

*Director's Protest Resolution Report*

**Butte**  
**Resource Management Plan**

February 11, 2009



*Contents*

Reader’s Guide..... 3

List of Commonly Used Acronyms ..... 4

Protesting Party Index..... 5

Issue Topics and Responses..... 6

National Environmental Policy Act ..... 6

    NEPA Policy ..... 6

    Range of Alternatives..... 6

    Analytical Discussion of Impacts..... 8

    Discussion of Cumulative Effects ..... 12

    Need to Supplement to Draft RMP/EIS ..... 14

    Combination of RMP Revision with Implementation Decisions ..... 16

    Public Participation ..... 17

    Analysis of Recreation Needs ..... 19

    Visitor Use Data ..... 21

Federal Land Policy and Management Act..... 22

Travel Management ..... 24

    Dispersed Camping ..... 24

    Road Density ..... 26

    R.S. 2477 ..... 27

    Three-State Off-Highway Vehicle Record of Decision ..... 27

Lands and Realty..... 28

Special Designations ..... 31

E.O. 13443 ..... 32

Social and Economic Interests ..... 33

## Reader's Guide

### *How do I read the Report?*

The Director's Protest Resolution Report is divided up into sections, each with a topic heading, excerpts from individual protest letters, a summary statement (as necessary), and the BLM's response to the summary statement.

### **Report Snapshot**

**Issue Topics and Responses**

NEPA — Topic heading

Submission number

Protest issue number

**Issue Number:** PP-CA-ESD-08-0020-10

**Organization:** The Forest Initiative — Protesting organization

**Protester:** John Smith — Protester's name

**Issue Excerpt Text:** — Direct quote taken from the submission

Rather than analyze these potential impacts, as required by NEPA, BLM postpones analysis of renewable energy development projects to a future case-by-case analysis.

**Summary** — General statement summarizing the issue excerpts (optional).

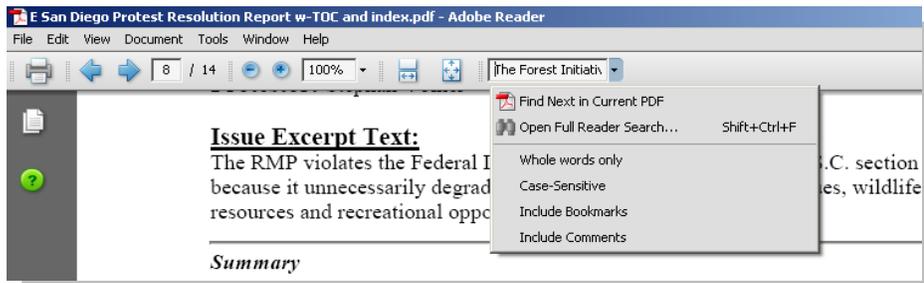
There is inadequate NEPA analysis in the PRMP/FEIS for renewable energy projects.

**Response** — BLM's response to the summary statement or issue excerpt if there is no summary.

Specific renewable energy projects are implementation level decisions rather than BLM level

### *How do I find my Protest Issues and Responses?*

1. Find your submission number on the protesting party index which is organized alphabetically by protester's last name.
2. In Adobe Reader search the report for your name, organization or submission number (do not include the protest issue number). Key word or topic searches may also be useful.



### List of Commonly Used Acronyms

ACEC	Area of Critical Environmental Concern	IB	Information Bulletin
APD	Application for Permit to Drill	IM	Instruction Memorandum
BA	Biological Assessment	MOU	Memorandum of Understanding
BLM	Bureau of Land Management	NEPA	National Environmental Policy Act of 1969
BMP	Best Management Practice	NHPA	National Historic Preservation Act of 1966, as amended
BO	Biological Opinion	NOA	Notice of Availability
CAA	Clean Air Act	NOI	Notice of Intent
CEQ	Council on Environmental Quality	NRHP	National Register of Historic Places
CFR	Code of Federal Regulations	NSO	No Surface Occupancy
COA	Condition of Approval	OHV	Off-Highway Vehicle (has also been referred to as ORV, Off Road Vehicles)
CSU	Controlled Surface Use	RFDS	Reasonably Foreseeable Development Scenario
CWA	Clean Water Act	RMP	Resource Management Plan
DM	Departmental Manual (Department of the Interior)	ROD	Record of Decision
DOI	Department of the Interior	ROW	Right-of-Way
EA	Environmental Assessment	SHPO	State Historic Preservation Officer
EIS	Environmental Impact Statement	SO	State Office
EO	Executive Order	T&E	Threatened and Endangered
EPA	Environmental Protection Agency	USC	United States Code
ESA	Endangered Species Act	USGS	U.S. Geological Survey
FEIS	Final Environmental Impact Statement	VRM	Visual Resource Management
FLPMA	Federal Land Policy and Management Act of 1976	WA	Wilderness Area
FO	Field Office (BLM)	WSA	Wilderness Study Area
FWS	U.S. Fish and Wildlife Service	WSR	Wild and Scenic River(s)
GIS	Geographic Information Systems		

*Protesting Party Index*

<b>Protester</b>	<b>Organization</b>	<b>Submission Number</b>	<b>Determination</b>
	Capital Trail Vehicle Association	PP-MT-BUTTE-08-0002	Denied—Issues Comments
Ehnes, Ramona	Montana Trail Vehicle Riders Association	PP-MT-BUTTE-08-0004	Denied—Issues Comments
Hedrick, Charles M.	Montana Snowmobile Association	PP-MT-BUTTE-08-0006	Denied—Issues Comments
Johnson, Cleve E.	Individual	PP-MT-BUTTE-08-0005	Denied—Issues Comments
Remoir, William C.	Earth Angel Health Mine	PP-MT-BUTTE-08-0003	Denied—Issues Comments
White, Kerry	Citizens for Balanced Land Use	PP-MT-BUTTE-08-0001	Denied—Issues Comments

## Issue Topics and Responses

### National Environmental Policy Act

#### NEPA Policy

---

**Issue Number:** PP-MT-BUTTE-08-0001-77

**Organization:** Citizens for Balanced Use, Capital Trail Vehicle Association

**Protester:** Kerry White

**Issue Excerpt Text:**

NEPA was intended to protect and enhance the human environment as demonstrated by statements in the original NEPA Act of 1969 including "attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;... achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities" (<http://ceq.eh.doe.gov/nepalregs/nepalnepaeqia.htm>). The creators of NEPA envisioned that the process would achieve a reasonable balance between the natural and human environment. The human environment includes a substantial number of OHV and motorized recreationists in Montana. We believe that the travel planning process under NEPA should work for them also. The Butte Resource Management Plan does not provide for the widest range of beneficial uses, an equitable balance between population and resource use, and a high standard of living, and a wide sharing of life's amenities.

---

#### ***Response***

In preparing the PRMP/FEIS, the BLM has fully complied with the NEPA and is in accord with the policy of section 101(b). *See* 42 USC § 4331(b). The PRMP/FEIS provides management direction to maintain, improve, or restore resource conditions and to support the long-term economic needs of local communities (PRMP/FEIS at S-1). In Chapter 2, the BLM has described alternative ways of resolving the planning issues and sustaining the long-term health, diversity, and productivity of public lands in the Planning Area (PRMP/FEIS at 19-218). These alternatives include different approaches to balancing demands on public land, managing and protecting resource values, and reducing conflicts. The Preferred Alternative, Alternative B, emphasizes moderate levels of resource protection, use, and restoration. The Preferred Alternative emphasizes a balance of motorized and non-motorized recreation and access opportunities (PRMP/FEIS at 20). The BLM followed procedures at 43 CFR § 8342 as described in Appendix A of the PRMP to develop alternatives that provide for an equitable balance between human uses and resource impacts associated with motorized recreation. Alternative B represents the mix and variety of actions that best resolves the issues and concerns relevant to the Planning Area.

---

#### ***Range of Alternatives***

---

**Issue Number:** PP-MT-BUTTE-08-0001-52

**Organization:** Citizens for Balanced Use, Capital Trail Vehicle Association

**Protester:** Kerry White

**Issue Excerpt Text:**

27. The process leading to the decision has a critical

flaw which is the lack of a true "pro-recreation" alternative that adequately addresses motorized recreation. All of the alternatives developed for consideration represent a significant reduction in routes available for motorized use. Not one Alternative even truly sustains the current opportunity. Conversely, virtually every project has

developed a "preservation" alternative, where a maximum amount of closures are considered. The increasing demand for OHV recreation opportunities on public lands is extensively documented. Therefore, it is incumbent upon the project team to formulate at least one alternative that maximizes motorized recreation, or at least does not reduce motorized recreational opportunities in the planning area.

---

**Issue Number:** PP-MT-BUTTE-08-0004-7  
**Organization:** Montana Trail Vehicle Riders Association  
**Protester:** Ramona Ehnes

**Issue Excerpt Text:**

B. The PRMP Suffers An Inadequate Range of Alternatives

The Butte Field Office has failed to meaningfully consider viable alternatives to those formally analyzed in the FEIS. NEPA imposes a mandatory procedural duty on federal agencies to consider a reasonable range of alternatives to the preferred alternative. 40 C.F.R. § 1502.14 ("agencies shall rigorously explore and objectively evaluate all reasonable alternatives.") The alternatives section is considered the "heart" of the EIS and a NEPA analysis must "explore and objectively evaluate all reasonable alternatives." 40 C.F.R. § 1502.14. A NEPA analysis is invalidated by "[t]he existence of a viable but unexamined alternative." *Resources, Ltd. v. Robertson*, 35 F.3d 1300, 1307 (9th Cir. 1993).

All action alternatives are closure alternatives. NEPA requires an agency to "rigorously explore and objectively evaluate all reasonable alternatives." 40 C.F.R. § 1502.12(a)(2000). While the PRMP/FEIS pays lip service to information submitted by the motorized community, none of this information was incorporated into a revised range of alternatives and

presented to and made available for comment by the general public. It is unclear what, if any, part of these submissions were included in the final alternatives available for public review and comment. Regardless of how much of this input was removed by BLM from the range of alternatives, BLM has illegally refused to consider at least some viable permutations of route/area designations.

