

Director's Protest Resolution Report

**Moab
Resource Management Plan**

October 28, 2008



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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.

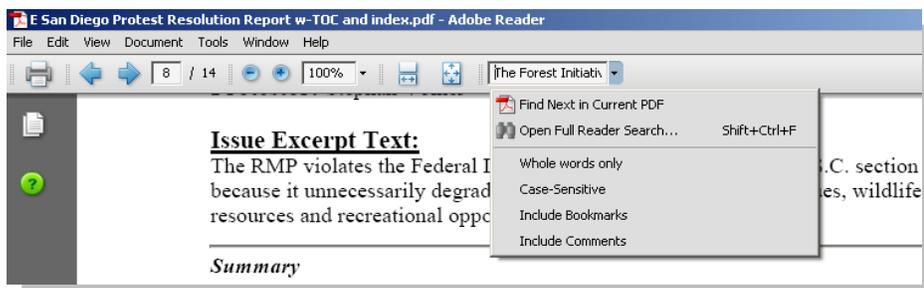
Report Snapshot

The diagram shows a report snapshot with the following fields and callouts:

- Topic heading:** Issue Topics and Responses NEPA
- Submission number:** PP-CA-ESD-08-0020-10
- Protest issue number:** (blank)
- Protesting organization:** The Forest Initiative
- Protester's name:** John Smith
- Direct quote taken from the submission:** (blank)
- Issue Excerpt Text:** 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 RMP-level decisions. Upon receipt of an application for a renewable energy project, the BLM would require a

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	VRM	Visual Resource Management
FEIS	Final Environmental Impact Statement	WA	Wilderness Area
FLPMA	Federal Land Policy and Management Act of 1976	WSA	Wilderness Study Area
FO	Field Office (BLM)	WSR	Wild and Scenic River(s)
GIS	Geographic Information Systems		

Protesting Party Index

Protester	Organization	Submission Number	Determination
	Center for Native Ecosystems	PP-UT-MOAB-08-0012	Denied-Issues Comments
	Glen Canyon Institute	PP-UT-MOAB-08-0012	Dismissed-No Standing
	Grand Canyon Trust	PP-UT-MOAB-08-0012	Denied-Issues Comments
	Great Old Broads for Wilderness	PP-UT-MOAB-08-0012	Denied-Issues Comments
	Public Employees for Environmental Responsibility	PP-UT-MOAB-08-0012	Denied-Issues Comments
	Red Rock Forests	PP-UT-MOAB-08-0012	Denied-Issues Comments
	Sierra Club, Utah Chapter	PP-UT-MOAB-08-0012	Denied-Issues Comments
	Southern Utah Wilderness Alliance	PP-UT-MOAB-08-0012	Denied-Issues Comments
	The Wilderness Society	PP-UT-MOAB-08-0012	Denied-Issues Comments
Abboud, Jerry	Colorado Off Highway Vehicle Coalition	PP-UT-MOAB-08-0001	Denied-Issues Comments
Adams, Bruce	San Juan County Commission	PP-UT-MOAB-08-0017	Denied-Issues Comments
Baker, Pamela and Quentin	Individuals	PP-UT-MOAB-08-0015	Dismissed-Only Comments
Bates, Harley	Individual	PP-UT-MOAB-08-0002	Dismissed-Only Comments
Butler, Theresa	Red River Canoe Company	PP-UT-MOAB-08-0009	Dismissed-Only Comments
Carter, John	Western Watersheds Project	PP-UT-MOAB-08-0018	Denied-Issues Comments
Defreese, Amy	Utah Rivers Council	PP-UT-MOAB-08-0011	Denied-Issues Comments
Ehleringer, James	Individual	PP-UT-MOAB-08-0020	Dismissed-No Standing
Fryer, Colin	Individual	PP-UT-MOAB-08-0003	Dismissed-Only Comments
Hansmire, Julie and Campbell, Randy	Campbell Hansmire Sheep Akbash Dogs	PP-UT-MOAB-08-0016	Denied-Issues Comments
Hinchey, Maurice	U.S. House of Representatives	PP-UT-MOAB-08-0023	Dismissed-Late Submission
Holyoak, Paul	Individual	PP-UT-MOAB-08-0019	Dismissed-Only Comments
Hoskisson, Wayne	Sierra Club, Utah Chapter	PP-UT-MOAB-08-0013	Denied-Issues Comments

Norton, Robert	Individual	PP-UT-MOAB-08-0021	Dismissed-Only Comments
Rickenbach, Lloyd	Gurney and Gurney LLC	PP-UT-MOAB-08-0010	Granted in Part
Riggle, Don	Colorado 500 Legal Defense Fund	PP-UT-MOAB-08-0001	Denied-Issues Comments
Robinson, Kirk	Western Wildlife Conservancy	PP-UT-MOAB-08-0008	Dismissed-Only Comments
Schelz, Charles	ECOS Consulting	PP-UT-MOAB-08-0006	Denied-Issues Comments
Sgamma, Kathleen	Independent Petroleum Association of Mountain States	PP-UT-MOAB-08-0004	Granted in Part
Shepherd, Harold	The Center for Water Advocacy	PP-UT-MOAB-08-0014	Denied-Issues Comments
Spangler, Jerry	Colorado Plateau Archaeological Alliance	PP-UT-MOAB-08-0005	Denied-Issues Comments
Telepak, Robert	Individual	PP-UT-MOAB-08-0022	Dismissed-Only Comments
Turcke, Paul	Blue Ribbon Coalition	PP-UT-MOAB-08-0007	Denied-Issues Comments

Issue Topics and Responses

NEPA

Close Examination of Baseline Data and Modeling

Issue Number: PP-UT-MOAB-08-0018-103
Organization: Western Watersheds Project, Inc.
Protester: John Carter

Issue Excerpt Text:

While admitting that OHVs, as a surface-disturbing activity, impacts cultural, soil, paleontological, riparian and wildlife resources, similar to the inadequate analysis of livestock grazing, the RMP does not analyze the baseline condition of the planning area OHV use. BLM has not presented baseline inventories and evaluations of OHV damage to the ecosystems and specific ecosystem components such as soils, microbiotic crusts, fish and wildlife, and native vegetation.

Issue Number: PP-UT-MOAB-08-0018-106
Organization: Western Watersheds Project, Inc.
Protester: John Carter

Issue Excerpt Text:

The RMP also fails to present any baseline or other inventory data on the effects of OHV use within the planning area.

Issue Number: PP-UT-MOAB-08-0018-108
Organization: Western Watersheds Project, Inc.
Protester: John Carter

Issue Excerpt Text:

Prior to making a decision that leaves the majority of the planning area open to OHV travel, the BLM must collect the type of baseline information required by FLPMA. Until then, it is arbitrary and capricious to authorize OHV use on these public lands.

Issue Number: PP-UT-MOAB-08-0018-18
Organization: Western Watersheds Project, Inc.
Protester: John Carter

Issue Excerpt Text:

If the agency cannot provide baseline inventory and analytical information to support leaving the majority

of the lands in the Decision Area open to OHV use, then the BLM has not adequately supported its alternatives or the decisions made in the RMP.

Issue Number: PP-UT-MOAB-08-0018-67
Organization: Western Watersheds Project, Inc.
Protester: John Carter

Issue Excerpt Text:

The RMP provides no inventory or baseline information on biological crusts within the planning area, and barely acknowledges that crusts are present.

Issue Number: PP-UT-MOAB-08-0018-73
Organization: Western Watersheds Project, Inc.
Protester: John Carter

Issue Excerpt Text:

The RMP maintains the status quo by continuing with the same authorized use level and grazed areas with only *de minimus* changes between alternatives (PRMP Table 2.1 page 2-12). By failing to adequately assess on-the-ground conditions and the impacts of current livestock grazing in the resource management planning process, the BLM has maintained the status quo by default. As a result, the RMP does not constitute a reasoned and informed decision in the public interest, with respect to whether the land within the planning area can continue to endure livestock grazing.

Issue Number: PP-UT-MOAB-08-0018-99
Organization: Western Watersheds Project, Inc.
Protester: John Carter

Issue Excerpt Text:

Yet, BLM has not presented baseline inventories and evaluations of the impacts that livestock grazing has had, and continues to have, on ecosystems and specific ecosystem components such as soils, microbiotic crusts, fish and wildlife, and native vegetation.

Summary

The BLM has not presented baseline inventories and evaluations that allow for assessment of the impacts of livestock grazing and OHV use on other resources, including biological soil crusts.

This violates NEPA's requirement that environmental analyses provide a full and fair discussion of the alternatives considered and their potential environmental consequences.

Response

The requisite level of information necessary to make a reasoned choice among the alternatives in and EIS is based on the scope and nature of the proposed decision. The baseline data provided in Chapter 3 and in various appendices in the PRMP/FEIS is sufficient to support, at the general land use planning-level of analysis, the environmental impact analysis resulting from management actions presented in the PRMP/FEIS and augmented in the Appendices.

A land use planning level decision is broad in scope and, therefore, does not require an exhaustive gathering and monitoring of baseline data. Although the BLM realizes that more data could always be gathered, the baseline data relied upon are adequate to form the basis for informed land use plan-level decisions. Land use plan-level analyses are typically broad and qualitative rather than quantitative or focused on site-specific actions. The BLM will conduct subsequent NEPA analyses, including site-specific project and implementation action level documents, such as for oil and gas field development, allotment management plans, grazing permit renewals, and public land use authorizations. These activity plan-level analyses will tier to the land use planning analysis and extend the environmental analysis by using information from specific project proposals in accordance with 40 CFR § 1502.20. In compliance with the NEPA process, the public will have the opportunity to participate in the environmental analysis process for these actions.

Before beginning the land use plan revision process, and throughout the planning effort, the BLM considered the availability of data from all sources, the adequacy of existing data, data gaps, and the type of data necessary to support informed management decisions at the land use plan level. The data requirements for a land use plan-level analysis of the planning area, which constitutes over 1.8 million acres, is far different and less extensive than what would be utilized for an implementation-level EIS with a well-defined proposed action. Much of the data in the PRMP/FEIS is presented in map form and is sufficient to establish the gross-scale types of impact analyses required for land use planning.

The BLM made every effort to use the most recent and best information available that was relevant to a land use planning scale of analysis. During preparation of the RMP/EIS, the BLM consulted with and utilized data from other agencies/sources, including but not limited to: U.S. Geological Survey; Utah Department of Wildlife Resources; Utah Geological Survey; Utah Division of Oil, Gas and Mining; U.S. Fish and Wildlife Service; Natural Resource Conservation Service (NRCS); Native American Tribes; and Utah Department of Environmental Quality.

The BLM consulted on the analysis and incorporation of available data into the PRMP/FEIS with its cooperating agencies and other agencies with jurisdiction or expertise. Considerations included, but were not limited to: big game herd numbers and trends; migratory routes and uses; crucial habitat areas (i.e., wintering, calving), locations, and sensitivities; greater sage-grouse breeding, nesting, and brood-rearing and wintering areas; threatened and endangered species and their habitat; oil and gas development potential; livestock grazing use; uses on State lands; and heritage resource values including traditional Native American concerns.

As a result of these actions, the Field Office gathered the data necessary to make a reasoned choice among the alternatives. These data were analyzed in detail in the PRMP/FEIS. The BLM utilized the available data to provide an adequate and reasoned analysis which led to an adequate disclosure of the potential environmental consequences of the PRMP alternative and other alternatives. Thus, the BLM has taken a “hard look,” as required by NEPA, at the environmental consequences of the alternatives to enable the decision maker to make an informed decision.

With regard to specific points raised by protesters:

Soils and macrobiotic crusts: Soil surveys and ecologic site descriptions are provided by NRCS. The BLM's standard is to use NRCS data, recognizing its special expertise and responsibility. As NRCS develops and updates the surveys and site descriptions, the BLM will continue to use that information. In accordance with the BLM's Land Use Planning Handbook (H-1601-1), the Moab RMP identifies specific soils that may need special protection and displays them on Map 2-13. Baseline information on soils, including biological soil crusts, is presented in Section 3.14.2.2.4. While there has not been a systematic inventory of soil crusts within the decision area, the BLM has data that confirms the existence of small areas of more dense soil crusts, especially in areas with less dense vegetative cover. The BLM fully acknowledges the important role that macrobiotic crusts play on rangelands and forested landscapes. The BLM Inter-Disciplinary Team, using its professional judgment, determined that if an ecological site is functional and healthy, then the amount of biological crusts present are adequately supporting ecological processes in conjunction with the vascular plants present. The DRMP/DEIS management alternatives address the overall functioning and ecological condition of an entire planning unit rather than attempting to manage the health of specific areas of biological crusts alone. The alternatives in the EIS are designed to maintain or improve overall rangeland health; thus, functioning rangelands in healthy condition are assumed to maintain biological soil crusts at an appropriate level and distribution. The impacts to biological soil crusts at the landscape levels are addressed in Chapter 4 of the PRMP/FEIS, commensurate to the broader level of decision making in the PRMP/FEIS. Site-specific impacts to biological soil crusts will be addressed in implementation level NEPA analysis (e.g., term permit renewals, special recreation permits, realty actions, and tenure adjustments).

OHV impacts to fish, wildlife, and native vegetation: The impacts and impact-producing factors of OHV use and grazing on natural resources are adequately analyzed in Chapter 4 of the PRMP/FEIS. Chapter 3 of the PRMP/FEIS presents the baseline (current situation) for analysis in Chapter 4, and describes the ongoing and baseline issues surrounding cross-country OHV travel currently permitted by the existing land use plan for the Field Office planning area. The impacts associated with cross-country OHV use are described in Chapter 4 under the No Action Alternative. The action alternatives limit travel to designated routes. The routes that are already in use are considered part of the baseline, and therefore, it is not reasonable to consider the impacts from these already disturbed linear surfaces. However, the impacts from the current baseline situation are considered in the cumulative impacts analysis. The analysis is also adequate for the purposes of determining how the PRMP affects outcomes for wildlife identified in the Utah Division of Wildlife Resources' *Comprehensive Wildlife Conservation Strategy* (2005).

