

January 10, 2008

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DELIVERED ELECTRONICALLY

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

Greetings:

Thank you for the opportunity to comment on the Draft Resource Management Plan and Environmental Impact Statement (DRMP/EIS) for the Kanab Field Office. As noted in the DRMP (ES-1), this will be the first RMP and EIS for the Kanab field Office. These lands are currently managed under four different Management Framework Plans, one RMP, various amendments and administrative closure orders. SUWA appreciates the BLM’s efforts in developing this draft, and believe that an RMP and EIS for the Kanab field office 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 Kanab Field Office contains a wide variety of unique, world-renown, and fragile resources that deserve special attention – attention that the BLM does not grant them in this draft plan. Many of these resources occur in the same or similar types of settings, and as a result, simply protecting certain types of ecosystems could go far to ensure that the special aspects of this place remain intact. For example, cultural sites (some 6,000 years old or more), riparian areas and water resources, critical wildlife habitat, and popular hiking trails all co-exist in many canyon bottoms of the Kanab Field Office. Developing protective management strategies for riparian areas – something the BLM’s own internal guidance requires – would also protect these other resources. Many of these areas are also included in American’s Red Rock Wilderness Act, and the BLM recognizes that 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;
- Proposed ORV routes are excessive, and although the draft plan fails to include a site-specific analysis of the routes' impacts, will certainly lead to resource damage in violation of BLM's own guidance, regulation and law;
- The draft plan fails to analyze and protect important wilderness resources in the Kanab area;

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

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

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 Kanab Field Office.

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

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

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

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

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

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

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Attachments

- A. "Climate Change and Major Environmental Threats in the Colorado Plateau Region" USGS
- B. "Impacts of Climate Change on Water and Ecosystems in the Upper Colorado River Basin" USGS Powerpoint presentation
- C. J. Belnap and O.I. Lange. "Disturbance and Recovery of Biological Soil Crusts." Ecological Studies, Vol. 150. Springer-Verlag Berlin Heidelberg 2001.
- D. 2-26-07-Brief of Federal Appellees - Utah v. Kempthorne

- E. 9-20-06 Merits Ruling – Utah v. Norton
- F. Wilderness Society “Economic & Social Impacts Of Oil And Gas Development”
- G. Wilderness Society “Socio-Economic Framework For Public Land Management Planning: Indicators For the West’s Economy”
- H. Hickman, Gene et al “Small Mammals: The Effects Of Recreation On Rocky Mountain Wildlife”
- I. Belnap, Jayne “Impacts Of Off-Road Vehicles On Nitrogen Cycles In Biological Soil Crusts: Resistance In Different U.S. Deserts” *Journal of Arid Environments* (2002)
- J. Belnap, Jayne “The World At Your Feet: Desert Biological Soil Crusts” *Front Ecol Environ* 2003
- K. Davenport & Switalski “Environmental Impacts of Transport, Related to Tourism and Leisure Activities” Missoula 2006
- L. Gelbard & Belnap “Roads as Conduits for Exotic Plant Invasions in a Semiarid Landscape” *Conservation Biology* 2003.
- M. “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
- EE. Ouren, Douglas, et al. "Environmental Effects of Off-Highway Vehicles on Bureau of Land Management Lands: A Literature Synthesis, Annotated Bibliographies, Extensive Bibliographies, and Internet Resources" USGS, 2007.
- FF. "Nature Overrun" The New York Times. January 8, 2008; A22.
- GG. "National Visitor Use Monitoring Results." Bureau of Land Management, 2007.
- HH. Braun, Clait E. Ph.D. 2006. "A Blueprint for Sage-grouse Conservation and Recovery."
- II. Forest Guardians. "Petition to the U.S. Fish and Wildlife Service to Reclassify The Utah Prairie Dog as an Endangered Species Under the Endangered Species Act." February 2003.
- JJ. Southern Utah Wilderness Alliance: Letter to Cedar City Field Office of BLM regarding Parowan Seismic Project. November, 2006
- KK. Center for Native Ecosystems: Letter to Utah State BLM Office regarding Protest of BLM's Notice of Competitive Oil and Gas Lease Sale of Parcels with High Conservation Value. February, 2007
- LL. US Fish and Wildlife Service: Memo regarding Permit Issuance for Cedar City Golf Course. December 2006.
- MM. Forest Guardians: Petition For: A Rule To Significantly Restrict Translocation Of Utah Prairie Dogs & To Terminate The Special 4(D) Rule Allowing Shooting Of Utah Prairie Dogs. February 2005.
- NN. Ensore, Russell et al. "Modeling Relationships Between Climate and the Frequency of Human Plague Cases in the Southwestern United States, 1960-1997. American Journal of Tropical Medicine and Hygiene; 66(2), 2002.
- OO. Parmenter, Robert, et al. "Incidence of Plague Associated with Increased Winter-Spring Precipitation in New Mexico" American Journal of Tropical Medicine and Hygiene; 61(5), 1999.
- PP. Forest Guardians: Letter to Utah Ecological Services regarding Prairie Dog 5 year Review." April, 2007.
- QQ. US Government Accountability Office. "Climate Change: Agencies Should Develop Guidance for Addressing the Effects on Federal Land and Water Resources." August, 2007.
- RR. NPS (Zion National Park) Letter to Kanab BLM Regarding Oil Leases Affecting Navajo Aquifer East of Zion NP. January, 2002.
- SS. BLM Kanab Reasonable Foreseeable Development Scenario

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 Kanab DRMP/EIS for the past four years, the public is inappropriately limited to 90 days to read, analyze and meaningfully comment on this voluminous set of tomes – over 900 pages. A variety of groups and individuals submitted requests for an extension to the public comment period to the BLM, including concerned citizens, conservation groups, and Utah Congressman Jim Matheson. In its cursory dismissal of the requests for extension, the BLM has rejected all these well-founded requests for a reasonable extension of time, citing budgetary constraints and pressure from the agency’s Washington Office. However, there is no valid reason for the BLM to rush ahead with these plans nor has BLM offered one, yet BLM has denied SUWA an extension of time to submit comments (Letter on file at BLM). See also, “Public comment periods for BLM plans are long enough” (Salt Lake Tribune, Dec. 1, 2007) by Utah BLM State Director Selma Sierra denying comment extension, attached.

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

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

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

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

Not only does the Draft RMP fail to comply with the Federal Regulations noted above (See, 43 C.F.R. 8342.1), it also fails to take into account the public sentiment, as documented in the scoping comments received by the Kanab Field Office for this RMP revision. The Kanab Field Office received 1,600 comments during scoping; and comments regarding ORV management ranked first. The majority of these comments

reflected the view that the BLM must be more aggressive protecting natural resources and preserving non-motorized recreational opportunities from the alarming increase in ORV use and the attendant damage and noise.

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

II. GENERAL LEGAL FRAMEWORK AND BLM OBLIGATIONS

The BLM's approach to management of the Kanab resource area is unbalanced and does not utilize opportunities to preserve and enhance the biological diversity, riparian resources, sensitive soils, wilderness values, cultural resources, travel management and recreation of the planning area. The BLM's preferred alternative fails to provide a fair allocation or spectrum of quality recreational opportunities which reflect the need and visitor preference for non-motorized recreation. This is borne out in the Travel Plan and the SRMAs, which heavily favor motorized OHV activity over primitive and unconfined recreation. The Kanab DRMP/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 Kanab Field Office that will be governed by this RMP. FLPMA requires BLM to inventory the lands and its resource and values, "including outdoor recreation and scenic values." 43 U.S.C. § 1711(a). FLPMA also obligates BLM to take this inventory into account when preparing land use plans, using and observing the principles of multiple use and sustained yield. 43 U.S.C. § 1712(c)(4); 43 U.S.C. § 1712(c)(1). Through management plans, BLM can and should protect wildlife, scenic values, recreation opportunities and wilderness character on the public lands through various management decisions, including by excluding or limiting certain uses of the public lands. *See* 43 U.S.C. § 1712(e). This is necessary and consistent with FLPMA's definition of multiple use, which identifies the importance of various aspects of wilderness characteristics (such as primitive recreation, wildlife, natural scenic values) and requires BLM's consideration of the relative values of these resources but "not necessarily to the combination of uses that will give the greatest economic return." 43 U.S.C. § 1702(c). FLPMA explicitly recognizes that multiple use does not mean that every acre must or should be available for all multiple uses; FLPMA's definition of "multiple use" includes "the use of some land for less than all of the resources." *Id.* In this manner, all BLM lands can serve multiple uses and still permit, and in some cases even require, management of certain places to conserve natural resources as paramount over other uses.

Under FLPMA, BLM is also obligated to “give priority to the designation and protection of areas of critical environmental concern [ACEC].” 43 U.S.C. § 1712(c)(3). ACECs are areas where special management attention is required “to protect and prevent irreparable damage.” 43 U.S.C. § 1702(a). Protection of existing ACECs and due consideration of proposed ACECs must be a priority in the RMP process. The proposed designation of only 3,800 acres of ACEC when 60,600 acres have been 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. ACEC designation must be prioritized in all alternatives, not merely BLM’s “conservation” alternative.

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

BLM is obligated to manage the WSAs in accordance with the Interim Management Policy (IMP) for Lands Under Wilderness Review (BLM Manual H-8550-1), which requires that WSAs are managed to protect their wilderness values. DRMP/EIS, p. 2-30. The IMP requires management of the WSAs in the Kanab Field Office in accordance with the nonimpairment standard, such that no activities are allowed that may adversely affect the WSAs’ potential for designation as wilderness. The IMP also reiterates that WSAs “must be managed to prevent unnecessary or undue degradation.” Additional directives regarding management of ORVs in WSAs can be found in BLM’s regulations, which require BLM to ensure that areas and trails for ORV use are located “to minimize damage to soil, watershed, vegetation, air, or other resources of the public lands, and **to prevent impairment of wilderness suitability.**” 43 C.F.R. § 8342.1(a) (emphasis added). BLM is also obligated to close routes to ORV use if ORVs are causing or will cause considerable adverse effects on wilderness suitability. 43 C.F.R. § 8341.2. We emphasize that continued motorized use in WSAs (i.e. “open” areas and on “ways” BLM proposes to designate as official ORV routes) can damage wilderness suitability and therefore should be prohibited in this DRMP under both the interim management policy and the ORV regulations.

Certain elements of the RMP, most strikingly the travel plan and OHV designations, fail the UUD standard. By several measures, the proposed travel plan and OHV designations will harm natural resources by increasing cumulative dust and decreasing air quality; unnecessarily fragmenting wildlife habitat; causing unnecessary damage to riparian areas,

floodplains and cultural resources; reducing naturalness in areas with identified wilderness characteristics; and, impairing Wilderness Study Areas.

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

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

Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. 40 C.F.R. § 1508.7. (emphasis added). A failure to include a cumulative impact analysis of actions within a larger region will render NEPA analysis insufficient. *See, e.g., Kern v. U.S. Bureau of Land Management*, 284 F.3d 1062, 1078 (9th Cir. 2002). In the context of this 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 Vermilion Cliffs Heritage Proposal as an alternative. 43 U.S.C. §1732(d)(2)(a).

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

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 Kanab Draft RMP.

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

NEPA further requires that, in preparing a final EIS, BLM must discuss "any responsible opposing view which was not adequately discussed in the draft statement and indicate the agency's response to the issue raised." 40 C.F.R. § 1502.9. The Council on Environmental Quality interprets this requirement as mandating that an agency respond in a "substantive and meaningful way" to a comment that addresses the adequacy of

analysis performed by the agency. *Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations*. BLM's NEPA Handbook elaborates upon this requirement, providing that: "comments relating to inadequacies or inaccuracies in the analysis or methodologies used must be addressed; interpretations of analyses should be based on professional expertise; and where there is disagreement within a professional discipline, a careful review of the various interpretations is warranted." Handbook H-1790-1, Section V.B.4.a., p. V-11. Failure to disclose and thoroughly respond to differing scientific views violates NEPA and obligates an agency to perform a compliant environmental analysis prior to approving a proposed action. *See, Robertson v. Methow Valley Citizens Council*, 490 U.S. at 350.

BLM's cursory dismissal of the Vermilion Cliffs Heritage Proposal is a clear indication of the BLM's refusal to entertain a responsible "opposing view" in the planning process. SUWA's comments about BLM's capricious dismissal of the Vermilion Cliffs Heritage Proposal are included in these comments immediately below.

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

The EIS Fails to Satisfy NEPA's Requirements

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

Our review of the 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 Kanab Field Office.

As noted in the DRMP (ES-1), this will be the first RMP and EIS for the Kanab field Office. These lands are currently managed under four different Management Framework

Plans, one RMP, and various amendments administrative closure orders. These documents are outdated and most were with little or not NEPA analysis or review, and thus, probably do not adequately inform the BLM and the public as to baseline conditions.

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

One of the most obvious and consequential flaws in the document is its failure to assess the ongoing impact of existing ORV use in the Kanab Field Office. Instead of analyzing the current impacts of ORV use, the BLM simply treats existing ORV use essentially as a given, and reasons that since continuing use will cause no damage over and above that which occurs now, the existing damage does not need to be studied. In other words, the BLM has concluded that current levels of ORV use and trails are consistent with FLPMA, including the UUD and non-impairment standards, even though it does not know what that impact is. See also DRMP/EIS p. 3-83

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

1. The presence of non-native species like cheatgrass (particularly important in light of its role in the spread of wild fire). Numerous studies are readily available on this topic and should have been described by the BLM or used as the basis for a description of the manner in which roads and ORVs spread weeds and contribute to wildfire. See Belnap, J. "Desert Biological Soil Crusts" at p. 188 (Attachment J)("Exotic annual grasses and increased fire often follow surface disturbance, further simplifying species composition and flattening [soil]crusts.").
2. The extent of soil erosion caused by ORVs and other uses. For example, a study entitled "Desert Biological Soil Crusts," Belnap J. states: "As tough as soil crust organisms are in the face of natural stresses (heat, radiation, drought) they are no match for animal hooves, human feet, tank treads or off-road vehicle tires. The compressional and shear forces these activities generate essentially pulverize soil crusts, especially when they are dry (as they most often are). . . . Relative to other disturbance types, direct human impact has probably been most responsible for the simplification and/or destruction of soil crusts and human activities remain the dominant cause of crust loss." The impacts on soil are described there as follows: "[t]he reduction of crust cover and loss of lichens and mosses lead to a loss of soil stability and reduced soil fertility as less polysaccharide material is extruded, less carbon and nitrogen is fixed, less dust and other surface materials are captured, fewer chelators and growth factors are secreted, nutrient uptake rates are lowered, and soil food web organism decrease in number and diversity. Flattened soil surfaces change the way crusts affect local hydrologic regimens and vascular

plant establishment. In other words, the contribution of biological soil crusts to the surrounding ecosystem is greatly compromised.” This is no small matter. “Biological soil crusts provide many of the basic needs for plants and animals found in the desert environment . . . The condition of biological soil crusts should be a top management priority in desert regions because once this resource is gone, it is often gone for more than a human lifetime.” *Id.* This study is attached to these comments. *See also* Belnap, J. “Impacts of off-road vehicles on nitrogen cycles in biological soil crusts: resistance in different U.S. deserts,” (*See* Attachment I) (noting that ORV use “can have profound impacts on soil resources and nutrient cycles.”) The latter paper notes that recovery from impacts in desert environments is “extremely slow, effective management of this vast resource generally means preserving, to the greatest extent feasible, existing ecosystem structure and function.” This article also cites others which have concluded that ORV use “compact soils, crush vegetation and crusts, and increase soil erosion.” *Id.* At 156. *See* Webb, R.H. & Wilshire, H.G. (Eds.) (1983) *Environmental Effects of Off-Road Vehicles: Impacts and Management in Arid Regions*. New York: Springer-Verlag. The BLM must investigate the extent to which these impacts are occurring and include that in the description of existing conditions.

3. The impact of ORV use on native plants, special status species and threatened and endangered species. *See* Belnap articles cited above for explanation of how ORV use spreads non-natives which out compete native plants, and how ORVs crush native vegetation. This is especially important in “open ORV areas” like the dunes within the Moquith Mountain WSA where ORVs frequently crush vegetation, including the federally listed Welsh’s milkweed, and traverse vegetated islands – despite attempts by BLM to mitigate this damage. The DRMP must include BLMs, USFWS’s and the Utah Dept. of Natural Resources’ monitoring data, trend analysis, and any other available documentation of the Welsh’s milkweed and the impacts of ORV use on this federally listed species. This information is necessary in order for the decision maker and the public to ascertain if the requirements of the Endangered Species Act are being met if ORV use is allowed in Welsh’s milkweed habitat.
4. The impact of ORVs and other uses on riparian areas. ORV use exists in the Kanab Field Office in most, if not all, of the riparian areas, yet there is no description of the impact that such use has had on this rare and exceeding important habitats. Soil erosion, rutting, channelization and the direct loss of native plants through trampling and crushing are key components to the analysis of this question. *See* comments submitted by ECOS Consulting.
5. The impact of ORV use on wildlife and wildlife habitat. There are numerous professional papers and articles that address the impacts that ORV routes and roads have on wildlife, and the fragmentation of wildlife habitat. These are discussed at length in the comments submitted by ECOS Consulting.
6. The impact of ORV use on wilderness character in the WSAs. The Interim Management Policy for Lands Under Wilderness Review requires the BLM to

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

The existing relative demand for various recreation opportunities. Here, BLM cites the possibly inaccurate Recreational Management Information System (RMIS) data on this point, and as a result, relies on objectively unverifiable estimations about the demand for motorized recreation. BLM should have conducted a new study, similar to the Moab National Visitor Use Monitoring survey which it conducted on the different types of use in the Moab Field Office, especially the relative use of non-motorized versus motorized recreation. That study showed that non-motorized recreation is utilized by vastly more visitors to the Moab BLM-managed lands than motorized (ORV-based) recreation. This type of study would greatly improve the credibility of baseline use within the Kanab Field Office when creating the Analysis of the Management Situation (AMS). Because hard information on visitation was missing from the AMS and Affected Environment section of the Draft RMP, the BLM has created a potentially false impression that the Kanab Field Office is a location in which ORV use is more popular than every other recreation pursuit, which contradicts information gathered by BLM, itself – for the Moquith sand dunes where motorized use appears to be heaviest – that indicates that over 90% of the visitors to the sand dunes are non-motorized users.

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 “existing” routes causes no *new* damage to cultural natural resources, any impacts as a result of designation of trails need not be evaluated. *See* e.g. 4-106 (Under Alt B “designating routes...would increase protection to cultural resources compared to Alternative A.”) There is simply no basis for this assumption, and it contradicts numerous studies – even by sister-agencies in the Department of Interior – about the severe impacts from ORV use. Moreover, designating trails does cause damage by facilitating backcountry use where enforcement and monitoring is extremely challenging. In addition, SUWA

- refers BLM to comments submitted by CPAA, which discusses the indirect and cumulative impacts that can occur from ORV use on designated trails, including rutting, soil erosion, and continued soil disturbance that can displace and damage artifacts, and also uncover cultural resources that had been previously covered by soil.
2. ORV impacts to vegetation are largely ignored. For example, Chapter 4's discussion of this impact is limited to two paragraphs, neither of which is quantitative in nature and which do not assess the probability of ORVs introducing and facilitating the spread of non-native species. However, the plan admits on p. 4-41 that "areas open to cross-country OHV use (1,100 acres)" would be more likely to experience surface disturbance, but fails to mention that this disturbance takes place in a WSA.
 3. Chapter 4's discussion of soils at 4-16 to 4-24 lacks well-considered, informed decisions about broad-scale uses with long-term impacts – such as the designation of thousands of miles of ORV routes. We have attached studies by Jane Belnap and others about the importance of protecting these desert soils, and about the damage that ORV use causes by facilitating the introduction of non-native species, erosion, the compaction of soils, alteration of the hydrologic function of the soil surface and other impacts.
 4. The DRMP/EIS never considers or analyzes whether current or proposed ORV use levels are sustainable over the long term.
 5. The BLM acknowledges the existence of over 1,000 cultural resource sites listed in the State Historic Preservation Office (SHPO), including the Cottonwood Canyon site which has been formally listed with the National Register of Historic Places (NRHP). However, approximately only half of these sites have been recommended for inclusion on the NRHP. Draft 3-60. The DRMP declares that the impacts of the preferred alternative will increase protection over Alternative A by implementing a route designation scheme. However, the BLM never quantifies this assertion with analysis of how close many of the proposed routes are to known sites. Also, there is no analysis of the likelihood that route designation will harm unknown sites.
 6. Given the 1,387 miles of ORV trails the plan proposes to designate (with an overall total of over 5000 miles of route when accounting for other roads in the Kanab Field Office), and given the proposed "open" ORV designation area in the Moquith Mountain WSA, the potential for soil erosion is significant. Soil erosion is one of the primary impacts of ORV use. Yet nowhere in the document is the estimated amount of soil lost to ORV use quantified. This information gap should be filled by inclusion of the best available data and methodology.
 7. At 4-189, there is 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 ORV decisions? 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 DEIS generally provides little or no discussion of cumulative impacts or the effects connected activities have on various resources. A summary of these requirements, with citations to the NEPA regulations and statute, is provided above. Its failure to account to those synergistic and additive impacts violates NEPA.

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

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

Additionally the riparian table 3-9 mentions that there are 385.5 acres of evaluated riparian areas in the Kanab Field Office and that 233 (60%) are in proper functioning condition, 143.6 (37%) are functioning-at risk, 5.8 (1.5%) are not functioning. The BLM should identify the areas in which ORV use is also permitted (where trails would be designated) and each stream's PFC rating, and discuss the combined effects of grazing and ORVs on these riparian areas.