---

**Issue Number:** PP-MT-BUTTE-08-0006-4  
**Organization:** Montana Snowmobile Association  
**Protester:** Charles M. Hedrick

**Issue Excerpt Text:**

B. The PRMP Suffers an Inadequate Range of Alternatives.

The Butte Field Office has failed to meaningfully consider viable alternatives to those formally analyzed in the FEIS. NEPA imposes a mandatory procedural duty on federal agencies to consider a reasonable range of alternatives to the preferred alternative. 40 C.F.R. § 1502.14 ("agencies shall rigorously explore and objectively evaluate all reasonable alternatives.") The alternatives section is considered the "heart" of the EIS and a NEPA analysis must "explore and objectively evaluate all reasonable alternatives." 40 C.F.R. § 1502.14. A NEPA analysis is invalidated by "[the existence of a viable but unexamined alternative." *Resources, Ltd v. Robertson*, 35 F.3d 1300, 1307 (9th Cir. 1993). All action alternatives are closure alternatives. NEPA requires an agency to "rigorously explore and objectively evaluate all reasonable alternatives." 40 C.F.R. § , 1502. 12(a) (2000).

All action alternatives are closure alternatives. NEPA requires an agency to "rigorously explore and objectively evaluate all reasonable alternatives." 40C.F.R.§1502.12(a)(2000).

---

***Summary***

The Butte PRMP fails to analyze an adequate range of alternatives as required by the NEPA. The PRMP lacks an alternative that either maximizes or does not reduce motorized recreation opportunities.

---

***Response***

The BLM considered a reasonable range of alternatives during the planning process, in full compliance with the NEPA. The CEQ regulations require that the BLM consider reasonable

alternatives that would avoid or minimize adverse impacts or enhance the quality of the human environment. 40 CFR § 1502.1. While there are many possible alternatives or actions, the BLM used the scoping process to determine a reasonable range of alternatives. As a result, four alternatives were analyzed in detail in the PRMP/FEIS that best addressed the issues and concerns identified by the affected public.

The BLM's range of alternatives presented a full spectrum of management options. The No Action alternative, Alternative A, proposes to continue current management. This alternative would not reduce motorized recreation opportunities from current levels. The Preferred Alternative, Alternative B, emphasizes moderate levels of resource protection, use, and restoration. Alternative B emphasizes a balance of motorized and non-motorized recreation and access opportunities. Alternative C places greater emphasis on non-motorized recreation opportunities. Alternative D emphasizes motorized access and recreation more than Alternatives B and C. The PRMP provides a summary comparison of the alternatives in Table 2-24, which addresses Travel Management specifically at pages 198-200.

The BLM acknowledges that there could be a large number of variations to alternatives put forth in the RMP process. However, the BLM is not required to analyze each variation in detail, including those determined not to meet the RMP's purpose and need or those determined to be unreasonable given BLM mandates, policies, and programs including the FLPMA and other Federal laws and regulations applicable to public lands. The CEQ addressed this issue as follows: "For some proposals there may be a very large or even an infinite number of reasonable alternatives.... When there are potentially a very large number of alternatives, only a reasonable number of examples, covering the full spectrum of alternatives, must be analyzed and compared in the EIS." Forty Most Asked Questions Concerning CEQ's NEPA Regulations, 46 Fed. Reg. 18,026, 18,031 (March 23, 1981). Each of the alternatives considered and analyzed in detail achieves the purpose and need for the plan, is implementable, and addresses all significant issues. The BLM's PRMP is the result of a broad range of analysis and public input and represents a balanced, multiple use management strategy that protects resources and allows for commodity uses. The PRMP provides a detailed rationale for the alternatives and management options considered but eliminated from detailed analyses (PRMP/FEIS at 104-05). *See* 40 CFR § 1502.14(a). Each of the alternatives represents an alternative means of satisfying the identified purpose and need or of resolving specific issues to varying degrees. An alternative that would increase motorized recreation was considered, but not analyzed in detail because it met neither the BLM's multiple use mandate established in the FLPMA nor the planning criteria for the RMP (PRMP/FEIS at 15, 105).

---

## *Analytical Discussion of Impacts*

---

**Issue Number:** PP-MT-BUTTE-08-0001-32  
**Organization:** Citizens for Balanced Use, Capital Trail Vehicle Association  
**Protester:** Kerry White

**Issue Excerpt Text:**

16. The only issues, alternatives, and impacts

adequately evaluated in Chapter III of the FEIS were those on natural resources, fish and wildlife. In fact there are pages and pages of discussion evaluating impacts on the natural environment but there is little or nothing on the human environment. A much better balance is needed. The FEIS did not adequately address the issues, needs, alternatives, and impacts on

the public associated with the reduction or lack of adequate motorized recreation because it ignored adequate evaluation of critical areas including social, cultural, historical use, current use, future needs, economic impact, and quality of the human environment from the perspective of motorized recreationists. Our comments identified these areas and many other significant issues but, unfortunately, they were not addressed in the FEIS. Consequently, the FEIS and Decision are both contrary to the needs of the public and requirements of NEPA.

---

**Issue Number:** PP-MT-BUTTE-08-0001-37  
**Organization:** Citizens for Balanced Use, Capital Trail Vehicle Association  
**Protester:** Kerry White

**Issue Excerpt Text:**  
Secondly, the FEIS did not adequately document given the positive impacts that motorized recreation provides to the health of the human environment. Only then can the negative impacts associated with motorized recreation be fairly compared to the positive impacts and then it will be reasonable to conclude that these relatively minor negative impacts are acceptable. Because the evaluation did not use a reasonable system of benchmarks to compare both negative and positive impacts the Decision produces relatively insignificant incremental improvements to the natural environment and at the cost of significant negative impacts on the human environment.

---

**Issue Number:** PP-MT-BUTTE-08-0001-39  
**Organization:** Citizens for Balanced Use, Capital Trail Vehicle Association  
**Protester:** Kerry White

**Issue Excerpt Text:**  
In other words, the Decision was not based on a realistic comparison of impacts to naturally occurring levels, it did not adequately identify the significant positive impacts associated with motorized recreation, and it did not reasonably weigh the relatively insignificant improvements to the natural environment versus the significant impacts of the motorized closures.

---

**Issue Number:** PP-MT-BUTTE-08-0001-40  
**Organization:** Citizens for Balanced Use, Capital Trail Vehicle Association  
**Protester:** Kerry White

**Issue Excerpt Text:**  
20. The impact of OHV recreation on wildlife has

been overstated by the agency and wildlife biologists. First, wildlife populations are at all time high (<http://www.mtstandard.com/articles/2005/11/30/outdoors/hjjeiigjcefb.txt>, <http://fwp.mt.gov/FwpPaperApps/hunting/ElkPlanFinal.pdf>) at the same time when OHV use is increasing. If there is any impact to be identified, it appears that it should be that the positive impact associated with increasing OHV use and increasing wildlife populations.

---

**Issue Number:** PP-MT-BUTTE-08-0001-64  
**Organization:** Citizens for Balanced Use, Capital Trail Vehicle Association  
**Protester:** Kerry White

**Issue Excerpt Text:**  
Actions under NEPA have a serious obligation to the public to disclose all significant impacts. Failure to provide information about the significant potential environmental consequences from motorized closures across the forest and the region means this EIS failed to meet NEPA requirements to provide the public with full environmental disclosure. *Silva v. Lynn*, 482 F.2d 1282, 1285 (1st Cir. 1973).

---

**Issue Number:** PP-MT-BUTTE-08-0001-67  
**Organization:** Citizens for Balanced Use, Capital Trail Vehicle Association  
**Protester:** Kerry White

**Issue Excerpt Text:**  
33. The proposed action will have significant impacts on motorized recreationists. The significant impacts of this decision combined with the cumulative effect of all other motorized closures are significant. Significant impacts must be identified and mitigated. The evaluation and decision did not adequately address the need to mitigate impacts on motorized recreationists and, therefore, the evaluation and decision did not implement any mitigation for all of the significant negative impacts and cumulative effects on motorized recreationists.

---

**Issue Number:** PP-MT-BUTTE-08-0001-73  
**Organization:** Citizens for Balanced Use, Capital Trail Vehicle Association  
**Protester:** Kerry White

**Issue Excerpt Text:**  
The evaluation and decision did not take into account many significant environmental conditions and issues including: inappropriate one size fits all approach (1 mile per square mile), no site specific data and

analysis including determination of existing use, no consideration of the existing and future needs of the public for motorized access and recreation, inadequate consideration of elk populations at all-

time high, inadequate consideration that the grizzly bear population is twice that previously estimated and other factors and issues as discussed in our comments for the project record.

---

### ***Summary***

The impacts analysis contained in the PRMP is inadequate. Specifically, the BLM did not give sufficient consideration to:

- The impacts on the public associated with the reduction of or lack of adequate motorized recreation;
- The significant potential environmental consequences from motorized closures across the forest and the region;
- The positive impacts that motorized recreation has on the natural environment or on the health of the human environment;
- Social, cultural, historical use, current use, future needs, economic impact, and quality of the human environment from the perspective of motorized recreationists; and
- The need to mitigate impacts on motorized recreationists.

Additionally, the impact of OHV recreation on wildlife has been overstated by the Agency and wildlife biologists. The PRMP did not take into account that elk populations are at an all-time high and that the grizzly bear population is twice what was previously estimated.

---

### ***Response***

The PRMP/FEIS fully assesses and discloses the environmental consequences of the Proposed Plan and alternatives on the quality of the human environment. Chapter 4 discusses the environmental impacts (including direct, indirect, and cumulative effects) of the alternatives (PRMP/FEIS at 323-682). *See* 40 CFR §§ 1502.16, 1508.8. The NEPA's use of "human environment" is interpreted comprehensively and "include[s] the natural and physical environment and the relationship of people with that environment." 40 CFR § 1508.14. NEPA regulations require an EIS to discuss all interrelated environmental effects on the human environment (economic or social and natural or physical). 40 CFR § 1508.14. Neither NEPA regulations nor BLM planning regulations require an analysis of the human environment from a particular perspective (e.g., motorized recreationists).

The PRMP/FEIS discusses the effects of the alternatives on social and economic conditions, including discussion of effects on motorized recreation on pages 483-96. The PRMP/FEIS also discusses and analyzes the effects of the alternatives on travel management and access at pages 469-73. Cumulative effects of travel plans at the planning area scale are discussed on pages 662-82. This includes discussion of the cumulative effects of past, present, and reasonably foreseeable future travel plan actions on Travel Management and Access, including motorized use opportunities on pages 678-82. Recent travel plan decisions made by the BLM and other agencies within and immediately adjacent to the planning area, such as the 2003 Statewide OHV ROD, are incorporated into this discussion. The BLM acknowledges that, under the preferred

alternative, motorized users would have fewer miles of dispersed roads or trails to recreate upon (PRMP/FEIS at 681).

