMP, p. 2-55. In addition, the Draft RMP does not take into account all existing roads in the planning area. Draft RMP, p. 4-482. The Draft RMP claims that this underestimation is offset by a projected overestimation caused by some roads having less use. Draft RMP, p. 4-483. As an initial matter, the Draft RMP does not provide any discussion of how this conclusion was reached, such as monitoring reports, and instead attributes this broad conclusion to “personal communication, Katie Stevens.” *Id.* In addition, available literature contradicts this statement.

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 Moab Field Office; the BLM should acknowledge its full extent.

One recent study that is particularly relevant to the Moab Field Office is Brooks and Lair (2005) that specifically addresses ecological impacts of a range of route types 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.

Recommendations: The BLM must include an analysis of the actual effects of habitat fragmentation from the proposed management alternatives, including disturbance from oil and gas wells and geophysical exploration, as well as the effects on all of the species identified in the Draft RMP. In addition, the unsupported conclusion that certain routes are not used enough to have a meaningful impact should be removed from the Draft RMP and the impacts of these routes should not be improperly discounted. The literature cited above should be incorporated into the analysis. The results of the expanded analysis should be used to inform decisions regarding road closure and other limitations on use in the Moab RMP.

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

The Draft RMP acknowledges that “impacts of travel decisions on wildlife would primarily depend on the number of acres open and closed to OHV use under each alternative,” because “OHV use can cause damage to vegetation” and “also contributes to habitat fragmentation and habitat degradation, including the spread of noxious weeds.” Draft RMP, p. 4-470. The Draft RMP also acknowledges that the creation of non-motorized focus areas for recreation would alleviate both short- and long-term impacts on special status species, “by decreasing human traffic, noise, and habitat disturbance resulting from OHV use.” Draft RMP, pp. 4-380 – 381.

The Draft RMP also acknowledges that managing lands outside WSAs to maintain wilderness characteristics “would generally benefit wildlife by reducing habitat degradation and fragmentation.” Draft RMP, p. 4-463. Similarly, the Draft RMP notes that maintaining wilderness characteristics on these non-WSA lands “would generally reduce adverse impacts to the special status species that occur with their boundaries.” Draft RMP, p. 4-379.

Nonetheless, Alternative D (as well as Alternative A) does not consider maintaining wilderness characteristics on any lands outside WSAs, while the Preferred Alternative only contemplates protecting 47,761 acres of these lands – comprising just 18% of the 266,485 acres that the agency acknowledges and 6% of the 813,592 acres encompassed by the America’s Red Rock Wilderness Act.

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

XXI. NATIONAL PARK SERVICE

THE NATIONAL PARK SERVICE SHOULD HAVE BEEN A COOPERATING AGENCY.

While the Draft RMP states that the BLM consulted to some degree with the National Park Service (NPS), NPS is not listed as a cooperating agency and, apparently, was not invited to be one. Draft RMP, p. 5-12. Denying NPS cooperating agency status necessarily reduced the involvement of this agency in the planning process – a significant concern given the likely impacts of the management decisions made in this RMP on national parks. Arches National Park is within the planning area for the Moab RMP and Canyonlands National Park shares a boundary with the planning area. Draft RMP, p. 1-2.

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

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

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

- **“During alternative formulation (Step 5), the BLM collaborated with cooperating agencies to identify goals and objectives (desired outcomes) for resources and resource uses in the MPA.”** Draft RMP, p. 1-5 (emphasis added).
- **With input from cooperating agencies** and BLM specialists, and consideration of planning issues, planning criteria, and the impacts of alternatives, the BLM identified and recommended that, at this time, **Alternative C is the Preferred Alternative** from among the four alternatives presented (Step 7). Draft RMP, p. 1-6 (emphasis added).

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

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

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

The exclusion of the NPS from cooperating agency status has limited the input from this most qualified agency on the import of effects on Arches National Park and Canyonlands National Park and on the preferred approach to managing these effects. The impact of this omission has likely been significant. For instance, in discussing air quality, the Draft RMP provides information from monitors primarily located in Colorado and New Mexico, then claims that Table 3.2 provides the most recent data available. Draft RMP, pp. 3-5 – 3-6. In assessing the potential impact of the RMP on air quality, the BLM

states: “Background CO, NO_x, and SO₂ concentration information was not available within the MPA” and the reference back to the same Table 3.2. Draft RMP, p. 4-24. However, there is ongoing and more recent monitoring data available from the national parks, including data from a monitoring station at Canyonlands National Park compiled for both 2005 and 2006, as well as other studies on visibility. Had the NPS been a full participant in the preparation of the Draft RMP, the establishment of baseline air quality indicators and the analysis of likely impacts from this RMP would have been more accurate.

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

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