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

The BLM has based its ORV route designations on a BLM inventory of "existing" routes augmented by route data provided by Garfield and Kane counties. This inventory of routes was then vetted by the interdisciplinary team and with consultation with county representatives. In the preferred alternative only 118 miles of route from an inventory totaling some 1,500 miles would not be designated as OPEN to ORV use. Over 90% of the routes that the counties and ORV groups wanted and advocated for are proposed by

BLM to be designated in the new travel plan. There appears to be little, if any objective “planning” and “travel management” involved in BLM’s proposed route designations

To approach route designation in this way is to abdicate BLM’s responsibility to actively manage its resources, protecting some while developing others in a manner that best meets overall needs and demands, as described in FLPMA. Instead, BLM has largely turned over the route designation process to special interest groups, a small spectrum of the public, with little independent analysis or active management. This is particularly troublesome given the results of the scoping comments which show that most members of the public are concerned about the effects of ORV use on natural resources and opportunities for quiet recreation. This pre-determined approach has infected the rest of the draft plan with an assumption that demand for ORV use is high and impacts relatively low. It has affected the development of alternatives, as well, with a complete lack of a proposal which addresses the needs of non-motorized visitors. For example, how many routes designated in the plan are for ORVs and how many trails are proposed for hikers? This is the type of information that must be disclosed in the final plan and final EIS. There are few, if any places in the Kanab planning area that a non-motorized user can go and not see or hear the impacts of ORV use.

E. Scope of Plan

The BLM avoids dealing with a range of important issues by declaring some beyond the scope of this plan. The issues of public education, enforcement/prosecution, vandalism and volunteer coordination are not addressed, but are critical to adequately analyzing the feasibility of implementing travel planning decisions and ORV route designations. Feasibility and estimated costs for implementation of the travel plan are no where to be found. BLM has not assessed implementation and enforcement planning. The DRMP is the appropriate document to address these issues.

F. Lack of Reasonable Range of Alternatives

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

Although the DRMP/EIS includes several alternatives for ORV route designations, it fails to include an alternative that would preclude ORV use in WSAs, proposed wilderness areas, non-WSA lands with wilderness characteristics, and other sensitive areas. Indeed, there are only 274 miles of difference between the routes designated in Alternatives B, C and D – not a meaningful difference in light of the 1,300+ miles of designated ORV routes and over 5000 miles of route total when combined with other dirt roads and trails on all lands. Thus, the DRMP/EIS violates NEPA’s requirement that the agency provide a reasonable range of alternatives for the public to consider, and for the agency to analyze in order to make a fully informed decision.

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

As discussed below, SUWA maintains that BLM has the authority and the responsibility pursuant to FLPMA § 202 to fully analyze and adopt an alternative that would designate new wilderness study areas. BLM's failure to fully consider and analyze such an alternative is fatal to its analysis. Indeed, even if designation of new WSAs was beyond the scope of BLM's authority – a point that SUWA vigorously disputes – NEPA requires that BLM fully consider, analyze, and disclose the environmental benefits and related costs of such an alternative. *See, e.g., City of Sausalito v. O'Neill*, 386 F.3d 1186, 1208-09 (9th Cir. 2004); *Natural Resources Defense Council v. Morton*, 458 F.2d 827, 837 (D.C. Cir. 1972).

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

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

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

The DRMP/EIS fails to provide an alternative avoiding potential environmental effects of designating particular 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. Federal regulations (43 C.F.R. 8342.1) require BLM to “minimize damage” to these natural resources, and “minimize conflict” with other users, yet there is no indication in the DRMP/EIS that the Kanab Field Office has considered and analyzed the site-specific environmental consequences and impacts to natural resources and other users of designating any of the motorized routes proposed in the DRMP/EIS. Additionally, the DRMP/EIS fails to analyze the cumulative effects of designating such a widespread network of motorized routes.

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

Increasing levels of motorized recreation will greatly reduce the opportunities for quiet, non-motorized recreation on BLM lands managed by the Kanab Field Office. Allowing

all uses (both motorized and non-motorized) on almost all routes and in all areas might work if use levels were low. However, this is not the case in the Kanab Field Office, as ORV use levels are increasing, and motorized recreation impacts and tends to displace non-motorized recreation. This is exactly what has happened on the public lands managed by the Moab FO over the past 10-15 years. Many non-motorized users now self-select away from previous non-motorized destinations such as Gemini Bridges, Poison Spider Mesa and Courthouse Wash because of the loud, dusty and unregulated use of ORVs. The same fate could await the lands in the Kanab Field Office, especially once so many ORV routes are designated and that information is promulgated to the public via maps and websites.

There are currently more than 5,000 miles of routes in the Kanab planning area on all lands, according to GIS information. (See Recreation Opportunity Spectrum maps, Exhibit E). There are few, if any places a non-motorized user can go to escape the sights or sounds of ORVs in popular visitation areas of the field office. BLM fails to provide for these quieter opportunities most acutely in the WSAs and non-WSA lands with wilderness character, where motorized users can affect the ability to achieve outstanding solitude or outstanding primitive and unconfined recreation. This DRMP/EIS does not provide equal recreational opportunities for non-motorized uses – or even try to move toward some semblance of balance.

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

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

43 C.F.R. § 8342.1

5. BLM Unjustifiably Rejected the Vermilion Cliffs Heritage Proposal

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

user-created routes; and the plan would help protect scarce resources for future generations even after visitation levels have doubled and the public's desire for undeveloped places of respite has grown even stronger.

The Vermilion Cliffs 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
- adequate sized areas in which to get out of earshot of motorized routes.

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

The troubling lack of mention of the Vermilion Cliffs Heritage Proposal in the Kanab RMP can only be interpreted that this reasonable and thoughtful scoping comment was ignored by the BLM in its planning process.

6. BLM Failed to Fully Analyze A No Leasing Alternative

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

III. LANDS WITH WILDERNESS CHARACTERISTICS

A. GENERAL COMMENTS

The Kanab Field Office manages over 500,000 acres of public lands in Garfield and Kane counties. This planning area includes approximately 175,000 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 89,780 non-WSA acres as possessing wilderness

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

characteristics. Some of these lands were identified by the *1999 Utah Wilderness Inventory (Revised 2003)*. Additional areas were identified by the more recent wilderness review which looked at lands within the Utah Wilderness Coalition (UWC) wilderness proposal. In sum, the BLM has inventoried or reviewed a total of 132,915 non-WSA acres for wilderness characteristics. SUWA recognizes and appreciates the BLM's efforts to inventory and identify all lands possessing wilderness characteristics in the Kanab Field Office. Indeed, the BLM now recognizes that 73% of the UWC wilderness proposal (outside of WSAs) possesses wilderness characteristics, which is an encouraging improvement.

The Kanab Field Office already manages 5 Wilderness Study Areas (WSAs) totaling 53,900 acres. Under all alternatives these WSAs must be managed under the non-impairment standard pursuant to IMP set forth in H-8550-1. The proposed "open" ORV designation within the sand dunes portion of the Moquith Mountain WSA is inimical to IMP management. BLM must account for soil, riparian, wildlife, vegetative, and T&E species impacts at the dunes which according to the IMP should cause the BLM to stop this use – not propose to legitimize it in the RMP. BLM must also take into account its own surveillance reports and other documentation regarding impacts to wilderness values in the WSA, and ensure that concerns which flow from those documents are addressed.

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

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

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

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

c. Wildlife habitat and riparian areas – FLPMA acknowledges the value of wildlife habitat found in public lands and recognizes habitat as an important use. 43 U.S.C. § 1702(c). Due to their unspoiled state, lands with wilderness characteristics provide valuable habitat for wildlife, thereby supporting additional resources and uses of the

public lands. As part of their habitat, many species are also dependent on riparian and other wetland habitats, especially during either seasonal migrations or seasons and years when surrounding habitats are dry and unproductive. Wilderness-quality lands support biodiversity, watershed protection and overall healthy ecosystems. The low route density, absence of development activities and corresponding dearth of motorized vehicles, which are integral to wilderness character, also ensure the clean air, clean water and lack of disturbance necessary for productive wildlife habitat and riparian areas (which support both wildlife habitat and human uses of water).

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

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

f. Quality of life – The wilderness quality lands located within the Kanab Field Office help to define the character of this area and are an important component of the quality of life for local residents and future generations, providing wilderness values in proximity to burgeoning recreational growth experienced by the Kanab 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 impacting and exclusionary uses (such as off-road vehicle use) will still have adequate opportunities on other BLM lands. Motorized routes should not be designated within lands with identified wilderness characteristics.

2. BLM should consider designating new Wilderness Study Areas

We are aware of the April 2003 settlement agreement (Utah Settlement) between Secretary of the Interior Norton and the State of Utah (in which BLM abdicated its authority to designate any additional Wilderness Study Areas (WSAs)), and we maintain that this agreement is invalid and will ultimately be overturned in pending litigation. The federal court in Utah revoked its approval of the Utah Settlement, stating that its approval of the initial settlement was never intended to be interpreted as a binding consent decree. Recognizing that the court's decision undermined the legal ground for the Utah Settlement, the State of Utah and the Department of Interior have now formally withdrawn the settlement as it was originally submitted. This casts serious doubt upon BLM's current policy not to consider designating new WSAs. Because the State of Utah and the Department of Interior have withdrawn their settlement and do not intend to seek a new consent decree, there is currently no binding consent decree; yet the BLM has failed to issue any updated guidance regarding the application of this misguided and illegal policy.

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

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

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

Of the 89,780 acres of unprotected BLM roadless lands, the BLM preferred alternative would manage 0 acres to preserve those wilderness characteristics. Without specific management to preserve identified wilderness characteristics, these roadless lands are threatened by oil & gas development and fragmentation from motorized routes.

The Kanab RMP should provide real management protection for these BLM roadless lands, a significant non-renewable resource that is threatened by oil & gas development and ORV use. Until the contentious question of wilderness on BLM lands in Utah is settled by legislative means, the BLM must, at a minimum, manage areas with identified wilderness characteristics in a manner so as to prevent actions causing *unnecessary and undue degradation* to those wilderness characteristics. This management strategy should apply to both non-WSA lands identified as possessing wilderness characteristics by the BLM and non-WSA lands with wilderness characteristics included in wilderness

proposals that have been introduced before Congress (i.e. the UWC ARWA proposal). This type of management would include oil and gas development restrictions that would preclude surface disturbing activities (such as no surface occupancy stipulations) and would preclude motorized route designations in areas with wilderness characteristics. Routes greatly impact the sense of naturalness within wilderness character areas, and designating routes within these areas would have grievous effects on the wilderness character. Impacts and damages from open motorized routes threaten the wilderness characteristics of a place. The presence of wilderness characteristics should make the BLM very cautious about route designation. Purpose and need of each proposed route must be carefully analyzed and weighed against the strong potential of damaging the wilderness characteristic resource.

Both the BLM's *1999 Utah Wilderness Inventory (Revised 2003)* and the recent Wilderness Characteristics Review (WCR) are positive steps to identify and inventory wilderness quality lands pursuant to 43 U.S.C. § 1711. . This is especially important because of the well-documented shortcomings of the original late 1970s BLM inventory that resulted in the creation of the FLPMA Section 603 WSAs.

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

The BLM preferred alternative designates motorized routes within areas found to possess wilderness characteristics. Naturally reclaiming routes will be designated within and around areas with identified wilderness characteristics. These route designations will promote ORV routes that are currently seldom- or never-used, do not have a compelling purpose and need, and will lead to disruption of soils, vegetation, wildlife and wildlife habitat, riparian areas, cultural resources, and scenic values, which cumulatively negatively impacts the naturalness and thus the wilderness characteristics of the areas. Proposed route designations in the White Cliffs/Upper Kanab Creek area, periphery areas of Parunuweap WSA, Bunting Point area east of Moquith Mountain. WSA, and the area east of Canaan Mountain WSA.

SUWA has attached, at Exhibit D, maps accompanying significant new information concerning lands that retain wilderness values and characteristics not yet identified by the BLM described below. 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 and narratives 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, we assumed for this purpose that outstanding solitude and/or primitive recreational activities already exist within the larger wilderness character unit, therefore it is not necessary for these "extension" areas to contain these wilderness characteristics as "stand-alone" units.

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

The Wilderness Act Section 2 (c) states that an area must "[g]enerally appear to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable." For each area, SUWA provides supplemental and new information that in fact these areas all "appear to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable." There are no significant impacts that detract from this naturalness impression. These observations are based on on-the-ground inventories and other records. In sum, BLM must review the new information that SUWA has provided, and conduct on-the-ground wilderness inventories and reviews for these areas.

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

Both the *1999 Utah Wilderness Inventory (Revised September 2004)* and the recent Kanab BLM's 2007 Wilderness Characteristics Reviews (WCR) have been positive steps by the BLM to update and identify wilderness quality lands pursuant to Section 201 of FLPMA. This is especially important because of the shortcomings of the original BLM wilderness inventory, started in the late 1970's, that resulted in the minimal creation of the FLPMA Section 603 WSAs. Vast tracks of BLM lands were arbitrarily and/or capriciously omitted from WSA designation for various reasons not in keeping with FLPMA's mandate. These errors and omissions made it impossible for the BLM to fully account for the extent of the wilderness resource during its FLPMA mandated wilderness inventories.

Within the Kanab Draft Resource Management Plan, several wilderness quality lands have yet to be appropriately identified as possessing wilderness characteristics. The Kanab Field Office has failed to identify the full extent of lands with a natural appearance

and not significantly impacted by man's activity. As a result, BLM should utilize this new information, information previously submitted by SUWA and supplemental new information described below, in an effort to accurately assess the wilderness resources within the Kanab Field Office.

The recent WCR arbitrarily excludes or fails to identify many natural and wilderness-character-quality BLM lands contiguous with the Dixie National Forest. In each case, these BLM parcels are part of a larger roadless and wilderness character landscape, and are not physically separated by a significant impact (rather, their only separation is an administrative boundary). The Kanab and Utah BLM bases this arbitrary exclusion on the fact that the Forest Service has not yet "administratively endorsed" their portion of the roadless area for wilderness designation, therefore, the area would have to meet the size requirements as a "stand alone unit." This arbitrary practice requires that lands within the Forest Service must be currently endorsed for wilderness designation in order for the adjacent Kanab BLM lands to meet the wilderness character and size requirement.

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

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

Below, we address lands with wilderness characteristics and provide – or have provided already – significant new information concerning additional lands that retain wilderness characteristics, lands not yet identified by the Kanab Field Office. This new information contains site-specific comments on lands outside the current WSAs and non-WSA lands with wilderness characteristics. As the majority of these areas are extensions of BLM-identified WSAs or non-WSA lands with wilderness characteristics, outstanding solitude and/or primitive recreational activities already exist within the larger wilderness character unit, therefore it is not necessary for extensions of these areas to contain these wilderness characteristics separately.

In addition to the information provided below, the attached maps and reports further illustrate and facilitate the depiction of wilderness characteristics. Many of the comments below, such as Comment A or Comment B, reference the same letters on the accompanying unit map. Highlighted shades of green on these wilderness character unit maps depict lands that retain and possess wilderness characteristics. In each of these particular areas wilderness characteristics are present but have not been fully identified by the Kanab Field Office. These green highlighted areas of the accompanying maps warrant a wilderness characteristic determination by the BLM.

In many situations, the Kanab BLM utilizes natural features as the extent of wilderness characteristics, when it is obvious to visitors on the ground that naturalness and wilderness characteristics clearly extend past this arbitrary boundary BLM utilizes. Importantly, the BLM's task is to identify the full extent of lands that continue to possess wilderness characteristics, and the location of several of the unit boundaries do not account for the full extent of the natural characteristics.

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

B. Site Specific Comments

Black Hills Wilderness Character Unit

Comment A - BLM fails to identify any of the BLM wilderness character lands that comprise the Black Hills wilderness character unit. BLM relies strictly on the contiguous Forest Service to be managing their portion of this roadless and wilderness character unit as Wilderness or as endorsed wilderness, and therefore, the area does not meet the size requirement only. BLM's assessment, outside the small areas of "Unit 2," are generally natural in appearance and possess this wilderness characteristic. This natural appearance, and in context with the entire roadless area well exceeding 5,000 acres of contiguous public lands, retains a wilderness character. But the BLM does not account for the full range of lands retaining wilderness character that overwhelming exists here.

SUWA requested documentation of BLM's policy that guides decisions in these situations, but Utah State Office personnel stated that there is no specific BLM policy. Therefore, the exclusion of this natural area, adjoining and contiguous with the larger Forest Service roadless area is not justified.

The Wilderness Act (c)(3) states that an area meets the size definition, by having "...at least five thousand acres of land or is sufficient size to make practicable its preservation and use in an unimpaired condition." Further, BLM's guidance of the Federal Lands

Policy and Management Act (FLMPA) directed the BLM to inventory its landscape for wilderness character. Section 603(c) to inventory "...those roadless areas of five thousand acres or more and roadless islands of the public lands, identified during the inventory required by section 201(a) of this Act as having wilderness characteristics described in the Wilderness Act of September 3, 1964..." Nowhere in the current guidance or policies does it state that a political boundary separates federal agency lands or that one agency must have made a formal recommendation for wilderness designation.

SUWA did supply the Kanab BLM with supplemental and new information for the Black Hills wilderness character unit previously, this information remains valid and BLM will need to correctly identify the area as retaining a wilderness character for all RMP planning purposes. *See* SUWA's Supplemental and New Wilderness Character and Characteristic Information: Canaan Mountain (Cappies Rock), Moquith Mountain (Bunting Point), Orderville Canyon (North Fork Virgin River), Parunuweap Canyon, Upper Kanab Creek, Heaps Canyon, Little Valley Canyon, Wide Hollow and Black Hills Units, dated June 25, 2005.

In addition, the accompanying map indicates BLM lands that possess and retain wilderness character and will need to be identified as such for the Kanab resource management planning.

See Exhibit D Maps

Canaan Mountain Wilderness Character Unit

Comment A – BLM Unit 1B – This area has been arbitrarily excluded from the larger wilderness character unit by BLM utilizing a section line to connect with the state lands. This approach fails to identify the naturalness of lands west of this political boundary. The identification or existence of wilderness characteristics does not match up with this political boundary. If a visitor were to stand directly atop this section line, they could not state that to the east wilderness characteristics are present, but when viewing the lands to the west these are suddenly absent. BLM notes that there is a concentration of vehicle routes in the area, but the edge of these features should be utilized as the wilderness character boundary, not the arbitrary section line. BLM needs to correct this omission and correctly include natural lands and identify the true extent of naturalness.

Comment B – BLM Unit 1C – BLM's boundary in this location fails to follow a significant impact, and crosses the natural landscape arbitrarily. As a result, natural lands to the east of this "zone of influence" boundary are not included within the larger wilderness character unit. If in fact a route is of a significant enough impact, then exclude it either by the utilization of a boundary adjustment or a cherry-stem.

Comment C – Outside the cursory evaluation for the 2004 Revisions to the 1999 Utah Wilderness Inventory, BLM has yet to fully assess and inventory this area. During the scoping phase of the Kanab RMP, SUWA provided significant new information concerning this area. *See* SUWA's Supplemental and New Wilderness Character and Characteristic Information: Canaan Mountain (Cappies Rock), Moquith Mountain

(Bunting Point), Orderville Canyon (North Fork Virgin River), Parunuweap Canyon, Upper Kanab Creek, Heaps Canyon, Little Valley Canyon, Wide Hollow and Black Hills Units, dated June 25, 2005.

This information is provided again for BLM to assess this particular area for the ongoing planning purposes:

BLM fails to accurately include the entire landscape that retains and displays its outstanding wilderness characteristics within the extreme southeastern Canaan Mountain unit. BLM and BLM's wilderness team did not reassess or revisit this particular area on the ground to verify the public's comment and acknowledgment that the BLM boundary failed to include all wilderness character lands. BLM provides and relies on an arbitrary justification stating "[T]he area southeast of the 8600 foot contour line is cumulatively impacted by campsites, 5.6 miles of ways, a telephone ROW, woodcutting and extensive OHV/ATV use." Perhaps the BLM is failing to manage for these impacting activities, but we do not accept BLM's blanket excuse the entire area is significantly impacted and somehow these wilderness characteristics end along the current arbitrary boundaries that run across the natural landscape. Past the BLM's inaccurate arbitrary section line and contour line, the area possesses an abundant amount of vegetation cover and topography relief. These screening aspects further enhance the natural characteristics of the area. Solitude characteristics also do not end or begin along this section line. Visitors who choose to enter this particular area do not somehow pass a magical line where there outstanding solitude experience begins. The correct wilderness characteristic determination would to continue the expansion of the boundary south and east until the BLM encounters a physical impact, make a evaluation on its significance and if an average visitor would be attracted to this feature, then either utilize it for a unit boundary or continue the expansion of wilderness characteristics until encountering another human impact. We are aware of increasing motorized use and impacts around Pine Spring, but these area extremely isolated and do not affect the entire are as a whole.

See Exhibit D Maps

Heaps Canyon Wilderness Character Unit

Comment A - BLM fails to identify any of the BLM lands that comprise the Heaps Canyon wilderness character unit. BLM rejects this area because contiguous Forest Service lands of this roadless and wilderness character unit have not been endorsed for wilderness. Therefore, the area does not meet the size requirement as a stand alone unit. Considering BLM's naturalness assessment though, the area is natural in appearance and in context with the entire roadless and wilderness character area, well exceeds 5,000 acres of contiguous public lands retaining wilderness character. This has not been correctly identified by the Kanab BLM.

For this current BLM size requirement and stand along justification, we've requested documentation of BLM's policy that guides BLM's decisions in these situations, but Utah State Office personnel stated that there is no specific BLM policy on this.

Therefore, the exclusion of this natural area, adjoining and contiguous with the larger Forest Service roadless area is not justified.