Regarding “the need to mitigate impacts on motorized recreationists,” NEPA regulations require an EIS to include appropriate measures to mitigate adverse environmental impacts. 40 CFR §§ 1502.14(f), 1502.16(h). Potential forms of mitigation include avoiding the impact altogether by not taking a certain action or parts of an action or minimizing impacts by limiting the degree or magnitude of the action and its implementation. 40 CFR § 1508.20. The BLM has considered means to mitigate the impacts of the PRMP/FEIS on all resources and resource uses, including travel management. For example, the PRMP/FEIS creates separate use areas to reduce conflict between motorized and non-motorized recreation users (PRMP/FEIS at 470). Seasonal wildlife closures, rather than year-long closures, are another example of mitigation (PRMP/FEIS at 471). In many cases, seasonal closures provide motorized use during key parts of the year while minimizing or eliminating adverse effects of motorized use to specific resources. Some forms of mitigation have not been included in the PRMP/FEIS because they are not appropriate. The BLM’s multiple-use mandate under the FLPMA precludes complete elimination of all impacts to all resources and resource uses. Nevertheless, the Butte PRMP/FEIS has included appropriate measures to mitigate adverse environmental impacts.

Site-specific impact analysis, such as the potential impacts of motorized route closures, is the result of implementation-level decisions. Implementation decisions are not subject to this protest process, but rather subject to appeal before the Office of Hearing and Appeals, Interior Board of Land Appeals.

Impacts of OHV recreation on wildlife have been adequately stated, described, and considered in the PRMP/FEIS on pages 376, 380, 419-20, 667-73. The BLM manages habitat for wildlife, including big game species; Montana Fish, Wildlife and Parks regulates harvest of game species (PRMP/FEIS at 245).

The BLM has taken wildlife population levels into account in preparing the PRMP/FEIS. The PRMP/FEIS states that elk populations “have been either stable or increasing over the last 20 years” (PRMP/FEIS at 248). The Montana Statewide Elk Management Plan (cited as MFWP 2004b in PRMP/FEIS) identifies population objectives as well as habitat objectives by Elk Management Unit. The BLM considered these goals and objectives when addressing the impacts of roads on elk and elk habitat (PRMP/FEIS at 383).

Turning to the grizzly bear, the protester does not provide any data to support the assertion that “the grizzly bear population is twice that previously estimated [sic].” The grizzly bear is a species listed as threatened under the ESA (PRMP/FEIS at 254). The BLM Special Status Species Management policy directs the BLM to conserve listed species and the ecosystems on which they depend. BLM Manual 6840.02. This policy also directs the BLM to ensure that RMPs will be developed consistent with the conservation needs of special status species and in a manner that does not contribute to the need to list any special status species. BLM Manual 6840.02. Under all alternatives, the BLM will comply with and adopt current and future recovery plans, such as the Grizzly Bear Recovery Plan and the Grizzly Bear Management Plan for Southwest Montana (PRMP/FEIS at 45).

## *Discussion of Cumulative Effects*

---

**Issue Number:** PP-MT-BUTTE-08-0001-21

**Organization:** Citizens for Balanced Use, Capital Trail Vehicle Association

**Protester:** Kerry White

**Issue Excerpt Text:**

The same situation exists here as the evaluation did not include a meaningful evaluation of the cumulative effects of all current and reasonably foreseeable motorized closures on motorized recreationists including decisions and proposals on a local, state and regional basis. Local, state and regional actions that affect motorized recreationists were identified our comments but were not adequately addressed. The following table is not complete but it does demonstrate the significant cumulative impact that motorized recreationists are experiencing.

---

**Issue Number:** PP-MT-BUTTE-08-0001-23

**Organization:** Citizens for Balanced Use, Capital Trail Vehicle Association

**Protester:** Kerry White

**Issue Excerpt Text:**

Moreover, the loss of motorized opportunities must include all of the cross-country opportunities that were available for decades and closed as part of the 3-State OHV agreement.

---

**Issue Number:** PP-MT-BUTTE-08-0001-27

**Organization:** Citizens for Balanced Use, Capital Trail Vehicle Association

**Protester:** Kerry White

**Issue Excerpt Text:**

The evaluation that the decision is based on did not reasonably address and quantifying the cumulative effects of the motorized closure trend on a local, state and regional basis. Motorized recreationists provided substantial comments on this trend. The decision also ignored the evaluation of any mitigation of those significant impacts which is out of compliance with the requirements of NEPA and CEQ guidance.

---

**Issue Number:** PP-MT-BUTTE-08-0001-29

**Organization:** Citizens for Balanced Use, Capital Trail Vehicle Association

**Protester:** Kerry White

**Issue Excerpt Text:**

The agency has an obligation to address the cumulative effects associated with all motorized closure actions including those demonstrated in the cumulative effects table. An adequate cumulative effects analysis was not provided and significant cumulative impacts on motorized were not disclosed, both of which are significant NEPA procedural flaws.

---

**Issue Number:** PP-MT-BUTTE-08-0001-43

**Organization:** Citizens for Balanced Use, Capital Trail Vehicle Association

**Protester:** Kerry White

**Issue Excerpt Text:**

21. This decision and others like it (cumulative effects) squeeze more and more motorized recreationists into a smaller and smaller area and set of opportunities with a corresponding significant negative impact on the human and natural environment. In the overall management picture of our national forest system including the Butte Resource Management area, this is not a reasonable solution to the protection of the environment and the needs of the public. This significant issue was not adequately addressed and the decision must be remanded to correct this trend.

---

**Issue Number:** PP-MT-BUTTE-08-0001-66

**Organization:** Citizens for Balanced Use, Capital Trail Vehicle Association

**Protester:** Kerry White

**Issue Excerpt Text:**

An EIS is invalid if the information and analysis it contains is "too vague, too general and too conclusory." Silva, 482 F.2d at 1285. It is a fundamental tenet of NEPA that federal agencies must take a "hard look" at environmental consequences arising from proposed projects. Id. To trigger this requirement a "plaintiff need not show that significant effects will in fact occur," raising "substantial questions whether a project may have a significant effect" is sufficient. Greenpeace Action v. Franklin, 14 F.3d at 1332 (9th Cir. 1992). The cursory, generic reference to the cumulative effects on motorized recreationists without a thorough discussion of the particularly significant impacts to the human environment does not meet this standard. In addition to the evaluation of quantity and quality of all motorized routes closed to date, a thorough

evaluation of cumulative effects would also include impacts on areas including the economy, heritage, culture, and well-being of motorized recreationists. Because the environmental impacts analysis of cumulative effects in the EIS lacks detail, the document's discussion of cumulative effects on motorized recreationists is also lacking in meaningful specifics. Instead, the EIS discusses in only a very general way the cumulative effect of motorized closures; accordingly, the EIS fails to comply with

the requirements of NEPA to discuss mitigation in sufficient detail to ensure that environmental consequences are fairly evaluated. See *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 352 (1989). The impacts of the cumulative effect of motorized closures are forest-wide and regional and should have been addressed in the EIS to allow for informed decision making and consideration of adequate mitigation.

---

### ***Summary***

The PRMP did not include a meaningful evaluation of the cumulative effects and associated mitigation measures, including:

- The cumulative effect of all current and reasonably foreseeable motorized closures (on a local, state, and regional basis, including the 3-State OHV ROD) on motorized recreationists (specifically, impacts to the economy, heritage, culture, and well-being of motorized recreationists).
- The cumulative effect of squeezing more and more motorized recreationists into a continuously smaller area with a corresponding significant negative impact on the human and natural environment.

---

### ***Response***

The cumulative effects analysis of the PRMP/FEIS fully considered the present effects of past actions, to the extent that they are relevant, and present and reasonably foreseeable (not highly speculative) Federal and non-Federal actions, taking into account the relationship between the proposed action and these reasonably foreseeable actions. NEPA regulations require the BLM to prepare a detailed statement of the environmental impacts of the alternatives including direct and indirect effects along with cumulative impacts. 40 CFR § 1502.16. "Cumulative impact is 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." 40 CFR § 1508.7. The NEPA's use of "human environment" is interpreted comprehensively and "include[s] the natural and physical environment and the relationship of people with that environment." 40 CFR § 1508. NEPA regulations require an EIS to discuss all interrelated environmental effects on the human environment (economic or social and natural or physical). 40 CFR § 1508.14.

The scope and nature of the specific proposed action drives what level of analysis must be done to comply with the requirements of the NEPA. The planning area for a resource management plan is the geographic area associated with a particular field office. 43 CFR § 1610.1(b). The analysis area is any lands for which the BLM synthesizes, analyzes, and interprets data and information that relates to planning for BLM land. BLM Handbook H-1601-1, at 14. The planning area for the Butte Field Office is described in Chapter 1 of the PRMP/FEIS and shown on Map 1. The cumulative effects analysis area is further discussed on page 496 of the PRMP/FEIS under the Cumulative Effects heading. The planning area and analysis area that

frame the cumulative effects analysis take into account relevant actions at the appropriate scales.

The cumulative impacts assessment in the PRMP/FEIS for each resource section accounts for past, present, and reasonably foreseeable future actions that are relevant to determining the significant adverse impacts of the alternatives. The PRMP/FEIS discusses past, present, and reasonably foreseeable actions on pages 496-502 and the cumulative effects of those actions on resources, resource uses, and special designations on pages 502-511. Pages 483-496 of the PRMP/FEIS discuss effects of the alternatives on Social and Economic Conditions, including discussion of effects on motorized recreation. Cumulative Effects on Social and Economic Conditions are discussed on page 510 of the PRMP/FEIS. More specific to travel planning, pages 662-682 of the PRMP/FEIS discuss Cumulative Effects of Travel Plans at the Planning Area Scale. This includes discussion of cumulative effects of past, present, and reasonably foreseeable future travel plan actions on Travel Management and Access, including motorized use opportunities (PRMP/FEIS at 678-82). This also includes discussion of recent travel plan decisions made by the BLM and other agencies within and immediately adjacent to the planning area, such as the 2003 Statewide OHV ROD.

As stated in the Dear Reader letter, decisions on travel route-specific management for the five Travel Planning Areas are not protestable. These implementation decisions are instead subject to appeal to the Office of Hearings and Appeals, Interior Board of Land Appeals. Thus, the adequacy of the cumulative effects analysis at the route-specific (implementation) level is not subject to this protest process.