Grazing utilization and impacts of grazing on other resources: Livestock grazing decisions at the planning level are broad allocations. The discussions of impacts to other resources, including the current impacts described in the analysis of the No Action Alternative, are sufficient to support these types of decisions. According to BLM policy, and as described on p. 2-12 of the FEIS, decisions regarding authorized livestock use, levels, and the terms and conditions under which they are managed are implementation decisions (H-1610-1, Appendix C, p. 15). The BLM assesses the condition of rangeland health, conducts monitoring and inventories, and evaluates this data on a periodic basis, normally on an allotment and/or watershed basis. After NEPA analysis, changes to livestock management deemed necessary to meet or progress toward meeting management objectives and to conform to the *Standards for Rangeland Health and Guidelines for Grazing Management for BLM Lands in Utah* are implemented through a formal decision-making process in accordance with 43 CFR § 4160. These decisions determine the appropriate levels of use by livestock at the allotment scale, in conformance with the RMP, to meet resource objectives and maintain or enhance land health. In light of this process for making subsequent site-specific grazing decisions, the baseline information disclosed in the FEIS is sufficient to support the administrative record for this RMP and the broad-scale decisions concerning grazing that are made at the planning level.

Examination of Baseline Data

Issue Number: PP-UT-MOAB-08-0012b-120

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

D. The Total Planning Area Acreage Varies by Alternative, Indicating Inaccuracy in Analysis and Conclusions The DRMP/DEIS states that variation in acreage totals may exist between disciplines, however in the tables summarizing both the ORV designations (Summary Table A, p. 2-2) and the oil and gas designations (Summary Table C, p. 2-3) by alternative, the total acres is higher for each action alternative than for the "no action" alternative. This cannot be explained by variances between the methods or data used by the different resource specialists. While these additional acres (apparently created by the various alternatives) are not large, they do imply systematic inaccuracy in the acreage reported by alternative. BLM did not address this in the responses to comments, and these inconsistencies remain in the PRMP.

Response

Many of the acreage discrepancies in the DRMP/DEIS were corrected in the PRMP/FEIS. The remaining discrepancies result from the use of non-digitally-derived data from the Moab Field Office's 1985 Grand RMP in the No Action Alternative. The acreages in the 1985 Grand RMP are then compared to digitized GIS data in the action alternatives. The variations are negligible and have not affected BLM's analysis.

Analytical Discussion of Impacts

Issue Number: PP-UT-MOAB-08-0012a-111

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for

Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

The PRMP is in violation of NEPA for failing to conduct a thorough analysis of impacts and considering a reasonable range of alternatives in the designation of SRMAs. BLM is in violation of NEPA because it has not evaluated all reasonable direct, indirect, and cumulative environmental impacts from its designation of SRMAs. The agency underestimates the impacts of OR V use and does not conduct a sufficient analysis of the specific lands included within the designated SRMAs, even though this information is readily available. First, BLM does not take the "hard look" at the environmental implications of its SRMA designations as required by NEPA. Some basic consequences were acknowledged; the likelihood of soil compaction leading to surface runoff and site-specific reduction of forage material for livestock were among the most highlighted. However, even these impacts were not given serious consideration. There is no site-specific analysis of these impacts and the extent to which they would occur and adversely affect other recreational users, wildlife, or the quality of the habitat itself.

Issue Number: PP-UT-MOAB-08-0012c-125

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

in order to comply with the requirements of NEPA to conduct a thorough analysis of the direct, indirect, and cumulative impacts of the management alternatives, BLM must thoroughly analyze the specific impacts of habitat fragmentation on affected species and provide a comparison of the management alternatives.

Issue Number: PP-UT-MOAB-08-0018-23

Organization: Western Watersheds Project, Inc.

Protester: John Carter

Issue Excerpt Text:

Failure to Adequately Discuss Impacts and Best Available Information: The RMP fails to provide an adequate discussion of impacts to various resources, including a failure to incorporate best available information into the analysis. WWP highlighted this issue in its comments on the Draft RMP/EIS with respect to biological crusts, livestock grazing, off-road vehicle use, fire frequency, invasive species and other issues. Dozens of scientific papers and government reports were cited. The RMP ignored this information and the PRMP continues to provide no explanation for the omission of relevant scientific research on topics critical to the management of the public lands, or for that matter, research that has documented the impacts of livestock grazing and OHVs to forests, riparian areas, soils and wildlife that was published decades ago and remains accurate today.

Summary

The BLM has failed to provide an adequate analysis of the impacts (including cumulative impacts) to various resources, particularly those related to special recreation management areas (SRMAs), OHVs, and livestock grazing.

Response

The PRMP/FEIS provides an adequate discussion of the environmental consequences, including the cumulative impacts, of the Proposed Plan and alternatives in Chapter 4. As required by 40 CFR § 1502.16, the PRMP/FEIS provides a discussion of "the environmental impacts of the alternatives including the proposed action, any adverse environmental effects which cannot be avoided should the proposal be implemented, the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources which would be involved in the proposal should it be implemented." The PRMP/FEIS presented the decisionmaker with sufficiently detailed information to aid in determining whether to proceed with the Proposed Plan or make a reasoned choice among the other alternatives in a manner such that the public could have an understanding of the environmental consequences associated with the alternatives.

Land use plan-level analyses are typically broad and qualitative rather than quantitative or focused on site-specific actions. Therefore, a more quantified or detailed and specific analysis would be required only if the scope of the decision was a discrete or specific action. As specific actions that may affect the area come under consideration, the BLM will conduct subsequent NEPA analyses that include site-specific project and implementation-level actions, such as oil and gas development, realty actions, allotment management plans, public land use authorizations, or other ground-disturbing activities. These activity plan-level analyses will tier to the RMP analysis and expand the environmental analysis when more specific information is known. In addition, as required by NEPA, the public will be offered the opportunity to participate in the NEPA process for these specific actions.

Statement of Incomplete or Unavailable Information

Issue Number: PP-UT-MOAB-08-0012a-45

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

Additionally, NEPA contains specific requirements governing the treatment of uncertain conditions and imposes an obligation to state that existing evidence is inconclusive and to summarize the conclusions of that evidence. With respect to incomplete or unavailable information, 42 CFR § 1502.22 provides in full: When an agency is evaluating reasonably foreseeable significant adverse effects on the human environment in an environmental impact statement and there is incomplete or unavailable information, the agency shall always make clear that such information is lacking: (a) If the incomplete information relevant to reasonably foreseeable significant adverse impacts is essential to a reasoned choice among alternatives and the overall costs of obtaining it are not exorbitant, the agency shall include the information in the environmental impact statement. (b) If the information relevant to reasonably foreseeable significant adverse impacts cannot be obtained because the overall costs of obtaining it are exorbitant or the means to obtain it are not known, the agency shall include within the environmental impact statement: 1. A statement that such information is incomplete or unavailable; 2. a statement of the relevance of the incomplete or unavailable information to evaluating reasonably foreseeable significant adverse impacts on the human environment; 3. A summary of existing credible scientific evidence which is relevant to evaluating the reasonably foreseeable significant adverse impacts on the human environment; and 4. The agency's evaluation of such impacts based upon theoretical approaches or research methods generally accepted in the scientific community. For the purposes of this section, "reasonably foreseeable" includes impacts which have catastrophic consequences, even if their probability of occurrence is low, provided that the analysis of the impacts is supported by credible scientific evidence, is not based on pure conjecture, and is within the rule of reason. Given these regulations, BLM cannot rely on the so-called "uncertainties" relating to the impacts of climate change on the area to end the analysis with a simple acknowledgement of the phenomenon and a passing reference to BLM's claimed inability to "predict the effect of resource management-level decisions from this planning effort on global climate change." PRMP at 4-10. BLM must do more, even where information is uncertain (and in this case, SUWA emphasizes that the information, with the detailed studies cited above, is not particularly uncertain).

Response

The purpose of the CEQ regulations at 40 CFR § 1502.22 is to advance decision-making in the absence of complete information regarding environmental effects associated with the proposed action.

Chapter 3 of PRMP/FEIS at Section 3.2.1.2 discloses that several activities occur within the planning area that may generate emissions of climate-changing pollutants. In Chapter 4 at Section 4.3.1.1, the PRMP/FEIS discloses that the lack of scientific tools designed to predict

climate change on regional or local scales limits the BLM's ability to quantify potential future impacts. Further, Chapter 4 discloses that the BLM does not have an established mechanism to accurately predict the effect of resource management-level decisions from this planning effort on global climate change and acknowledges that the potential impacts to air quality due to climate change are likely to be varied. The incomplete nature of the information is clearly stated in Chapter 4. While broad information on climate change information is available, any additional speculation about specific emissions effects, etc., would require many assumptions that are premature or highly speculative, which would not assist the decisionmaker in arriving at an informed decision.

Inclusion of New and/or Conflicting Data

Issue Number: PP-UT-MOAB-08-0012b-151
Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

However, in order to comply with NEPA, BLM must adequately discuss any opposing point of view in a substantive and meaningful way. The agency's excuse does not change the validity of the science, data, and other information presented in response to the land management plan. BLM has failed to comply with NEPA's mandate to disclose opposing views, make a careful review of differing professional interpretations and analysis, and then provide substantive and meaningful responses to such views. BLM was provided with detailed recommendations, based on scientific opinion that contradicts the basis for the agencies' findings and management approach in both the Draft and Proposed RMPs. The PRMP does not discuss this independent information or justify its decision not to alter its conclusions based on these scientific opinions.

Issue Number: PP-UT-MOAB-08-0012c-109
Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

This is BLM's typical, catchall response to SUWA's new information that the agency used time and time again in the PRMP. BLM's generic response failed to acknowledge that SUWA's comments were detailed,

included a supplemental map of the area in question detailing BLM's arbitrary section line and/or "created line" boundary (a feature that could not be located or identified on the ground), as well as an aerial photograph detailing this information. Rather than using this information to ground-truth the wilderness characteristics of the particular area, the BLM effectively ignored SUWA's information.

Issue Number: PP-UT-MOAB-08-0017-8
Organization: San Juan County Commission
Protester: Bruce Adams

Issue Excerpt Text:

San Juan County contracted with Charles E. Kay, a noted Wildlife Ecologist from Utah State University, to evaluate the listed crucial deer and/or elk winter range in the County. The results of this evaluation - consisting of pellet group transects, evaluations of browse use, with over 300 supporting photos and over 60 examples of supporting literature cited - was furnished to the Utah State BLM office and the Moab Field Office with our May 2008 comments on the draft RMP and EIS. These were titled "An Evaluation of Mule Deer Winter Range on BLM Administered Lands in San Juan County, June 2006, Charles E. Kay" and "Charles E. Kay comments on Moab BLM DEIS dated November 20, 2007." This information should have been considered as new information but was apparently completely ignored by BLM and not even addressed in the BLM's response to comments. Both of these Charles E. Kay evaluations and comments, previously submitted to the BLM, are herewith considered a part of this protest with copies enclosed.

Issue Number: PP-UT-MOAB-08-0018-83
Organization: Western Watersheds Project, Inc.
Protester: John Carter

Issue Excerpt Text:

WWP provided extensive information on grazing systems, utilization rates, the need for rest and other criteria for livestock grazing in its comments on the

Draft RMP/EIS. These are fully incorporated into this protest. BLM ignored this information, and has ignored the role of livestock and range management on the environment

Summary

The BLM failed to consider new information provided during the public comment period. Specifically, this included:

- information provided by SUWA related to wilderness characteristic area boundaries;
- information provided by San Juan County related to wildlife habitat; and
- information provided by WWP related to grazing systems.

Response

The BLM complied with the NEPA regulations at 40 CFR § 1503.4 by performing a detailed comment analysis which assessed and considered all substantive comments received on the DRMP/DEIS. In particular, all letters received were compiled, reviewed, and analyzed to determine whether the comments submitted were substantive.

As stated in our response to SUWA's comments on the DRMP/DEIS, the BLM reviewed SUWA's new information (received in June, 2007), and found no reason to change its wilderness characteristics review conclusions. As part of the BLM's wilderness characteristics inventory maintenance, the BLM used a combination of field checks, inter-disciplinary (ID) team review, BLM and county geographic information system (GIS) data, range files, and review of high resolution 2006 aerial photographs. The BLM's findings are described in the 1999-2003 wilderness reinventory documentation, as well as the 2007 wilderness characteristics review process. These findings are available on the Moab Field Office planning website, and in the administrative record. The BLM is confident in the approach used to inventory the public lands and stands by its findings, particularly the findings related to wilderness characteristics inventory maintenance. The process the BLM followed is described in detail for every unit in Appendix P of the PRMP/FEIS.

The BLM reviewed the information provided by the San Juan County consultant. As stated in response to San Juan County's comments on the DRMP/DEIS, the Utah Division of Wildlife Resources is the jurisdictional agency for wildlife management within the State. As such, the BLM relied primarily on the expertise and data of this agency for delineating wildlife habitats, estimating population numbers, and recommending wildlife restrictions.

The BLM responded to WWP's comments (comment letter 1025; response is located on the CD which accompanied the PRMP/FEIS). In general, the information and suggestions provided were related to grazing systems, and thus were not pertinent to an RMP-level document. Such comments would be more appropriate for use on a site-specific basis. Livestock grazing decisions made at the RMP-level primarily relate to identifying lands available or unavailable for grazing. Grazing systems are developed for each allotment in consideration of site-specific resource issues; this takes place during the permit renewal process using *Standards for Rangeland health and Guidelines for Grazing Management for BLM Lands in Utah*.