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

For this area, SUWA did supply the Kanab BLM with supplemental and new information for the Heaps Canyon wilderness character unit previously, this information remains valid and BLM will need to correctly identify the area as retaining a wilderness character for all RMP planning purposes. *See* SUWA's Supplemental and New Wilderness Character and Characteristic Information: Canaan Mountain (Cappies Rock), Moquith Mountain (Bunting Point), Orderville Canyon (North Fork Virgin River), Parunuweap Canyon, Upper Kanab Creek, Heaps Canyon, Little Valley Canyon, Wide Hollow and Black Hills Units, dated June 25, 2005.

In addition, the accompanying map indicates BLM lands that possess and retain wilderness character and will need to be identified as such for the Kanab resource management planning.

Comment B – This small area is part of the larger wilderness character unit and retains wilderness characteristics. Regardless of its size, it needs to be identified as possessing wilderness character.

See Exhibit D Maps

Little Valley Canyon Wilderness Character Unit

Comment A - BLM fails to identify any of the BLM lands that comprise the Little Valley Canyon wilderness character unit. BLM rejects this area because contiguous Forest Service lands of this roadless and wilderness character unit have not been endorsed for wilderness. Therefore, the area does not meet the size requirement as a stand alone unit. Considering BLM's naturalness assessment though, the area is natural in appearance and in context with the entire roadless and wilderness character area, well exceeds 5,000 acres of contiguous public lands retaining wilderness character. This has not been correctly identified by the Kanab BLM

For this current BLM size requirement and stand along justification, we've requested documentation of BLM's policy that guides BLM's decisions in these situations, but

Utah State Office personnel stated that there is no specific BLM policy on this. Therefore, the exclusion of this natural area, adjoining and contiguous with the larger Forest Service roadless area is not justified.

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

For this area, SUWA did supply the Kanab BLM with supplemental and new information for the Little Valley Canyon wilderness character unit previously, this information remains valid and BLM will need to correctly identify the area as retaining a wilderness character for all RMP planning purposes. *See* SUWA's Supplemental and New Wilderness Character and Characteristic Information: Canaan Mountain (Cappies Rock), Moquith Mountain (Bunting Point), Orderville Canyon (North Fork Virgin River), Parunuweap Canyon, Upper Kanab Creek, Heaps Canyon, Little Valley Canyon, Wide Hollow and Black Hills Units, dated June 25, 2005.

In addition, the accompanying map indicates BLM lands that possess and retain wilderness character and will need to be identified as such for the Kanab resource management planning.

See Exhibit D Maps

Moquith Mountain/Bunting Point Wilderness Character Unit

Comment A - Outside the cursory evaluation for the 2004 Revisions to the 1999 Utah Wilderness Inventory, BLM has yet to fully assess and inventory this area. During the Scoping phase of the Kanab RMP, SUWA provided significant new information concerning this situation. *See* SUWA's Supplemental and New Wilderness Character and Characteristic Information: Canaan Mountain (Cappies Rock), Moquith Mountain (Bunting Point), Orderville Canyon (North Fork Virgin River), Parunuweap Canyon, Upper Kanab Creek, Heaps Canyon, Little Valley Canyon, Wide Hollow and Black Hills Units, dated June 25, 2005.

This information is provided again for BLM to assess this particular area for the ongoing planning purposes:

Another example of where the BLM and the BLM revision wilderness team fail to inventory the area in question on the ground for any human impacts, but then rely and feel justified for wilderness character exclusion on several impacts that should be utilized as the unit boundary, namely the powerline and vehicle routes.

We are quite aware of several of the routes beginning to enter this particular area from the Sand Spring area, but a few of these have recently been eliminated by BLM physically blocking these with a wire fence and we compliment the BLM on this management practice. The few others that remain are not constructed or bladed routes, but a user-created ways that wind through the vegetation and trees to only end a short distance from the main Sand Spring route and near Sand Spring itself. BLM mentions a motorized camping area, OHV play area, corral and fenceline as a possible reason the entire area is severely *impacted*, but these features would be outside the wilderness characteristic area as they are all located around and near Sand Spring. One known fenceline enters this area, but it's not considered a significant impact that affects wilderness values and should be included. Overall the vast majorities of the lands located here, are free of any impacts whatsoever, possibly 99% of these area remains and possesses natural characteristics. Visitors to the end of Indian Canyon would be surprised that the south portion of the canyon system has been identified as possessing wilderness characteristics, but not the northern half which appears to retain and possess nearly identical wilderness and natural characteristics as the southern side. Are we to assume that somehow if one sits on a rock or rim along the southern portion of canyon, that it has better outstanding values than that of the north? BLM will need to correct this oversight and continue to expand its wilderness characteristic boundary north as shown by the supplemental map until it encounters a *significant* impact.

Comment B – This area is displayed on maps as BLM lands and this may be the result of a recent land exchange. If in fact this area is BLM administered lands it is contiguous and not physically separated from the wilderness character unit to the south, and therefore should be assessed for wilderness character.

See Exhibit D Maps

Orderville Canyon Wilderness Character Unit

Comment A – SUWA provided the BLM with significant new information concerning this area during scoping for the Kanab RMP. See SUWA's Supplemental and New Wilderness Character and Characteristic Information: Canaan Mountain (Cappies Rock), Moquith Mountain (Bunting Point), Orderville Canyon (North Fork Virgin River), Parunuweap Canyon, Upper Kanab Creek, Heaps Canyon, Little Valley Canyon, Wide Hollow and Black Hills Units, dated June 25, 2005. The submission of information did not get incorporated within the planning process and was not assessed during the recent WCR. SUWA's wilderness character comments remain valid and highlight the full extent of wilderness characteristics not identified by the BLM.

Below, the comments that SUWA provide the BLM on this area are provided again:

We congratulate the BLM in correctly evaluating the routes within this area and have removed these as cherry-stemmed routes. While BLM correctly included these routes, they failed to include the entire landscape that retains its

overwhelming natural characteristics to the north and east. BLM state within the Revisions to the 1999 Utah Wilderness Inventory that “[T]his area is part of Unit 2 which contains approximately 3.5 miles of vehicle ways, some of which are substantially intrusive. A proposed state land sale (which has since been consummated) was also taken into consideration and a determination was made that the sale and intrusive impacts were cumulatively significant.” Currently, the BLM boundary and WSA boundary is located along a natural rim above Orderville Canyon. This boundary, while being a natural feature, fails to include the full extent of wilderness characteristics present. The routes to the west were recently corrected and included within the unit as they were found to be substantially unnoticeable. Without the area being bound by a significant impact, wilderness values extend east into Orderville Canyon and will need to be included within the inventory unit.

Comment B –SUWA provided significant new information concerning this area to the BLM during the scoping period of the RMP. *See* SUWA’s Supplemental and New Wilderness Character and Characteristic Information: Canaan Mountain (Cappies Rock), Moquith Mountain (Bunting Point), Orderville Canyon (North Fork Virgin River), Parunuweap Canyon, Upper Kanab Creek, Heaps Canyon, Little Valley Canyon, Wide Hollow and Black Hills Units, dated June 25, 2005. None of this public information has yet been addressed or have these concerns and situation here been properly completed during its recent WCR. The comments remain valid and highlight where the full extent of wilderness characteristics are not identified by the BLM.

Below, the comments that SUWA provide the BLM on this area are provided again:

Did the BLM actually revisit the area in question? If so, they would have found that the current boundary utilizes a natural feature, rather than a significant impact. The lands in this area are adjacent and contiguous to the WSA and these values found within the area do not arbitrarily end at the natural rim feature, but extend into the benchlands. BLM attempts to state that, although the routes within the area are not significant, that they somehow cumulatively impact the entire area. An average visitor to the area would not be aware of many of these old faint ways and due to the dramatic topography of the area and abundant vegetation screening, would be overwhelmed by the wilderness characteristics present. BLM needs to expand the wilderness boundary in and onto the mesa until a significant impact is reached, then utilize this significant impact as the unit boundary.

See Exhibit D Maps

Paria Wilderness Adjacent Wilderness Character Units

SUWA does not have any additional information or comments at this time for the BLM Paria Wilderness Adjacent Wilderness Character Units, but may do so in the future if warranted.

Parunuweap Canyon Wilderness Character Unit

Comment A – SUWA has already provided significant new information concerning this area to the BLM during the Kanab scoping period of the RMP. *See* SUWA’s Supplemental and New Wilderness Character and Characteristic Information: Canaan Mountain (Cappies Rock), Moquith Mountain (Bunting Point), Orderville Canyon (North Fork Virgin River), Parunuweap Canyon, Upper Kanab Creek, Heaps Canyon, Little Valley Canyon, Wide Hollow and Black Hills Units, dated June 25, 2005.

In spite of having this information, it appears the BLM has yet to address these concerns during the recent WCR or within the DRMP/EIS. The comments remain valid and continue to demonstrate the full extent of wilderness characteristics not identified by the BLM.

Below, the comments that SUWA provided the BLM on this area during scoping are provided again:

BLM’s current boundary fails to utilize a physical or significant impact and therefore excludes land retaining wilderness characteristics from the Parunuweap Canyon unit. By expanding the wilderness characteristic boundary to the east, BLM would include all natural lands and would utilize the route along the rim to the south and private property boundaries to the north. This currently excluded area contains several unnamed side drainages to Co-op Creek and an abundant amount of vegetation cover all of which appear overwhelmingly natural free of any significant impacts.

Comment B – Again, SUWA has already provided significant new information concerning this area to the BLM during the scoping period of the RMP. *See* SUWA’s Supplemental and New Wilderness Character and Characteristic Information: Canaan Mountain (Cappies Rock), Moquith Mountain (Bunting Point), Orderville Canyon (North Fork Virgin River), Parunuweap Canyon, Upper Kanab Creek, Heaps Canyon, Little Valley Canyon, Wide Hollow and Black Hills Units, dated June 25, 2005. BLM should have assessed the area during the RMP process, but it appears the BLM has yet to address these concerns during its recent WCR. The natural landscape remains and the comments provided by SUWA in scoping continue to demonstrate where the full extent of wilderness characteristics are not identified by the BLM.

Below, the comments that SUWA provide the BLM on this area are provided again:

BLM has never properly assessed, evaluated or inventoried these benchlands for their wilderness characteristics either within the 1999 Utah Wilderness Inventory and especially within the Revisions to the 1999 Utah Wilderness Inventory. The boundary currently utilized a natural feature, also not being definable on the ground, inappropriately excludes adjacent natural lands free of any or significant impacts. Lands that would be seen by an average visitor as retaining their overwhelming wilderness characteristics, including appearing being affected only

by the forces of nature, as well as possessing outstanding opportunities for solitude and primitive type activities. As we have thoroughly documented over several of the past years, there are several routes that get continued use, but to overly state that entire mesa or plateau area is impacted by these few routes is not justified. In addition, the vast majority of vehicle ways are located on the state section which would not be include within the BLM unit. BLM needs to perform an on the ground inventory of the area, exclude only significant impact through either cherry-stems or boundary adjustments and include the remaining natural lands within lands with wilderness values as shown on the attached map.

Comment C – The BLM only assessed areas in the recent WCR not previously within the 1999 Utah Wilderness Inventory. The area was overly assumed to be all impacted by human features, but when on the ground, and performing a wilderness character inventory, the current natural rim boundary, an arbitrary feature, does not utilize a significant impact. As a result, SUWA provided significant new information addressing this situation and this area during the Kanab RMP scoping period. *See* SUWA’s Supplemental and New Wilderness Character and Characteristic Information: Canaan Mountain (Cappies Rock), Moquith Mountain (Bunting Point), Orderville Canyon (North Fork Virgin River), Parunuweap Canyon, Upper Kanab Creek, Heaps Canyon, Little Valley Canyon, Wide Hollow and Black Hills Units, dated June 25, 2005. As with all other areas around Parunuweap Canyon, BLM failed to incorporate these comments into its planning efforts and did not incorporate any of this information within the recent WCR. This failure to complete the identification task results in the full extent of wilderness characteristics not accounted for by the Kanab BLM.

Below, the comments that SUWA provide the BLM on this area are provided again:

BLM continues to fail to include the enter landscape retaining their natural and wilderness characteristics from the unit and then overly states that the area is cumulatively impacted by activities. The current BLM wilderness character boundary utilizes the natural rim above Meadow Canyon and Miners Gulch and inappropriately excludes one large upper side canyon and all natural benchlands. On the ground, these areas are overwhelmingly natural with no significant impacts affecting their appearance and will need to be reevaluated thoroughly. BLM appears recently to have only performed a map exercise, rather than performing a correct ground evaluation and can not accurately state that the area excludes lands lacking wilderness values. If an average visitor was to stand along BLM’s current wilderness character boundary, especially the one within the canyon, the overall impression would be that both sides appear overwhelming natural. For BLM to continue to locate their wilderness characteristic boundary along a natural feature and arbitrary locations is unacceptable and will need to be corrected. Wilderness characteristic boundaries will continue to include lands until a *significant* impact is located, which would be utilized as the boundary and is shown on the supplemental map.

Comment D – This area of BLM lands, adjacent to the SITLA section, does not have any significant impacts and is part of the larger area retaining wilderness and natural

characteristics. BLM's arbitrary exclusion is not a result of the lands not possessing natural character, but due to BLM's utilization of the natural rim boundary surrounding the area. The exclusion is not justified, but is part of the larger problem around the Parunuweap Canyon area in which BLM overly assumes the benches have been impacted, thus exclusion of the entire seems warranted, regardless of which areas remain free of any significant impacts whatsoever. This area therefore should be included and identified as part of the wilderness character unit.

Comment E – BLM did finally assess this particular area recently within the WCR. BLM correctly noted that the boundary of this particular area is indeed the Parunuweap Canyon WSA, which in this location, is not located along a physical impact. The contiguous natural lands remain a wilderness resource past the arbitrary rim boundary location. BLM's WCR is rather vague about this area, but attempts to justify its exclusion by noting that the area has been subject to chainings, lop and scatter and extensive wood-cutting. This is true, but along the mesa tops, and not within the larger and more rugged areas of the canyons. Thus, excluding the area as possessing wilderness character only by having the adjacent mesa tops having these impacts is unwarranted. These vegetation impacted areas are outside the wilderness character unit. BLM needs to assess the wilderness character that remains, and physically inventory the lower areas and side canyons. The areas north of the Foote Ranch are wild and free of any significant human impacts. The WSA boundary is contiguous and natural values do not end along this natural feature boundary, but extend into this area, despite the areas on the mesas that have been impacted. The recent WCR is unjustified by the overly exclusion of the natural areas.

Comment F – The use of the edge of a human feature identifies the small area here contiguous with the WSA that is free of any significant human impacts. This slight boundary expansion is warranted by the fact the lands to the east of the WSA are and appear natural.

See Exhibit D Maps

Upper Kanab Creek Wilderness Character Unit

Comment A – In both areas, the boundary BLM uses for the extent of the wilderness character falls along the mesa rim and not a physical or significant impact. This results in the contiguous lands that continue to remain natural in appearance and free of any significant human impacts have been arbitrarily separated from the entire wilderness character unit. It is improbable that wilderness characteristics end along natural features, and thus, the use of these to identify the area's wilderness values is a mistake. Only significant impacts should be excluded and in most all cases, utilizing the edge of these impacts is the correct method of identifying the full extent of wilderness character. Again, BLM overly exaggerates the impacts of the mesa tops ignoring the naturalness present below the rim.

See Exhibit D Maps

Vermilion Cliffs Wilderness Character Unit

BLM Unit 1:

Comment A –This area exemplifies the failure of the BLM to identify wilderness values and characteristics -- by an outright arbitrary separation of natural areas. Inexplicably, the BLM has created unrealistic subunits within what BLM identifies as “Unit 1.” This parceling up of the “units” is completely unnecessary, but is convenient when it comes down to not having to identify the natural and wilderness characteristics that are present. BLM correctly admits that Unit 1B is natural in appearance, but then due to BLM’s arbitrary selection of the boundaries for Unit 1B, then totaling only 3,948 acres, too small to make the stand alone size requirements for wilderness character identification which the BLM incorrectly utilized in this review. Importantly, none of the other sub units (1A, 1C, or 1D) are physically separated from the area containing Unit 1B. Another puzzling effect of the sub-uniting technique is that BLM creates Unit 1D which has both the ORV trails system in the south, then a larger natural area well to the north. Despite this disregard for the proper assessment of the area, there are by far more BLM lands here that remain natural in condition and appearance and are part of this particular wilderness character unit. Further, the only area truly significantly impacted by human features is where the Canyon Country 4X4 Club vandalized the area of Savage Point by cutting, removing and damaging vegetation and trees for an off-road vehicle trail area. This area unfortunately may no longer possess wilderness values due to this unauthorized work. Outside this area, which is easily excluded with boundaries, the landscape displays a natural appearance and retains wilderness values. The edge of significant physical impacts marks the boundaries of the area and remains large enough for a stand-alone area. Wilderness characteristics are unmistakably present and need to be identified as displayed on the accompanying map. This area is separated from Unit 2 and should be a stand along wilderness character unit.

BLM Unit 2:

Comment A – BLM does not utilize a human impact that delineates the edge of wilderness characteristics that exist within this area. Rather, BLM justifies this arbitrary and natural feature boundary by stating that the areas must have a concentration of vehicle routes, but this is not the case and is inaccurate on the ground. North of the current BLM boundary around the North Fork of Hugh Canyon remains natural in character and appearance, is free of any significant human impacts. This overwhelming natural redrock landscape continues up onto Savage Point to the edge of the newly created ORV route. Continuing around the area, BLM continues with the arbitrary exclusion of mostly the vegetated mesa tops, opposed to including these within the wilderness character area. The objective should be to locate all wilderness character boundaries along significant impacts, but BLM instead continues with the arbitrary use of natural features as to identify the wilderness character. This use, and the natural rims are not the edge of where wilderness characteristics start or end, and therefore fail to properly account for the contiguous lands that remain natural. The expansion to the edge of the significant disturbances is needed and is warranted due to the fact that these areas possess nearly no human impacts at all, and the few that do exist are insignificant in nature.

These substantially unnoticeable ways are adequately screened from view in the immediate area by the vegetation and variations in topography, and unquestionably are insignificant in context and character of the entire unit.

Comment B – This is another example where the BLM has not included or located the boundary to account for the full range of wilderness characteristics. BLM may be locating the wilderness character boundaries along the manageable locations, but the issue here is to identify the lands with wilderness character, not skip a step and look at the manageability of a wilderness character unit. From repeated visits to the flanks of the Vermilion Cliffs in these locations, it is known that the amount of human impact BLM attempts to justify is simply not present. Far more lands in this area are free from any human impacts whatsoever, than are not significantly affected by the few that exist. If in fact a human impact remains significant, which there are a few, it should be excluded by a cherry-stem, opposed to BLM's use of the natural cliff base that excludes many natural areas. In all, the vegetation, including the pinyon and juniper forested hills, and the rugged talus slopes are displayed and possess a natural characteristic. The natural features are a direct result of the natural process and are not affected by man's activity. BLM will need to end its arbitrary use of the cliff base and include the full extent of the wilderness character lands that are present.

Comment C – This small area is part of the larger wilderness character area and is not physically separated from the identified lands. It should be assessed by the BLM and then included within the larger area.

See Exhibit D Maps

Wide Hollow Wilderness Character Unit

SUWA does not have any additional information or comments at this time for the BLM Wide Hollow Wilderness Character Unit, but may do so in the future if warranted or needed.

Please *See Exhibit D* for all maps referenced in the preceding section.

IV. TRAVEL MANAGEMENT

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

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

The BLM's decision to move to a designated trail system and largely abandon cross-country use by ORVs is a positive step forward which SUWA supports. However, this new approach will not successfully stem ORV damage and user conflict if the route designations are skewed too far in favor of ORV use. ORV routes must be designated, first and foremost, to protect the resources, promote public safety, and minimize conflicts among users. *See*, 43 C.F.R. § 8342.1. Providing routes and areas for ORV use on public lands must be done with great care and analysis, and BLM must assure that the resources on the nation's public lands will not be impacted by such routes and use areas. SUWA's review of the DRMP/EIS shows that the BLM's approach to ORV management and its designation of over 1,300² miles of ORV routes has not taken into account a number of mandated regulatory, statutory and other considerations.

1. The Statutory and Regulatory Background

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

a. FLPMA

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

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

FLPMA § 1701(8).

FLPMA also requires the BLM to look beyond immediate, short-term considerations

² The DRMP/EIS states that the preferred alternative would include 1,387 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 Kanab Field Office to over 1900 miles of routes.

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

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

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

b. Executive Orders and Implementing Regulations

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

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

* * *

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

Executive Order Number 11644 Preamble and § 1.

Under Executive Order 11644 the BLM and other federal agencies are directed to “establish policies and provide for procedures that will ensure that the use of off-road vehicles on public lands will be controlled and directed so as to protect the resources of

those lands, to promote the safety of all users of those lands, and to minimize conflicts among various uses of those lands.” *Id.* § 1. In addition, the Executive Order requires federal agencies to implement regulations that designate areas and trails for ORV use so that “such areas and trails will be based upon the protection of the resources of the public lands, promotion of the safety of all users of those lands, and minimization of the conflicts among the various uses of those lands.” *Id.* § 3.

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

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

In 1979, BLM codified Executive Order 11644, as amended by Executive Order 11989, in its regulations at 43 C.F.R. Part 8340. See 44 Fed. Reg. 34,834 (June 15, 1979), and 53 Fed. Reg. 31,002 (Aug. 17, 1988). BLM’s regulations direct agency officials to designate public lands as open, closed, or limited to ORV use, and to generally follow the public participation requirements of the resource management planning process described in 43 C.F.R. §§ 1600 et seq. See 43 C.F.R. §§ 8340.0-1 and 8342.2.