The NEPA also requires an EIS to include appropriate measures to mitigate adverse environmental impacts. *See* 40 CFR §§ 1502.14(f), 1502.16(h). Mitigation of the adverse effects of travel management such as resource damage is discussed on page 53 of the PRMP/FEIS. In summary, the BLM has fully discussed cumulative effects in the PRMP/FEIS in the context of travel planning and motorized uses as well as appropriate mitigation measures.

---

### *Need to Supplement Draft RMP/EIS*

---

**Issue Number:** PP-MT-BUTTE-08-0006-2

**Organization:** Montana Snowmobile Association

**Protester:** Charles M. Hedrick

**Issue Excerpt Text:**

1. Although the FEIS addressed the changes from the DEIS to the FEIS, pages 15-18, the changes should have been addressed by following the procedure to introduce a revised DEIS, in 40 CFR 1502.9.a, FSH 1909.15.18.2.3)

§ 1502.9 Draft, final, and supplemental statements:

Except for proposals for legislation as provided in § 1506.8 environmental impact statements shall be prepared in two stages and may be supplemented.

(a) Draft environmental impact statements shall be prepared in accordance with the scope decided upon in the scoping process. The lead agency shall work with the cooperating agencies and shall obtain comments as required in part 1503 of this chapter. The draft statement must fulfill and satisfy to the fullest extent possible the requirements established for final statements in section 102(2)(C) of the Act, If a draft statement is so inadequate as to preclude

meaningful analysis, the agency shall prepare and circulate a revised draft of the appropriate portion. The agency shall make every effort to disclose and discuss at appropriate points in the draft statement all major points of view on the environmental impacts of the alternatives including the proposed action.

(b) Final environmental impact statements shall respond to comments as required in part 1503 of this chapter. The agency shall discuss at appropriate points in the final statement any responsible opposing view, which was not adequately discussed in the draft statement and shall indicate the agency's response to the issues raised.

(c) Agencies:

(1) Shall prepare supplements to either draft or final environmental impact statements if:

(i) The agency makes substantial changes in the proposed action that are relevant to environmental concerns; or  
(ii) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

(2) May also prepare supplements when the agency determines that the purposes of the Act will be furthered by doing so.

(3) Shall adopt procedures for introducing a supplement into its formal administrative " record, if such a record exists.

(4) Shall prepare, circulate, and file a supplement to a statement in the same fashion (exclusive of scoping) as a draft and final statement unless, alternative procedures are approved by the Council.

This would have allowed a 45day comment period on the changes prior to the release of the FEIS.

---

## ***Summary***

The BLM's Draft EIS was so inadequate as to preclude meaningful analysis. The BLM was required to prepare a revised draft under 40 CFR 1502.9(a).

---

## ***Response***

A supplemental EIS, as defined under 40 CFR § 1502.9, is not warranted for the Butte RMP. The Draft RMP/EIS was adequate and did not preclude meaningful analysis. The BLM has examined all major points of view on the environmental impacts of the alternatives including the proposed action. *See* 40 CFR § 1502.9(a).

The PRMP discusses changes from the Draft RMP to the Proposed RMP on pages 15 through 18 of the PRMP. These changes are also shaded in gray throughout the PRMP. The BLM made no substantial changes to the DRMP/DEIS that are relevant to environmental concerns (i.e. changes that would result in significant effects outside the range of effects analyzed in the draft). *See* 40 CFR § 1502.9(c)(1)(i). Also, no significant new circumstances or information were identified that would substantially affect the BLM's decision or its impact analysis. Therefore, the BLM was not required to prepare a supplemental EIS or offer an additional public comment period.

## *Combination of RMP Revision with Implementation Decisions*

---

**Issue Number:** PP-MT-BUTTE-08-0004-4  
**Organization:** Montana Trail Vehicle Riders Association  
**Protester:** Ramona Ehnes

**Issue Excerpt Text:**

A. The PRMP Inadequately Addresses Project-Level Travel Planning.

The PRMP unwisely and illegally attempts to combine the BLM's broadest level of programmatic planning with its most detailed (and newest) project-level analysis. Specifically, an RMP revision is attempted here which will further include "travel plan" components that effectively render site-specific decision across all lands within the Field Office jurisdiction.

It is sadly ironic that one of BLM's greatest legal victories, in a case heavily involving the Moab Field Office, outlines the proper roles of program and project-level planning. As the U.S. Supreme Court, upon the Solicitor General's argument on behalf of BLM, has observed land use plans like RMPs are "tools by which present and future use is projected" and are a "preliminary step" which lead to further management actions and "subsequent, more detailed and limited scope plans for resources and uses." Norton v. SUWA, 542 U.S. 55, 69 (2004) (citations omitted, emphasis in original). In fact, "a land use plan is not ordinarily the medium for affirmative decisions that implement the agency's 'project[ions].'" Id. (quoting 43 CFR § 1601.0-2 (2003) (bracketing in SUWA). Again, "BLM's Land Use Planning Handbook specifies that land use plans are normally not used to make site-specific implementation decisions." Id. at 70. For whatever reason, the Butte Field Office has chosen to ignore these well-

established truths and has combined RMP revision and travel planning in a single process.

---

**Issue Number:** PP-MT-BUTTE-08-0004-6  
**Organization:** Montana Trail Vehicle Riders Association  
**Protester:** Ramona Ehnes

**Issue Excerpt Text:**

The Butte Field Office has selected an unprecedented planning method that flatly contradicts applicable BLM planning guidance. Such guidance has not existed in an intellectual vacuum, but has in fact been used to strategic advantage by BLM in prevailing in long-running and costly litigation involving the Moab areas, issues, and interested publics as are not at issue in the PRMP/FEIS. The Montana State and Butte Field Offices have failed to justify this deviation in sound and accepted planning practice.

---

**Issue Number:** PP-MT-BUTTE-08-0006-3  
**Organization:** Montana Snowmobile Association  
**Protester:** Charles M. Hedrick

**Issue Excerpt Text:**

A. The PRMP Inadequately Addresses Project-Level Travel Planning.

The PRMP unwisely and illegally attempts to combine the BLM's broadest level of programmatic planning with its most detailed (and newest) project-level analysis.

Specifically, An RMP revision is attempted here which will further include "travel plan" components that effectively render site-specific decision across all lands within the Field Office jurisdiction.

---

### ***Summary***

The PRMP contradicts BLM guidance by attempting to combine the land use planning with project-level analysis. The RMP revision will include "travel plan" components that effectively render site-specific decisions.

---

## ***Response***

The Butte Field Office has fully complied with BLM regulations and policy pertinent to Comprehensive Transportation and Travel Management Planning. Planning decisions generally fall into one of two categories: land use plan decisions and implementation decisions. Land use plan decisions are broad-scale decisions that guide land management actions and site-specific implementation decisions. Implementation decisions generally constitute the BLM's final approval allowing on-the-ground actions to proceed.

The BLM may use a single land use planning/NEPA process to make both land use plan and implementation decisions, provided both types of decisions are adequately addressed with the appropriate level of NEPA analysis. BLM Handbook H-1601-1, at 30. BLM policy is clear that implementation decisions may be made as part of the land use planning process. BLM Handbook H-1601-1, Appendix C, at 1. Under these circumstances, implementation decisions are still subject to the appeals process or other administrative review process as prescribed by specific resource program regulations after the BLM resolves the protests to land use plan decisions and makes a decision to adopt or amend the RMP.

BLM planning guidance defines the purpose of each level of decision-making in the context of travel management. At the land use plan level, each RMP must assign area designations to all public lands within the planning area, and classify them as either open, limited, or closed to motorized (OHV) use. The approval of a resource management plan, plan revision, or plan amendment constitutes formal designation of off-road vehicle use areas. 43 CFR § 8342.2(b). Implementation-level decisions include identification of specific areas, roads, and trails that will be available for public use, and placing limitations on use. BLM Handbook H-1601-1, Appendix C, at 19. It is the BLM's policy that when time and resources allow, all travel management planning is accomplished during the RMP process, including implementation-level decisions such as route designations. Instruction Memorandum 2008-14, Attachment 5.

The Butte PRMP/FEIS incorporates both land use plan decisions and implementation decisions. The PRMP/FEIS distinguishes between the two levels on page 51. The PRMP/FEIS delineates the Butte Field Office into a total of thirteen Travel Planning Areas (TPAs) and makes area designations for all public lands within the decision area on pages 51-56. The PRMP/FEIS discusses implementation-level decisions within each TPA, such as placing limitations on use of specific routes, on pages 56-64. The effects of the proposed action and the alternatives at the land use level are discussed on pages 469-73. The effects of the proposed action and the alternatives at the implementation level are discussed on pages 513-662. Again, the BLM has fully complied with applicable planning regulations and policy.

---

## ***Public Participation***

---

**Issue Number:** PP-MT-BUTTE-08-0005-5

**Organization:**

**Protester:** Cleve Johnson

**Issue Excerpt Text:**

I truly believe that this is a result of the failure of Federal agencies to adequately communicate their proposed land use changes to all people in the affected areas. Many individuals do not have the knowledge of changes that are being considered. Even though Federal Agencies are required to post the legal notices in the newspapers regarding proposed actions, many people may not read these legal notices and are not prepared to provide their input within the "legal" time frames. Federal agencies could provide more effective communications to a broader base on such actions of importance rather than relying on posted legal notices in the newspapers. This certainly could have been accomplished by sending a notice to all adjacent landowners and putting notices on the radio and TV to alert a broader public audience.

---

### ***Summary***

The BLM has failed to adequately notify and meaningfully involve the public in developing the Butte RMP.

---

### ***Response***

The BLM has fully complied with the public participation requirements of BLM planning regulations and with CEQ regulations implementing the NEPA. *See* 43 CFR § 1610.2; 40 CFR § 1506.6. These regulations require the BLM to make diligent efforts to involve the public in preparing and implementing their NEPA procedures. 43 CFR § 1610.2(a); 40 CFR § 1506.6(a). As stated in the PRMP, "A number of opportunities were available to the public to educate themselves about the planning process and participate in the development of the plan prior to release of the Draft RMP/EIS for public review and comment." (PRMP/FEIS at 683).

The BLM used multiple outreach mechanisms to solicit and generate public involvement in the Butte RMP. In August 2002, prior to official initiation of the Butte RMP revision process, the BLM solicited the Governor's Office, state and Federal agencies, Tribal governments, and local governments for their interest in becoming cooperating agencies with the BLM for preparation of the Butte RMP. No entities signed on as cooperators.