BLM Response to Comments from the Colorado 500 Off-Highway Event

Issue Number: PP-UT-MOAB-08-0001-23
Organization: Colorado 500 Legal Defense Fund,
Colorado Off Highway Vehicle Coalition
Protester: Don Riggle, Jerry Abboud

Issue Excerpt Text:

In the matter the Focus Areas, we cannot find BLM's response to our comment pointing out that BLM failed to involve the affected publics in these designations. It was not mentioned in the NOI and it was not brought up by BLM in scoping.

Issue Number: PP-UT-MOAB-08-0001-25
Organization: Colorado 500 Legal Defense Fund,
Colorado Off Highway Vehicle Coalition
Protester: Don Riggle, Jerry Abboud

Issue Excerpt Text:

We note here that we submitted seven different comments regarding "user conflict," BBM, and Focus Areas. In the short time allotted, we can find responses to only two. Regardless of whether BLM thinks it deserves an answer or not, this is an unlawful response to comment.

Summary

The BLM failed to respond to Colorado 500's comments related to failure to involve the public in the matter of Focus Areas and the definition of "user conflict."

Response

The BLM considered and responded to Colorado 500's multiple submissions of comments on the DRMP/DEIS. However, in reviewing the comment letters, it was determined that a number of the comments that were received repeated the same point or issues numerous times. These comments were responded to only once. See responses to comment letter 6, especially 6-9, 6-10, 6-15, 6-17, and 6-24. (These comment responses are provided on the CD accompanying the PRMP/FEIS). See also the response under "User Conflicts".

BLM Response to Comments from the Grand Canyon Trust

Issue Number: PP-UT-MOAB-08-0012a-3
Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

In addition, Grand Canyon Trust protests the fact that it submitted timely comments on the Draft RMP, however, BLM did not provide a response to the issues raised as required under NEPA. 40 CFR § 1503.4. When asked about this omission, BLM admitted to overlooking the comments. BLM must remedy this error by responding to the comments and providing the opportunity for Grand Canyon Trust to review and protest any response.

Response

The BLM did inadvertently omit the response to Grand Canyon Trust's comments in the response summary provided in the PRMP/FEIS. We regret the omission. Issues raised included the failure to address climate change, the preference for designation of all ACECs and WSRs, the need for more air quality data and analysis, management of riparian zones, travel management, pre-project conservation plans, compensation for irretrievable loss of resources, and the closure of the Castle Valley watershed. Grand Canyon Trust's comments on the preference for designation of all ACECs and WSRs were not substantive comments and so would not customarily receive a response. The rest of your comments represent issues that were raised by

other commenters; therefore, the BLM adequately addressed Grand Canyon Trust's comments in the PRMP/FEIS's response to comments.

Specifically, concerns related to climate change are addressed in response to comment 124-115. Air Quality data needs and the updating of air quality data are addressed in responses to comments 970-1, 479-2, 8-1, 970-4, 214-10, and 214-11. The issue of livestock grazing in riparian areas is addressed in response to comment 204-22. Travel plan issues are discussed in response to comments 124-9 and 124-48; the route in Ten Mile Wash is discussed specifically in response to comment 124-175, and the open area in White Wash is discussed in response to comment 124-177. The sufficiency of the 90-day comment period is discussed in response to comment 124-1.

The Grand Canyon Trust expresses its preference for designating all the ACECs and WSRs as discussed in Alternative B, and for closing the Castle Valley watershed to oil and gas drilling, also discussed in Alternative B. Grand Canyon Trust's suggestion for utilizing pre-project wildlife conservation plans for specific oil and gas developments is a suggestion that is pertinent to site-specific projects rather than to the current, broader level of land use planning. Thus, the Grand Canyon Trust's questions on irretrievable loss of resources do not represent comments on the RMP. The Grand Canyon Trust is invited to review the "Response to Comments by Resource" table and find the topics related to its comments and the BLM's responses to them.

BLM Response to Comments from the Southern Utah Wilderness Alliance

Issue Number: PP-UT-MOAB-08-0012a-18

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

Air Quality: As an initial matter, the Moab PRMP has completely ignored and failed to respond to SUWA's air quality comments submitted on the Draft RMP.

Issue Number: PP-UT-MOAB-08-0012c-111

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute,

Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

BLM's response fails to address the concern that arbitrary and capricious boundaries were utilized. Instead, BLM issued the following non-responsive, generic statement that merely restates its wilderness inventory process: As part of its wilderness characteristics inventory maintenance, the BLM used a combination of field checks, ill team reviews, BLM and county GIS data, range files, and review of high resolution 2006 aerial photographs. The BLM's findings are described in the 1999-2003 wilderness re-inventory documentation as well as the 2007 wilderness characteristics review process. These findings are available on the MFO planning website, and in the administrative record. The BLM stands by its findings of its wilderness characteristics inventory maintenance.

Summary

The BLM failed to respond to Southern Utah Wilderness Alliance (SUWA)'s air quality comments. The BLM's response to SUWA's comments fails to address the issue that the boundaries of non-WSA lands with wilderness characteristics are arbitrary and capricious.

Response

The BLM addressed SUWA's air quality issues in the following responses to comments: 8-1, 120-13, 120-14, 120-45, 124-115, 202-8, 203-45, 214-10, 214-11, 215-6, 479-1, 479-2, 479-3, 479-4, 479-19, 479-20, 479-21 and 970-1. Because of these and other comments, the Air Quality sections of the DRMP/DEIS were extensively augmented, using updated information and further analyses. The resulting Air Quality description and analysis is disclosed in the PRMP/FEIS.

The BLM considered all of the information supplied by SUWA and other organizations in formulating the boundaries of non-WSA lands with wilderness characteristics. The BLM formulated these boundaries using all available information in order to avoid impacts on the naturalness of the area. The interdisciplinary team process is fully described in the Wilderness Characteristics Review documentation and summarized in Appendix P. Each of SUWA's comments was examined carefully during this process, and minor adjustments were made to wilderness characteristics boundaries as a result of SUWA's input.

BLM Response to Comments from the Sierra Club

Issue Number: PP-UT-MOAB-08-0013-1

Organization: Sierra Club Utah Chapter

Protester: Wayne Y. Hoskisson

Issue Excerpt Text:

In 205-1 we stated: The section on Travel Management fails to meet the requirements of NEPA, APA, the Information Quality Act (IQA)(also known as the Data Quality Act), and legal requirements for recognizing state or county highway or road claims. The use of state and county road inventories is either beyond the scope of this DRMP or is inadequately analyzed and justified by the DRMP. We still believe this to be true and that the responses given do not address this concern. In fact, the response refers to the response for 205-9. In that response there is no response to concerns about the Information Quality Act and our concerns about following this Congressional mandate.

Issue Number: PP-UT-MOAB-08-0013-11

Organization: Sierra Club Utah Chapter

Protester: Wayne Y. Hoskisson

Issue Excerpt Text:

Our comments under issue 205-9 about the Information Quality Act were not addressed in the response. In response to issue 205-22, the BLM cites the 2007 decision regarding the use of herbicides. This addresses only a portion of our comment. Grazing will continue to be based on information

generated in a 1985 RMP. That information is now 23 years old and well out of date. In our comments we described the new kinds of information that need to be addressed in the RMP. The BLM failed to analyze any of this information. In fact it continues to place all decisions in the future to be based on a PRMP that did not analyze the current effects of grazing. Much on the ground information is needed and issues such as climate change must be considered in future decisions about grazing and the planning process is the place to accomplish that level of analysis.

Issue Number: PP-UT-MOAB-08-0013-7

Organization: Sierra Club Utah Chapter

Protester: Wayne Y. Hoskisson

Issue Excerpt Text:

The response to issue 205-9, the BLM fails to adequately address our comments. We gave a close and reasoned argument concerning the use of county road inventories for any purpose in planning or considering the validity of the existence of a route as something that could be included in a travel map. The BLM does not have the authority to include such information in analysis. It does not have the authority to evaluate the information. It does not have the authority to include such information in the planning process. We wrote the logical arguments for this and cited the laws which support our position.

Summary

The BLM fails to address Sierra Club's comment 205-1, asserting that the section on Travel Management fails to meet the requirements of NEPA, the Administrative Procedure Act, the Information Quality Act (IQA)(also known as the Data Quality Act), and the legal requirements pertaining to the recognition of State or county highway or road claims. Grazing decisions are based on out-of-date information contained in a document that is 23 years old.

Response

The BLM responded extensively to comment 205-1 via its response to comment 205-9. In summary, the BLM used scientifically defensible sampling techniques to verify actual geographic information system route data presented to the BLM. The commenter did not provide data identifying where the BLM included in its database or in any of its alternatives a route which actually does not exist on the ground.

As stated in the response to comment 205-22, in addition to the older data referred to, the BLM also used data from the more recent "Vegetation Treatments Using Herbicides on Bureau of Land Management Lands in Seventeen Western States" (2007), which was still in draft form at the time of the DRMP/DEIS. The BLM did not rely exclusively on 23-year-old data.

The BLM used the best available data and is thus in full compliance with the IQA.

BLM Response to Comments from Campbell/Hansmire Sheep Akbash Dog

Issue Number: PP-UT-MOAB-08-0016-3
Organization: Campbell Hansmire Sheep Akbash Dogs
Protester: Julie and Randy Hansmire and Campbell

Issue Excerpt Text:

I have attached our original comments to the Draft Plan. I did not see my comments addressed in the PRMP /FEIS.

Response

The topics addressed by the Hansmire/Campbell comment letter can be found in the response to other comments. The commenter asserts that it would be beneficial for the lands and for wildlife if the Bogart, Cottonwood, Diamond, and Pear Park allotments were made available for grazing. These allotments are discussed in response to comments 120-6, 335-1, and 9-11.

Limited Range of Alternatives

Issue Number: PP-UT-MOAB-08-0006-20
Organization: ECOS Consulting
Protester: Charles Schelz

Issue Excerpt Text:

Failure to Provide an Adequate Range of Alternatives
BLM's Moab DRMP/DEIS fails to include a reasonable range of Alternatives. Specifically, it contains no alternative that would adequately protect the scarce riparian resources of the Moab BLM

Decision Area from OHV use, livestock grazing, mineral development and associated damages from Off-Road Vehicle (OHV) routes throughout the Decision Area, as it fails to include an alternative that would protect riparian areas, wildlife habitat, and minimize fugitive dust emissions.

Issue Number: PP-UT-MOAB-08-0007-6
Organization: Blue Ribbon Coalition, Inc.
Protester: Paul Turcke

Marshall Alliance v. Hodel, 852 F.2d 1223, 1228 (9th Cir. 1988).

Issue Excerpt Text:

All action alternatives are closure alternatives. NEPA requires an agency to "rigorously explore and objectively evaluate all reasonable alternatives." 40 CFR § 1502. 12(a)(2000). While the PRMP/FEIS pay lip service to information submitted by Grand and San Juan Counties and numerous private parties, none of this information was incorporated into a revised range of alternatives and presented to and made available for comment by the general public. See, generally Appx. G-13 through G-19. While it is apparent that BLM made a laudable effort to evaluate and verify the information submitted, 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-UT-MOAB-08-0012a-115

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

In addition, the range of alternatives promoted by the Draft RMP was poorly developed and the PRMP does not correct this flaw. A true range needs to represent the interests of all stakeholders for the specified lands, not just a limited demographic. Most areas for specialized recreation are targeted towards ORV use and only areas designated for non-motorized use varies at all considerably between alternatives.

Issue Number: PP-UT-MOAB-08-0012a-89

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

BLM has failed to consider a no leasing alternative in the Moab PRMP. As part of its analysis BLM must consider a no leasing alternative in addition to a no action alternative. Federal courts have made clear that a no leasing alternative should be a vital component in ensuring that agencies have all reasonable approaches before them. See, e.g., *Bob*

Issue Number: PP-UT-MOAB-08-0012a-91

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

The Moab PRMP dismisses the no leasing alternative by mischaracterizing its implications and conflating it with the no action alternative. See Moab PRMP at 2-118 to -119. The no leasing alternative does not require BLM to buy back all existing leases. See Moab PRMP at 2-118. It simply requires that BLM analyze a program in which no future leases are offered. This is not a useless exercise; it allows BLM to compare the difference in impacts between the no leasing alternative and the development alternatives. BLM must fully analyze the no leasing alternative. The present analysis is insufficient.

Issue Number: PP-UT-MOAB-08-0012b-132

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

The three action alternatives make available between 63% and 81% of the planning area to oil and gas development. Similarly, between 81% and 97% of the planning area is available for off-road motorized recreation. For both of these intensive uses (both of which are often mutually exclusive with other uses) the only alternative which offers a significantly different level of land available is the so-called protective alternative and even this alternative opens nearly two thirds of the planning area for oil and gas drilling and over 80% to off-road motorized recreation. This is not an adequate range, but rather reflects the agency's pre-determined outcome and a "token" conservation alternative which was never really seriously considered.

Issue Number: PP-UT-MOAB-08-0012b-25

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute,

Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

Rather than digging for excuses to avoid assessing the Redrock Heritage Plan (RHP) as a reasonable alternative, BLM should have complied with NEPA's mandate to consider a true range of alternatives, by including the RHP's route designations and travel plan in its alternative analysis. As discussed above, all of the reasons proffered by BLM for not including the RHP in the DMRP and PRMP are arbitrary and an abuse of discretion.

Issue Number: PP-UT-MOAB-08-0018-5

Organization: Western Watersheds Project, Inc

Protester: John Carter

Issue Excerpt Text:

In spite of these characteristics which combine to make the planning area unique and sensitive, there was no analysis of alternatives such as No Grazing, Significantly Reduced Grazing or closing sensitive areas such as wilderness, wilderness quality lands, riparian areas, ACECs or areas with sensitive soils, cultural or paleontological, or wildlife resources, to

livestock in spite of the documented benefits of doing so within the RMP itself. This approach with respect to livestock grazing violates the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321-4361, requirement that federal agencies analyze a reasonable range of alternatives.