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

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

Because of the intensity and scope of the damage caused by ORVs, a number of other statutory authorities and agency responsibilities are triggered by the Kanab Field Office’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 DRMP/EIS trail designations and their impact on cultural resources), Charles Schelz (regarding ORV impacts on riparian areas, soil integrity,

vegetation, and wildlife). We have also provided a bibliography with additional studies regarding the destructive effects of ORV use on public land. *See* Attachment Index.

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

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

Guidance at 2-1.

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

Further, the Guidance emphasizes the need for proactive route management and designation, based on the identification of the desired future condition of the travel area, the transportation needs of the area, management of other resources and needs for all modes of travel. 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, DRMP/EIS and discussions with BLM personnel involved in the RMP and travel plan development it is clear that the BLM did exactly what the Guidance warned against. Instead of actively choosing routes based on sensible criteria like the need for access, desired future condition and the protection of natural and cultural resources, the BLM simply “inherited” roads and trails from county maps and from off-road vehicle advocates.

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 BLM’s Land Use Planning Handbook:

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

The BLM's Handbook is based on the prescriptions set forth in the agency's regulations concerning ORV designations. These provide that all public lands are required to have off-highway vehicle area designations (*See* 43 CFR 8342.1). Areas must be classified as *open, limited, or closed* to motorized travel activities. Criteria for open, limited, and closed area designations are established in 43 CFR 8340.0-5(f), (g) and (h), respectively.

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

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

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

As noted above, the DRMP/EIS does not demonstrate a full range of travel types and modes, or other limitations sufficient to protect the resources at risk from ORV use. In particular, while BLM proposes to designate nearly 1,400 miles of ORV routes, there appears to be zero miles of hiking trail proposed in the DRMP. And because of the obvious public safety and other conflicts present, allowing hikers to use ORV trails is not a solution.

B. Insufficient NEPA and Compliance Analysis of Proposed Route Network

As discussed above, NEPA requires the BLM to disclose the direct, indirect and cumulative impacts of its proposed actions and take these impacts into consideration when making decisions. NEPA further requires that the public be provided with

sufficient information to comment on both the decisions and the manner in which the BLM made those decisions. In the context of designating routes for motorized use, the disclosure should include the manner in which the BLM assessed compliance with the directives of the ORV regulations and Executive Orders, such as minimizing damage to riparian areas and floodplains, wildlife and wildlife habitat and minimizing conflicts with other recreationists, as well as compliance with obligations under the Endangered Species Act and National Historic Preservation Act.

The DRMP/EIS does not present this information with respect to the differing travel networks under consideration in the DRMP/EIS. There is no way for a reviewer to identify the basis for the specific route designations proposed or confirm that the BLM has 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, and the potential conflicts with other users and the justification for designating the route with the proposed range of uses. The public should then have an opportunity to comment so that this input can be taken into account *before* issuance of a Proposed RMP/Final EIS.

C. THE BLM MUST IMMEDIATELY REMOVE KANE COUNTY'S ILLEGAL ROAD SIGNS

BLM has failed to address a key issue concerning the management of routes and trails on BLM lands, namely Kane County's continued posting of unauthorized road signs in BLM wilderness study areas and other wilderness quality public lands and waters in southern Utah. BLM should immediately remove these signs.

We are deeply troubled that BLM, by condoning trespass and impairment to our public wild lands, is taking the extreme position that the federal government will tolerate damage to our public lands and that those who damage our public lands can do so without fear that BLM will enforce the law. Such a position is contrary to law and BLM policy and must be reversed.

We expressed our concerns to the BLM about this matter in May 2005. Since then, the BLM has done almost nothing to discharge its duty to protect our public lands and the public's safety by removing the illegal signs. The failure to respond to trespass against

public lands and potential damage to public resources is a direct abdication of the BLM's management and enforcement duties.

Kane County posted its road signs on public lands without authorization from BLM. As of June 21, 2005, the BLM had documented hundreds of Kane County signs on public lands managed by the Kanab Field Office and the Grand Staircase-Escalante National Monument. Many of these signs on public lands managed by the Kanab FO encourage ORV use on lands formally "closed" to off-road vehicle travel in Moquith Mountain and Parunuweap WSAs.

The placement of Kane County's illegal off-road vehicle signs is an affront to the BLM's duty and authority to manage the federal lands and waters. Such action also invites damage to sensitive natural and cultural resources. Former Utah BLM Director Wisely noted in an April 26 letter to Kane County Commissioner Mark Habbeshaw, "I am very concerned that such [unauthorized signing] actions, which result in conflicting management directive, may likely present serious safety issues to members of the public, possibly subject them to legal exposure, and cause resource damage." Acting State Director reiterated these concerns in a letter to Kane County in October 2006.

We are dismayed that BLM has not removed the signs though the infractions have persisted for over two years.

The BLM's congressionally-mandated duty under FLPMA to protect BLM lands from unnecessary degradation is clear. Any implication to the contrary would be unjustified and immensely harmful to public lands throughout the West.

Recommendation: We strongly urge BLM to take immediate action to enforce the law and remove the illegal Kane County road signs from the wilderness study areas and other public lands (this would also apply to any Garfield County signs if that county posts such signs). In addition, the RMP should state that BLM shall immediately remove all signs that conflict with BLM's travel management decisions.

D. Site Specific Comments & Recommendations

SUWA directs the BLM's attention to our site-specific comments for various routes and their associated resource impacts and conflicts presented in Exhibit C, in addition to SUWA's Petition to Close the Vermilion Cliffs Area to ORV use, Exhibit F.

The BLM should refrain from designating "ways" within WSAs as official ORV routes. The BLM should be extremely judicious designating routes within lands identified as possessing wilderness characteristics. Each route that enters or crosses lands with a special designation (ACEC, WSR, VRM I or II, etc.) or identified wilderness characteristics should be much more carefully considered. Any route that BLM proposed to designate within these special areas must have clearly defined, compelling and documented purpose and need, and BLM must include strict enforcement and monitoring requirements and schedules in the DRMP. Duplicative routes and areas of higher route density must clearly be avoided in these special areas.

The environmental consequences of specific routes should be documented as a normative part of any NEPA analysis. Proposed routes that conflict with wilderness values and other resources are

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

BLM’s ACEC Manual (1613) provides additional detail on the criteria to be considered in ACEC designation, as discussed in the applicable regulations, as well. *See*, Manual 1613, Section .1 (Characteristics of ACECs); 43 C.F.R. § 8200. An area must possess relevance (such that it has significant value(s) in historic, cultural or scenic values, fish & wildlife resources, other natural systems/processes, or natural hazards) and importance (such that it has special significance and distinctiveness by being more than locally significant or especially rare, fragile or vulnerable). In addition, the area must require special management attention to protect the relevant and important values (where current management is not sufficient to protect these values or where the needed management action is considered unusual or unique), which is addressed in special protective management prescriptions. An ACEC is to be as large as is necessary to protect the important and relevant values. Manual 1613, Section .22.B.2 (Size of area to receive special management attention). For potential ACECs, management prescriptions are to be “fully developed” in the RMP. Manual 1613, Section .22 (Develop Management Prescriptions for Potential ACECs).

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

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

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

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

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

As discussed in detail previously in these comments, we believe that BLM’s abandonment of its authority to designate any additional Wilderness Study Areas is invalid and will ultimately be overturned in pending litigation⁴; and, therefore, does not prevent BLM from designating new WSAs.⁵

Regardless, BLM itself acknowledges that it has the ability to value wilderness character and protect it, including through ACEC designations. The Instruction Memoranda (IMs) Nos. 2003-274 and 2003-275, which formalize BLM’s policies concerning wilderness

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 failed to issue updated guidance, but instead, is continuing to apply its outdated, misguided, and illegal, policy. IM Nos. 2003-274 and 2003-275, which are explicitly based on an April 2003 settlement that no longer exists, are arguably invalid and do not apply to restrict BLM from designating new WSAs.

study and consideration of wilderness characteristics contemplate that BLM can continue to inventory for and protect land “with wilderness characteristics,” which are identified as natural or providing opportunities for solitude or primitive recreation, and specifically references ACEC designation. Indeed, the BLM’s guidance in IM-2003-275 states that “where ACEC values and wilderness characteristics coincide, the special management associated with an ACEC, if designated, may also protect wilderness characteristics.” This point is reinforced in the ACEC appendix of the Kanab DRMP (AH-3); clearly making the case that while ACECs are not a substitution for the designation of wilderness, they can certainly be an important tool used to preserve wilderness characteristics – an outstanding feature in its own right. Similarly, in a February 12, 2004, letter to William Meadows, President of The Wilderness Society, Assistant Secretaries of the Interior Rebecca Watson and Lynn Scarlett stated that “through the land use planning process, BLM uses the ACEC designation or other management prescriptions to protect wilderness characteristics or important natural or cultural resources.”

As discussed above, BLM has acknowledged the threats to lands with wilderness characteristics. However, the Kanab DRMP fails to support designation of ACECs to protect these values. BLM has identified approximately 89,780 acres of lands with wilderness characteristics. In addition, there are an additional 32,000 acres of lands with wilderness characteristics that are Citizen Proposed Wilderness lands, and are included in America’s Redrock Wilderness Act, that have been submitted to BLM with new information to inform the BLM as to the wilderness character of these lands.

Proposed eligible ACECs with wilderness characteristics that BLM declines to protect in its preferred alternative include: Welch’s Milkweed ACEC, Vermilion Cliffs ACEC, Parunuweap Canyon ACEC, and the White Cliffs ACEC. **BLM should designate these ACECs and consider designating others to protect lands with wilderness characteristics; and these ACECs should include protective management prescriptions, such as closure to oil and gas leasing and ORV use, in order to protect wilderness characteristics.**

The Kanab Field Office received nominations from the public for five ACECs during scoping, totaling 126,170 acres. The BLM evaluated the nominations and found that 60,600 acres in 5 areas met the relevance and importance criteria. Alternative C would designate all 60,600 acres of potential ACEC, while conversely, Alternative D would designate 0 acres. The BLM’s preferred alternative, B, would designate a single ACEC of 3,800 acres. This would be an expansion of the existing ACEC (Water Canyon/South Fork Indian Canyon) of 220 acres. That BLM has determined that 60,600 acres meet the relevance and importance criteria for ACEC designation, BLM must give priority to the designation of these ACECs in all alternatives, not merely Alternative C.

However, the preferred alternative would designate only a small fraction of acreage (6%) evaluated by the BLM to meet the relevance and importance criteria. This is a violation of FLPMA’s mandate that “priority” be given to designation of ACECs.

B. Site Specific ACEC Comments

Welsh's Milkweed Potential ACEC

The BLM has determined that 3,000 acres of this citizen-nominated ACEC meets the relevance and importance criteria for an ACEC. The outstanding scenery, sensitive or threatened species (Welsh's Milkweed and the tiger beetle), vernal pools, and geologically unique fault-controlled sand dunes more than adequately meets the ACEC relevance test for eligibility. The scenery and geological uniqueness of the dunes have been found more than locally significant and Welsh's milkweed, a federally listed species, and the tiger beetle are threatened by OHV use – meeting the importance criteria. (AH-10)

This ACEC must be designated if the BLM fulfills its FLPMA obligations to “give priority” to ACEC designation. The BLM well describes both the relevance and importance of this potential ACEC in Appendix H.

SUWA contends that the only way to manage this potential ACEC to protect the vulnerable plants and insects is to close the WSA portion of the dunes to ORV use. This would protect the values prompting this ACEC nomination. The state park portion of the dunes provides opportunities for ORV recreation. The WSA section of the dunes can provide a haven for these sensitive species, leave a portion of the dune ecosystem to natural processes, and provide opportunities for solitude and quiet recreation (which should be the management goal of a WSA already, right?)

Vermilion Cliffs Potential ACEC

The BLM has determined that 23,400 acres of this citizen-nominated ACEC meets the relevance and importance criteria for an ACEC. The outstanding scenery, high density of cultural sites, sensitive species (including the peregrine falcon, ferruginous hawk, and the southwestern willow flycatcher), sensitive soils, and riparian habitat more than adequately meets the ACEC relevance test for eligibility. The scenery (contiguous to 2 scenic byways), numerous sensitive species and cultural sites have been found more than locally significant and are threatened by OHV use – meeting the importance criteria. (AH-13-14)

This ACEC must be designated if the BLM fulfills its FLPMA obligations to “give priority” to ACEC designation. The BLM well describes both the relevance and importance of this potential ACEC in Appendix H.

Route designation should be restricted in this ACEC. Each route should have a compelling purpose and need. The BLM must take a hard look at resource damage (direct, indirect and cumulative) that may be incurred with each route. Certain portions of the ACEC, with high densities of known cultural sites, sensitive species and soils, and that are used by traditional, non-motorized users should be closed to ORV use altogether. The entire ACEC should be prioritized for on-the-ground cultural site surveys.

White Cliffs Potential ACEC

The BLM has determined that 26,000 acres of this citizen-nominated ACEC meets the relevance and importance criteria for an ACEC. The outstanding scenery, high density of cultural sites, sensitive species (including the Peregrine falcon, Ferruginous hawk, the Southwestern willow flycatcher and several imperiled bat species), and sensitive flora (including Welsh's Milkweed), riparian area, and sensitive soils more than adequately meets the ACEC relevance test for eligibility. The scenery (contiguous to 2 scenic byways), numerous sensitive species and cultural sites have been found more than locally significant and almost all of the sensitive species are threatened by OHV use – meeting the importance criteria. (AH-16-17)

This ACEC must be designated if the BLM fulfills its FLPMA obligations to “give priority” to ACEC designation. The BLM well describes both the relevance and importance of this potential ACEC in Appendix H.

Route designation should be restricted in this ACEC. Each route should have a compelling purpose and need. The BLM must take a hard look at resource damage that may be incurred with each route. Certain portions of the ACEC, with high densities of known cultural sites, sensitive soils, flora and fauna, should be closed to ORV use altogether. The entire ACEC should be prioritized for on-the-ground cultural site surveys.

Water and Indian Canyon Existing ACEC (Cottonwood Potential ACEC)

SUWA agrees with the expansion of this ACEC to protect water quality, cultural sites and riparian areas. Again, we urge the BLM to take a hard look at each route designated within the ACEC or contiguous to the ACEC and evaluate the impacts (including direct, indirect, and cumulative) to the resources that warrant the establishment of the ACEC in the first place.

Parunuweap Canyon Potential ACEC

The BLM has determined that 6,100 acres of this citizen-nominated ACEC meets the relevance and importance criteria for an ACEC. The outstanding scenery, high density of cultural sites, and sensitive species (including the peregrine falcon, Mexican spotted owl, the southwestern willow flycatcher and several imperiled bat species), more than adequately meets the ACEC relevance test for eligibility. The scenery, numerous sensitive species and cultural sites have been found more than locally significant – meeting the importance criteria. (AH-24-25)

This ACEC must be designated if the BLM fulfills its FLPMA obligations to “give priority” to ACEC designation. The BLM well describes both the relevance and importance of this potential ACEC in Appendix H.

Route designation should be restricted in this ACEC. Each route should have a compelling purpose and need. The BLM must take a hard look at resource damage that may be incurred with each route (including direct, indirect, and cumulative impacts).

Certain portions of the ACEC, with high densities of known cultural sites should be closed to ORV use altogether. The entire ACEC should be prioritized for on-the-ground cultural site surveys.

SUWA also contends that the values found to be relevant and important extend to acreage beyond the 6,100 in the potential ACEC. We urge the BLM to re-evaluate the extent of these values and designate a larger acreage.

VI. WILD & SCENIC RIVERS

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

Generally, the suitability and classifications expressed by the BLM in the Kanab RMP in Alternative C are supported by SUWA. Appendix G goes into great detail on the merits justifying eligibility of each river and stream. The suitability findings and tentative classifications expressed in Alternative C are the natural and logical outcome of the body of evidence presented in Appendix G in the eligibility findings.

The Kanab Field Office has reviewed and evaluated river and stream segments in the planning area and determined the eligibility of certain segments for inclusion in the Wild and Scenic River system. In the Virgin River drainage, the Cottonwood Canyon complex of drainages, and the Paria River, the BLM has identified and documented the outstandingly remarkable values that warrant each stream’s inclusion. The Kanab RMP seeks to determine the suitability of these eligible streams and then the agency will forward these suitable segments for consideration by Congress for designation in the Wild and Scenic River System.

The East Fork of the Virgin River, through Parunuweap Canyon, has been found eligible with the classification of “wild” (Segment 37-40a). DRMP/EIS 2-104. The preferred alternative would downgrade this classification to “scenic,” perhaps to allow the BLM to add some facilities along the primitive way through this section. However, this section is already within a WSA, and as such, should be managed to the IMP standard. SUWA urges the BLM to classify this section as “wild,” which is appropriate within a WSA.

The Cottonwood Canyon complex of canyons found eligible for inclusion in the WSR system include Cottonwood Canyon, Hell Dive Canyon, Water Canyon, Indian Canyon and the South Fork of Indian Canyon. These are, however, omitted from the BLM preferred alternative. Much of this complex is already included in the Moquith Mountain WSA or the expanded existing Cottonwood/Indian ACEC. WSR protections would be complementary to the management goals of both the WSA and ACEC.

VII. OIL & GAS DEVELOPMENT

Summary

The BLM should select Alternative C of the Kanab Draft RMP for oil and gas leasing stipulations. This alternative creates an excellent balance between resource protection and continued oil and gas development in an area of world class scenery and recreation. In addition, by BLM's own admission selection of Alternative C will not decrease the reasonably foreseeable development scenario for the planning area. 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 planning area.

Indeed, none of the four alternatives analyzed in the Kanab Draft RMP would result in any practical difference in terms of oil and gas development. The reasonably foreseeable development scenario would be ninety wells under alternatives A, B, C, or D. Kanab Draft RMP at 4-198. At a minimum, the Kanab Field Office should therefore select Alternative C as its preferred alternative since it would not result in any reduction to the reasonably foreseeable development scenario in the planning office while maximizing protection for sensitive resources. The oil and gas leasing alternatives should also be changed to increase protection for sensitive areas that contain little or no oil and gas potential, as this will have little or no impact on the reasonably foreseeable development scenarios in the planning area.

The planning area is generally a more speculative and risky location for oil and gas development than the more productive parts of the State of Utah. Data compiled by the Utah Division of Oil, Gas and Mining (DOGGM) demonstrates this. For example, in Duchesne County, Utah 98% of the 832 wells drilled since 2004 have produced oil or gas and in Uintah County, Utah 94% of the 2,014 wells drilled since 2004 have produced oil or gas.⁶ However, in Kane and Garfield counties, which cover the entire planning area, 0% of the combined three wells drilled since 2004 have produced oil and gas.⁷ The BLM must more fully quantify this risk, as well as the potential for mineral recovery (and the likely amounts to be recovered) and compare them to the gains to the environment from the most well-balanced alternative, Alternative C. It would be inappropriate to sacrifice the outstanding environmental resources, visual resources, and recreational resources of the planning area to speculation and risk.

From 1960 to the present, the planning area has seen fifty-seven wells drilled on the federal mineral estate; most of these wells were drilled on U.S. Forest Service lands.

⁶ See DOGM, Utah Oil and Gas, Drilling Results – 2004 – Completed or Abandoned by County, http://oilgas.ogm.utah.gov/Statistics/WCR_county5.cfm; DOGM, Utah Oil and Gas, Drilling Results – 2005 – Completed or Abandoned by County, http://oilgas.ogm.utah.gov/Statistics/WCR_county4.cfm; DOGM, Utah Oil and Gas, Drilling Results – 2006 – Completed or Abandoned by County, http://oilgas.ogm.utah.gov/Statistics/WCR_county3.cfm; DOGM, Utah Oil and Gas, Drilling Results – 2007 – Completed or Abandoned by County, http://oilgas.ogm.utah.gov/Statistics/WCR_county2.cfm (as of Jan. 3, 2008).

⁷ See *id.*

Kanab Draft RMP at 3-90. The last time a well was drilled on the federal mineral estate in the planning area was in the 1990s. *Id.* Even counting the wells drilled on surface lands managed by the U.S. Forest Service, the Kanab Field Office has only seen an average of 1.2 wells drilled per year since 1960. However, the Kanab Draft RMP evaluates an unjustifiably inflated reasonably foreseeable development scenario of ninety wells over a twenty-year period – or 4.5 wells per year. *Id.* at 3-90, 4-198. This rate is nearly four times the historic average for the Kanab Field Office, including surface lands managed by the U.S. Forest Service. Although oil and gas development may be subject to fluctuations, the reasonably foreseeable development scenario significantly exceeds the historical reality of the planning area.

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

One shortcoming common to every alternative analyzed in the Kanab Draft RMP is that the BLM has not endeavored to match oil and gas leasing stipulations with actual known geologic reserves of oil and gas and areas of historical development. A recent report cited in the Kanab Draft RMP, the *Scientific Inventory of Onshore Federal Lands’ Oil and Gas Resources and Reserves and the Extent and Nature of Restrictions or Impediments to Their Development*, prepared by the United State Department of the Interior, Department of Agriculture, and Department of Energy shows that nearly the entire field office is identified as having the lowest possible concentrations of oil and gas in the rating system used in the report, or no predicted oil and gas whatsoever. *Id.* at 52, 101 (2006).⁸ The only known oil field in the planning area is found on surface land managed by the Forest Service, the Upper Valley Oil Field (in T36S R1E and T37S R1E). Kanab Draft RMP at Map 3-18. Almost all of the present leasing is found along the U.S. 89 corridor north of Glendale and in a concentrated area west of Glendale but east of the planning area boundary. *Id.*

The limited amount of lands presently under lease has little, if anything, to do with BLM leasing restrictions. Since only the WSAs and the Paria Wilderness Area are closed to leasing under the present management framework and the majority of the planning area being open subject only to standard leasing terms, the limited leasing has more to do with limited oil and gas resources and lack of interest on the part of oil and gas development companies. *See* Kanab Draft RMP at Map 4-1.