The BLM published a notice in the Federal Register and appropriate local media when it officially began the RMP revision process. *See* 43 CFR § 1610.2(c). A Federal Register Notice and associated press release were published to provide the public BLM's Notice of Intent to Prepare a Resource Management Plan for the Butte Field Office and Associated Environmental Impact Statement (Volume 68, No. 244, page 70833, December 19, 2003). This Notice also provided the public an opportunity to review the proposed planning criteria as per 43 CFR §§ 1610.2(f)(2), 1610.4-2.

The BLM also provided notice to individuals and groups known to be interested in or affected by the Butte RMP. *See* 43 CFR § 1610.2(d). A Butte RMP mailing list was established based on interest expressed by members of the public as well as agencies. People and entities on the Butte RMP mailing list (including state and Federal agencies, Tribal governments, local governments, congressional offices, and the Governor's Office) received occasional newsletters and copies of the Proposed Planning Scenario, Draft RMP/EIS, and PRMP/FEIS.

Overall, the public involvement process for the Butte RMP was extensive and provided many opportunities for the public to participate and provide input over an extended period from

January 2004 through October 2007. The scoping process included six public meetings to seek public scoping comments for the RMP, as well as six additional scoping meetings for site-specific travel planning (PRMP/FEIS at pages 4-6). This scoping process also included a 30-day public comment period on the Proposed Planning Scenario, a document that reflected the BLM's initial proposals for management. The public was further involved with site-specific travel planning through the use of community-based working groups. Working groups sponsored by the Lewis and Clark County Commission developed recommendations to the BLM on travel route management in three travel plan areas. Public participation continued with a 120-day public comment period upon release of the Draft RMP/EIS, along with six additional public meetings during the public comment period (PRMP/FEIS at pages 683-685).

The BLM published Federal Register notices upon publication of the Draft RMP/EIS (Notice of Availability of the Draft Resource Management Plan and Environmental Impact Statement for the Butte Field Office, Montana (Volume 72, No. 110, page 31851, June 8, 2007)), and the PRMP/FEIS (Notice of Availability for the Proposed Resource Management Plan and Final Environmental Impact Statement for the Butte Field Office, Montana (Volume 73, No. 188, page 55866, September 26, 2008)) as per 43 CFR § 1610.2(f).

The CEQ regulations require the BLM to provide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents. 40 CFR § 1506.6(b). Throughout the planning process, the BLM used press releases, RMP website updates, and occasional newsletters to members of the RMP mailing list to notify the public of various steps of the planning process. Press releases were released by the BLM and published by multiple media outlets throughout the planning area during the following phases of the planning process: initial public scoping for the RMP (December 19, 2003), site-specific travel plan scoping (various dates in Fall 2004), solicitation of interest for travel plan working groups (April 27, 2005), release/notice of public meetings on the Proposed Planning Scenario (June 1, 2005), release of preliminary RMP alternatives (October 4, 2006), availability of the Draft RMP/EIS (June 8, 2007), announcement of public meetings on Draft RMP/EIS (various dates in early July 2007), reminder of due date for public comments on the Draft RMP/EIS (August 6, 2007), extension of the public comment period on the Draft RMP/EIS (September 5, 2007), and availability of the PRMP/FEIS (September 26, 2008).

The BLM provided ample public notification and public involvement opportunities in development of the Butte RMP.

---

### *Analysis of Recreation Needs*

---

**Issue Number:** PP-MT-BUTTE-08-0001-14  
**Organization:** Citizens for Balanced Use, Capital Trail Vehicle Association  
**Protester:** Kerry White

any attempt to meet those needs. Consequently the decision does not reflect the needs of the public for motorized access and motorized recreation in the project area.

**Issue Excerpt Text:**

The evaluation did not include an adequate analysis of the motorized recreational needs of the public nor

---

**Issue Number:** PP-MT-BUTTE-08-0001-34  
**Organization:** Citizens for Balanced Use, Capital

Trail Vehicle Association  
**Protester:** Kerry White

**Issue Excerpt Text:**

18. As shown on the List of Preparers of the environmental document, the project team did not include any OHV and motorized enthusiasts. The

need for enthusiasts was discussed in our comments. The team should have included an adequate number of atv, motorcycle and 4x4 enthusiasts represented by the percentage of visitors to the forest. The team had minimal representation and therefore, the team lack understanding of the needs and issues associated with motorized recreationists.

---

***Summary***

The Butte RMP project team did not include any OHV and motorized enthusiasts. The PRMP did not include an adequate analysis of the motorized recreational needs of the public nor any attempt to meet those needs. As a result, the PRMP does not reflect the needs of the public for motorized access and motorized recreation in the project area.

---

***Response***

Regardless of personal interests, BLM personnel are required to provide input to the planning process in the context of their respective areas of professional expertise. In that respect, the planning team for the Butte RMP included a Recreation specialist as well as a Travel Management specialist (Table 5-1, page 887 of PRMP/FEIS).

The BLM considered the needs of the public for motorized access and motorized recreation throughout the planning process. The BLM identified Recreation and Travel Management and Access as planning issues (PRMP/FEIS at S-2, 7). The vision for Travel Management and Access is to: “provide a range of quality motorized and non-motorized opportunities, and reasonable access for management while protecting natural resources, now and in the future.” (PRMP/FEIS at S-2, 10). The vision for Recreation is to: “provide a range of quality recreation opportunities, services, and appropriate facilities for public use and enjoyment.” (PRMP/FEIS at S-2, 10). In addition to general scoping meetings on the RMP revision, the BLM held additional scoping meetings specifically to gather public input on travel planning (PRMP/FEIS at 5-6). For the three travel plan areas where the greatest degree of public interest was discerned, the BLM coordinated with the Lewis and Clark County Commission, who subsequently sponsored community-based working groups comprised of non-BLM personnel to help the BLM develop site-specific travel plan alternatives (PRMP/FEIS at 6, 683-84). These groups included motorized use enthusiasts. Additionally, the BLM included the level of importance for human use as part of the criteria for selecting and designating roads and trails for the travel network (PRMP/FEIS, Appendix A, at 927). The BLM analyzed public use (recreation, hunting, etc.) as an individual category within human use. The Butte PRMP/FEIS adequately provides recreation opportunities as a component of its multiple-use mandate under the FLPMA. *See* 42 USC § 1702(c).

---

## *Visitor Use Data*

---

**Issue Number:** PP-MT-BUTTE-08-0001-10

**Organization:** Citizens for Balanced Use, Capital Trail Vehicle Association

**Protester:** Kerry White

**Issue Excerpt Text:**

5. The document and decision are based upon an inaccurate and biased representation of visitor use. Motorized recreation is very popular as demonstrated on page 9 of a report prepared by National Survey on Recreation and the Environment (NSRE 2000) titled Outdoor Recreation Participation in the United States (<http://www.srs.fs.usda.gov/trends/Nsre/summary.pdf>) which asks the question "During the past 12 months. Did you go sightseeing, driving for pleasure or driving ATVs or motorcycles?" The percent responding "Yes" was 63.1 % and the total number in millions was estimated at 130.8 million. Additionally, NSRE summaries are often referenced by the agency but the summary statistics are skewed against motorized recreation because driving for pleasure and OHV use are split out as separate groups. These two groups represent motorized recreation and if they are added together they are as large as any other group in the survey which correctly demonstrates the magnitude of motorized recreation.

---

**Issue Number:** PP-MT-BUTTE-08-0001-45

**Organization:** Citizens for Balanced Use, Capital Trail Vehicle Association

**Protester:** Kerry White

**Issue Excerpt Text:**

23. The population in 2006 of eight counties surrounding the project was 164,933 (<http://quickfacts.census.gov/qfd/maps/montana/map.html>). The Forest Service in their report Off-Highway Vehicle Recreation in the United States, Regions and States ([http://www.fs.fed.us/recreation/programs/ohv/OHV\\_final\\_report.pdf](http://www.fs.fed.us/recreation/programs/ohv/OHV_final_report.pdf)) found that 29.1 % of Montanans enjoy OHV recreation. Again, the document and decision are based upon an inaccurate and biased representation of visitor use. A more accurate estimate would be 47,995 (29.1% times 164,933) OHV recreationists in the immediate 8 county area. This is the smallest possible number of OHV recreationists that rely on the area because in reality OHV recreationists from many other counties including Yellowstone and Gallatin visit the project area.

---

## *Summary*

The PRMP is based upon an inaccurate and biased representation of visitor use.

---

## *Response*

The BLM did not use data from the National Survey on Recreation and the Environment (NSRE 2000) in the Butte RMP as suggested by the protester. The BLM used the best information available to assess visitor use for the Butte Field Office. Visitation numbers were estimated based on traffic counter data, field observations, and professional judgment of recreation specialists. Based on the BLM's Recreation Management Information System (RMIS) data from 2005, the BLM reported that there were 153,700 motorized vehicle user days on BLM lands within the Butte Field Office (PRMP/FEIS at 280, Table 3-23). This number includes both OHV use and full-sized vehicle use combined. This is the third highest recreational use that takes place within the field office. The BLM acknowledges the high degree of motorized use relative to other recreation uses in the Butte Field Office. Recreation visitor use data in the PRMP/FEIS are presented as a part of an effort to depict visitor use as accurately as possible. The data reflect no

bias toward or against any particular recreation use.

---

## *Federal Land Policy and Management Act*

---

**Issue Number:** PP-MT-BUTTE-08-0001-12  
**Organization:** Citizens for Balanced Use, Capital Trail Vehicle Association  
**Protester:** Kerry White

**Issue Excerpt Text:**

The Southern Research Station in their report Off-Highway Vehicle Recreation in the United States, Regions and States ([http://www.fs.fed.us/recreation/programs/ohv/OHV\\_final\\_report.pdf](http://www.fs.fed.us/recreation/programs/ohv/OHV_final_report.pdf)) determined that out of the total population in Montana 29.1 % participated in OHV recreation. The U. S. census determined that the population in 2005 was 935,670 (<http://quickfacts.census.gov/qfd/states/30000.html> ). Therefore, the number of OHV recreationists in Montana is 935,670 times 0.291 = 272,280. There are simply not enough OHV opportunities to meet the needs of this population yet there are millions of acres of multiple-use land including the project area that are suitable for that use.