Issue Number: PP-UT-MOAB-08-0018-7

Organization: Western Watersheds Project, Inc

Protester: John Carter

Issue Excerpt Text:

In addition to little or no differentiation in stocking rates, there is no significant difference in the amount of acres of public lands the BLM considered leaving open, or available, for grazing. All alternatives continued the status quo of maintaining over 90% of the land open to grazing by livestock. In doing so, BLM has failed to resolve livestock conflicts with low-impact recreation, fish and wildlife, erodible soils, biological crusts and other resources by including meaningful alternatives to protect these important resources. This is unreasonable. NEPA requires that all alternatives must be reasonable.

Summary

The DEIS/FEIS does not provide an adequate range of alternatives with respect to livestock grazing. The acreage open to grazing is the same for all alternatives. There is no alternative which considers "no grazing" or closing sensitive areas to grazing.

The DEIS/FEIS does not provide an adequate range of alternatives with respect to oil and gas leasing. The acreage open to development is virtually identical for all alternatives.

There is no alternative which would provide for the protection of riparian areas from impacts due to grazing, mineral development, and OHV use.

Response

The BLM considered a reasonable range of alternatives in the PRMP/FEIS in full compliance with NEPA. The CEQ regulations at 40 CFR § 1502.1 require that the BLM consider reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment. 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 represented the full spectrum of options including a No Action Alternative (Alternative A), an alternative emphasizing conservation and constraints to resource use (Alternative B), a Proposed Plan (formerly Alternative C), and an alternative emphasizing resource use (Alternative D) that nevertheless increases conservation of resources compared to

current management and “emphasizes moderate constraints on leasing for oil and gas and other (leasable) solid minerals.” While the acreage open or closed to various resource uses is similar for each alternative, the level of constraints varies greatly between alternatives. The management strategies considered range from increased conservation and protection of natural, recreation, and cultural values and intensive management of surface-disturbing activities to an alternative focused on energy and commodity development with “the least protective management actions for physical, biological, and heritage resources.”

The BLM acknowledges that there could be a very large number of variations to alternatives put forth in the Moab planning process. However, the BLM is not required to conduct detailed analysis of each variation, including those determined not to meet the RMP’s purpose and need, and those determined to be unreasonable given BLM’s mandates provided by FLPMA, other Federal laws and regulations applicable to public lands, and the policies and programs implemented pursuant to these mandates. The CEQ explained the issue of the necessary range of alternatives as follows: “[f]or some proposals there may be a very large or even an infinite number of reasonable alternatives...[w]hen 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 both protects resources and allows for commodity uses.

A detailed rationale was also provided for the alternatives and management options considered but eliminated from detailed analyses in Section 2.3. See pp. 2-117 to 2-121. As described in Sections 2.3.2 and 2.3.3, alternatives closing the planning area to all grazing or all oil and gas leasing were not considered in detail because they would not meet the purpose and need of the PRMP/FEIS.

With regard to livestock grazing, all grazing allotments were reviewed against the factors specified in the Land Use Planning Handbook (H-1601-1) during the scoping process. These criteria aided the BLM in identifying lands as available or not available for livestock grazing. See 43 CFR §4130.2(a). Substantial conflicts were identified on ten allotments which led to the decisions in the PRMP/FEIS to close these allotments to grazing. In addition, portions of other allotment were closed to grazing (with no loss of Animal Unit Months) to address resource issues relating to riparian, recreation, and soils resources. See pp. 2-12 to 2-14.

Decisions regarding authorized livestock use levels and the terms and conditions under which they are managed are implementation decisions (H-1610-1, Appendix C, p. 15). The BLM assesses the condition of rangeland health, conducts monitoring and inventories, and evaluates this data on a periodic basis, normally on an allotment and/or watershed basis. After NEPA analysis, changes to livestock management deemed necessary to meet or progress toward meeting management objectives and to conform to *Standards for Rangeland health and Guidelines for Grazing Management for BLM Lands in Utah* are implemented through a formal decision-making process in accordance with 43 CFR § 4160. These decisions determine the

appropriate levels of use by livestock at the allotment scale, in conformance with the RMP, to meet resource objectives and maintain or enhance land health.

As cited in Section 2.3.3, the BLM is aware that a “No-Leasing Alternative” in an RMP revision is actually an action alternative because, where lands have already been leased, the no-action for NEPA purposes continues to allow for (honor) valid existing rights. The “buy-back” of existing leases was considered as only one potential feature of a “no-leasing” alternative, not necessarily the defining feature.

A “no-leasing” alternative was not analyzed in detail because it would not have met the purpose and need for the RMP and would be necessary only if other constraints and management actions, including no-surface-occupancy, are insufficient to resolve issues or conflicts raised during scoping. The Draft RMP/EIS analyzed various categories of decisions, including no leasing of certain areas throughout the planning area. However, an alternative that considered complete elimination of mineral leasing was not necessary to resolve issues related to protection of competing resource values and uses, and it would unnecessarily restrict mineral exploration and production on the public lands. The proposed oil and gas leasing categories, associated lease stipulations, and best management practices identified in Appendix C would sufficiently address issues or conflicts raised during scoping and address adequate mitigation of competing resource values and uses.

In addition, a “no-leasing alternative” is contrary to the BLM's current policy of making lands available for fluid mineral leasing while applying the least restrictive management constraints necessary to achieve resource goals and objectives.

With regard to an alternative that would protect riparian and other sensitive areas, many of the management prescriptions in the resource-protection alternative, Alternative B, would maximize protection of riparian and other sensitive areas within the constraints of the purpose and need outlined for the RMP. That alternative has been analyzed in detail. The BLM’s Proposed Plan includes actions intended to provide protection of riparian areas on pages 2-30 and 2-31 of the PRMP/FEIS. The BLM intends to manage riparian areas for properly functioning condition and minimize or avoid disturbance, loss, or degradation of these resources.

Vegetation Treatment Descriptions

Issue Number: PP-UT-MOAB-08-0018-21

Organization: Western Watersheds Project, Inc

Protester: John Carter

Issue Excerpt Text:

There were no alternatives describing different levels of vegetation treatments, removing livestock grazing to accelerate restoration or protecting sensitive areas. The RMP provides no description of the amounts treated historically or the outcome of those treatments as to whether ecological conditions were restored.

Response

The BLM considered a reasonable range of alternative with respect to vegetation treatments as required by CEQ regulations at 40 CFR § 1502.1. The BLM designed the alternatives to provide

the maximum flexibility in performing vegetation treatments to achieve specific goals and desired outcomes such as maintaining a mixture of vegetative types; eliminating noxious weeds and/or non-native invasive plant species; restoring and maintaining healthy functioning landscapes, habitats, and riparian areas to benefit wildlife such as sage-grouse and others special status species; and achieving rangeland health objectives. Variations in the alternatives consist of vegetation treatment methods (i.e., prescribed fire, mechanical, chemical, biological, woodland product removal, and wildland fire use) and areas to be treated. This is discussed in detail at p. 2-14 in the Livestock Grazing portion of Table 2.1. *See also* response to DRMP/DEIS comment 121-14. With respect to other issues raised by protester, see the response under “Limited Range of Alternatives”.

Public Opportunities to Comment

Issue Number: PP-UT-MOAB-08-0018-93

Organization: Western Watersheds Project, Inc.

Protester: John Carter

Issue Excerpt Text:

Consultation must occur before a decision is made and any modifications of the selected alternative must be disclosed to the public and the public given an opportunity to comment on the modifications, in accordance with NEPA. At a minimum, the biological assessments and biological opinion(s) should have been made available to the public in the Final EIS so that the public could review and provide comments on them. *See* 40 CFR § 1502.25(a).

Response

The BLM is in full compliance with Section 7(a)(2) of the Endangered Species Act (ESA) and CEQ regulations at 40 CFR § 1502.25. Section 7(a)(2) of the ESA requires Federal agencies to consult with the FWS to ensure that their actions are not likely to jeopardize the continued existence of any listed species or adversely modify critical habitat. As presented in Section 5.2.4.1, the BLM consulted with the FWS, as required. As part of the formal consultation process, a biological assessment was prepared based on the proposed RMP, and was provided to FWS for review and comment. Because the FWS formally reviews only the PRMP/FEIS, there is no opportunity for public comment; no such public review is required under the NEPA or the ESA. However, the BLM used the same information and biological data both to prepare the biological assessment and to analyze the environmental consequences on affected endangered species in the environmental impact statement.

The Biological Opinion is the formal opinion of the FWS as to whether or not a Federal action is likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat, and is not subject to the NEPA disclosure requirement. The FWS has issued a Biological Opinion which concludes that implementation of the plan would not likely jeopardize the continued existence of any listed species or adversely modify critical habitat. A copy of the Biological Opinion will be included in the ROD.

Discussion of Cumulative Impacts/Connected Actions

Issue Number: PP-UT-MOAB-08-0012a-122

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

Furthermore, depending solely on site-specific analysis [for SRPs] does not allow for cumulative impact analysis as required by NEPA.

Summary

The PRMP/FEIS does not adequately address cumulative impacts with respect to Special Recreation Permits (SRPs).

Response

The issuance of an SRP is a site-specific implementation level authorization, which requires full compliance with NEPA, including analyzing the direct, indirect, and cumulative impacts associated with each proposal. The scope and nature of the specific proposed action drives what level of analysis must be done to comply with the requirements of NEPA. As noted above, RMPs are used to evaluate broad policies and plans and provide an analytical foundation for subsequent project-specific NEPA documents. The cumulative analysis in the PRMP/FEIS considered (1) the present effects of past actions, to the extent that they are relevant; and (2) the present and reasonably foreseeable (not highly speculative) effects of Federal and non-Federal actions, taking into account the relationship between the proposed action and these reasonably foreseeable actions. This served as the determining factor as to the level of analysis performed and presented. Therefore, the BLM complied fully with the requirements of 40 CFR § 1508.7 and prepared a cumulative analysis to the extent possible based on the broad nature and scope of the proposed management options under consideration at the RMP stage.

Land use planning is a tiered process ranging from broad general allocations and management prescriptions to subsequent site-specific authorizations. Issuing an SRP is a discretionary action based on many factors including a site-specific implementation level authorization, which requires full compliance with NEPA, including analyzing the direct, indirect and cumulative impacts associated with each proposal. At that time, the appropriate level of cumulative analysis will be performed taking into consideration those resources which could be affected by the nature and scope of the specific proposed action, as well as reasonably foreseeable Federal and non-Federal actions.

Definition of User Conflicts

Issue Number: PP-UT-MOAB-08-0001-14

Organization: Colorado 500 Legal Defense Fund, Colorado Off Highway Vehicle Coalition

Protester: Don Riggle, Jerry Abboud

Issue Excerpt Text:

A number of our key comments on the user conflict

issues were not acknowledged by BLM. The comments were submitted on time during the comment period. The most critical voids lie in the area of: a) BLM authority to make "resolving user conflicts" part of the mission of an RMP; b) defining user conflicts; and c) providing factual information about actual incidents.

Issue Number: PP-UT-MOAB-08-0001-18
Organization: Colorado 500 Legal Defense Fund,
Colorado Off Highway Vehicle Coalition
Protester: Don Riggle, Jerry Abboud

Issue Excerpt Text:

BLM response #6-10 evades our requests: we asked to have reported incidents cited in support of this new mission. We asked to have a clear definition of what exactly "user conflict" is. We asked to have BLM add a statement to the effect that "user conflicts" have nothing to do with properly damage, personal injury, or any other legally defined, prosecutable transaction between people. Saying that staff has experienced conflicts, or BLM has received reports of conflicts, does not answer the question. In the comment period, we asked for clear and specific information. We are entitled to a rational, factual response. BLM did not

even publish our comment letters, let alone respond by changing the PRMP.

Issue Number: PP-UT-MOAB-08-0001-20
Organization: Colorado 500 Legal Defense Fund,
Colorado Off Highway Vehicle Coalition
Protester: Don Riggle, Jerry Abboud

Issue Excerpt Text:

We contend that BLM has stretched "Affected Environment" far beyond anything the CEQ intended at 1502.15, because, in part, a) the descriptions in the PRMP that include "user conflict" are verbose and repetitive, b) there is no "data" in these discussions, because there is no definition of "user conflict," c) "user conflict" has no relevance to the description of the areas, due to the philosophical and ephemeral nature of "user conflict."

Summary

"User conflict" is ill-defined and philosophical in nature and thus is not a valid issue to be discussed or resolved through BLM's land use planning effort. Colorado Off Highway Vehicle Coalition requests that the BLM clarify the definition of user conflict. Additionally, the Colorado Off Highway Vehicle Coalition points out that their comments on user conflict were not acknowledged by the BLM.

Response

With a multiple use mandate, the BLM is faced with the complicated task of striking a balance among the many competing uses to which land can be put. The BLM's multiple use mandate does not require that all uses be allowed on all areas of the public lands. 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 term "user conflict" refers to any of a variety of interactions among users of the public lands whose uses are incompatible for a variety of reasons. One such example of user conflict is witnessed bureau-wide and in the Moab Field Office: the conflict between users seeking non-motorized experience and those engaging in motorized recreation. User conflict, of course, is not merely an issue with non-motorized recreationists; there are documented user conflicts among motorized recreationists as well. The BLM does not single out or lay blame for these conflicts with any one group or activity. Rather, in attempting to strike a balance in its management of the public lands, the BLM seeks to provide, to the extent possible, opportunities for all users and resolution to user conflicts.