⁸ The Kanab Draft RMP cites an older version of U.S. Department of the Interior *et al.*’s *Scientific Inventory of Onshore Federal Lands’ Oil and Gas Resources and Reserves and the Extent and Nature of Restrictions or Impediments to Their Development*, which was released in 2005. *See* Kanab Draft RMP at R-12. One year later a newer version of the report was released which included a number of new basins and analysis of the additional impacts from drilling permit conditions of approval. *See* U.S Department of the Interior, BLM, EPCA Phase II Inventory, EPCA Phase II Report, <http://www.blm.gov/epca/>. The updated report does not change the absolutely *de minimis* predictions for oil and gas resources in the planning area.

Despite the limited extent of oil and gas resources and the historically concentrated area of oil and gas development, the BLM has left open areas of little or no interest in terms of oil and gas leasing to the detriment of environmentally sensitive areas. Although, such areas may have little attraction to most oil and gas developers, the risk remains that a company could attempt a speculative endeavor in these sensitive lands. This sort of speculative development is almost certain to result in failure at a high cost to sensitive public lands. For this reason the BLM should close or severely restrict oil and gas development in these environmentally sensitive lands with marginal oil and gas development potential.

The BLM should modify the alternatives, particularly Alternative C, so that they will close additional environmentally sensitive areas to leasing – or to surface occupancy – since such closures are unlikely to limit feasible oil and gas production in the planning area. The BLM should either close to leasing or impose no surface occupancy restrictions on the entire area south of U.S. 9 and west of U.S. 89. Though no current leases exist in this area, it is an extremely environmentally sensitive and deserving of protection from these damaging activities. The area contains the following important resources: three WSAs and additional non-WSA lands with wilderness characteristics, an area of relict vegetation, critical habitat of the Mexican spotted owl, crucial and high value mule deer habitat, elk habitat, crucial desert bighorn sheep habitat, and numerous proposed ACECs. Kanab Draft RMP at Maps 2-39, 3-4, 3-8, 3-10, 3-11, 3-12, 3-15, 3-18. Furthermore, the National Park Service has expressed concern that leasing in this area could damage the Navajo Aquifer; the BLM should not offer for lease any lands overlying the Navajo Aquifer because of the resulting degradation that could occur in Zion National Park. *See* Letter from Martin C. Ott, Superintendent, Zion National Park, National Park Service, to Barbara Sharrow, Acting Field Office Manager, Kanab Field Office (Jan. 4, 2002) (attached as Attachment RR).

The BLM should also close to leasing or place no surface occupancy restrictions on all lands east of U.S. 89 and south of the road running from Glendale to the Skutumpah road. No current leases exist in this area, it contains non-WSA lands with wilderness characteristics, is home to areas of relict vegetation and fragile soils, contains crucial and high value mule deer habitat, contains elk habitat, and has numerous proposed ACECs. Kanab Draft RMP at Maps 2-39, 3-4, 3-10, 3-11, 3-15, 3-18.

In addition, all lands containing critical habitat for the Mexican spotted owl on the western edge of the planning area should either be closed to leasing or restricted to no surface occupancy (T39-43S R8-9W). *See id.* at Map 3-8. Furthermore, the BLM should either close to leasing or place no surface occupancy stipulations on greater sage-grouse brooding areas and winter range. *See id.* at Map 3-9.

The BLM's reasonably foreseeable development (RFD) scenario is arbitrary and capricious and ignores historic development trends in the planning area. As discussed above, from 1960 to the present, the planning area has had only fifty-seven wells drilled on the federal mineral estate (mostly on Forest Service lands). Kanab Draft RMP at 3-90. For the past twenty years, the oil and gas production of this already marginal area has further declined; the last time a well was drilled on the federal mineral estate in the

planning area was in the 1990s. *Id.* The KFO has averaged just over one well drilled per year historically (even counting those wells drilled on Forest Service lands). However, the Kanab Draft RMP evaluates an inflated RFD scenario of ninety wells over a twenty-year period – or 4.5 wells per year. *Id.* at 3-90, 4-198.

The BLM provides no justification for this figure. Inexplicably, the RFD actually excludes the past twenty years from its calculations, seemingly for no other reason than because recent figures have been low. *See* Reasonably Foreseeable Development Scenario § 6.1.1 (attached as Attachment SS). Furthermore, even excluding the last twenty years of oil and gas development, the planning area has averaged only 2.5 wells per year (and the BLM does not even clarify if this figure is only from the federal mineral estate). *See id.* Despite historical evidence to the contrary, the BLM ultimately settles on an RFD scenario of nearly five wells per year. Kanab Draft RMP at 3-90, 4-198. This RFD scenario is arbitrary, capricious, and unrealistic. No twenty-year period in the history of the planning area has ever seen such a high rate of development. BLM's apparent reliance on the rationale that increased demand and improved technology will result in such a high RFD rings hollow as oil and gas extraction technology has never been more advanced and nationwide oil and gas demand has never been higher than the past twenty years, yet production rates in the planning area have continued to decrease. *See* Reasonably Foreseeable Development Scenario § 6.1.1.

The BLM must develop a new reasonably foreseeable development scenario that is historically accurate and actually tied to productive oil and gas fields. The present method completely ignores historical trends and declining production. None of the alternatives close certain, environmentally sensitive areas that should be closed, which hold little or no oil and gas production potential and are mostly unleased.

B. The BLM Must Consider a No Leasing Alternative

As part of its analysis the BLM must consider a no leasing alternative – in addition to a no action alternative. The current draft of the RMP fails to consider such an alternative. Federal courts have made clear that a no leasing alternative should be a vital component in ensuring that agencies have all possible approaches before them. *See, e.g., Bob Marshall Alliance v. Hodel*, 852 F.2d 1223, 1228 (9th Cir. 1988). The no action alternative, Alternative A, would simply be a continuation of the existing management plans. Kanab Draft RMP at 2-2. It does not analyze the possibility of a no leasing alternative. The existing management plans, three different management framework plans, are not NEPA documents and thus do not constitute adequate pre-leasing analyses that considered a no leasing alternative. *Southern Utah Wilderness Alliance et al.*, 164 IBLA 118 (2004). Finally, the brief mention and rejection in the 1976 Oil and Gas Leasing Program, Kanab District, Environmental Analysis Report (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 Kanab planning area, something it is required to do. *See Bob Marshall Alliance*, 852 F.2d at 1228.

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

The Kanab Draft RMP does not contain a coherent analysis of the additional environmental and recreational benefits of Alternative C – as well as variation including the additional closures and stipulations discussed above – with the preferred alternative. The BLM must take a hard look at whether any actual trade off exists between the preferred alternative and the additional protections of an alternative that include all of the closures and stipulations found in Alternative C as well as the additional closures and stipulations recommended above. The Kanab Draft RMP already states that none of the current alternatives would result in any changes to the RFD. Kanab Draft RMP at 4-198. Although, the additional stipulations and closures discussed above in these comments could result in some slight decrease in the RFD scenario for the planning area, the BLM has not endeavored to calculate how additional protections would affect the RFD scenario or whether the benefits from such additional closures and stipulations would not outweigh the preferred alternative. The BLM must clearly analyze these differences and present them to the public in a coherent and succinct format.

VIII. RECREATION

A. RECREATION AND SPECIAL RECREATION MANAGEMENT AREAS (SRMAS)

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

As a preliminary matter, it appears that the BLM may have attempted to address the minimization criteria of the federal regulations and Executive Orders, requiring it to minimize ORV harm to the environment and conflicts with other users, simply by creating SRMA's. If this is the case, then we emphasize that the creation of SRMAs does not, in itself, satisfy the Executive Orders and regulations pertaining to ORV use. *See*, Executive Orders (Executive Order No. 11644 (1972) as amended by Executive Order No. 11989 (1977)) and BLM's regulations (43 C.F.R. § 8342.1).

Specifically, it does not relieve the BLM from the duty to apply the minimization criteria to each of the ORV routes and areas it proposes to designate as "open" in the plan. The regulations and the criteria require minimization throughout the planning area, not just in specifically defined areas such as the SRMAs.

The DRMP/EIS makes several references to increased recreation use in the planning area over the last two decades. The DRMP/EIS states, "[s]ince the completion of the existing LUPs, considerable changes to recreation use have occurred within the decision area. In certain parts, **increased visitor use is affecting soil, water, vegetation, and wildlife and**

the potential for conflicts between recreationists is increasing . . . recreation use has increased significantly since the implementation of current management direction.” DRMP/EIS, p. 1-9. This is especially true for motorized off-road recreation, which “has become one of the fastest growing recreational activities. Consequently, existing management efforts and processes, which were developed to address OHV use levels 20 years ago, are often inadequate.” DRMP/EIS, p. 3-80. The DRMP/EIS provides several statements that show the damaging and disruptive nature of motorized recreation areas within the planning area, for example:

“Identification of and development within SRMAs (125,800 acres, 23%) could result in soil compaction or reduction of vegetation cover in some areas, which could result in increased overland flow and sediment loading to nearby streams and rivers. **These impacts would be more likely in SRMAs with motorized activities.**” DRMP/EIS, p. 4-30.

“Surface disturbing activities, such as energy developments, ROWs, road and trail construction, or other activities may reduce habitat quality or lead to habitat alteration, fragmentation, or loss.” DRMP/EIS, p. 4-70.

These statements demonstrate the importance of choosing an alternative that designates SRMAs and RMZs that limit recreation by motorized use in the planning area in order to protect the area from undue or unnecessary degradation and conflicts between users. Unfortunately, no such alternative exists in the DRMP/EIS.

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. In the DRMP/EIS, the designated SRMAs and ERMA are overwhelmingly managed for motorized use in all alternatives with little difference between the alternatives:

- **Alternative B** allows for 509,100 acres out of 554,000 total acres (92 %) to be managed either specifically for motorized uses or both motorized and non-motorized uses. Only 44,900 acres (8 %) will be managed specifically for non-motorized uses. DRMP/EIS, p. 2-3.
- **Alternative C** allows for 493,750 acres out of 554,000 total acres (89 %) to be managed for both motorized uses and non-motorized uses. Only 60,250 acres (11 %) will be managed specifically for non-motorized uses. DRMP/EIS, p. 2-4.
- **Alternative D** allows for 526,700 acres out of 554,000 total acres (95 %) to be managed either specifically for motorized uses or both motorized and non-motorized uses. Only 27,300 acres (5 %) will be managed specifically for non-motorized uses. DRMP/EIS, p. 2-5.

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. *See* 40 C.F.R. §§ 1502.14(a) and 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.” *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).

Under the plain language and intent of these provisions, the BLM has not provided a reasonable range of alternatives for the designations of SRMAs and RMZs to sufficiently address the aforementioned increasing damage caused by ORV use, including conflicts between recreationists. Motorized uses can interfere and effectively cancel-out the benefits derived from non-motorized uses depending on the area. Conversely, non-motorized use does not typically disrupt the motorized recreational experience and benefits nearly as much due to its lower impacts to soundscapes, vegetation, soils, wildlife, air quality, and natural surroundings. Thus, the Kanab Field Office has turned the benefits-based analysis on its head in the designation of SRMAs/RMZs. The current selection of alternatives is not a reasonable range for the multiple uses of the area because there is no alternative that looks at the benefits of not having the vast majority of the planning area managed to permit motorized use, whether non-motorized use is also allowed or not. BLM must develop an alternative for SRMAs that protects a significant portion of the planning area from the impacts of motorized use in order to fulfill the requirements of NEPA, the CEQ regulations, and case law.

In addition to providing a reasonable range of alternatives, the BLM must take a “hard look” at the environmental consequences of designating SRMAs as well as not designating SRMAs 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 Kanab Field Office has failed to take a hard look at the impacts of motorized uses in designated SRMAs. For example, the DRMP/EIS discusses potential impacts to soils from the designated SRMAs in the preferred alternative (B) as follows:

Motorized activities in SRMAs could increase use on routes, which could indirectly protect nearby soils from increased erosion because surface disturbance would be focused in areas that have already been impacted. Non-motorized activities in SRMAs would be more dispersed, which could have site-specific impacts in areas of concentrated use. Proper management and public education would reduce the intensity and magnitude of these impacts on soil resources. P. 4-20.

Here, the BLM chose to focus on one alleged indirect benefit of decreasing erosion to areas that have yet to be harmed by motorized uses. This does not evaluate impacts to sensitive and fragile soils as well as biological soil crusts either in SRMAs or areas that should be SRMAs but not designated as such that are highly susceptible to erosion and loss of vegetative cover from recreational uses.

Throughout the environmental consequences section, the BLM fails to perform an adequate analysis for recreation management pursuant to NEPA.

Recommendation: BLM should develop and choose an alternative that manages a significant portion of the planning area as non-motorized. BLM should also take the requisite hard look at impacts from the designated SRMAs and lack of SRMAs before moving forward. This hard look should naturally include the new alternative with more specific non-motorized use in SRMAs in order to be in compliance with NEPA, the CEQ regulations, and case law.

B. SPECIAL RECREATION PERMITS

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

In general, we support the BLM choosing Alternative C, rather than the current preferred alternative (B) in order to provide the proper protection for lands and other recreationists in the planning area. Safeguards provided in Alternative C that are more protective than Alternative B include:

- Limiting group size to a maximum of 8 people in protected and restricted [Mexican Spotted Owl] habitat. DRMP/EIS, p. 2-80.
- Limiting group size to 20 people in all other areas that do not include wetlands/riparian zones, WSAs, designated critical habitat for special status species, and allowing more than 20 people on a case-by-case basis in areas where resources would not be damaged. DRMP/EIS, p. 2-81.

By choosing Alternative C and limiting SRPs in this manner, the BLM will be providing more protection to the planning area from large group recreation as well as having more control that is needed to monitor and enforce such uses.

The list of various factors to be considered before issuance of an SRP in Alternatives B, C, and D can provide a good screen before a SRP is issued. DRMP/EIS, p. 2-80. These factors include the following:

- Nature of proposed event or activity (i.e., commercial versus competitive)
- Size (acreage) and sensitivity of land and resources affected (ACEC, WSA, VRM)
- Compatibility with other uses, activities, and visitors in that area
- Proposed number of participants and group size
- Associated vehicle and equipment
- Time (daily, seasonally) and duration of proposed use
- Potential social impacts (crowding, group encounters, conflicting activities, and/or experiences)

- Specific resources impacted (e.g., wildlife, cultural, paleontology, visual, riparian, soil, air, and water)
- Rehabilitation and monitoring needs and feasibility
- Support needs (people, equipment, supplies, vehicles)
- Safety issues.

While this list is a good start, further definition of what each of these criteria and how they will be applied in future management actions should also be incorporated into this list. This would provide the BLM and the general public a clearer and more complete picture of what is expected for SRPs to be issued in certain areas.

One example that the Kanab Field Office can use to further define their criteria for an SRP can be found in the 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.⁹ These factors are defined and then compared in a simple permit classification matrix consisting of Classes I through IV (with I being for smaller and less impacting events and IV being for larger, more impacting events). Each Class also has an example of the type of event that may fit into the category. After the Class is determined, the BLM can then look to see how permit types fit into ROS Classifications and/or SRMA/ERMA. Various SRMAs can be broken into classes and it is easy to see what types of uses and events should be permitted for each area.

Recommendation: BLM should choose Alternative C rather than the preferred alternative in order to better protect the planning area from damage caused by large events. The factors weighed before an SRP is issued should be further defined, with clear guidelines. The Kanab Field Office should also consider using the model provided by the Price Field Office DRMP/EIS for classification of SRPs to show what uses may be appropriate/inappropriate in what areas.

There are several factors the BLM should always take into account before an SRP is issued. The DRMP/EIS for management of a particular area provides the ideal forum to list such factors by which each SRP should be weighed in future actions. At a minimum, the DRMP/EIS should address the following:

- Duration of permit – all permits should be limited to a temporary and short-term activity. SRPs should only be issued on a one-time basis and should not be extended to 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 –the DRMP must include a limit on the number of vehicles, and description of the type of vehicles that would be considered for specific areas in which SRPs would be considered in order for the decision-maker to assess the potential for damage to environmental and cultural resources.

⁹ 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.

- 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, high-clearance jeeps (“rock crawler”)) have different impacts and require different management prescriptions. However, the current DRMP/EIS 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 DRMP/EIS 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, riparian areas, 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 Kanab 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. MANAGEMENT OF WILDERNESS STUDY AREAS

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

As acknowledged in the DRMP/EIS, BLM is obligated to manage the WSAs in accordance with the Interim Management Policy (IMP) for Lands Under Wilderness Review (BLM Manual H-8550-1), which requires that WSAs are managed to protect their wilderness values. DRMP/EIS, p. 2-30. The IMP requires management of the WSAs in the Kanab Field Office in accordance with the nonimpairment standard, such that no activities are allowed that may adversely affect the WSAs’ potential for designation as wilderness. As stated in the IMP, the “overriding consideration” for management is that:

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

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

As a threshold matter, we would like to emphasize that continued motorized use in WSAs can damage wilderness suitability and therefore should be prohibited under both the interim management policy and the ORV regulations. Alternative C provides for all of the WSAs to be closed to ORVs. All motorized ways in WSAs should be closed and restored. The DRMP/EIS provides for designation of “routes” in the WSAs. DRMP/EIS, p. 2-43. In order to comply with the IMP, any designations should refer only to “ways,” rather than routes.

Although Alternative C provides for the WSAs to be closed to motorized use, the other alternatives, including the Preferred Alternative, provide for areas that will be open to cross-country use and for designation of some distance of routes. DRMP/EIS, p. 2-111. Both Alternative B, the preferred alternative, and Alternative D provide for a 1,100-acre area in the Moquith Mountain WSA that will be open to cross-country ORV use. *Id.* This is an increase over the 730 acres in the Sand Wash area that would be open to ORV use in the “no action” alternative. *Id.*

The DRMP/EIS (at p. 2-30) does provide that use of designated routes:

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

Similarly, in analyzing the impacts of the various management alternatives, the DRMP/EIS (at p. 4-233) sets out the guiding assumptions as:

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

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

The DRMP/EIS (at p. 4-236) acknowledges that in Alternative C, which closes all five WSAs to ORV use:

Compared to Alternative A, impacts on WSAs from way designation and OHV use would be eliminated due to closing all OHV routes (inventoried ways) within WSAs. In addition, closing the Moquith Mountain SRMA Dunes RMZ to cross-country OHV use would eliminate short-term impacts noted in Alternative A, preserving opportunities for solitude and primitive recreation.

Since Alternatives B and D would designate more acreage open to cross-country ORV use, the impacts to the Moquith Mountain WSA would be even greater than in Alternative A; and the benefits in to wilderness character from adopting Alternative C would be that much greater, as well.

In discussing the impacts to fish and wildlife habitat from various activities, the DRMP/EIS (at p. 4-70) states:

Impacts on fish and wildlife include actions that result in habitat alteration, fragmentation, or loss; wildlife displacement; and habitat maintenance and enhancement. Habitat alteration occurs when activities alter the existing habitat character. **Surface disturbing activities, such as energy developments, ROWs, road and trail construction, or other activities may reduce habitat quality or lead to habitat alteration, fragmentation, or loss.** Habitat alteration, fragmentation, and loss affect the usable ranges and routes for wildlife movement. Wildlife displacement occurs when land use activities result in the movement of wildlife into other habitats, increasing stress on individual animals, and increasing competition for habitat resources. Impacts on fish and wildlife from displacement depend on the location, extent, timing, and/or the intensity of the disruptive activity or human presence. **Occurrence of these disruptive activities over an extended period of time in areas on or adjacent to fish and wildlife habitat could cause either temporary or permanent displacement of wildlife.** (emphasis added)

This discussion and other discussion of the impacts of oil and gas development and motorized recreation on habitat elsewhere in the DRMP/EIS indicate that the agency is well aware of the impacts from motorized use. Nonetheless, the BLM narrowly concludes that miles of designated ORV routes would just “temporarily” reduce the appearance of naturalness due only to “signs and barricades that may be needed to keep vehicles on existing routes.” DRMP/EIS, p. 4-234. The DRMP/EIS does acknowledge that there is a risk that use of inventoried ways would lead to a greater risk of travel off of routes and forming new trails. *Id.* However, there is no discussion of the fact that closure to ORVs would “enhance biological or environmental characteristics that would improve

the wilderness quality and suitability of the WSAs,” despite the RMP’s claim to consider such impacts.

The DRMP/EIS also finds that the impacts from areas open to cross-country ORV use would be temporary due to the “shifting nature of the sand dunes” and that the only other impacts would be to opportunities for solitude and primitive recreation during ORV use. DRMP/EIS, p. 4-235. This conclusion is not supported and is contradicted by the analysis of impacts in the DRMP/EIS and accepted science. Further, there is no acknowledgment of the important benefits to biological or environmental characteristics from closing WSAs to ORV use in the RMP’s description of management of WSAs.

Elsewhere, the BLM does recognize the benefits to habitat from closures to ORVs. In assessing the overall impacts to special status species habitat from the alternatives, the DRMP/EIS (at p. 4-61) concludes that if Alternative C were adopted:

There would be no habitat loss caused by areas open to cross-country OHV use because such use would be precluded. Alternative C would provide the greatest protection to Greater sage-grouse habitat by precluding cross-country OHV use.

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

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

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

In discussing monitoring, the IM reiterates that: “Because the preservation of wilderness values within a WSA is always of paramount importance, the BLM has an obligation to periodically evaluate the impact of use on ways that have been allowed to continue in relation to wilderness values, and if use of these ways is impairing such values, to take

measures the end the impairment.” Incorporating the directives of this IM into the Kanab RMP and complying with them, will ensure that the BLM is in compliance with the IMP.