---

**Issue Number:** PP-MT-BUTTE-08-0001-44  
**Organization:** Citizens for Balanced Use, Capital Trail Vehicle Association  
**Protester:** Kerry White

**Issue Excerpt Text:**

22. All of the motorized routes that are proposed for closure are on lands designated for multiple-use by Congress. The most equitable management of public lands is for multiple-uses. Congress recognized this need with many laws including the Multiple Use Sustained Yield Act of 1960 (16 U.S.C. 528 et seq.) and National Forest Management Act of 1976. Multiple-Use was defined as "The management of all the various renewable surface resources of the national forests so that they are utilized in the combination that will best meet the needs of the American people... H. Outdoor recreation is the first stated purpose of the act. Roadless areas would be

managed as non-motorized areas/defacto wilderness areas which effectively circumvent the congressional approval process for wilderness areas, and the requirements of MUSYA and NFMA to meet the widest cross-section of public needs for recreation.

---

**Issue Number:** PP-MT-BUTTE-08-0001-46  
**Organization:** Citizens for Balanced Use, Capital Trail Vehicle Association  
**Protester:** Kerry White

**Issue Excerpt Text:**

24. At a typical width of no more than 12 feet, the 416.8 miles of roads in the Butte Resource Management Area covers about 606 acres (416.8 x 5280 x 12/43560). At a typical width of no more than 48 inches, the 18.8 miles of ATV trails cover about 9 acres. At a typical width of no more than 24 inches the 6.1 miles of motorized single-track trails cover about 1.5 acres. The total area of the Butte RMP project area is 307,300 acres. The percentage of the total area used by roads, ATV trails, and single-track motorcycle trails is respectively, 0.1973%, 0.003%, and 0.0005%. Therefore, the total area to be used under the decision for motorized access and motorized recreation is about 617 acres or 0.2007%. This amount of area is relatively insignificant and the use of the public of this small area and more is entirely reasonable. This amount of area is also relatively insignificant compared to the areas and effects of natural events including fires (compare to forest area burned over the last 10 years), floods, beetles, etc. The restriction of multiple-use access to 0.2007% of the project area is not a reasonable allocation on congressionally designated multiple-use lands. The extremely limited multiple-use access to 0.2007% of the project area cannot possibly create the significant impacts claimed by the agency. And lastly, non-motorized recreationists have unlimited access to all 303,700 acres during all times of the year.

---

## *Summary*

The small portion of the planning area, combined with the reduced mileage of specific travel routes allocated as open to motorized recreational use in the PRMP fails to comply with FLPMA's multiple-use mandate. Additionally, roadless areas would be managed as de

facto wilderness areas, in violation of the FLPMA and the congressional approval process for wilderness areas.

---

***Response***

The BLM has complied with FLPMA’s multiple-use mandate in developing alternatives for the Butte RMP. "Multiple use" is defined in FLPMA section 103(c). The definition includes the concepts of: “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, ... the use of some land for less than all of the resources, ... 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.” 43 U.S.C. § 1702(c). The BLM’s multiple use mandate does not require that all uses be allowed on all areas of the public lands. Such a management scenario would preclude any kind of balance. The purpose of the mandate is to require the BLM to evaluate and choose an appropriate balance of resource uses, which involves tradeoffs between competing uses. The alternatives in the DRMP/DEIS and PRMP/FEIS reflect this provision.

Travel management area designations (described at page 54 of the PRMP/FEIS) for all action alternatives are in accordance with the 2003 Statewide OHV ROD (page 4 of OHV ROD) which directs that “[t]he BLM will restrict motorized wheeled cross-country travel yearlong. These lands, approximately 5.8 million acres, are designated limited yearlong for motorized wheeled cross-country travel under BLM regulations (43 CFR § 8342).” One exception specifically noted in the OHV ROD was the Radersburg OHV area which remains proposed as an “open” area designation for cross-country travel of wheeled motorized vehicles in the preferred alternative of the Butte RMP.

While the mandates of the Multiple Use Sustained Yield Act and the National Forest Management Act do not apply specifically to the BLM, the BLM is not proposing to create any “de facto” wilderness areas with the Butte RMP revision. The BLM Land Use Planning Handbook directs the BLM to identify decisions to protect or preserve wilderness characteristics as land use plan decisions in RMP revisions. BLM Handbook H-1601-1, Appendix C, at 12. No additional lands other than existing WSAs were identified in the Butte Field Office as possessing wilderness characteristics. PRMP/FEIS at 83. The only “roadless,” or unroaded areas proposed to remain unroaded in the PRMP/FEIS are already in WSAs. This is consistent with BLM WSA management policy outlined in BLM Manual H-8550-1, as well as the FLPMA.

---

## Travel Management

### *Dispersed Camping*

---

**Issue Number:** PP-MT-BUTTE-08-0002-5

**Organization:** Capital Trail Vehicle Association

**Issue Excerpt Text:**

42. The ability to camp at dispersed sites is a very significant recreational opportunity to all visitors to the area. The document does not adequately disclose the agency's intent with respect to dispersed camping within 300 feet of an existing roadway. The only reference

found is on page 51 of Chapter 2 and it does not clearly state that dispersed camping will be allowed within 300 feet of an existing roadway. The document and the decision must be remanded so that this significant deficiency can be adequately addressed.

---

**Issue Number:** PP-MT-BUTTE-08-0004-12

**Organization:** Montana Trail Vehicle Riders Association

**Protester:** Ramona Ehnes

**Issue Excerpt Text:**

The Agency Should Immediately Revisit Dispersed Camping Management.

Dispersed camping is important to the recreation users. The PRMP/FEIS attempts to dramatically change existing practice established by the 2003 Statewide OHV ROD (USDI-BLM 2003c) as stated in Chapter 2, page 51, #5. "For dispersed camping within 300 feet of an existing open road, site selection must be completed by non-motorized means, and accessed by the most direct route causing the least damage". Chapter 2, page 66 states "Comply with Bureau directives governing dispersed camping in undeveloped areas throughout the Field Office". The BLM Land Use Planning Handbook, is not included in the Appendix and directives are not identified by location or quoted. Viable alternative management options were available but not considered; site-specific analysis was not attempted and a range of options or technical analysis on individual sites was not offered.

**Issue Number:** PP-MT-BUTTE-08-0006-6

**Organization:** Montana Snowmobile Association

**Protester:** Charles M. Hedrick

**Issue Excerpt Text:**

D. The Agency Should Revise or Immediately Revisit Dispersed Camping Management.

The PRMP/FEIS attempts to dramatically change existing practice and immediately prohibit dispersed camping, as if such change can be implemented across a vast and vastly popular project area like Moab as simply as one can flip a switch. This decision component is improper for many of the reasons outlined above, e.g. because viable alternative management options were available but not meaningfully considered, because site-specific analysis was not attempted to evaluate the range of options at individual sites, and because technical analysis was not conducted. We wish to specifically highlight the dispersed camping issue because it is deeply engrained within the recreation experience on BLM lands, including in those lands managed by the Butte Field Office. The effect of the dispersed camping prohibition is to make a site-specific determination that camping is improper on thousands of existing and historically used campsites throughout the project area.

The PRMP/FEIS fail to sufficiently analyze, let alone justify, the blanket prohibition on dispersed camping. Excessive restrictions in the PRMP/FEIS run the risk of increasing adverse impacts to the environment, through confusion, loss of ability to partner with, interested publics and organizations, and concentration of impacts in the absence of adequate management/enforcement. Again, we urge you to rethink the dispersed camping component, remove the prohibition on dispersed camping, and direct that this issue be revisited and remanded for project-level planning.

Page 66: Alludes to a 14day camping limit and a 7day camping limit but, doesn't say how long a period of time has to elapse before you can use the site again. Dispersed camping is to comply with Bureau Directives this also should have been identified.

---

## *Summary*

The PRMP fails to disclose the BLM's intent, sufficiently analyze, or justify the blanket prohibition on dispersed camping within 300 feet of an existing roadway. The PRMP states that Bureau directives will be complied with but does not cite the appropriate directives. The PRMP includes a 14-day camping limit and a 7-day camping limit but does not specify the amount of time that must elapse before the site can be used again.

---

## *Response*

The PRMP/FEIS does not impose a blanket prohibition on dispersed camping within 300 feet of an existing roadway. The PRMP/FEIS is consistent with the 2003 Statewide OHV ROD (cited as USDI-BLM 2003c in PRMP/FEIS) in providing several exceptions to the off-road/cross-country travel restriction, one of which specifically allows for dispersed camping access. The PRMP/FEIS (page 51) allows off-road/cross-country travel “[f]or dispersed camping within 300 feet of an existing open road. Site selection must be completed by non-motorized means, and accessed by the most direct route causing the least damage.” Management described in the PRMP/FEIS on this issue is the same as that described on page 5 of the 2003 Statewide OHV ROD.

Regarding the 7- and 14-day camping limits, recreation administration (including use restrictions) is an implementation-level decision. BLM Handbook H-1601-1, Appendix C, at 17. As stated in the Dear Reader letter, implementation decisions are not subject to this protest process, but rather, are subject to appeal before the Office of Hearing and Appeals, Interior Board of Land Appeals. The Butte PRMP/FEIS does not make any new implementation decisions regarding camping limits. The following paragraphs are included only for the purpose of clarifying the camping limits to the protester.

Under current management (with three specific campground exceptions described below), camping at developed campgrounds or dispersed sites is limited to a period of not more than 14 days during any 28-day period. Following the 14-day period, persons may not locate within a distance of 5 miles of the site that was just previously occupied until completion of the 28-day period. The 14-day limit may be reached either through a number of separate visits or through a period of continuous occupation of a site. Under special circumstances and upon request, the authorized officer may give written permission for extension to the 14-day limit. This management was established in the Federal Register, Volume 50, Number 185, page 38717, September 24, 1985.

The three exceptions noted above pertain to the Holter Lake, Log Gulch, and Departure Point developed campgrounds. These are popular lakeside campgrounds that receive heavy use during the summer visitor use season. Under current management, visitors are not allowed to camp or hold any camp unit in one of these campgrounds longer than 7 consecutive days; after which, at least one day must elapse before occupation can reoccur in the respective campground. As stated on page 66 of the PRMP/FEIS, this same management may be extended to other developed campgrounds as visitor use numbers increase. This management was established in the Federal

## *Road Density*

---

**Issue Number:** PP-MT-BUTTE-08-0001-72

**Organization:** Citizens for Balanced Use, Capital Trail Vehicle Association

**Protester:** Kerry White

**Issue Excerpt Text:**

37. Clearly the over-arching goal of the agency was to reduce the density of roads to 1 mile or less of road per square mile of the project area as stated in numerous places in the FEIS including pages 31. The project area is 307,300 acres. This area divided by the conversion factor of 640 acres per square yields the goal of 480 miles of road. The existing miles of roads and motorized trails equals 654.1 miles (Table 2-6 shows 629.2+6.1+18.8). Alternative B yields 441.7 miles (Table 2-6 shows 416.8+6.1+ 18.8) by closing 212.4 miles of road which is under the goal of 480 miles. The goal of 1 mile per square mile is completely arbitrary and capricious.