User conflict was an issue that was repeatedly raised by the public during scoping for the RMP, and as such, was addressed by the BLM in the formulation of alternatives. The list of instances of user conflict in Chapter 3 was provided to address user conflict as a part of the affected environment. This is appropriate because these documented conflicts are relevant to how the BLM analyzes resource allocation for future decisions. Additionally, the explanation of user conflicts in Section 3.11.2.6 is sufficient to help the public understand the concept and no augmentation is necessary.

Although the BLM did not respond directly to the comments that the Colorado Off Highway Vehicle Association cites in its protest letter, the issues concerning user conflict were raised and addressed in the Moab PRMP/FEIS response to comments on the draft at 6-10, 122-9, and 123-14.

Requirements for Text Citations

Issue Number: PP-UT-MOAB-08-0001B-7

Organization: Colorado 500 Legal Defense Fund, Colorado Off Highway Vehicle Coalition

Protester: Don Riggle; Jerry Abboud

Issue Excerpt Text:

BLM Failure to Follow 40 CFR 1502.24. Before we begin, please take note of our repeated requests to place the citations in the text, per 40 CFR 1502.24. "Agencies shall...make explicit reference by footnote to the scientific and other sources relied upon for conclusions in the statement." BLM does not provide any explicit reference connections to any statement in the analysis. It is because the DEIS is almost 1,000 pages long, that BLM's failure to follow this CEQ regulation severely inhibits public participation.

Response

The PRMP/FEIS contains numerous citations throughout the document in the format ("author," "year") to the 23 pages of references listed at pp. X-1 to 23. The analysis and conclusion within the PRMP/FEIS is based on the referenced information, input from the public and cooperating agencies, and the professional and technical knowledge and experience of the resource specialist.

Federal Land Policy and Management Act

Issue Number: PP-UT-MOAB-08-0018-10

Organization: Western Watersheds Project, Inc

Protester: John Carter

Issue Excerpt Text:

Furthermore, BLM, by leaving most of the lands open to livestock grazing, with its documented impacts to sensitive, unique and irreplaceable resources has failed to meet one of FLPMA's major objectives, to accelerate restoration (43 CFR 4100.0-2).

available for livestock grazing (see 43 CFR 4130.2(a)), considering the following factors: 1. Other uses for the land; 2. terrain characteristics; 3. soil, vegetation, and watershed characteristics; 4. the presence of undesirable vegetation, including significant invasive weed infestations; and 5. the presence of other resources that may require special management or protection, such as special status species, special recreation management areas (SRMAs), or ACECs." Neither the DEIS or FEIS provide this analysis.

Issue Number: PP-UT-MOAB-08-0018-50

Organization: Western Watersheds Project, Inc

Protester: John Carter

Issue Excerpt Text:

In its comments on the Draft RMP/EIS, WWP pointed out the requirements in BLM's Land Use Planning Handbook (H-1601-1) Appendix C which requires that BLM "Identify lands available or not

Issue Number: PP-UT-MOAB-08-0018-75

Organization: Western Watersheds Project, Inc

Protester: John Carter

Issue Excerpt Text:

The RMP does not explain how authorizing grazing at the same levels and same locations as currently allowed complies with this multiple use mandate and considers competing values.

Summary

By leaving most of the lands open to livestock grazing, the BLM fails to meet FLPMA's multiple-use mandate and requirement to accelerate restoration. The BLM has failed to identify lands not suitable for grazing.

Response

The FLPMA makes it clear that the term “multiple use” means that the Secretary can make the most judicious use of the land for some or all of the resource uses. During the scoping process, all grazing allotments were reviewed against the factors specified in the Planning Handbook (H-1601-1). These criteria aided the BLM in identifying lands as available or not available for livestock grazing. 43 CFR § 4130.2(a). Substantial conflicts were identified on ten allotments which led to the decisions in the PRMP/FEIS to no longer authorize grazing of these allotments. In addition, portions of three other allotments were deemed unavailable for grazing in the future to address resource issues such as riparian, recreation, and soils resources. The PRMP/FEIS describes the resource issues of concern for these allotments on pages 3-42 to 3-45.

The Secretary also has sufficient latitude for periodic adjustments in use. For lands deemed available for grazing under a land use plan, regarding the adjustments to the authorized levels of livestock use, it is the BLM’s policy to monitor and inventory range conditions under existing stocking levels and make adjustments as necessary based on the collected data. This ensures that the Standards for Rangeland Health and resource objectives are met. Grazing issues will continue to be addressed on a site-specific basis in compliance with the Standards for Rangeland Health and Guidelines for Grazing Management. Therefore, the BLM appropriately applied the BLM policy and is in full compliance with FLPMA’s principle of multiple use.

Section 202 Inventory Requirements

Issue Number: PP-UT-MOAB-08-0018-59

Organization: Western Watersheds Project, Inc.

Protester: John Carter

Issue Excerpt Text:

The RMP does not conduct a re-inventory of existing WSAs. This directly contradicts with FLPMA's mandate that the BLM conduct an inventory of the public lands and their resources, and use that inventory in its wilderness study efforts, "on a continuing basis." 43 U.S.C. § 1711(a). The BLM's analysis of its duties under FLPMA is flawed: completion of one inventory and wilderness recommendation document in 1992 when the WSA recommendation was forwarded to Congress in no way constitutes a "continuing" inventory and analysis. The word "continuing" in the BLM's statutory mandate necessarily means that the process is never complete.

Response

As stated in responses to numerous comments on the DRMP/DEIS, the BLM has long acknowledged that FLPMA Section 603 (43 U.S.C. §1782), requiring a one-time wilderness review, has expired. All current inventories of public lands are authorized by FLPMA Section 201 (43 U.S.C. §1711). Periodically, and on a continuing basis, the BLM monitors existing WSAs in accordance with the Interim Management Policy for Lands under Wilderness Review. However, the BLM has no authority to create new WSAs. The WSAs reported to Congress must be maintained in a condition that is suitable for designation as wilderness per the requirements of

Section 603 of FLPMA. An inventory of existing WSAs is not necessary until Congress takes action to either designate these areas as wilderness or release them from the requirements of Section 603 of FLPMA. The BLM had conducted additional inventories of public lands outside WSAs (1999 Utah Wilderness Inventory Report) to assess wilderness characteristics, and the information gathered in these inventories has been considered in the RMP.

The Unnecessary and Undue Degradation Standard

Issue Number: PP-UT-MOAB-08-0006-11

Organization: ECOS Consulting

Protester: Charles Schelz

Issue Excerpt Text:

This statute, the organic legislation that guides the management of public lands by the BLM, requires the agency to manage public lands in a manner that provides for "a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations. . . ." These values include "recreation. . . wildlife and fish, and natural, scenic, scientific and historical values." 43 U.S.C. § 1702(c). Of the 83 allotments managed within the Moab Field Office boundary, ten allotments are meeting Standards and 73 allotments have not been assessed (BLM Analysis of the Management Situation 2003). This Moab PRMP/FEIS does not provide for balanced multiple use as livestock grazing is being allowed on the vast majority of lands covered by the RPMP. Furthermore, the decisions for managing livestock grazing on these public lands are not in accordance to range science and ecological principles, and the BLM's own Standards for Rangeland Health and Guidelines for Grazing Management. Thus, unacceptable damage to streams, riparian habitats, upland habitats, soils, soil crusts, vegetation, and fish and wildlife populations is occurring.

Issue Number: PP-UT-MOAB-08-0012b-3

Organization: Southern Utah Wilderness Alliance

The Wilderness Society (TWS) Grand Canyon Trust
Sierra Club - Utah Chapter Public Employees for Environmental Responsibility (PEER) - Southwest Chapter Center for Native Ecosystems Glen Canyon Institute Red Rock Forests Great Old Broads for Wilderness.

Issue Excerpt Text:

The Moab PRMP travel plan and ORV area and trail designations fail FLPMA's UUD standard. The proposed travel plan and ORV designations will harm natural resources in a number of important ways, including: unnecessarily increasing fugitive dust and degrading air quality; unnecessarily fragmenting wildlife habitat; causing unnecessary damage to riparian areas, floodplains, and cultural resources; unnecessarily reducing naturalness in areas with identified wilderness characteristics; and impairing Wilderness Study Areas.⁶

Issue Number: PP-UT-MOAB-08-0018-78

Organization: Western Watersheds Project, Inc

Protester: John Carter

Issue Excerpt Text:

There is no disclosure of criteria, no baseline analysis, nor a determination of which acres are capable and suitable for livestock grazing. Without this information, the BLM cannot claim that it has made an informed decision in the RMP and the agency ignores the multiple use and unnecessary and undue degradation mandates of FLPMA.

Summary

Management under the proposed plan would cause unnecessary and undue degradation.

Response

The BLM analyzed the impacts of grazing and travel management as outlined and described in Chapter 4 of the PRMP/FEIS. Congress recognized that through the BLM's multiple-use mandate, there would be conflicting uses and impacts on the public lands. Unnecessary and undue degradation is a management standard that does not apply to BLM management decisions for public lands.

User Conflicts

Issue Number: PP-UT-MOAB-08-0001-38
Organization: Colorado 500 Legal Defense Fund,
Colorado Off Highway Vehicle Coalition
Protester: Don Riggle; Jerry Abboud

Issue Excerpt Text:

In other words, the RMP is not and never has been the instrument which resolves conflicts and relieves tensions. BLM has no authority to "resolve" values or philosophical differences between lawful public lands visitors. The phrase "resolve multiple-use conflicts" do not appear in the language of FLPMA and are not implied anywhere in FLPMA.

Issue Number: PP-UT-MOAB-08-0001-8
Organization: Colorado 500 Legal Defense Fund,
Colorado Off Highway Vehicle Coalition
Protester: Don Riggle, Jerry Abboud

Issue Excerpt Text:

We contend that basing any land use allocation decision upon resolving user conflict is arbitrary and capricious.² Why? Because "user conflict" is neither defined or quantifiable; there is no evidence of physical harm or property loss, it is an ephemeral event; it is a philosophical/cultural issue tied solely to the individuals claiming they are in conflict, and it is not even implied as a BLM task in FLPMA.

Summary

The BLM has no authority to resolve user conflicts through its planning process.

Response

The response under "Definition of User Conflicts" addresses the BLM's need to address user conflicts. Resolving conflicts among various uses and minimizing damage to resources is inherent in the multiple-use management mandate of FLPMA. Section 202(a) of FLPMA clearly anticipates that land-use plans will allocate various uses of the public lands. The BLM is aware that not all authorized resource uses can occur on the same lands at the same time; conflicts among resources uses are inevitable. As intended by FLPMA, the Secretary of the Interior uses the land use planning process as a mechanism for allocating resources use and resolving or mitigating conflicts.

Multiple-use Mandate

Issue Number: PP-UT-MOAB-08-0004-24
Organization: Independent petroleum Association of Mountain States
Protester: Kathleen Sgamma

Issue Excerpt Text:

FLPMA's definitions of multiple use and the major uses of public lands highlight the on-going extraction and utilization of natural resources on public lands for the benefit of the American people. 43 U.S.C. § 1702(c). Class I removes oil and gas development as one of the multiple uses of BLM lands, and although Class II purportedly enables surface disturbance activity, the VRM management objectives are too restrictive and infill development would be virtually impossible.

Response

The FLPMA gives the BLM discretion to make decisions that satisfy a range of needs. The BLM is faced with the complicated task of striking a balance among the many competing uses to which land can be put. The BLM's multiple use mandate does not require that all uses be allowed on all areas of the public lands; that would preclude any kind of balance. The purpose

of FLPMA's mandate is to require the BLM to evaluate and choose an appropriate balance of resource uses, which involves tradeoffs between competing uses.

VRM classification in and of itself does not preclude land use activities from occurring. VRM management class designations I through IV establish management objectives that set standards for the degree of visible change that can occur to the landscape, as observed by the casual observer from key observation points. VRM Class I allows for very low levels of non-detectable change while VRM Class IV allows high levels of change that may visually dominate the landscape. VRM Class I is assigned to areas with Congressional or administrative designations where decisions were previously made to maintain and preserve the landscape's natural character (national wilderness areas, wild sections of wild and scenic rivers, etc.). VRM management class assignments II through IV are designated during the RMP process where a combination of scenic quality, sensitivity, and visibility are taken into consideration with other resource allocations when making land use decisions.

VRM policy states that VRM objectives are to conform to resource allocation decisions, and project planning efforts are to consider visual values early in the planning process. Visual impacts are to be analyzed and mitigated through effective design applications necessary to meet VRM management objectives and standards.

Compatibility between land uses and visual resource values were carefully considered in the RMP to make balanced decisions between the extraction and utilization of natural resources, other resource uses and associated values, and stewardship of the visual environment. Each of the PRMP/FEIS's alternatives considered resources in context of national priorities and management goals of the respective alternative. Consistent with VRM policy, the VRM management class boundaries were adjusted from the visual resource inventory class assignments in order to reflect the management goals and priorities for each alternative. The RMP Proposed Plan is in accordance with the VRM policy, as demonstrated by the proposed adjustments in the VRM management class boundaries, which shift acreage previously inventoried as Class II to VRM Management Class III. This results in a net increase of total acreage allowing for a moderate level of visible change to the landscape.

Use of the Most Recent Inventories

Issue Number: PP-UT-MOAB-08-0012a-106

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

BLM Has Failed to Rely on the Current Inventory of Public Lands in Violation of FLPMA. Under FLPMA, BLM is required to continue to perform and keep current an inventory of public land resources and values. 43 U.S.C. § 1711(a). FLPMA goes on to mandate that "[i]n the development and revision of land use plans, the Secretary shall...rely, to the extent it is available, on the inventory of the public lands, their resources, and other values." 43 U.S.C. § 1712(c)(4). The most recent inventory of recreational resources for the Moab Field Office is the NVUM. However, BLM has not relied on this information even though it has been available during this planning process.