Recommendations: Leaving any portion of WSAs open to cross-county ORV use violates the BLM’s obligations under both the IMP and the ORV regulations to protect wilderness suitability. There should be no open areas in the WSAs.

All routes designated in WSAs should be specifically identified in the RMP as “ways” and distinguished from “roads,” since WSAs are, by definition, roadless. All ways should also be identified as temporary. In general, in order to comply with the IMP and BLM’s regulations regarding motorized use, the RMP should seek to minimize ORVs in WSAs, permitting ways only if they do not impair wilderness suitability or damage wilderness characteristics. For any ways that will be retained, the BLM must show that they are permissible under the standards of the IMP and the regulations, and also show a compelling reason as to why it is necessary for the way to be open to ORV use. Further, the RMP must make specific commitments and include a protocol to monitor the potential impacts on wilderness suitability and wilderness characteristics of any ways left open to ORVs in WSAs and to immediately close these ways (and proceed with restoration) if impacts are identified. The BLM should adopt the approach to management set out in IM ID-2008-016, including creating a baseline of conditions in the WSAs, setting out a detailed monitoring program, incorporating standards for determining if use of these ways is impairing wilderness values, and committing to take measures to end any such impairment immediately, including through closure and restoration of ways.¹⁰

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

The DRMP/EIS provides that if any of the WSAs are released from wilderness consideration by Congress, then the areas “would be examined on a case-by-case basis

¹⁰ Kanab Field Office has or should have monitoring data for Moquith, Parunuweap, Canaan, and Orderville WSAs, and must make this available in the RMP. In addition, if the monitoring data indicates that ORV use is impacting the WSAs (i.e. riders not staying on the ways, ORV use impacting the plants, soils, wildlife species, etc), then BLM must take appropriate action in the RMP and prohibit ORV use on the ways and the “open” area of the WSAs. If Kanab Field Office has documentation of the condition of these ways and proposed open area prior to the passage of FLPMA and/or as of the date the WSAs were designated, this information must be included in the DRMP as well, and should be incorporated into BLM’s analysis and decision-making process.

for consistency with the goals and objectives of other decisions within this RMP,” but does not provide further specificity. DRMP/EIS, p. 2-30. This approach does not give sufficient consideration to protecting the wilderness characteristics of these areas. The Supplement to the Price Field Office RMP and the Supplement to the Vernal RMP provide for management of released WSAs to protect their wilderness characteristics. Supplement to Price RMP, p. 2-22; Supplement to Vernal RMP, p. 2-16.

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

XI. CLIMATE CHANGE

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

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

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 Kanab 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 Kanab Field Office, will decrease by 15-20%, and that temperatures will rise by 4-6

degrees Celsius due to climate change. *See* U.S.G.S., “Impacts of Climate Change on Water and Ecosystems in the Upper Colorado River Basin,” August 2007. Increased temperatures are expected to decrease runoff by as much as 30%, with dry soil conditions worse than those experienced during the Dust Bowl and subsequent droughts. *Id.* In fact, dust storms are predicted, some of which obscure highway visibility and create safety risks.

These predictions are conservative. *Id.*

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

A U.S. Climate Change Science Program working group published a report on September 11, 2007 which predicts and elaborates on the widespread impact of climate change on public lands in areas like the cold deserts of the Colorado Plateau. *See* “The effects of climate change on agriculture, land resources, water resources and biodiversity,” <http://www.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. *See, also*, the Government Accountability Office’s recently issued “Climate Change: Agencies Should Develop Guidance for Addressing the Effects on Federal Lands and Water Resources” (August 2007) <http://www.gao.gov/new.items/d07863.pdf>,

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

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

From this flows the third point, which is that an understanding of the predicted impact of climate change, and the forces that we can expect to affect the Kanab Field Office, would likely shape in important ways the various alternatives under consideration by the BLM. For example, given that so many of the predicted outcomes of climate change center on increased soil erosivity, dust storms, shrinking water resources, loss of riparian areas,

invasion of exotic plants, and the spread of hotter, larger wildfires, it is entirely reasonable to expect the BLM to design alternatives that minimize soil disturbance as much as possible. And given that ORVs are associated with both the ignition of wildfires, increased erosion, and the spread of exotic weeds, it is likewise reasonable to expect that the BLM would design – and even designate as preferable – an alternative with far fewer than the 1,300 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 Kanab plan. Alternative C is the best choice of those presented in the DRMP; however, we strongly urge BLM to design an alternative that would be more effective in limiting surface disturbance and protect lands and resources of the Kanab Field Office as much as possible from the predicted effects of climate change.

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

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

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

To conclude, we urge the BLM to develop and adopt, based on a full consideration of the effects of climate change on the lands and resources managed by the Kanab Field Office,

an alternative that minimizes the extent of soil disturbance and reduces to the fullest extent the Kanab Field Office's resources to the vulnerability to the effects of climate change.

XII. VISUAL RESOURCE MANAGEMENT

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

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

1. Lands proposed for wilderness designation 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 viewpoints within the resource area with stipulations specifically addressing and managing human development impacts, including VRM Class I to "preserve the existing character of the landscape" or VRM Class II to "retain the existing character of the landscape" as appropriate.
4. Lands within America's Red Rock Wilderness Act should be managed VRM Class I to "preserve the existing character of the landscape" or VRM Class II to "retain the existing character of the landscape" until Congress has the opportunity to consider these areas for wilderness designation.

XIII. SOCIOECONOMIC

Kanab RMP Draft EIS – Comments on the Socioeconomic Analyses

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

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

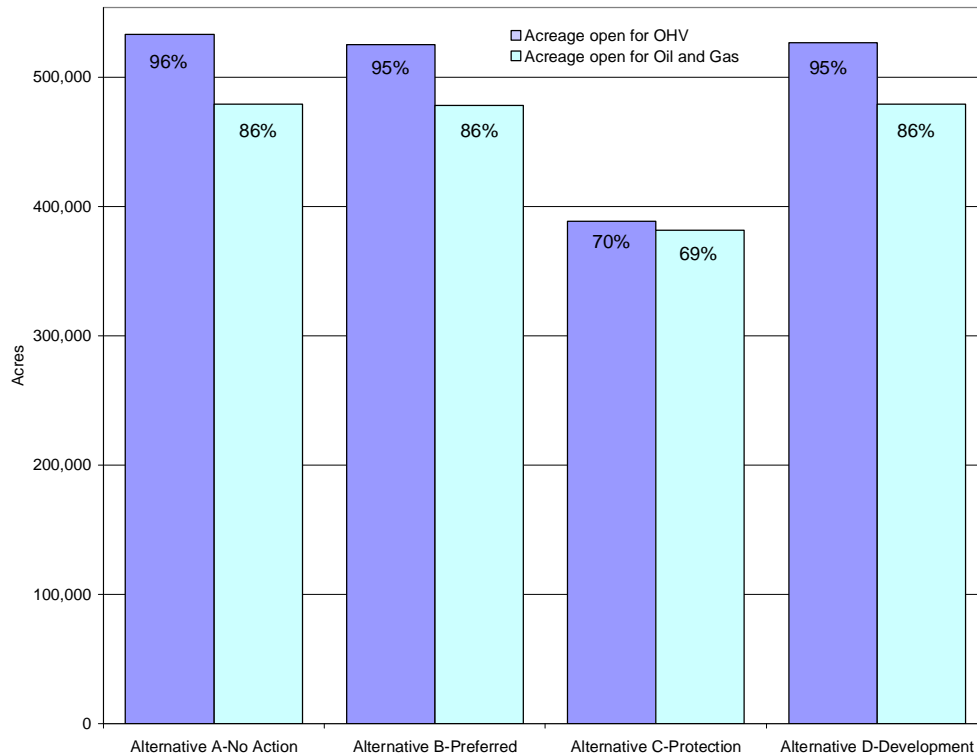
1. The range of alternatives proposed is insufficient.
2. The Draft EIS does not account for the non-market values associated with undeveloped wild lands.
3. The Draft EIS does not address the potential benefits to the local area economies from management to protect the natural amenities of the Kanab Field Office.
4. The Alternatives in the DRMP/EIS all place a heavy emphasis on off-road motorized recreation without a realistic assessment of current recreation impacts and trends or an adequate assessment of the potentially significant impact that such an emphasis is likely to have.
 - a. The quality of the data on which recreation decisions are based is questionable.
 - b. The realities of recreation participation trends are overlooked in the formulation of alternatives and in the analysis of the impacts of the alternatives.
 - c. The Draft EIS fails to address the potentially significant costs associated with off-road motorized recreation.
 - d. The Draft EIS notes, but fails to analyze the relationship between the Kanab Field Office lands and the surrounding National Parks.
5. The Draft EIS does not address the potential socioeconomic costs associated with coal mining and oil and gas drilling.
6. The use of IMPLAN is insufficient to predict future economic impacts from the management of the Kanab Field Office lands.
7. In general, the economic analysis is superficial and relies on unsubstantiated qualitative assertions.

1. Range of Alternatives

The range of alternatives analyzed in the RMP Draft EIS is insufficient. There is almost no variability among the four alternatives presented, in terms of the proportion of the planning area being open for both motorized recreation and for oil and gas development. The so-called protective alternative is the only one with a notable difference and even this alternative opens the majority of the planning area for oil and gas drilling and off-road motorized recreation. (Figure 1). Furthermore, the agency-preferred alternative is almost indistinguishable from the pro-development alternative.

Throughout the section on Social and Economic impacts (Section 4.5 beginning on page 4-241) references are made to this lack of variability among the alternatives, noting that the alternatives cannot be quantitatively differentiated.

Figure 1. Comparison of Alternatives in the Kanab RMP Draft EIS



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

2. Non-Market Values

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

One of the most important purposes of public lands, including those of the BLM in the Kanab 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.

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

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

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

3. Economic Impacts of Natural Amenities

The Kanab RMP Draft EIS fails to fully address the impacts that the alternatives will have on the local economy. The economic impact that wilderness and wilderness quality lands have on local economies is well documented and has grown in importance as the U.S. moves from a primary manufacturing and extractive economy to one more focused on service sector industries. This shift means that many businesses are free to locate wherever they choose. The “raw materials” upon which these businesses rely are people, and study after study has shown that natural amenities attract a high-quality, educated, talented workforce – the lifeblood of these businesses. To narrow the range of alternatives and the analysis of the potential impacts of land management on the local communities fails to address this important facet of today’s economy.

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 Kanab 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 if the quality of the scenic and natural amenities is harmed due to the high levels of motorized off-road recreation and industrial uses allowed under the preferred alternative in the DRMP/EIS EIS.

Retirees and other who earn non-labor income are also important to rural western communities. This income is important for the counties impacted by the Kanab RMP – making up 27% of total personal income in Garfield County and 26% in Kane County, making it one of the largest sources of income in the planning area.¹¹ Retirees are attracted by natural amenities that are available on undeveloped public lands. The potential impact that a management plan which is so heavily weighted toward development and motorized recreation will have on this source of income and economic activity must be accounted for.

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

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

4. Recreation

a. Recreation Data

In several places the Draft RMP/EIS notes that the data on recreation use in the Kanab Planning Area are not sufficient to make quantitative assessments of potential impacts. Until or unless the BLM collects adequate, accurate and up-to-date data on these impacts (social, economic and physical) the agency should not open the vast amount of

¹¹ U.S. Department of Commerce, Bureau of Economic Analysis, Regional Economic Information System (<http://www.bea.gov/>)

the planning area to off-road motorized recreation. Many of these impacts are well documented and several examples of research showing impacts are presented below.

The Forest Service National Visitor Use Monitoring program collects data on recreation use on public lands. Data from this effort have been compiled (U.S. Forest Service 2007) for the BLM Moab Field Office. These data show that non-motorized recreation is by far the predominant means of enjoying these public lands. It is certainly likely that recreation participation in the Kanab Field Office will be similar, since this study, as well as every other study of recreation on public lands shows that motorized recreation has fewer participants than motorized. The fact that the RMIS data presented in the Draft RMP/EIS is so divergent leads one to suspect that it is not truly representative of conditions on the ground, and therefore should not be used as the basis for the decision to open the majority of Field Office lands to these particular users.

Recommendation: The BLM must collect accurate data on actual recreation use of the Kanab Field Office, including data on the impacts (environmental, social and economic) of recreation use. Until an accurate assessment of actual use and impacts can be made the BLM should err on the side of caution and restrict off-road motorized use.

b. Overall Recreation Participation

While it is a step in the right direction to close most of the planning area to cross-country motorized recreation, it by no means sufficiently reduces the potential costs associated with this recreation. As noted by the BLM, motorized recreation has been increasing in recent years. What the agency fails to note is that **all** recreation has been increasing.

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)¹² 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 2006 motorized recreation accounted for just 20% of total visits, while non-motorized recreation visits were 52% of the total.¹³ The Kanab RMP Draft EIS does present some RMIS data for the Kanab Field Office (which it later states

¹² 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

¹³ 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

is not accurate enough to base economic analyses upon). However, even these data show that recreation visitors engaging in ORV use do not represent more than a third of total visitors in any year (Figure 2) and furthermore, according to the Kanab data, non-motorized visitors spend far more days recreating in the Field Office (Figure 3).

Figure 2. Recreation Visitors – Kanab Field Office

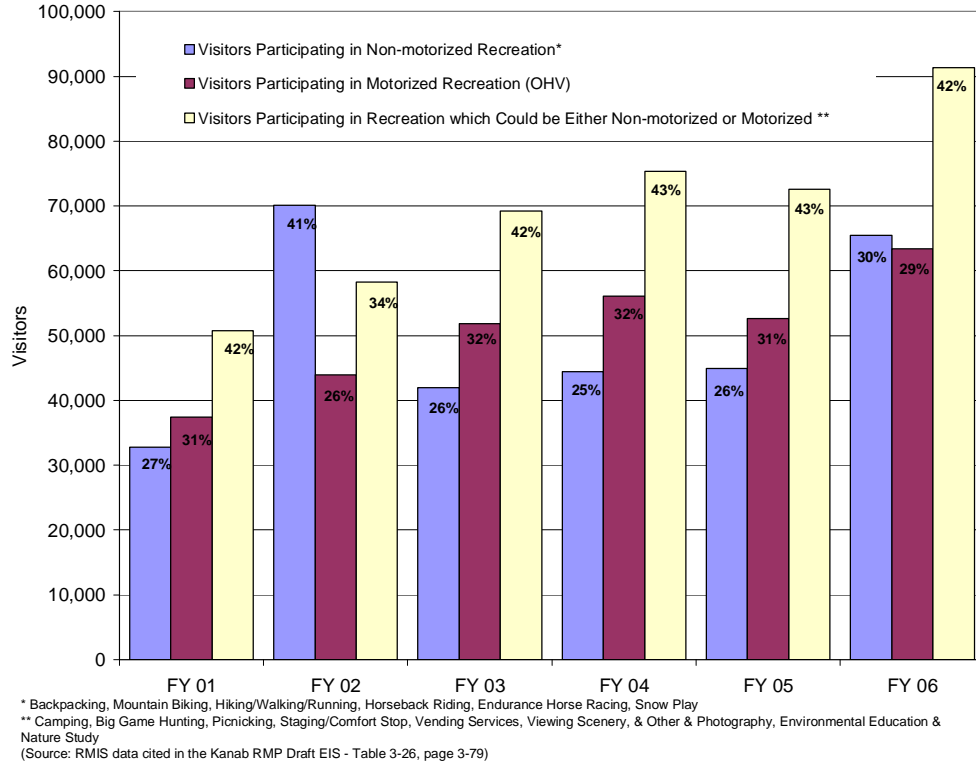
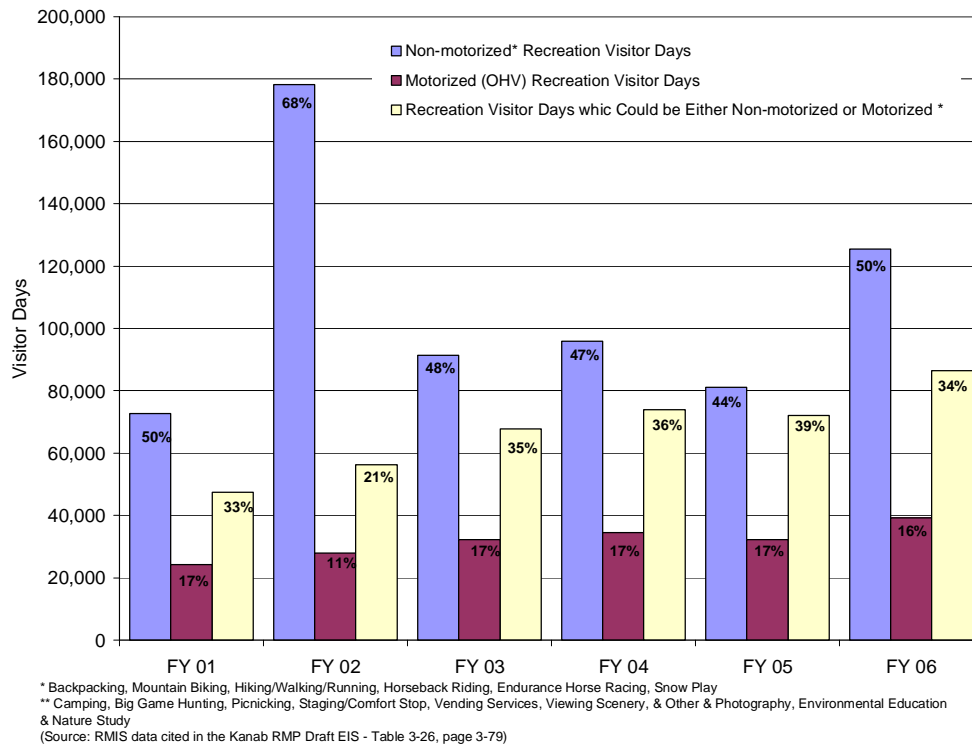


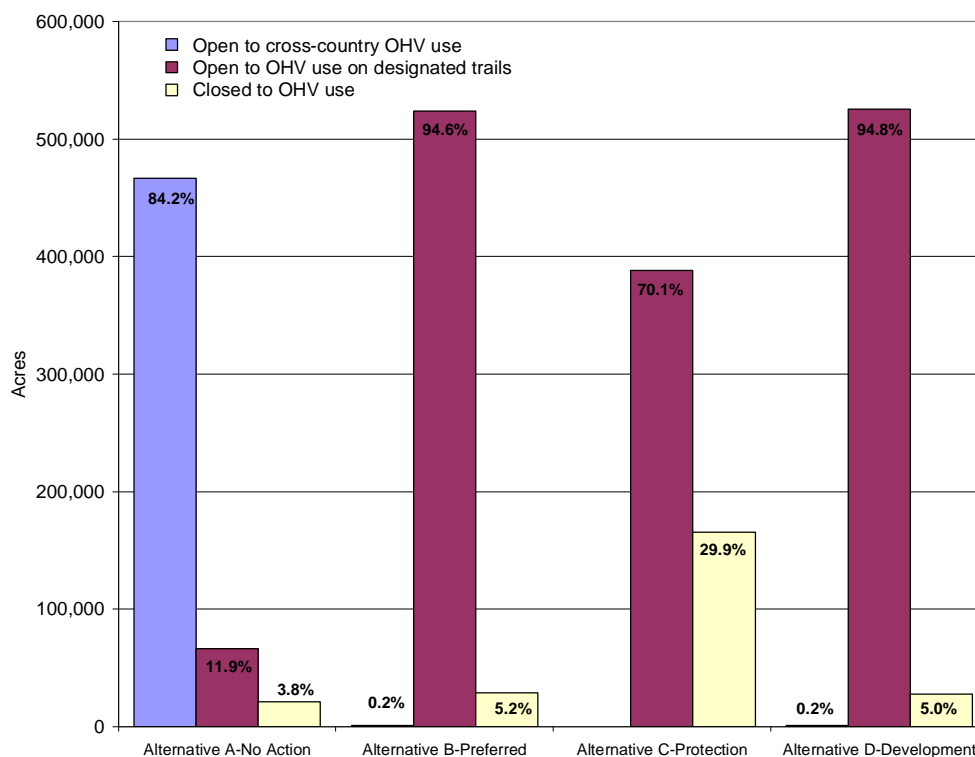
Figure 3. Recreation Visitor Days – Kanab Field Office



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

Even the most protective alternative offered by the BLM (Alternative C) still proposes to make over 70% of the planning area available to a group which represents 20% of total users (Figure 4). This would be inappropriate given the important values which will be lost to all Americans and the potential high costs that will be imposed on Utah and the rest of the region from higher levels of off-road motorized recreation in the Kanab Field Office.

Figure 4. Access for OHVs – Kanab RMP Draft EIS



c. Cost of Off-Road Motorized Recreation

The RMP DEIS does not mention, let alone analyze the well-documented and potentially significant costs associated with off-road motorized recreation. The following section 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 on trails (Mortensen 1989) found that off-road vehicle use produced the most serious trail impact, and was “too widespread and pervasive to be assigned individual impact areas.” Results indicated that off-road motorized recreation was associated with tread widening, loss of ground vegetation, increased soil exposure, and entrenchment erosion. The trail tread had been widened to more than 40 m (130 ft) in some places, indicating that off-road recreationists had taken different routes to the top (in effect, becoming scramble runs). [Normal tread width is about 1 m (3.3 feet).] Mortensen also notes major implications for soil erosion and esthetic characteristics. Compaction can lead to a loss of pore space for air infiltration, reduced water infiltration, increased erosion and runoff, and reduced germination of woody seedlings. Additionally, vegetation in disturbed areas was also harmed. Areas with moderate to severe disturbance had, on average, 50% as much healthy understory vegetation. It is interesting to note that even though off-road vehicles are prohibited except on current and old logging roads in the particular area studied, the author found pervasive intrusion of off-road vehicles and noted that their impacts were more pronounced than other recreational uses.