---

**Issue Number:** PP-MT-BUTTE-08-0001-76

**Organization:** Citizens for Balanced Use, Capital Trail Vehicle Association

**Protester:** Kerry White

**Issue Excerpt Text:**

Reducing the road density to 1 mile per square mile

for reasons including wildlife security was the over-arching goal used by the agency. The use of this criteria as an over-arching criteria is not reasonable for the following reasons: (1) the over-arching goal for a motorized travel plan action should be meeting the needs of the public for access and recreation; (2) an equally effective alternative that would be the implementation of a 10/5 to 12/1 motorized closure period which was not given adequate consideration; (3) the 1 mile per square mile road density criteria is not site specific, (4) the lmi/sm criteria no longer valid given findings from the Yellowstone National Park study (<http://www.nps.gov/yell/parkmgmt/upload/winterrec05.pdf>) which found that wildlife barely reacted to motorized vehicles, and (5) the lmi/sm criteria as presented by Hillis and others did not differentiate between roads, atv trails, and motorcycle trails and the impacts are significantly different, and (6) Hillis and others have not included hiking trails in their analysis and studies have found that hikers disturb wildlife as much or more than motorized visitors ((Ward, A. L. and J. 1. Cupal. 1976. Telemetered heart rate of three elk as affected by activity and human disturbance. USDA Forest Service, Rocky Mountain Forest and Range Experiment Station. Laramie, WY. 9 pp.).

---

## *Summary*

The PRMP has a road-density goal of 1 mile per square mile. This is unreasonable, arbitrary, and capricious.

---

## *Response*

The PRMP/FEIS does not state or have a specific road density goal. Travel management requires consideration of a broad range of resources and issues, such as locating trails and areas to minimize harassment of wildlife or significant disruption of wildlife habitats. 43 CFR § 8342.1(b). Thus, the Preferred Alternative, Alternative B, includes the objective to "minimize disturbance to big game and grizzly bears" (PRMP/FEIS, at 48).

To achieve this objective: "There would be no net increase in permanent roads built in areas where open road densities are 1 mi/mi<sup>2</sup> or less in big game winter and calving ranges, and within the current distribution of grizzly bear unless not possible due to right-of ways, leases, or

permits. All practicable measures would be taken to assure that important habitats with low road densities remain in that condition. This alternative would also manage to reduce open road densities in big game winter and calving ranges, and within the current distribution of grizzly bear where they currently exceed 1 mi/mi<sup>2</sup>." (PRMP/FEIS, at 48).

This objective is limited in scope to specific wildlife habitats and does not establish 1 mi/mi<sup>2</sup> as a firm goal even within those specific habitats. The BLM's impetus for focusing on road densities of 1 mi/mi<sup>2</sup> in these specific habitats can be found in the Grizzly Bear Management Plan for Southwest Montana (cited as MFWP 2002a in the PRMP/FEIS) and in the PRMP/FEIS citation of Christensen et al. (1993).

---

### ***R.S. 2477***

---

**Issue Number:** PP-MT-BUTTE-08-0001-60

**Organization:** Citizens for Balanced Use, Capital Trail Vehicle Association

**Protester:** Kerry White

**Issue Excerpt Text:**

30. RS 2477 routes were not adequately addressed and protected by this action. Recent court rulings have confirmed the validity of RS 2477 including <http://www.billingsgazette.net/articles/2007/10/21/news/state/31-road.txt> . If the road existed prior to the land being patented, then it's a public road. "The decision must be remanded so that all RS 2477 routes can remain open to motorized use.

---

### ***Summary***

The PRMP fails to adequately address and protect R.S. 2477 routes.

---

### ***Response***

Nothing in the PRMP/FEIS extinguishes any valid right-of-way or alters in any way the legal rights the State and affected counties have to assert and protect R.S. 2477 rights, or to challenge in Federal court or other appropriate venue any use restrictions imposed by the PRMP/FEIS that they believe are inconsistent with their rights. Neither the State of Montana nor affected counties have brought forward any R.S. 2477 right-of-way claims on any routes during the development of the PRMP/FEIS.

---

### ***Three-State Off-Highway Vehicle Record of Decision***

---

**Issue Number:** PP-MT-BUTTE-08-0004-2

**Organization:** Montana Trail Vehicle Riders Association

**Protester:** Ramona Ehnes

**Issue Excerpt Text:**

The 2003 Statewide OHV ROD and Plan Amendment closed public lands to cross country travel and assured the motorized public of the evaluation of existing routes in a site specific process. The PRMP/FEIS proposes designating large blocks as non motorized area, when in fact these areas are identified in the ROD as having existing

routes to undergo site specific examination. These travel plan areas identified in the PRMP/FEIS cannot be protested, so the motorized community is left with closures by 'management areas' decisions that will establish the travel management (non motorized) bypassing the travel plan process.

---

### ***Summary***

The PRMP/FEIS proposes designating large blocks as non-motorized area, when in fact these areas are identified in the 2003 Statewide OHV ROD as having existing routes to undergo site specific examination.

---

### ***Response***

The 2003 Statewide OHV ROD applies to all BLM lands within the Butte Field Office that were previously designated as available to motorized wheeled cross-country travel. It redesignates these lands as "Limited" areas (2003 Statewide OHV ROD at 1). The Limited restriction prohibits motorized wheeled cross-country travel, with some exceptions such as dispersed camping within 300 feet of an existing open road, or administration of a federal lease or permit (PRMP/FEIS at 51).

In the Butte PRMP/FEIS, the Preferred Alternative includes 275,526 acres under the Limited designation (PRMP/FEIS at 54, Table 2-8). All areas designated as Limited are subject to site-specific travel planning. The BLM has conducted site-specific travel planning for five areas classified as high priority concurrently with this RMP revision: Helena, East Helena, Lewis and Clark County Northwest, Boulder/Jefferson City, and Upper Big Hole River (PRMP/FEIS at 51). Four additional moderate priority areas will undergo site-specific evaluation after completion of the Butte RMP: Missouri River Foothills, Jefferson County Southeast, Broadwater County South, and Park/Gallatin (PRMP/FEIS at 51-52).

The PRMP/FEIS proposes no additional acres in the "Closed" area designation for wheeled motorized use compared to current management (Alternative A). The Preferred Alternative, Alternative B, includes 31,500 acres under the Closed designation; Alternative A, the No Action Alternative, indicates the same 31,500 acres as Closed (PRMP/FEIS at 54, Table 2-7). These acres are all in pre-existing Wilderness Study Areas (PRMP/FEIS at 482).

Decisions on site-specific travel plans, such as route-specific management, are implementation decisions and are not subject to protest under the BLM planning regulations. These decisions are subject to appeal to the Office of Hearings and Appeals, Interior Board of Land Appeals. Refer to the PRMP/FEIS "Dear Reader" Letter for more information.

---

### ***Lands and Realty***

**Issue Number:** PP-MT-BUTTE-08-0003-4  
**Organization:** Earth Angel Health Mine  
**Protester:** William C. Remior

**Issue Excerpt Text:**

The issue being protested is the failure to list as "Potential Disposal Parcels" in Appendix L: Lots 15 and 18 (or portions there of) in T.6 N.,R.5W. Section 16

This Protest is asking that this listing be added to:

Appendix L, Page 1142.

I attach some of the documents that were previously submitted to the Butte BLM Office for consideration for the addition of these Lots to the Butte RMP. They have additional material not attached.

Concisely stated the small partial of land requested serves virtually no specific benefit to the public when left attached to the surrounding BLM land. However, it serves great public benefit when placed in the private sector for all of the following reasons and more:

1. I would provide new public access to what is the currently isolated public lands around lots 15 and 18, Section 16 in T.

6N., R. 5W.

2. Trespass over private land discouraged and eliminated.

3. Best use of land, land that is virtually unproductive in public ownership but would be highly productive in private expansion of the Earth Angel.

4. Aid in local business and economic growth.

5. Tax revenue to local, state, and Federal governments.

6. Contribution to Balance of Trade" deficit problem.

7. Public helped individually in their pursuit of pain relief and "wellness" as well as specific assistance to financially deprived and physically impaired individuals.

8. General public good to all classes of our society, school children, research students, adult population (local and tourist).

The two aspects (health and economics) involved in the request to add these lots 15 & 18 are always paramount issues in any society but in these current unsettled times they are more cardinal than ever:

1. Health is often ignored until diminished or lost. The nation and world population is aging and the need for affordable and effective help and relief is great and getting greater.

2. In the current world economic crisis every legal and moral effort to expand economic growth and opportunity is of utmost importance, a little here and there does add up.

3. One would be hard pressed to build any case of significant benefit to maintaining portions of the referenced Lots 15 & 18 in public ownership. They are just too small and of too little consequence .by themselves to add specific public good in their current status.

But added to the adjacent flourishing health mine operation they by themselves add greatly to the public good.

Therefore, the best use and the public good both call for the listing of these Lots 15 & 18 in the "Potential Disposal Parcels" in the Butte RMP.

---

### ***Summary***

The PRMP fails to list Lots 15 and 18 (or portions thereof) in T.6 N., R.5W. Section 16 as potential disposal parcels in Appendix L. The small parcel of land serves no specific public benefit when attached to the surrounding BLM lands but would serve great public benefit when placed in the private sector.

---

### ***Response***

The lots in question serve a number of public benefits as public land. These lands have public access and provide recreation opportunities for the general public, provide winter range habitat for big game, and serve as a portion of the High Ore grazing allotment administered by the Butte Field Office.

The regulations at 43 CFR § 2710 guide the BLM in implementing the sale authority of section 203 of the FLPMA. Indications of interest to have specific tracts of public lands offered for sale shall be accomplished through public input to the land use planning process. 43 CFR § 2710.0-6(b). However, these sales “shall be offered only on the initiative of the Bureau of Land Management.” 43 CFR § 2710.0-6(b). The BLM is authorized to sell only those tracts of public land that meet any or all of the following disposal criteria identified:

- “(1) Such tract was acquired for a specific purpose and the tract is no longer required for that or any other Federal purpose; or
- (2) Disposal of such tract shall serve important public objectives, including but not limited to, expansion of communities and economic development, which cannot be achieved prudently or feasibly on lands other than public lands and which outweigh other public objectives and values, including, but not limited to, recreation and scenic values, which would be served by maintaining such tract in federal ownership; or
- (3) Such tract, because of its location or other characteristics is difficult and uneconomic to manage as part of the public lands and is not suitable for management by another Federal department or agency.”