Response

As stated repeatedly in the BLM's response to comments (comment 124-2) on the DRMP/DEIS,

the National Visitor Use Monitoring Program (NVUM) is a preliminary pilot study and should not be considered a definitive source for user data for the Moab planning area. Some of its purely descriptive data were used in Chapter 3 of the DRMP/EIS because it represented the best available data. The analyses of the NVUM data are still under development.

Requirement to Minimize Impacts

Issue Number: PP-UT-MOAB-08-0012b-12

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

BLM should have fully considered and analyzed more environmentally protective alternatives consistent with FLPMA's requirement that BLM "minimize adverse impacts on the natural, environmental, scientific, cultural, and other resources and values (including fish and wildlife habitat) of the public lands involved." 43 U.S.C. § 1732(d)(2)(A). Specifically, BLM should have fully analyzed the following three alternatives (or a combination of one or more alternatives that incorporated the resource protections inherent in each of these three alternatives): 1) the Redrock Heritage Proposal (RHP) alternative designed to protect wilderness character areas and WSAs, and minimize conflicts among users, submitted by SUWA during the public participation process; 2) an alternative that would have minimized impacts to riparian areas by not designating routes or ORV use areas in or near riparian areas as requested by ECOS Consulting's DMRP comments; and 3) an alternative that would have minimized impacts to cultural resources by not designating ORV use areas and trails before completing comprehensive surveys for cultural resources for the proposed ORV use areas and routes as requested in CPAA's DRMP comments.

Summary

The BLM failed to consider alternatives which would comply with FLPMA's mandate to minimize adverse impacts to other resources, specifically:

- the Redrock Heritage Proposal;
 - an alternative that would not designate routes in riparian areas; and
 - an alternative that would not have designated routes before completing cultural resource surveys.
-

Response

The BLM considered all alternatives which were proposed during scoping and selected a reasonable range of alternatives (see response under "Limited Range of Alternatives") derived directly from the purpose and need. This best addresses the issues and concerns raised by the public.

With regard to the specific alternatives suggested by protester, the Redrock Heritage Travel Proposal, which proposed to remove all travel routes from all areas proposed for wilderness, was rigorously explored and objectively evaluated. However, it was eliminated from detailed study. The rationale for eliminating the Proposal is discussed in detail in Section 2.3.4 of the PRMP/FEIS. The complete prohibition of designated routes in or near riparian areas would not allow a practical travel network and fails to meet purpose and need of the proposed action. The impacts of OHV travel on designated routes, as detailed in the PRMP/FEIS at Section 4.3.11.6.3, were not considered sufficiently severe to warrant this action. However, where conflicts were identified, 50 miles of routes were not designated in riparian areas.

Similarly, limiting designated routes to areas which have been surveyed for cultural resources would preclude a practical travel network, thus failing to meet the purpose and need for the RMP. See also the response under "Class III Inventory".

Areas of Critical Environmental Concern

Priority to Designate Areas of Critical Environmental Concern

Issue Number: PP-UT-MOAB-08-0012c-42

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

The PRMP acknowledges that, under the Proposed Plan, "some adverse impacts" to the R&I scenic, fish, wildlife, and plant values in the Proposed Colorado River Corridor Potential ACEC would occur. PRMP at 4-322. Nevertheless, in violation of FLPMA's requirement that BLM give priority to the designation and protection of ACECS, the Proposed Plan permits surface-disturbing and other activities that adversely impact the R&I values, and prioritizes route designations and development over ACEC values. The guidance is clear that if BLM acknowledges that the proposed management regime will harm the identified R&I values without special management attention, then BLM must designate this ACEC. Manual 1613, Section .33E.

Issue Number: PP-UT-MOAB-08-0012c-54

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

BLM lists the R&I values for the Behind the Rocks Potential ACEC as cultural, scenic, and plant values. PRMP at 4-312. However, the 2004 BLM R&I Evaluations found that wildlife also met the R&I criteria. BLM R&I Evaluations at 11. Indeed, the area is home to peregrine falcons, southwest willow flycatchers, spotted bats, and big free-tailed bats. *Id.* at 10. The 2004 Evaluations determined that wildlife met the R&I criteria, and BLM cannot reasonably ignore the existence of these values or concerns with survival now. Instead, BLM must comply with FLPMA and prioritize the designation of this ACEC and the resulting protection of wildlife and other values, including significant cultural rock art and habitation sites, scenic slickrock fins, domes, and arches ("the best example of Navajo sandstone fins in the world"), and special status plant species.

Summary

The FLPMA requires that BLM "give priority to the designation and protection" of ACECs. The number/size of ACECs designated in this plan does not fulfill this mandate.

Response

A comparison of estimated effects and trade-offs associated with the alternatives led to the development and selection of the preferred alternative. There is no requirement to carry forward all of the potential ACECs into the preferred alternative, as described in the response to comments on the DEIS (comment 124-68, found on the CD). The rationale for designation of individual ACECs carried forward into the Proposed Plan is given in the ROD. BLM Manual 1613 .33E provides direction when the BLM chooses not to designate potential ACECs.

The BLM's ACEC Manual (M-1613) only requires that all potential ACECs be carried forward as recommended for designation into at least one alternative in the DRMP/DEIS. Alternative B analyzed the designation of all potential ACECs. The BLM Manual 1613.23 states that

[a]fter completing the analysis of the effects of each alternative, the manager selects the preferred plan alternative which best meets the planning criteria and the guidance applicable to the area. The preferred alternative reflects the BLM's proposal for designation and management of ACECs.

The BLM has discretion regarding the formulation of management prescriptions for ACECs.

Relevant and Important Values Not Protected

Issue Number: PP-UT-MOAB-08-0012c-22

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

In essence, FLPMA directs BLM to prioritize protection and designation of ACECs across all alternatives under consideration, not simply the "conservation" alternative. In the Moab PRMP, BLM has neither recognized nor carried out this statutory mandate. To resolve this, once BLM has determined that certain areas in the Moab Field Office contain the requisite relevant and important values (R&I values) and that the PRMP does not protect all of the R&I values-which the Moab Field Office has already done-the agency must give priority to the designation of those areas as ACECs over other competing resource uses and likewise give priority to the protection of those areas over other competing resource uses. BLM has violated FLPMA by failing to give protection to the designation and protection of ACECs. *See, e.g.,* PRMP 4-316 (acknowledging that proposed management will likely result in development in the Proposed Bookcliffs ACEC that met the R&I criteria).

Issue Number: PP-UT-MOAB-08-0012c-23

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

BLM has determined that 613,077 acres comprising fourteen ACECs meet the R&I criteria for ACEC designation. *See* PRMP 4-310 to -311; PRMP, Appendix I at I-I. However, the PRMP proposes to designate only five ACECs, totaling 63,232 acres, just 10% of the acres nominated and found eligible.

See PRMP at 4-310 to -311. By only designating this small fraction of the eligible acreage, BLM violates FLPMA's mandate that "priority" be given to designation of ACECs. Likewise, for the 90% of acreage that BLM did not designate as ACECs, BLM fails to give priority to the protection of the identified R&I values. Instead, BLM prioritizes oil and gas development and ORV route designation over protecting critical R&I values, in direct violation of FLPMA.

Issue Number: PP-UT-MOAB-08-0012c-24

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

Where BLM has found special values that meet the R&I criteria, and where impacts could or would occur to these identified values if no special management prescriptions are implemented, BLM then violates its FLPMA obligations by failing to even designate the areas or large enough areas. BLM has improperly ignored or discounted the threats to special places from oil and gas development and off-road vehicle (ORV) use, and so has failed to designate and/or failed to incorporate sufficient protections for proposed ACECs to protect R&I values from the irreparable harm that is likely to result from these other activities.

Issue Number: PP-UT-MOAB-08-0012c-29

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

Areas with R&I values that are jeopardized by oil and gas drilling and ORV use should be designated as

ACECs and provided with protective management prescriptions that would include road closures, restoration, and closure to oil and gas development, and/or application of best management practices where lands are already leased (such as no surface occupancy stipulations and timing limitations, which can be imposed by the agency and/or negotiated with leaseholders). Without these protections, BLM violates FLPMA's mandate to prioritize the designation and protection of ACECs and their identified R&I values.

Issue Number: PP-UT-MOAB-08-0012c-37

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

In addition, the PRMP would designate hundreds of

miles of routes through the potential ACEC. See Exhibit C. Yet BLM fails to disclose that it plans to designate hundreds of miles of ORV routes within the potential ACEC, and fails to explain how wildlife habitat and cultural resources will be protected from DRY damage. *See* PRMP at 4-314 to -316.

Issue Number: PP-UT-MOAB-08-0012c-40

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

BLM has not provided a sufficient explanation as to how the proposed management for this potential ACEC will protect the R&I values and thus cannot justify its decision not to propose designation of the Bookcliffs ACEC.

Summary

The relevant and important values associated with potential ACECs not carried forward would not be protected under this plan.

Response

The BLM gave full consideration to the designation and preservation of ACECs and their values during this land use planning process. Protests regarding protection of relevant and important values for specific potential ACECs are discussed below in Sections 9.4-9.6. Nominations for ACECs from the public were specifically solicited during the scoping period. The relevant and important values identified in the ACEC process are proposed for ACEC designation in one or more alternatives, and in cases where ACECs are not proposed for designation, these protective measures were provided by other management actions in the Proposed Plan. This rationale will be documented in the Record of Decision.

The BLM Manual 1613.23 states that

[a]fter completing the analysis of the effects of each alternative, the manager selects the preferred plan alternative which best meets the planning criteria and the guidance applicable to the area. The preferred alternative reflects the BLM's proposals for designation and management of ACECs.

Section 22b of the BLM 1613 Manual, *Incorporate Management Prescriptions for Potential ACECs into Appropriate Alternatives*, states that "management prescriptions will generally vary across the plan alternatives." It further states that, "[b]ecause special management attention must be prescribed in at least one plan alternative, each potential ACEC will appear as a recommended ACEC in at least one plan alternative." The BLM has discretion regarding the formulation of management prescriptions for ACECs. A comparison of estimated effects and trade-offs

associated with the alternatives led to the development and selection of the preferred alternative. Nowhere does the 1613 Manual require that a particular potential ACEC's relevant and important values must be protected to the same level or degree of protection in all plan alternatives.

In fact, the 1613 Manual goes on to state that "[t]he management prescription for a potential ACEC may vary across alternatives from no special management attention to intensive special management attention." Elaborating further, the Manual states that "[s]ituations in which no special management attention would be prescribed (and therefore no designation) include...those in which the alternative would necessitate the sacrifice of the potential ACEC values to achieve other purposes." Such Manual guidance clearly allows for one or more RMP alternatives to be analyzed that would potentially impact relevant and important values in order to allow management for other prescribed purposes.

Areas of Critical Environmental Concerns within Wilderness Study Areas

Issue Number: PP-UT-MOAB-08-0012c-129

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

Delaying designation and thorough consideration until the areas are released by Congress could jeopardize the scientific values of these potential ACECs. The PRMP must be explicit that BLM will manage released lands to protect their important values, including wilderness characteristics and the other R&I values that the PRMP acknowledges, according to the same standards (IMP) as analyzed and contemplated in the plan. Without asserting this, BLM's failure to designate the Bookcliffs, Colorado River Corridor, Mill Creek Canyon, and the entirety of Behind the Rocks Potential ACECs that meet the R&I criteria runs afoul of its own ACEC Guidance-cited in BLM Response to Comments at 653-which requires that the agency must specifically detail the "other form of special management" relied upon as support for not designating a potential ACEC. *See* Areas of Critical Environmental Concern; Policy and Procedures Guidelines, 45 Fed. Reg. 57,318,57,319 (Aug. 27,1980).

Issue Number: PP-UT-MOAB-08-0012c-31

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter,

Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

ACECs may be designated for a range of other values, as listed in FLPMA, which may not be protected by focusing on protecting wilderness character (although they will likely benefit). Consequently, BLM cannot dismiss its obligations under FLPMA with regard to ACECs based on the existence of a WSA.

Issue Number: PP-UT-MOAB-08-0012c-34

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

There is also resistance to layering ACEC and WSA designations-even when such a layering of protection would make good policy to protect all lands in a potential ACEC and ensure that they are consistently managed (since IMP management of WSAs might differ greatly from the special management attention envisioned for the R&I values of a particular ACEC or in the event of Congressional WSA release). This is clearly evident in the Mill Creek and Behind the Rocks ACEC boundaries. *See* PRMP at Map 2-14-C. BLM claims that because of IMP management of the WSA acreages, the protection is the same whether or not the WSA portion of the potential ACEC is designated or not. *See* PRMP at 4-314. In addition to

conflicting with the directives of FLPMA regarding ACECs and the IMP, BLM's approach is also belied by the Moab Field Office's answer to San Juan County's formal comment that it is "opposed to 'layering' or the establishment of ACECs or SRMAs over WSAs and Wild and Scenic Rivers." To which the BLM responds, appropriately: "Layering" is planning. Under FLPMA's multiple use mandate, BLM manages many different resource values and uses on public lands. Through land use planning BLM sets goals and objectives for each of those values and uses, and prescribes actions to accomplish those objectives. Under the multiple use concept, the BLM doesn't necessarily manage every value and use on every acre, but routinely manages many different values and uses on the same areas of public lands. The process of applying many individual program goals, objectives, and actions to the same area of public lands may be perceived as "layering." The BLM strives to ensure that the goals and objectives of each program (representing resource values and uses) are consistent and compatible for a particular land area. Inconsistent goals and objectives can lead to resource conflicts, failure to achieve the desired outcomes of a land use plan, and litigation. Whether or not a particular form of management is restrictive depends on a personal interest or desire to see that public lands are managed in a particular manner. All uses and values cannot be provided on every acre. That is why land use plans are developed through a public and interdisciplinary process. The interdisciplinary process helps ensure that area resource values and uses can be considered together to determine what mix of values and uses is responsive to the issues identified for 109 resolution in the land use plan. Layering of program decisions is not optional for BLM, but required by the FLPMA and National BLM planning and program specific regulations. For example, the BLM has a separate policies and guidelines as well as criteria for establishing ACEC as when the WSAs were established. These differing criteria make it possible that that same lands will qualify for both an ACEC and a WSA but for different reasons. The BLM is required to consider these different policies. The values protected by the WSA management prescriptions do not necessarily protect those values found relevant and important in ACEC evaluation, and vice versa. The relevant and important values of ACECs within or adjacent to WSAs were noted in ACEC evaluations (Appendix I). The ACECs are evaluated and ranked on the presences and absence of the state R&I values. None of these values include wilderness characteristics. Additionally, the management prescriptions for the ACECs are limited to the scope to protect the R&I values and the BLM maintains that the size of the ACEC areas is

appropriate to the R&I values identified. PRMP Response to Comments, at 121-9. SUWA cannot make this argument any better than BLM does in the preceding paragraphs. However, we reiterate that BLM must revise the decisions in the PRMP to comply with this accurate statement of the agency's policies and obligations.