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

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

- **Air pollution**

An often overlooked effect of off-road motorized recreation is the air pollution and fossil fuel demand created by such types of recreation. The Environmental Protection Agency (Fritsch 1994) estimates that small engines account for 5% of total air pollution, with a significant portion of this being contributed by off-road vehicles. In addition, one study estimated the yearly national fuel expenditure for OHV operation to be roughly half a billion gallons.

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

- **Impacts on vegetation**

Another impact of the use of off-road vehicles is the spread of invasive species. A single ATV can disperse over 2,000 knapweed seeds in a 10-mile radius. Knapweed seeds are more likely to germinate and crowd out native plants in areas where soil has been compacted (Montana State University Extension Service 1992). The economic impact to agriculture and wildlands from these weeds is substantial. The potential annual loss to Montana's economy from spotted knapweed alone is estimated to be \$42 million

(Duncan et al. 2001). If knapweed continues to invade highly vulnerable lands, the potential annual loss to Montana's livestock industry would be \$155 million each year. In a planning area such as the Kanab Field Office, where the livestock industry is presumed to be an important part of the local culture, similar losses might be expected and should be analyzed in the Final EIS.

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

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

- **Impacts on wildlife**

Losos et al. (1995) classified threats to species endangerment and found that 69% of federally-listed species were known to be threatened at least in part by resource extraction and recreation activities. They found recreation threats to 23-26% of species. The most destructive recreational practices were off-road vehicle use (motorcycles, four-wheel drive vehicles, snowmobiles, dune buggies, all-terrain vehicles, and other vehicles with high ground clearance) and general recreation (all unspecified recreation threats). Stritthold and Dellasala (2001) study the importance of roadless areas on biodiversity and find that these areas are important for species protection.

- **Foregone passive use benefits**

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

- **Foregone wilderness/roadless recreation benefits**

Swanson and Loomis (1996) used a benefit-cost analytical method that translates recreation use into economic benefits. Recreation in 1990 on public lands (USFS and BLM) in the Pacific Northwest (western Washington, western Oregon, northern California) generated public benefits of \$1.6 billion. Recreation demand exceeded supply in some areas—the greatest gap was in “semi-primitive non-motorized” recreation. Authors measured the effects of four alternative management scenarios to estimate their ability to meet demand. Economic benefits were maximized under a redistribution that

shifted acres from “semi-primitive motorized” to “semi-primitive non-motorized.” This scenario resulted in an additional \$916 million in public benefits. Authors found that existing public land allocations in the region provided excess supply for roaded recreation. The proposed alternatives for the Kanab Field Office most likely also provide excess supply for roaded recreation, even the so-called protective alternative which makes over 70% of the planning area available.

- **Foregone psychological benefits**

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

- **Personal safety and injury**

According to the Consumer Product Safety Commission (CPSC 2005), there have been 7,188 ATV-related deaths since 1982 – 2,178 of these were children under the age of 16. In addition, over 1.8 million ATV-related injuries were treated in hospitals and doctors’ offices in the same time period. The CPSC reports that in 2005 children under the age of 16 accounted for 30% of annual ATV-related injuries. These deaths and injuries impose costs on society, according to Helmkamp (2002), the average annual comprehensive economic loss resulting from ATV deaths in West Virginia through the 1990’s was estimated to be between \$10 million and \$34.2 million. Similar costs can be expected with off-road motorized recreation in the Kanab 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, Department of Natural Resources 2003). The State of Washington (Interagency

Committee for Outdoor Recreation) administers the Non-Highway and Off-Road Vehicle Activities (NOVA) Program, which funds grants to counties to support maintenance, education, and enforcement activities. Washington spent over \$1.8 million on non-highway and off-road vehicle road projects, and education and enforcement in 2003 (Interagency Committee for Outdoor Recreation 2004).

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

- **Costs to taxpayers**

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

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

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

d. Relationship Between Kanab Field Office and Nearby National Parks

The RMP DEIS mentions that the proximity and increased visitation in the nearby National Parks has led to the Kanab Field Office lands becoming more popular recreation destinations as Park visitors “overflow” into surrounding public lands. If this is the case, this overflow visitation from National Parks is therefore, likely to be similar in activities and participation to that of the National Parks. Much research has been done on the recreation behavior and preferences of National Park visitors. Kaval and Loomis (2003) examine the values associated with recreation in National Parks. This analysis compiles estimates of the per day value to recreation users for 30 activities. While these studies do not address visitor numbers or visitor days, they do provide estimates of the value recreation visitors place on various forms of recreation, and they find that on average non-motorized recreation activities (backpacking, hiking, horseback riding, mountain biking, rock climbing and river rafting/floating) are worth about twice as much per day than off-road vehicle driving (\$42 per day compared to \$19 per day). In a similar study Rosenberger and Loomis (2001) compile an extensive review of the literature and the economic valuation of recreation and present methods that can be employed to apply these estimates for various other locations.

While the previous two studies focused on consumer surplus values, it should be noted that non-motorized recreation also has more tangible economic impacts. According to the Outdoor Industry Foundation, 162 million Americans participate in non-motorized

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

Stynes et al (2000) examine recreation visitor spending and other economic impacts from National Parks. If National Park visitors do in fact spill over onto Kanab Field Office some of these spending impacts may be expanded. The impact that management of the BLM lands might have on tourist preferences and choices and thus on the extension of visits should be examined more thoroughly in the Final EIS for the Kanab RMP.

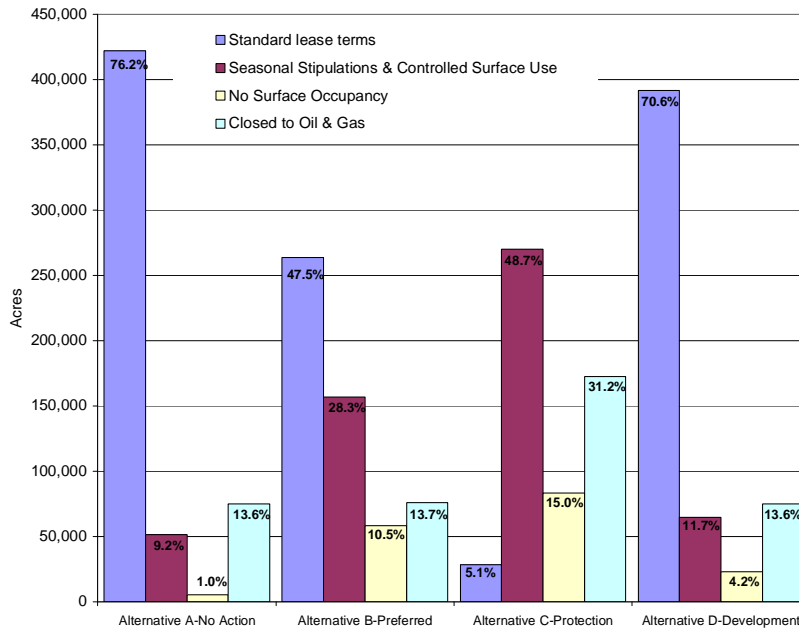
Recent research has shown that public land visitation is increased when the recreation and scenic values of the land is recognized through official designations. Weiler (2005) found that over the course of 20 years National Park Service Monuments that were re-designated to National Parks saw an increase in of nearly 13,000 annual visits. Furthermore, the increase in visitation came mostly from those traveling large distances to visit the new National Parks. These visitors are likely to stay longer in the area, especially if surrounding BLM lands can provide increased opportunities for the types of recreation they are seeking. It is also interesting to note that visitation to the National Parks in the study increased even in times of economic downturn, indicating that the presence of highly visible public lands may be an asset to communities that can help mitigate the vagaries of the national economy. As people’s income contracts, such natural areas may be seen as affordable family vacation destinations, while other, more expensive, options may suffer.

Recommendations: The BLM should study the relationship between National Park visitation and recreation demands on BLM lands, the types of recreation activities pursued by National Park visitors, the impact of such visitation on recreation visits to BLM lands and the impact that the potential degradation of surrounding BLM lands due to off-road motorized recreation may have on National Park visitation.

5. Costs of Extractive Industries

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

Figure 5. Access For Oil and Gas Drilling – Kanab RMP Draft EIS



In addition to oil and gas drilling, the anticipated coal mine in the planning area is likely to have major impacts on the surrounding communities. The impacts of boom and bust cycles in resource extraction have well documented negative impacts. The alternatives proposed in the Draft EIS are all heavily weighted toward energy extraction and may have long-term negative impacts on local communities. There is a considerable body of peer-reviewed academic literature on the social structure and economic performance of resource dependent communities. This research has indicated that an emphasis on resource extraction results in inherently economically unstable communities (Fortmann et al. 1989, Freudenburg 1992, Freudenburg and Gramling 1994). This instability in income and employment is usually a result of labor saving technological improvements and fluctuations in world resource markets - macroeconomic forces completely outside local control. Such economic instability and lack of local control can be expected with both coal and oil and gas development.

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

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

focused on oil and gas drilling, can certainly be experienced with other resource extraction.

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

6. IMPLAN

The use of IMPLAN is insufficient to predict future economic impacts from the management of the Kanab Field Office lands. While the IMPLAN model can be useful as a tool to develop static analyses of the regional economy, the agency and local communities must be aware of the shortcomings and poor track record of the model as a predictive tool. IMPLAN models do not consider the impacts of many important variables that affect regional growth in many rural communities, especially in the West. Attributes such as natural amenities, high quality hunting, fishing and recreational opportunities, open space, scenic beauty, clean air and clean water, a sense of community, and overall high quality of life are not measured or accounted for in IMPLAN models, however these amenities are associated with attracting new migrants as well as retaining long-time residents. Many residents of Western communities (both long-time and new) earn retirement and investment income, and while it is technically possible, most IMPLAN models completely fail to consider the important economic role of retirement and investment income.

Many economists have offered constructive critiques of the IMPLAN model. See for example: Krikelas (1991), Tiebout (1956) (a critique of IMPLANS underlying theory), Haynes and Horne (1997), Hoekstra, et al. (1990), Richardson, 1985 and the Office of Technology Assessment (1992). The ease of data acquisition for estimating the impacts of resource extractive sectors combined with the difficulty of estimating the impacts of recreation and tourism underscores the potential bias favoring development in IMPLAN modeling. The concern over the accuracy of models like IMPLAN combined with concern over the use of these models for planning, suggests that it is not only inappropriate but a disservice to rural communities to rely on IMPLAN to estimate the economic impacts of public land management alternatives on rural communities.

Recommendations: We recommend that the agency stop relying on IMPLAN and other models derived from economic base theory. If planners use IMPLAN, the model must account for non-labor income, as well as income from hunting, fishing, and recreation.

7. General Comments on the Economic Analyses

In general, the economic analysis is superficial and relies on unsubstantiated qualitative assertions. As stated on page 4-241 "Economic impacts can be described qualitatively..." while this may be true, it is certainly not an adequate analysis upon which to base a resource management plan which will direct land management on public lands for 20 years. The Draft EIS often notes that data for certain sectors are inadequate or inaccurate. This situation should be rectified before moving forward. It is irresponsible to base management decisions on insufficient data. Appropriate baseline data should be

collected before implementing the high level of recreation and industrial uses of these lands.

The Draft EIS states “Changes in employment and income can then cause indirect socioeconomic impacts, such as changes in population (p. 4-241).” A similar statement is made on page 4-252. While this may sometimes be the case, more and more in communities in the Intermountain West that are rich in natural amenities (such as those in the Kanab planning area), people move to the area either bring jobs with them or creating new businesses – “jobs follow people” as noted by Vias (1999) who found that employment growth followed population growth. The influence of amenities in the West’s economies is discussed in more detail above and in the attached documents: “*Socio-Economic Framework for Public Land Management Planning: Indicators for the West’s Economy.*” See also Haeefele et al (2007) for an additional discussion of the amenity economy.

The Draft EIS asserts that the recreation data are insufficient or inaccurate: “RMIS data...is (sic) not considered accurate enough to allow for credible estimates of economic impacts. In other cases (e.g. OHV registrations), there is insufficient information to attribute use specifically to decision area lands, or (e.g. recreation permit data) insufficient information on expenditures of recreators for specific uses in the decision area or similar areas (Table 4-26 on p. 4-248)” First of all this statement implies that OHV registrations could otherwise be used as some measure of OHV use. This is unsubstantiated. Many OHVs are used as work or farm vehicles and including these registrations as recreation use would overestimate such use. Second, the assertion that there is insufficient information on recreation expenditures is false. Economists and other scientists have been studying recreation expenditures for decades – See Stynes and White (2005) for just one example. Ironically, on the next page the Draft EIS states, “In particular, recreation activities (including OHV-based recreation **no doubt** generate **substantial** employment and income (p. 4-249) (emphasis added).” The previous quote indicates that the BLM clearly has doubt about the data on recreation activities.

The Draft EIS states, “The economic activities that are expected to have the greatest impacts on the regional economy include coal mining, oil and gas exploration and production, livestock grazing, and recreation and tourism (p. 4-251).” This assertion is based (as noted earlier in the document) on incomplete or inadequate data, and furthermore entirely ignores the well documented role that natural amenities and protected public lands play in 21st Century western communities as noted above.

The Draft EIS states that the agency-preferred alternative (Alternative B) “...would satisfy many individuals and groups with preservation interests by substantially reducing cross-country OHV use (p. 4-261).” This is unlikely as the alternative makes over 95% of the planning area available for OHV use (albeit on designated trails). While reducing cross-country motorized travel will mitigate some of the substantial environmental damages associated with off-road motorized recreation, the vast majority of the landscape will be impacted by such activities and will not be protected. The narrative for Alternative C (the “protection” alternative) states that that closure of only 30% of the planning area to OHV use “...likely would be seen by persons and groups interested in this type of recreation as **significant** (emphasis added) impact on their recreational opportunities, preference, values, and enjoyment (p. 4-263). These two

assertions viewed together reveal the inherent and inappropriate bias in this proposed RMP toward off-road motorized recreation. If the BLM believes that preservation-oriented stakeholders are likely to be satisfied with only 5% of the planning area protected from off-road motorized recreation, then they should certainly believe that proponents of such recreation would be satisfied with 70% of the planning area.

In response to the parting unsubstantiated assertion of the socioeconomic section: “Alternative B would probably best balance the multiple interests around uses of BLM public lands (p. 4-266)” – we would refer the BLM to our earlier discussion of the range of alternatives and the disproportionate amount of the planning area given over to motorized off-road recreation and industrial uses.

Recommendations: The BLM must collect and analyze credible data on all sectors of the economy, especially investment and retirement income and recreation (including non-motorized recreation). These sectors, along with the various sectors which depend indirectly on the protection of public lands from motorized recreation and development must then be included in a quantitative assessment of the impacts of land management decisions.

The unsubstantiated assertions through the narrative portion of the Draft EIS must either be supported with data and credible peer-reviewed scientific findings or eliminated.

XV. AIR QUALITY

The DRMP fails to adequately assess the impacts of the proposed management alternatives on air quality. The DRMP fails to include any quantitative information, analysis or models to assist the decision-maker on this issue.

XVI. RS 2477

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

The DRMP/EIS also includes implementation level travel planning, such that both areas and routes are designated with respect to their use of ORVs – with specific routes within “limited” areas that are open to motorized travel designated and all motorized travel confined to those routes. *See*, DRMP/EIS, pp. ES-4, ES-6 – ES-9. 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. Regardless of what is asserted as an R.S. 2477 right-of-way, the BLM is not obligated to designate any route that does not display characteristics or that would result in impacts that are not in line with the desired future conditions of an area as “closed.”

Section 1.3.2 of the DRMP/EIS, “Issues Considered but Not Further Analyzed,” includes R.S. 2477 claims, noting that, while claims may exist, the plan “does not adjudicate, analyze, or otherwise determine the validity of claimed ROWs” but also does not

extinguish any rights that may exist. DRMP/EIS, p. 1-13. The DRMP/EIS (at p. 2-26) provides the following management for R.S. 2477 issues:

The RMP does not adjudicate, analyze, or otherwise determine the validity of the claimed ROWs. Update and adjust the transportation plan and elements of this RMP through plan maintenance as RS 2477 ROW assertions are acknowledged administratively or adjudicated by court decision.

However, the DRMP/EIS also provides management for the overall transportation system management: “Coordinate transportation planning with Kane and Garfield counties.” *Id.* The DRMP/EIS indicates that the transportation plan will merely be adjusted through “plan maintenance” if R.S. 2477 assertions are acknowledged or adjudicated. Plan maintenance is not an appropriate vehicle for making substantive changes to the travel network. Rather, “maintenance is limited to further refining or documenting a **previously approved decision incorporated in the plan**” and “shall not result in expansion in the scope of resource uses or restrictions, or change the terms, conditions, and decisions of the approved plan.” 43 C.F.R. § 1610.5-4 (emphasis added).

BLM must make clear that any changes to the transportation plan to incorporate acknowledgment of R.S. 2477 assertions will require an amendment to the RMP and full compliance with NEPA. NEPA applies to all discretionary agency actions. BLM’s decision to issue any non-binding, administrative determination (“NBD”) is an exercise of agency discretion. It is not a decision required by law. *See* BLM IM 2006-159 (“The State or Field Offices may make NBDs for claimed R.S. 2477 rights-of-way for its own land use planning and management purposes”). The Tenth Circuit’s SUWA v. BLM decision (Southern Utah Wilderness Alliance v. Bureau of Land Management, 425 F.3d 735 (10th Cir. 2005) recognized that BLM had the authority, but not the duty, to make NBDs. NEPA thus applies to any BLM approval or issuance of an NBD. BLM cannot assume that an NBD makes no decision that has any impact on the ground and therefore can have no environmental impacts. This would be a false assumption. Changing the nature of public highways – even restoring a route to some “status quo” of years ago – will have environmental and other impacts. Further, we are unaware of any categorical exclusion under which an NBD could be made. Given the potential environmental consequences and the substantive changes to the resources uses and terms of the RMP, BLM cannot revise the transportation plan to acknowledge R.S. 2477 rights-of-way without completing a formal RMP amendment.

The language in the DRMP/EIS, referring to coordination of travel planning with Kane and Garfield counties also fails to clearly distinguish between R.S. 2477 assertions, which have been made by these two counties, 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 DRMP/EIS acknowledges that motorized routes in the planning area will have some of these effects, stating, for example: “Surface disturbing activities, such as energy developments, ROWs, road and trail construction, or other activities may reduce habitat quality or lead to habitat alteration, fragmentation, or loss.” DRMP/EIS, p. 4-70.

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

- WSAs will be managed to preserve their “wilderness character” and will be managed in accordance with the Interim Management Policy for Lands Under Wilderness Review, which requires that they be managed so as not to impair their wilderness character. DRMP/EIS, p. 2-30.
- Areas of Critical Environmental Concern will be managed “to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources, or other natural systems or processes.” DRMP/EIS, p. 2-28.
- Riparian areas would be managed for maintenance and/or enhancement, including through “stipulations that protect riparian resources.” DRMP/EIS, p. 2-9.
- Non-WSA lands with wilderness characteristics will be managed to maintain wilderness characteristics, “for their undeveloped character” and “to provide opportunities for primitive recreational activities and experiences of solitude.” DRMP/EIS, p. 2-23.

To the extent that the DRMP/EIS bases its designations of areas or routes as open to motorized use based on the existence of R.S. 2477 assertions and not on the priorities established in the applicable regulations and the RMP, the BLM will be in violation of its duty under the governing regulations.

Recent court and IBLA decisions involving BLM land use planning in Utah uphold BLM’s right to determine the suitability of routes for motorized use regardless of the existence of R.S. 2477 claims and to implement the resulting travel system. For example, in Kane County v. Kempthorne, 495 F. Supp. 2d 1143 (D.Utah 2007), the court applied the ruling of the U.S. Court of Appeals for the 10th Circuit in Southern Utah Wilderness Alliance v. Bureau of Land Management, 425 F.3d 735 (10th Cir. 2005) (“SUWA v. BLM”), to conclude that: “the Counties’ assertion of R.S. 2477 claims by itself cannot forestall the BLM implementation of the travel route system formulated through its

planning process.” Kane County, 495 F. Supp. 2d at 1157. The court further emphasized that: “[i]t is for the Counties as R.S. 2477 claimants to step forward and pursue their unresolved R.S. 2477 claims in a proper forum, demonstrating the historical existence of rights-of-way that they now assert to exist.” Id. Other courts and the IBLA have reached the same conclusion. See Williams v. Bankert, 2007 WL 3053293, *7 (D. Utah Oct. 18, 2007) (“The BLM was not obligated to resolve R.S. 2477 issues as a part of the Travel Plan. The Travel Plan has not precluded a finding on these rights-of-way, and Defendants acknowledge that the Travel Plan can be amended if the rights-of-way are demonstrated. To mandate that an agency make a determination on thousands of R.S. 2477 claims during the decision making on the rest of the Travel Plan could paralyze an agency.”), upholding the IBLA decision concerning the San Rafael Route Designation Plan in Rainer Huck, 168 IBLA 365, 2006 WL 1644645 (2006) (“BLM did not need to decide the validity of the R.S. 2477 assertions in order to make its route designations, especially since it did not intend its analysis to affect any R.S. 2477 validity determinations and indicated that the Plan would be adjusted to reflect any R.S. 2477 decisions.”).