43 CFR § 2710.0-3(a).

To further emphasize criterion (3) above, the “State Director Guidance and Policy for Land Exchange Processing Within the Montana/Dakotas BLM” (dated March 11, 2002) indicates that “the BLM’s preference is to offer disposal tracts and small, isolated parcels of public land without public access before separating acreage from larger blocks of public land.” Identification of the lots in question as disposal parcels in the PRMP/FEIS would have contradicted this direction.

The PRMP/FEIS lists additional disposal criteria on pages 1140-41. The lots in question here do not meet the criteria for disposal for the following reasons:

- (1) They are not widely scattered parcels which are difficult and uneconomical to manage as part of the public lands. Lots 15 and 18 are not isolated; they are contiguous with approximately 6,400 acres of land managed by the Butte Field Office. These 6,400 acres of BLM land are also contiguous with a large block of public land managed by the U.S. Forest Service.
- (2) They are not requested by another agency or local government to accommodate community expansion or other public purposes. The Earth Angel Health Mine is a privately owned business and is not affiliated with the local government of Basin, Montana, or Jefferson County.
- (3) They were not acquired for a specific purpose for which the tracts are no longer required.
- (4) They serve important public objectives such as public access, recreation opportunities, winter range habitat for big game. These lands also serve as a portion of the High Ore grazing allotment (#20231) administered by the Butte Field Office.

The PRMP omits listing Lots 15 and 18 (or portions thereof) in T.6 N., R.5W., Section 16 as potential disposal parcels in Appendix L, because they do not meet the criteria identified above under 43 CFR 2710.0-3(a), nor do they meet the criteria for disposal listed in Appendix L (PRMP/FEIS at pages 1140-1141).

## Special Designations

---

**Issue Number:** PP-MT-BUTTE-08-0006-7

**Organization:** Montana Snowmobile Association

**Protester:** Charles M. Hedrick

### Issue Excerpt Text:

E. ACEC'S/SMRA'S/WSA'S

The BLM needs to look at the creation of more ACEC'S and SMRA'S. This is no more than another way of creating DEFACTO Wilderness. WSA'S should be managed as WSA'S not as ACEC'S. The BLM is creating DEFACTO wilderness by doing this. This does not follow the guidelines for BLM management of WSA'S. BLM Manual H-8550-1, 7-5-1995, paragraph recreation.

---

### *Response*

For WSAs within the Butte Field Office, the PRMP/FEIS is consistent with BLM Interim Management Policy (IMP) for Lands Under Wilderness Review. BLM Manual H-8550-1. The Wilderness IMP does not preclude the BLM from designating ACECs or Special Recreation Management Areas (SRMA) within WSAs. The Butte Field Office also has fully complied with BLM policy applicable to ACECs and SRMAs.

The designation of ACECs does not create de facto wilderness areas. Section 202(c)(3) of the FLPMA requires the BLM to give priority to the designation and protection of ACECs in the development and revision of land use plans. As part of the Butte RMP revision process, the BLM identified relevant and important values and proposed management to protect those values in proposed ACECs regardless of where these values occur on BLM lands, in compliance with BLM Manual 1613 (PRMP/FEIS at Appendix I). The Sleeping Giant ACEC (a pre-existing 11,609-acre ACEC), a small portion of the Elkhorn Mountains ACEC (3,575 acres), and the Humbug Spires ACEC (8,374 acres), overlap with existing WSAs (PRMP/FEIS, Appendix I at 1050, 1046, 1057). If these WSAs are designated by Congress as wilderness areas, the proposed ACEC management would be dropped upon development of wilderness management plans (PRMP/FEIS at 71). On the other hand, if Congress releases these WSAs from wilderness consideration, they would be managed to protect the relevant and important values as per the ACEC management described under Alternative B (PRMP/FEIS at 71-76). The ACEC management proposed under this latter scenario for these areas is less restrictive to a broad range of land uses than wilderness management would be. For example, in the majority of the Elkhorn Mountains ACEC (46,856 of its 50,431 acres), existing motorized use, vegetation treatments, mining activity, and livestock grazing would continue even under the ACEC designation (PRMP/FEIS at 73-76). Based on the descriptions of proposed ACEC management under the preferred alternative (PRMP/FEIS at 73-76), the only proposed ACEC acres that would be managed similarly to wilderness areas are those acres that were already in WSAs prior to this RMP revision.

SRMAs are “BLM administrative units established to direct recreation program priorities, including the allocation of funding and personnel, to those Public Lands where a commitment has been made to provide specific recreation activity and experience opportunities on a sustained yield basis.” BLM Manual 8300. The BLM identifies SRMAs as part of the land use planning

process. BLM Handbook H-1610-1, Appendix C at 15. Seven out of nine of the proposed SRMAs are located in areas with many heavily used developed recreation facilities: Lower Holter Lake/Missouri River, Hauser Lake, Uppermost Missouri River, Scratchgravel Hills, Sheep Mountain, Pipestone, and Upper Big Hole River (PRMP/FEIS at 69-70). These SRMAs have been proposed in order to focus recreation program funding and activities on these areas. These areas lack wilderness characteristics and would not be managed as de facto wilderness areas. The other two proposed SRMAs are located in pre-existing WSAs: Sleeping Giant/Missouri River and Humbug Spires (PRMP/FEIS at 69). Designation of SRMAs would not create de facto wilderness areas.

---

### **E.O. 13443**

---

**Issue Number:** PP-MT-BUTTE-08-0006-8

**Organization:** Montana Snowmobile Association

**Protester:** Charles M. Hedrick

**Issue Excerpt Text:**

H. Executive Order 13443

Page 45: As per Executive Order 13443 The BLM would facilitate the expansion of hunting opportunities and management of game species and their habitats. This is the intent of the order but the BLM in it's own wisdom excluded, from the FEIS, the part that facilitated and expanded the hunting opportunity. This needs immediate attention by the BLM.

---

### ***Response***

The PRMP/FEIS is consistent with EO 13443, which “direct[s] Federal agencies that have programs and activities that have a measurable effect on public land management, outdoor recreation, and wildlife management, including the Department of the Interior . . . , to facilitate the expansion and enhancement of hunting opportunities and the management of game species and their habitat.”

Pages 45-48 of the PRMP/FEIS identify measures to promote improved habitat and hunting of game species including cooperation and coordination with federal, tribal, and state wildlife management agencies, seasonal restrictions on certain activities to promote successful reproduction/survival of game species on public lands, and moderation of open motorized route densities in specific habitats to promote retention and use of public lands by game species and improve their availability for hunters.

The BLM Land Use Planning Handbook requires identification of priority species and habitats as an integrated component of the land use plan decision-making process. BLM Handbook H-1601-1, at C-6. The PRMP/FEIS further promotes implementation of EO 13443 by designating “big game species (such as elk, bighorn sheep, deer, and antelope)” and their habitats as “priority species and habitats” to be considered throughout implementation of the RMP (PRMP/FEIS at 46).

Lastly, the PRMP/FEIS direct the Butte Field Office to “cooperate with the MFWP [Montana Department of Fish, Wildlife, and Parks], adjusting seasonal travel restrictions in accordance

with big game hunting season extensions,” further extending hunting opportunities in years when MFWP desires extended hunting seasons (PRMP/FEIS at 55).

---

### *Social and Economic Interests*

---

**Issue Number:** PP-MT-BUTTE-08-0001-25  
**Organization:** Citizens for Balanced Use  
**Protester:** Kerry White

**Issue Excerpt Text:**

Small communities should be used in the economic impact analysis as they are the most affected by closures to multiple use and surface occupancy of mining, oil and gas exploration and production. CBU does not see any accommodation of surface occupancy for industry development or for agricultural grazing. The BLM must recognize the negative impacts of proposed projects and alter decisions when necessary if the small local community economies are destroyed because of the BLM action.

---

**Issue Number:** PP-MT-BUTTE-08-0001-33  
**Organization:** Citizens for Balanced Use, Capital Trail Vehicle Association  
**Protester:** Kerry White

**Issue Excerpt Text:**

17. Because of the long trend of motorized closures by the agency combined with the lack of acknowledgement of the needs of motorized recreationists or any action on those needs, most motorized recreationists have given up on the public involvement process. This should not be taken as an acceptance by motorized recreationists of the agency's direction and decision. Rather it is a huge socio-economic-environmental justice issue that was significantly ignored by the process and decision.

---

### *Summary*

The BLM must recognize the negative impacts of proposed projects and alter decisions when necessary if local economies are adversely impacted because of the BLM action. In addition, the motorized-recreation community has given up on the public participation process, which is a socioeconomic environmental justice issue that was ignored in the Butte RMP revision process.

---

### *Response*

The PRMP/FEIS addresses effects of RMP alternatives on social and economic conditions on pages 483-96. Under the preferred alternative of the PRMP/FEIS, total recreation-related employment is projected to decline by approximately 10 jobs from current levels with annual recreation-related income declining by an estimated \$300,000 (summarized in Table 2-24, page 214 of the PRMP/FEIS). These changes would be distributed over the entire planning area. In the context of all BLM programs combined, average annual employment is expected to increase 5.5 percent, with average annual labor income increasing by 11.5 percent under the Preferred Alternative (Alternative B) compared to current conditions (Tables 4-41 and 4-42, page 487 of PRMP/FEIS).

The public involvement process for the Butte RMP was extensive and provided many opportunities for the motorized recreation community to participate and provide input over an extended period from January 2004 through October 2007. The scoping process included six public meetings to seek public scoping comments for the RMP, as well as six additional scoping

meetings for site-specific travel planning (PRMP/FEIS at 4-6). The scoping process also included a 30-day public comment period on the Proposed Planning Scenario, a document that reflected the BLM's initial proposals for management. Public participation continued with a 120-day public comment period upon release of the Draft RMP/EIS, along with six additional public meetings during the public comment period (PRMP/FEIS at 683-85).

The BLM addresses environmental justice issues as per EO 12898. This order indicates that "each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States . . . ." While the PRMP/FEIS describes management direction (page 104) to address environmental justice concerns, there are no known specific environmental justice issues associated with implementing any alternative in the PRMP/FEIS. However the PRMP/FEIS discusses effects to motorized recreationists under the travel management (pages 469-473), recreation (462-469), social (pages 483-496) and cumulative effects (pages 496-511) sections of Chapter 4.