Issue Number: PP-UT-MOAB-08-0012c-52

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

The fact that a potential ACEC lies within an existing WSA is not justification for BLM's failure to designate the ACEC. Designating the entire potential ACEC would enhance protection to lands both within and outside of the Behind the Rocks WSA, in the event of congressional release from WSA status and to ensure consistent management for the R&I values. Exclusion of the WSA from this ACEC is confusing to the public and incoherent with regard to protection of the R&I values.

Issue Number: PP-UT-MOAB-08-0012c-53

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

As previously stated, BLM cannot justify its failure to designate Westwater Canyon ACEC by citing to the fact that the proposed ACEC lies within the existing Westwater WSA. Congress can choose to remove the land from WSA protections at any time. Furthermore, BLM admits that the designation of the ACEC could serve to prevent surface-disturbing activities on existing inholdings. PRMP at 4-334. This scenario clearly contemplates how the current and proposed management approach will not be protective of the R&I values; special management attention is required.

Issue Number: PP-UT-MOAB-08-0012c-65

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

The fact that a nominated ACEC lies within an existing WSA is not a justification for not

designating the ACEC. Designating the entire nominated ACEC would give enhanced protection to lands within and outside of the Mill Creek WSA, in the event of congressional release from WSA status.

Summary

The fact that a proposed ACEC falls within a WSA is not sufficient reason not to designate the ACEC. Management under the Interim Management Policy does not necessarily protect relevant and important values. If WSAs are released by Congress, relevant and important values would not be protected. Additionally, resistance to layering ACEC and WSA designations violates the BLM's policies and obligations.

Response

The BLM agrees that management under the Interim Management Policy for Lands under Wilderness Review (IMP) does not necessarily protect the relevant and important values associated with a potential ACEC. As discussed in the response to comments on the DRMP/DEIS, the BLM has separate policies, guidelines, and criteria for establishing ACECs and WSAs. These differing criteria make it possible that the same lands will qualify as both an ACEC and a WSA, though for different reasons. The BLM is required to consider these different policies.

The values protected by WSA management prescriptions do not necessarily protect those values found relevant and important in ACEC evaluation, and vice versa. The relevant and important values of ACECs within or adjacent to WSAs were noted in the ACEC Evaluation. The potential ACECs are evaluated and ranked based on the presence or absence of the identified relevant and important values. Relevant and important values do not include wilderness characteristics. Additionally, the management prescriptions for the ACECs are limited in scope to protect the relevant and important values.

It is possible that certain relevant and important values can be protected by the IMP. Where proposed ACECs fall within WSAs and the management under the IMP has been deemed sufficient to protect the relevant and important values, then it is not necessary to designate the area as an ACEC, as current management prescriptions are sufficient to protect those values.

As described in Chapter 2 of the PRMP/FEIS (p. 2-45), should any WSA, in whole or in part, be released from wilderness consideration, such released lands will be managed to protect relevant and important values until a plan amendment is completed, unless otherwise specified by Congress via legislation. The BLM will examine proposals such released areas on a case-by-case basis but will defer all actions that are inconsistent with RMP goals, objectives, and prescriptions until it completes a land use plan amendment. Because any released lands will continue to be managed consistent with IMP unless and until the plan is amended, the relevant and important values will continue to be protected in those cases where the IMP was found to accomplish this goal.

As stated in the BLM's response to comments quoted by the Southern Utah Wilderness Alliance, it is possible that lands identified as having relevant and important values may be designated as an ACEC within a WSA. An ACEC would be designated if the BLM found that these values

would not be protected by the WSA management prescriptions. The BLM considered the layering of all ACECs that had overlapping WSAs as an option for protecting the relevant and important values in Alternative B. See PRMP/FEIS at 2-32 to 2-38. Through this analysis, the BLM determined that layering was only necessary for the Cottonwood-Diamond ACEC. See PRMP/FEIS at 4-310, 4-323. The BLM's decision not to use layering of ACECs and WSAs to protect other relevant and important values in the proposed alternative is consistent with BLM policy, because such layering was unnecessary to protect the identified values.

Ten Mile Wash

Issue Number: PP-UT-MOAB-08-0010-13

Organization: Gurney & Gurney, LLC

Issue Excerpt Text:

Additionally, the PRMP/FEIS states at § 4.3.9-4.5.3 (p. 4-189) that "[u]nder the Proposed Plan, grazing in riparian areas would be evaluated for restriction; while allowing for water access in the following drainages: Ten Mile from Dripping Spring to the Green River ..." (emphasis added). "Would be evaluated for restriction" is consistent with the BLM's position on appropriate grazing utilization on the Ten Mile Wash area when the BLM limited grazing in that area on a year-to-year basis with a decision that was based on appropriate range monitoring and observation. This is the appropriate method. This statement, however, contradicts with the language of Table 2.1 where it states "No grazing in Ten Mile Canyon downstream from Dripping Springs."

Issue Number: PP-UT-MOAB-08-0010-14

Organization: Gurney & Gurney, LLC

Issue Excerpt Text:

The BLM's apparent justification for making the area a Proposed ACEC, however, is not substantiated or supported anywhere in the monitoring files for this allotment or in the PRMP/FEIS. Nowhere in the PRMP/FEIS does it mention or reference how grazing has adversely or in any way impacted the area of Ten Mile Wash designated now to be eliminated from grazing. It appears that the BLM's decision to eliminate grazing on this area came from thin air and was haphazardly included. In order to eliminate grazing as proposed, the BLM must fulfill its responsibilities and provide a reasoned and

supported explanation why the entire elimination of grazing use on that area is appropriate. The BLM failed to fulfill such responsibilities and grazing should not be eliminated in this area.

Issue Number: PP-UT-MOAB-08-0010-5

Organization: Gurney & Gurney, LLC

Issue Excerpt Text:

The BLM claims that the Ten Mile Wash has "significant cultural resources" fails to identify a single specific example as they did with every other approved Proposed ACEC areas. A review of the Ten Mile Wash Allotment monitoring file further shows no specific or significant cultural resources as the BLM proclaims in the PRMP/FEIS. This fact is made even more important when juxtaposed with the BLM's claim that the "cultural resources in Ten Mile Wash are of more than local significance, and are fragile, and exemplary." Unidentified and non-existent cultural resources do not provide any significance, let alone more than local importance and are insufficient for the BLM to justify making into a Proposed ACEC. The BLM's own files and records for monitoring the area proposed for the Ten Mile Wash ACEC show that it does not meet the criteria for being listed as a Proposed ACEC.

Issue Number: PP-UT-MOAB-08-0010-8

Organization: Gurney & Gurney, LLC

Issue Excerpt Text:

Additionally, the BLM failed to explain how the Ten Mile Wash met the Importance criteria for becoming a proposed ACEC

Summary

Statements regarding the management of livestock grazing in the Ten Mile Wash ACEC are contradictory. The BLM's decision to eliminate grazing is not supported by the record. No

examples of cultural resources are noted. The BLM fails to explain how the relevance and importance criteria are met.

Response

As documented in the PRMP/FEIS in Appendix I, Ten Mile Wash was determined to have relevant and important values including riparian and wetland values that are rare in this region, as well as cultural resources. Specific examples of cultural resources in Ten Mile Wash are not provided; the BLM does not disclose information on the location of specific sensitive cultural resource sites to protect these resources. Thank you for noting that the grazing decision in the Special Designations section was not repeated in the Livestock Grazing section of Chapter 2. This discrepancy will be resolved in the ROD.

Cisco White-tailed Prairie Dog Complex

Issue Number: PP-UT-MOAB-08-0012c-57

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

BLM also improperly reduced the acreage of this potential ACEC from 125,620 acres that BLM originally determined met the R&I values, to 117,481 acres in the PRMP. *See* BLM R&I Evaluations at 25; PRMP at 4-310. As noted above, BLM's manual requires that a designated ACEC should be as large as is necessary to protect the important and relevant values. Manual 1613, Section .22.B.2. At a minimum, this requires the inclusion of all of the acreage where the R&I values have been documented.

Response

The figure of 125,620 acres was used in the ACEC Report (p. I-10 of Appendix I) and was described as an approximation. After the State and private lands are removed, the acreage is more accurately reported as 117,481 acres. No public lands with relevant and important wildlife values were eliminated. The BLM notes, however, that the PRMP does not call for designation of the Cisco White-Tailed Prairie Dog Complex ACEC. The relevant and important wildlife values will be protected through a controlled surface use stipulation that will preclude surface use in a buffer around prairie dog colonies.

Labyrinth Canyon

Issue Number: PP-UT-MOAB-08-0012c-61

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

ACEC. *Cf* PRMP at 1-16. In order to be consistent with the 2004 R&I Evaluations, BLM must include historic values as an R&I value in the PRMP, since the outstanding historical values remain present. BLM must then prioritize the protection of historic values by designating the Labyrinth Canyon ACEC.

Issue Excerpt Text:

[T]he PRMP omits this importance finding for history in its listing of R&I values for this potential

Issue Number: PP-UT-MOAB-08-0012c-72

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for

Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

Upper Labyrinth Nominated ACECBLM responded to this ACEC nomination submitted along with SUWA's DRMP comments in the PRMP at 124-86. BLM Response to Comments, -sorted by commentor, unpaginated p. 658-59. The BLM interdisciplinary team found the nomination to meet the relevancy criteria for fish, historical and natural processes, but not scenic values. However, BLM claims that these relevant values do not meet the importance criteria: the agency does not find the historical resources to be historic enough, and the agency alleges that the natural processes and fish habitat are not fragile or irreplaceable. BLM Response to Comments, sorted

by commentor, unpaginated p. 658-59. BLM's findings to support its failure to designate this nominated ACEC are at odds with the findings of the Price RMP-which identified R&I values for the Lower Green River congruous with the MFO Upper Labyrinth ACEC nomination. The Price DRMP states: The exemplary integrity of the river system should be protected; the riparian areas and wetlands provide an oasis of rare and lush vegetation as well as water in an otherwise arid environment. The corridors created along the river are not only essential [to] the survival of the total species of the region, but also provide habitats for a large number of special status species. Price DRMP at Appendix 26. SUWA maintains that the values do meet the R&I criteria as the Price planning process correctly identified-and that the Moab RMP errs in not correctly identifying these values.

Summary

The BLM has ignored important historical values. Findings with regard to vegetation and fish habitat contradict those in the Price PRMP.

Response

As documented in Appendix I at p. I-19 of the PRMP/FEIS, the historic values in the Upper Labyrinth ACEC nomination were deemed to be neither relevant nor important. In any event, any historic values will be protected through NSO restrictions proposed in the plan. The situation in the Price RMP's Lower Green River ACEC is not analogous, as is also documented at p. I-19. There, values such as rare plants are found that are not found in the nominated Upper Labyrinth Canyon area.

Air Resources

Emissions Inventory/Modeling and Air Quality

Issue Number: PP-UT-MOAB-08-0012a-15

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

The Moab PRMP fails to model the impacts of the activities that it permits on air quality in the planning area. Both NEPA and FLPMA require that BLM prepare such analysis. Without preparing near-field, far-field, and cumulative air quality analyses BLM will not understand the effects of the pollutants that it has attempted to partially inventory in the Moab PRMP, thereby violating NEPA and its requirement

that BLM understand the environmental impacts of the activities it is permitting. In addition, BLM must model pollution concentrations in order to understand if this plan will comply with federal and state air quality standards, as required by FLPMA.

Issue Number: PP-UT-MOAB-08-0012a-21

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

Not only has BLM has prepared an incomplete emissions inventory for the Moab PRMP, but it has

also failed to conduct modeling that analyzes the likely concentrations of pollutants that will result. *See, e.g.*, Moab PRMP at 4-17 to -33 (predicting likely quantities in tons per year or grams per second-not ambient concentrations-of various pollutants that will result from plan implementation). As discussed below, the Moab PRMP emissions inventory suffers from a number of flaws that have led to underestimates for various pollutants. With such flaws the emissions inventory cannot be used to accurately quantify and model pollutant concentrations in the planning area.

Issue Number: PP-UT-MOAB-08-0012a-23

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

The emissions inventory does not include any inventories or modeling for NAAQS criteria pollutants likely to be generated by the use of motorized vehicles on designated routes in the planning area. The use of these vehicles on designated routes and in areas open to cross country travel will generate emissions from the vehicle engines and from fugitive dust. BLM must quantify these emissions in order to fully understand their likely impact on air quality in the planning area.