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

Therefore, BLM must make decisions regarding motorized use based on its legal obligations. According to these recent court decisions, the BLM need not make determinations regarding R.S. 2477 claims as part of its resource management and/or travel management planning processes. BLM should make planning decisions that protect the resources of our public lands and should not keep routes open to motorized access based on claims that may never even be pursued. If the BLM chooses to designate all R.S. 2477 assertions merely because they have been claimed as routes under R.S. 2477, then the BLM will be in violation of its duty to minimize resource damage, wildlife harassment, and conflicts under the federal regulations

Recommendations: The BLM is legally obligated to identify and protect the many natural resources found in the public lands under its management, including wildlife habitat, scenic values, cultural resources, recreation opportunities and wilderness character, and to avoid unnecessary or undue degradation of these resources. 43 U.S.C. § 1701 *et seq.* Similar considerations are required when the BLM assesses whether to permit motorized use of areas or routes. 43 C.F.R. § 8342.1. The agency must adhere to

applicable laws and policies while conducting travel planning, and must forego any approach that could lead to a legally-questionable validation of R.S. 2477 rights-of-way claims. Further, the designation of routes should be consistent with the management objectives set out in the RMP to prioritize certain uses and protect specific values. The RMP must also be corrected to state that any changes of route designations that are made after completion of the travel plan based on BLM's administrative acknowledgment of R.S. 2477 assertions will be incorporated through an RMP amendment and comprehensive NEPA review – and not through plan maintenance.

XVII. SOILS

SUWA incorporates the comments submitted separately by ECOS Consulting.

XVII. RIPARIAN AREAS

SUWA incorporates the comments submitted separately by ECOS Consulting.

XIX. VEGETATION

SUWA incorporates the comments submitted separately by ECOS Consulting.

XX. WILDLIFE¹⁴ AND HABITAT FRAGMENTATION

SUWA incorporates the comments submitted separately by ECOS Consulting.

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

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

Roads and ORV routes are now widely recognized in the scientific community as having a range of direct, indirect and cumulative effects on habitats and wildlife (Trombulak and Frissell 2000). Effects range from direct removal of habitat to long-term displacement of species from preferred habitat. The indirect and cumulative effects are hardest to measure, but are increasingly studied through analysis of habitat fragmentation.

Habitat fragmentation has been defined as the “creation of a complex mosaic of spatial and successional habitats from formerly contiguous habitat” (Lehmkuhl and Ruggiero

¹⁴ In addition to its responsibilities to comply with the Endangered Species Act, BLM must also ensure that its management decisions are consistent with its Sensitive Special Manual 6840. Specifically, the decisions authorized in the RMP must not lead to the listing of plants and animals identified on Utah BLM's current sensitive species list. How has BLM assessed its compliance with this requirement?

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 DRMP/EIS (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 use and changes in microclimates in road edge habitats potentially resulting in changes in type and quality of food base and reduction in habitat cover
- **Spread of exotic species** that may lead to competition with preferred forage species
- **Degradation of aquatic habitats** through alteration of stream banks and increased sediment loads
- **Changes to flows of energy and nutrients** such as changes in temperatures in microclimates created at road edges

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

As documented by the comprehensive literature reviews cited above, the existence of motorized routes can result in habitat fragmentation and, depending on the use of the route, have impacts extending well into surrounding habitats. Such fragmentation from transportation networks is immediate and can lead to a range of risks to the survival of wildlife. Sound science and spatial analysis must be used to evaluate impacts from any network of travel routes before its adoption through a planning process. There are many ways to measure habitat fragmentation to determine where and how corrective action should be taken. Three of the most useful metrics for their ease in calculation and direct connection to biological field research on wildlife impacts are road density, number and size of core areas, and distance to a road. *Road density* can be calculated by measuring the length of road divided by the area in a given region and reported as miles of road per square mile (mi/mi²). *Core areas* are defined as the area of land beyond a given distance, or road effect zone, from transportation routes (Forman, 1999). The number and sizes of core areas can be measured, as can the *total amount of core area beyond a given distance or effect zone from roads*. Because wildlife species respond at varying distances to road disturbances (and depending on the road type and activity level), it is important to determine measures of core area for a range of effect zone widths associated with disturbances for specific species (e.g., of 100 ft., 500 ft. and 1320 ft.). Measuring the *amount of land within a given distance to a road or within an effect zone* is the inverse of measuring the acreage of core areas, and represents a measure of the affected habitat. (Although not broken down into such small intervals, the Vermilion Cliffs Heritage Plan, submitted with SUWA's scoping comments, and attached hereto for BLM's reference, depicts scarce core areas within varying distances to routes, including 0.5 miles, 0.5-1 mile, 1-2 miles and 2-3 miles.)

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

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

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

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

Despite the accepted and readily available scientific study and methods, the Kanab DRMP/EIS fails to conduct a sufficiently detailed analysis of fragmentation, which impairs the consideration of impacts of the various alternatives and prevents an informed comparison.

The most detailed discussion of habitat fragmentation is presented in the DRMP/EIS’s discussion of Alternative A, the “no action” alternative. In addressing special status species, the BLM acknowledges that

- cross-country ORV use “could affect special status species and necessary habitat components” and that “possible long-term habitat deterioration could eliminate potential habitat, which could otherwise foster expansion of special status species from current territories.” DRMP/EIS, pp. 4-53 – 4-54.
- Permitted surface disturbing activities cause habitat alteration, fragmentation, and/or loss depending on the type, amount, and location of activity. DRMP/EIS, p. 4-54.
- “Seasonally limiting OHV use to existing or designated routes on crucial Greater sage-grouse strutting grounds and on nesting and roosting sites for bald and golden eagles would provide protection to these species during sensitive life stages; however, it would not provide overall protection to their habitat because

- these areas are open to cross-country OHV use outside of designated time frames.” Id.
- “Allowing oil and gas leasing subject to the standard terms and conditions on 422,200 acres (76%) could result in fragmentation through reduction of usable habitat and disruption of movements among habitats, transitional areas, and breeding areas associated with the construction of access roads, facilities, and wells.” Id.
 - “population function could decline and become significant as development increases.” Id.
 - “Species that have expansive habitat requirements in areas that do not restrict mineral activity, such as the BLM Sensitive Greater sage-grouse and other sagebrush obligate species could be indirectly affected by loss of important habitat components resulting from introduction of noxious and invasive weeds, and conversion of large areas to early seral vegetation as well pads are reclaimed.” Id.

While there is specific mention of various special status species and measurements of acreage open to drilling and cross-country ORV use, as well as mileage of ORV trails, there is no analysis of the actual fragmentation of habitat that is likely to occur. The metrics summarized above, such as road density, core areas and functional habitat, do not appear in the DRMP/EIS. While the data provided is relevant, it is not sufficient. The Utah BLM has the capacity to measure habitat fragmentation and has been conducting this type of analysis. For instance, the DRMP/EIS/EIS released by the Vernal Field Office in January, 2005, included extensive measurement of potential habitat fragmentation using a range of effect zones and specific impacts to be expected for different affected species. *See*, Vernal DRMP/EIS, Appendix I and Section 3.19.2. The recently-released Vernal Supplement also presents detailed information on habitat fragmentation from oil and gas development, including measurements of route density and percent of the area outside three functional habitat loss zones. Vernal Supplement, pp. 4-128 – 4-130. Without this information, not only the public, but also the agency is deprived of the opportunity to make an informed decision.

The DRMP/EIS takes a similarly limited approach in assessing the impacts of habitat fragmentation on fish and wildlife in general, the “impacts from displacement would be greater for those fish or wildlife species with limited existing habitat and/or a low tolerance for disturbance.” DRMP/EIS, p. 4-70. The most detailed discussion of impacts is, again, presented in accordance with Alternative A, where the DRMP/EIS concludes that:

- “Allowing oil and gas leasing subject to the standard terms and conditions on 422,200 acres (76%) could result in fragmentation through the reduction of usable habitat and disruption of movement among habitats, transitional areas, and parturition areas associated with the construction of access roads, facilities, and wells depending on the location and timing of development.” DRMP/EIS, p. 4-73.
- “Forest and woodland product harvest, cross-country OHV use (466,600 acres, 84%), road construction, facility construction, mineral development and construction of associated facilities, and ROW construction could reduce a source

- of cover for small mammals and reptiles, habitat for birds, and big game winter range and parturition areas.” Id.
- “Concentrated cross-country OHV use could remove existing vegetation, which would result in increased runoff, thus reducing wildlife and fisheries habitat quality.” Id.
 - “Surface disturbing activities could increase sediment delivery to streams, which could interfere with the life history requisites of fish.” Id.
 - “Allowing cross-country OHV use (466,600 acres) on 55 miles of designated routes in areas where OHV use is limited to designated routes (66,200 acres) would result in the displacement of wildlife through human presence and disruptive activities.” DRMP/EIS, p. 4-74.
 - “Impacts could include increased displacement of wildlife, increased stress during critical time periods, and degradation of habitats.” Id.

As in the discussion special status species, there is no analysis of the actual fragmentation of habitat that is likely to occur using standard metrics or a thorough discussion of individual species. While the data provided is relevant, it is not sufficient. Without this information, the BLM cannot fully assess the direct, indirect and cumulative impacts of the management alternatives, as required by NEPA.

Further, in assessing the impacts of the other management alternatives, the lack of assessment of fragmentation caused by each alternative is compounded by the comparison of effects among the alternatives being limited to a comparison to Alternative A. For instance, in considering the effects of the preferred alternative, Alternative B, the DRMP/EIS concludes: that the impacts of oil and gas development “would slightly decrease compared to Alternative A” (DRMP/EIS, p. 4-75); that impacts from cross-country ORV use and road construction would “decrease slightly compared to Alternative A” (DRMP/EIS, pp. 4-75 – 4-76); and that the “magnitude of impacts on fragile soil areas would decrease compared to Alternative A.” DRMP/EIS, p. 4-77. Similarly, in analyzing the benefits of Alternative B, the DRMP/EIS notes that it “would be more restrictive to surface disturbing activities than Alternative A” and, as a result, “would protect fish and wildlife habitat from surface disturbance and disruptive activities.” DRMP/EIS, p. 4-77. While a comparison of the acreages open to oil and gas drilling and ORV use is informative, the comparison is not complete without a full assessment of the fragmentation of habitat, how such fragmentation relates to relevant data on metrics for affected species, and how each alternative compares to the documented needs

Also, in assessing the potential impacts to sage-grouse habitat and developing management, the BLM proposes to use the Connelly *et al.* (2000) guidelines. However, these guidelines do not adequately account for the findings and recommendations of noted experts, including those of Holloran (2005) regarding the impacts of development activities and those of Braun (2006), both of which have also led to more recent guidelines that the BLM should employ instead. *A Blueprint for Sage-grouse Conservation and Recovery* (authored by Clait Braun, attached and incorporated herein by reference) details the habitat requirements for successful and sustaining sage-grouse populations. This document provides that, “no surface occupancy should be allowed

within 5.5 km of all active sage-grouse leks.” The proposed management for protection of sage-grouse habitat as outlined in the Blueprint should be taken into consideration for permitting motorized use and oil and gas development throughout the Kanab Field Office.

Recommendations: In order to comply with the requirements of NEPA to conduct a thorough analysis of impacts of the management alternatives and to facilitate meaningful public participation and review of the DRMP/EIS, the BLM must thoroughly analyze the specific impacts of habitat fragmentation on affected species and provide a comparison of the management alternatives, as described in detail above. This analysis should include the impacts of ORVs and motorized routes, as well as roads. Further, the BLM should apply the guidelines for sage-grouse management set out in *A Blueprint for Sage-grouse Conservation and Recovery*. The public should be provided with an opportunity to review and comment on a compliant analysis of habitat fragmentation *before* a proposed RMP is adopted by the BLM.

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

The DRMP/EIS makes important acknowledgments of the potential damage from habitat fragmentation, citing it as one of the three general categories of impacts that “would be anticipated to be the most influential on special status species and their habitat.” DRMP/EIS, p. 4-49. The disturbance to habitats from oil and gas development, roads, and ORV use and trails, are also acknowledged, as well as the benefits of restricting such impacts are generally discussed, including the baseline assumption (DRMP/EIS, at p. 4-50) that:

Ground disturbing activities could lead to modification (positive or negative), loss (short-term or long-term), or fragmentation of special status species habitat and/or loss or gain of individuals, depending on the amount of area disturbed, the species affected, and the location of the disturbance.

In comparing the alternatives with respect to their effects on special status species, the DRMP/EIS acknowledges (at p. 4-68) that:

Alternative C would cause the least amount of habitat alteration, fragmentation, and/or loss and displacement by providing the least amount of surface disturbance through permitted activities. Alternatives A and D provide the greatest amount of habitat alteration, fragmentation, and loss and displacement due to crosscountry OHV use (Alternative A) and the largest acreages available for permitted activity with the least protective restrictions. . . Alternative B falls between Alternatives A and C in the effects to special status species from surface disturbance resulting in habitat alteration, fragmentation, and/or loss as well as habitat maintenance and enhancement measures.

A similar conclusion is reached in the DRMP/EIS’s assessment of the various alternatives on fish and wildlife habitat. *See*, DRMP/EIS, pp. 4-85 – 4-86. Unfortunately, the range of disturbance among the various alternatives does not include an alternative that would substantially restrict surface-disturbing activities. Alternative C, which would cause the

least amount of habitat fragmentation, would still designate 884 miles of ORV trails and maintain 388,300 acres or 70% of the area available for ORV use. Further, Alternative C would provide 381,400 acres for oil and gas development and provide 69% of the planning area for oil and gas development; Alternative C, and all of the alternatives would yield the same projected number of new oil and gas wells. DRMP/EIS, pp. ES-8, 2-125.

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

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

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

As discussed in detail above, the DRMP/EIS acknowledges that areas with less surface disturbance will lead to less habitat fragmentation and other damage to fish and wildlife habitat, including special species habitat. The DRMP/EIS identifies non-WSA lands with wilderness characteristics as areas with “naturalness or opportunities for solitude and that are conducive to primitive, unconfined recreation.” DRMP/EIS, p. ES-3. Alternative C considers management of non-WSA lands with wilderness characteristics to protect these values, including their naturalness. DRMP/EIS, pp. 2-23, 2-59. The other alternatives do not consider protecting any of these lands. DRMP/EIS, p. 2-59. Under Alternative C, in preserving their naturalness, non-WSA lands with wilderness characteristics would be managed to minimize surface disturbance, including by:

- closure to ORV use;
- closure to oil and gas leasing;
- exclusion of new rights-of-way; and
- closure to mineral material disposal.

DRMP/EIS, p. 2-60. While these prescriptions would prevent habitat fragmentation and other impacts on wildlife, there is no discussion in the RMP of these benefits.

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

D. Concerning the Utah Prairie Dog

Special Status Species: Utah prairie dog

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

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

Harms from oil and gas activities include loss of habitat from wellpads, roads, pipelines, and other infrastructure; disturbance to Utah prairie dogs from seismic exploration, including hearing loss; proliferation of noxious weeds which displace native plant communities important for prairie dog foraging; road-building, which increases human ingress and the potential for illegal prairie dog shooting; and habitat contamination. *See* Attachment II, Attachment JJ: SUWA and Forest Guardians. Comments on Parowan Gap Geophysical Project EA, BLM Cedar City Field Office. Dated November 2, 2006. BLM continues to lease extensive amounts of Utah prairie dog habitat despite the clear impediment oil and gas activities present to prairie dog recovery – and even bare survival. *See* Attachment KK: Center for Native Ecosystems and Forest Guardians protest of Utah BLM February 2007 oil and gas lease sale. While the BLM seems to maintain that oil and gas and other surface disturbance can actually benefit prairie dogs by creating fostering early seral plant communities (draft RMP at p. 4-54), this observation fails to consider harms to Utah prairie dogs from cheatgrass and brush invasion.

Harms to Utah prairie dogs from OHV use include loss of habitat, proliferation of noxious weeds, increased illegal prairie dog shooting, and disturbance of prairie dogs,

resulting in interruption of above-ground foraging and other life-sustaining activities. *See* Attachment II.

The measures the draft RMP provides for Utah prairie dogs in Appendix M (pp. AM-5 to 6) are inadequate to protect this listed species:

- Limiting surface disturbance within 0.5 miles of active Utah prairie dog colonies fails to protect unoccupied habitat which is important for colony expansion. It also fails to consider Utah prairie dogs dispersing to find adjacent colonies or to establish new ones.
- While the RMP prohibits permanent surface disturbance or facilities in suitable habitat, this fails to consider how “temporary” activities, such as seismic exploration, may cause habitat loss and degradation and disturb prairie dogs in the vicinity.
- The RMP stipulates that “unavoidable” surface-disturbing activities in Utah prairie dog habitat should be seasonally restricted. Given the imperilment of this species, there must be no surface-disturbance, regardless of time of year. There will be impacts to prairie dogs both above-ground and in their burrows all year long. There should be no surface disturbance in Utah prairie dog habitat: even directional drilling should be limited if that requires wellpad enlargement.
- Only native seeds should be used for reclamation.
- The draft RMP fails to make enforceable commitments in Appendix M vis-à-vis OHV impacts, despite the important harms these activities present to prairie dogs and their habitat.
- BLM should monitor whether the 25-mile per hour speed limit is still resulting in prairie dog mortality. If it is, this speed limit should be adjusted downward. If BLM needs to work with other federal and state agencies to promulgate enforceable speed limits, it should.
- The BLM has included no restrictions on livestock grazing in Utah prairie dog suitable habitat. Livestock grazing should be significantly restricted in Utah prairie dog habitat where it is impeding species survival and recovery.

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

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

instance, the BLM authorized livestock grazing during drought at translocation sites despite the faltering status of populations there. *See* Attachment MM.

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

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

XXI. MANAGEMENT OF ADJACENT LANDS

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

A. Consistency with the Grand Staircase-Escalante National Monument

When the BLM's flagship Monument was designated in 1996, around 1,086,000 acres were removed from the Kanab and Escalante Field Offices' management jurisdiction and subject to a more protective management mandate. The Antiquities Act of 1906 (16 U.S.C. §§ 431-433) requires the BLM to protect and manage the objects of scientific and historic interest listed in the Presidential Proclamations that established the Monuments. Pursuant to Proclamation 6920, creating the Grand Staircase-Escalante National Monument (GSENM), objects to be protected and prioritized include those that preserve the area's primitive, frontier state as well as those that "will provide opportunities for the study of scientific and historic resources." *See*, GSENM RMP, p. iv.

The Kanab RMP should embrace the values set out in the GSENM Proclamation and RMP for consistency pursuant to the regulations implementing FLPMA as a “resource related plan.” 43 C.F.R. § 1610.3-2. This means actual incorporation of the GSENM plan concepts where applicable into the Kanab RMP, rather than a mere statement that the “GSENM Plan was reviewed for consistency.” DRMP/EIS, p. 1-18. This includes goals and objectives that protect, conserve, and support the restoration of the objects and resources described in the Proclamations and the health of the regional ecosystem.

The GSENM, once a part of the Kanab and Escalante Field Offices should be viewed in the larger context as part of the continuous landscape. The Kanab Field Office should acknowledge the wide-ranging benefits of the Monument’s creation within its own plan. This includes both education efforts and limitations on motorized recreation, oil and gas leasing, and other damaging uses, as well as advertising the area’s quiet, low impact, and scientific uses that have been enjoyed by generations of Americans on this landscape.

Recommendation: The Kanab RMP should reflect certain aspects of the GSENM RMP for consistency purposes as well as to provide both the Kanab planning area and the GSENM the proper protection needed to ensure long-term preservation of the outstanding values of this landscape. The RMP should also provide measurable goals, objectives, and desired future conditions that recognize the area’s special virtues of ruggedness, remoteness, and wildness.

B. Consistency with the nearby National Parks

Due to the extraordinary surroundings of the planning area and landscape, there are several nearby and/or adjacent National Parks that have been withdrawn for the purpose of conservation. These Parks include:

- Arches National Park
- Bryce Canyon National Park
- Canyonlands National Park
- Capitol Reef National Park
- Zion National Park

The DRMP/EIS should include management prescriptions for how the landscape will be managed as a whole in order to not impair the conservation objectives of these places.

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

In addition, major objectives and standards should be set in the Kanab RMP for air quality and visibility concerns for the Parks. The Parks listed above are all class I areas as designated under the Clean Air Act. DRMP/EIS, p. 3-2. While there are “no nearby

nonattainment areas for the Class 1 areas” (DRMP/EIS, p. 3-3), the plan should have objectives on how the Kanab Field Office plans on managing lands under their jurisdiction in a way to keep these areas in attainment.

The adjacent National Parks and their borders should have a backdrop of high visibility for the scenic vistas common to this landscape. The DRMP/EIS mentions controlling law that addresses surface coal mining and visibility in Bryce Canyon NP. DRMP/EIS, p. 3-65. This type of protection should be accorded to all of the parks within or adjacent to the Kanab planning area in order to be consistent with the objectives of the nearby National Parks.

Recommendation: The Kanab RMP should be consistent with the management of the National Parks in the area and should provide management objectives and prescriptions that protect and do not impair the conservation values of the adjacent and nearby National Parks. This should include, but is not limited to, the air quality and visibility impairment of the Parks from actions occurring within the planning area.

XXII. WILDERNESS AREA MANAGEMENT

The Kanab Field Office manages 21,200 acres of congressionally designated wilderness along the Paria River and Buckskin Gulch. While the BLM is mandated to manage this resource under the strictures of Wilderness Act, the BLM proposes some management actions in the preferred alternative.

The preferred alternative suggests using the “best mix of chemical, biological or mechanical means with fire and natural processes” to restore ecological functions. (2-108). Presumably this language would give the BLM more options for dealing with tamarisk infestation – including release of biological controls like the Asian leaf beetle. While SUWA supports the goal of removal of noxious invasive species, we recommend that the BLM refine the language to specify that no action be taken that would take away from the overall appearance of naturalness – i.e. that there is no visible extensive evidence of such restorative efforts. So, within a wilderness area, perhaps biological controls and hand-tool mechanical means would constitute the “best mix.”

For fire and fuels management – “the use of earth-moving equipment must be authorized by the Field Office manager” – seems incompatible with the law. The BLM should adopt the management strategy in Alternative C to manage for fire and fuels – natural processes.

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