Issue Number: PP-UT-MOAB-08-0012a-26

Organization:

Protester: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

Without preparing modeling to determine what the ambient concentrations of NAAQS- and PSD-regulated pollutants will be, BLM cannot understand or disclose the impacts of these pollutants on humans, wildlife, vegetation, water bodies, or climate. Since it is actual ambient concentrations that will impact these various components of the ecosystem, BLM must model concentrations to understand these impacts. BLM's deficient emissions inventory does not satisfy NEPA's hard look requirement.

Issue Number: PP-UT-MOAB-08-0012a-29

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra

Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

Aside from failing to analyze the fugitive dust generated by routes and ORVs and other vehicles that will travel on the routes identified in this plan, the Moab PRMP has failed to inventory engine emissions (e.g., sulfur dioxide, nitrogen oxides, ozone precursors) that will be generated by these machines. Without this information these pollutants cannot be modeled.

Issue Number: PP-UT-MOAB-08-0012a-31

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

The fact that the implementation of the PRMP will result in air pollution (e.g., through approval of motorized use on designated routes and in the White Wash sand dunes) requires that such modeling and quantification be undertaken. Importantly, the routes identified in this plan as "open" to vehicular travel will never face further analysis whereby better estimate might be developed. Now is the time that BLM must conduct such analyses. As SUWA pointed out, BLM has prepared models and more comprehensive emissions inventories in its Farmington, New Mexico; Vernal, Utah; and Roan Plateau, Colorado RMPs. NEPA's "hard look" requirement demands that BLM determine baseline conditions so that it, and the public, can fully understand the implications of proposed activities. BLM has failed to do this here.

Issue Number: PP-UT-MOAB-08-0012a-32

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

In summary, the Moab PRMP does not adequately analyze the impacts to air quality that will result from the activities planned and permitted in this document. These failures are contrary to both FLPMA, which requires that BLM observe air quality standards, and NEPA, which requires that BLM disclose the impacts

of the activities it is analyzing. BLM must prepare a comprehensive emissions inventory, which includes fugitive dust emissions, and then model these figures in near-field, far-field, and cumulative analyses.

Without doing so BLM cannot know what impact these activities will have and whether it is complying with federal and state air quality standards.

Summary

The BLM has failed to satisfy its FLPMA and NEPA obligations to take a hard look at air quality resources. The inadequacies include: (1) lack of comprehensive emissions inventory; (2) inadequate modeling; and (3) modeling for near-field, far-field, and cumulative analysis.

Response

The BLM is in full compliance with the requirements of FLPMA and NEPA. The BLM analyzed the potential impacts to air quality using the best available information from various monitoring networks, existing emission inventories, and predicted emissions from reasonable foreseeable actions. The emission comparison approach provides a sound basis for comparing base-year air quality emissions with those expected to be produced from the PRMP. Emissions calculations were based on the best available engineering data and assumptions; air, visibility, and emission inventory procedures; and professional and scientific judgment. This approach was selected because of uncertainties about the number, nature, and specific location of future sources and activities.

A more quantitative approach or dispersion modeling requires specific knowledge of sources, emission rates, and locations in order to provide reliable and reasonable results. At the land use planning level, this type of analysis is not possible due to the lack of site-specific information regarding sources. A site-specific air quality impact analysis will be conducted during site-specific NEPA analysis on a case-by-case basis and may include dispersion modeling where deemed to be appropriate and necessary. National Ambient Air Quality Standards (NAAQS) are enforced by the Utah Department of Environmental Quality, Division of Air Quality, with Environmental Protection Agency (EPA) oversight. Chapter 1 of the PRMP clearly states BLM's intent to continue to manage air quality in accordance with the air quality standards prescribed by Federal, State, and local laws, regulations, and policies.

Section 3.2 provides a thorough summary of the best available information regarding existing levels of NAAQS pollutants in and near the planning area. It also includes information regarding other Air Quality Related Values, such as visibility and impacts to soil and water from acid deposition based on data from nearby Class 1 areas. Section 4.3.1 contains a summary of existing and predicted emissions for NAAQS. Emission calculations included hazardous air pollutants (HAPs) to the extent that data were available or could be estimated. The Prevention of Significant Deterioration (PSD) program applies only to stationary source permitting activities and does not apply to land use planning decisions. Any new stationary sources would be considered on a case-by-case basis and required to comply with all applicable regulatory permitting procedures and laws.

Compliance with the Clean Air Act

Issue Number: PP-UT-MOAB-08-0012a-20
Organization: Southern Utah Wilderness Alliance,

The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for

Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

FLPMA and the Moab PRMP require that BLM manage the planning area according to federal and state air quality standards. *See* Moab PRMP at 2-3; 43 CFR § 2920.7(b)(3) (requiring that BLM "land use authorizations shall contain terms and conditions which shall. . . [r]equire compliance with air. . . quality standards established pursuant to applicable Federal or State law") (emphasis added). *See* also 43 U.S.C. § 1712(c)(8) (requiring BLM in land use plans - which would therefore require implementation in daily management - to "provide for compliance with applicable pollution control laws, including State and Federal air. . . pollution standards or implementation plans"). These air quality standards include both the national ambient air quality standards (NAAQS) and the prevention of significant deterioration (PSD) increment limits. Both the State and Federal standards are based on ambient concentrations of various air pollutants. For this reason, the Moab

PRMP has failed to satisfy its FLPMA obligation: it permits activities (e.g. oil and gas development, route designation, vehicle travel on designated routes, mining) without modeling the effect that these activities will have on ambient concentrations of NAAQS and PSD pollutants.

Issue Number: PP-UT-MOAB-08-0012a-24

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

In addition, the Moab PRMP and its inventory do not discuss or examine PSD increment limits (particulate matter, nitrogen oxides, carbon monoxide, sulfur dioxide). These federal air quality standards are also the State of Utah's air quality standards. Thus, there is no evidence, certainty, or indication that the Moab PRMP will comply with federal and state air quality standards as NEPA and FLPMA require.

Summary

The BLM failed to adequately consider hazardous air pollutants (HAPs) or prevention of significant deterioration (PSD) under the Clean Air Act and the associated State of Utah Air Quality Standards.

Response

Section 4.2.1 contains a summary of existing and predicted emissions related to the National Ambient Air Quality Standards (NAAQS). Emission calculations included HAPs to the extent that data were available or could be estimated. HAPs were estimated using standard methodology and assumption factors based on AP-42 or other applicable sources of information and were included in the summary tables for emissions for each of the alternatives. The PSD program applies only to stationary source permitting activities and does not apply to land use planning decisions. Any new stationary sources would be considered on a case by case basis and required to comply with all applicable regulatory permitting procedures and laws.

Enforcement of Air Quality Standards

Issue Number: PP-UT-MOAB-08-0004-4

Organization: Independent Petroleum Association of Mountain States

Protester: Kathleen Sgamma

Issue Excerpt Text:

Neither the UDAQ nor EPA has established rules or regulations to impose the specific limitations on NOx emissions that the BLM has proposed in the PRMP.

Issue Number: PP-UT-MOAB-08-0004-5

Organization: Independent petroleum Association of Mountain States

Protester: Kathleen Sgamma

Issue Excerpt Text:

Without rules establishing the emission limitations or mitigation measures the BLM proposes, the BLM

lacks any authority to impose the measures it proposes in the PRMP. Accordingly, the BLM must remove the proposed emission standards on engines,

and its language suggesting that it may impose additional controls in the future, from the RMP /Record of Decision (ROD).

Summary

Without rules establishing the emission limitations or mitigation measures the BLM proposes, the BLM lacks any authority to impose the measures related to air quality it proposes in the PRMP.

Response

The BLM has the authority to impose conditions of approval, and require best management practices of permitted activities on the public lands to meet the requirements of the Clean Air Act and to ensure compliance with State emissions standards. The BLM works cooperatively with the Utah Department of Environmental Quality in this regard. The BLM is relying on Utah DEQ, the agency with jurisdictional authority, to establish air quality standards. The State of Utah has asked (see letter in Appendix V) the BLM to include interim NOx control measures on compressor engines used in oil and gas development.

Climate Change

Analysis of Potential Climate Change

Issue Number: PP-UT-MOAB-08-0012a-41

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

This omission is a significant oversight given that federal departments and agencies including the Department of Interior, the Environmental Protection Agency, and U.S. Geologic Survey have all published documents and/or provided public statements and even congressional testimony acknowledging the impacts of climate change on public lands resources. All of this information was readily accessible to BLM. Together with the failure to incorporate the newer studies cited above, this oversight amounts to a failure to take the necessary "hard look" at the challenge of resource management in the MFA, and an important aspect of that challenge.

Issue Number: PP-UT-MOAB-08-0012a-43

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter,

Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

Clearly, information about the impacts of climate change and the need to make adjustments in land use plans to address climate change were circulating in the Department of Interior and available to BLM at the same time it was developing the Moab PRMP. Failure to incorporate this information in the PRMP amounts to a failure to take a hard look at a crucial aspect of the land use plan.

Issue Number: PP-UT-MOAB-08-0012a-46

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

The point is not that BLM should predict how "management-level decisions" affect global climate change, but that BLM should factor how climate change affects the Moab Field Office and develop management options that reflect the reality of the dramatic change that warming will cause all the resources in the Moab Field Office. In other words, the predicted warmer, drier conditions will create

fundamental change to the Moab Field Office and BLM has simply ignored those coming changes, choosing instead to manage for the past, rather than for the future. NEPA regulations require that NEPA documents address not only the direct effects of federal proposals, but also "reasonably foreseeable" indirect effects.

Issue Number: PP-UT-MOAB-08-0012a-48

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

Again, the impacts of climate change were simply not

discussed; such an omission violates this section of the NEPA regulations. Thus, it is clear that BLM has failed to take a hard look - or virtually any look - at the impacts of climate change on the public lands resources in the Moab Field Office.

Issue Number: PP-UT-MOAB-08-0012a-54

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

As noted above, no analysis of potential climate change impacts was provided in the plan and EIS. BLM simply ignored the Secretarial Order.

Summary

The BLM failed to take a hard look - or virtually any look - at the impacts of climate change, despite the Secretarial Order.

Response

The impacts of climate change are discussed at a level of detail appropriate to landscape-level analysis, and given the lack of data or modeling methodology, in the PRMP/FEIS in Section 4.3.1.1. Information relating to the climate and to global climate change is provided in Chapter 3 of the PRMP/FEIS.

Climate change analyses are comprised of several factors, including greenhouse gases (GHGs), land use management practices, and the albedo effect. The tools necessary to quantify climatic impacts of those factors are presently unavailable. As a consequence, impact assessment of specific effects of anthropogenic activities cannot be determined at this time. Additionally, specific levels of significance have not yet been established. The EPA has not developed a regulatory protocol or emission standards regarding global climate change. When these protocols and standards are available, the BLM will analyze potential effects on global warming in the NEPA documentation prepared for site-specific projects. The BLM will conduct subsequent NEPA analyses, including site-specific project and implementation action levels, such as for oil and gas field development, allotment management plans, and public land use authorizations.

In compliance with the NEPA process, the public will have the opportunity to participate in the environmental analysis process for actions implementing the Proposed Plan. As the emergence of more recent studies on climate change become available, the existing analysis presented in the PRMP/FEIS for the Proposed Plan will be evaluated to determine its validity in light of new climate change information and details about subsequent proposed actions in the planning area.

Possible Supplemental Draft

Issue Number: PP-UT-MOAB-08-0012a-55

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

As noted above, BLM briefly discussed climate change in the PRMP, but entirely failed to mention it in the Draft RMP. But 40 CFR § 1502.9(c)(1) requires BLM to prepare an SEIS if "[t]here are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impact." The new climate change information should warrant an SEIS because it meets the threshold for "significant" new information, as outlined in 40 CFR § 1508.27.

Response

The protest letter asserts that a climate change supplemental draft is necessary because the BLM failed to take a "hard look" at climate issues related to the planning area and potential activities. A supplemental EIS is appropriate where new information will cause the proposed action to have a *significant* impact on the environment in a manner not previously evaluated and considered. Though there is new information regarding climate change, the existing analysis remains valid in light of this new information because the new information does not substantially change the analysis of the proposed action, and does not change any of the final decisions. Therefore, preparing a supplemental EIS on this issue would serve no purpose in informing the decision maker about the impacts of BLM activities on global climate change. In the future, if climate change continues to have an effect on BLM-managed resources and programs, the BLM will re-evaluate the land management status for that given area and adjust management accordingly.

There is no technical basis or standard accepted protocols for evaluating activities conducted under this PRMP or making changes to alternatives considered based on global climate change. Because (1) it is not possible at this time to link specific quantities of emissions to specific impacts to climate change or the environment (i.e. change in temperature or ambient atmospheric concentration), (2) the FEIS addresses climate and drought issues adequately, given the information available at the time such analyses were conducted, (3) the newest information available does not indicate that the climate and drought analyses are inadequate for the purposes of making a reasoned choice among the alternatives, and (4) new information will be assessed at the implementation level, which is subject to the public notice and comment process, the information on climate change cited in the protest does not meet the criteria for new or significant information, nor does it change the context or intensity of the effects analyzed in this decision.

Cultural Resources

Class III Inventory

Issue Number: PP-UT-MOAB-08-0005-19

Organization: Colorado Plateau Archaeological Alliance

Protester: Jerry Spangler

Issue Excerpt Text:

As CPAA noted in its comments, the failure of the BLM to conduct adequate analysis in the past related to OHV impacts along routes...currently being used by motorized vehicles was and still remains an

abrogation of agency's Section 106 responsibilities, and the failure of the agency to recognize or correct this deficiency in the proposed plan appears to validate and perpetuate the agency's failure to comply with Section 106 requirements in the past.

Issue Number: PP-UT-MOAB-08-0005-21

Organization: Colorado Plateau Archaeological Alliance

Protester: Jerry Spangler

Issue Excerpt Text:

The proposed plan (PRMP 3-23) clearly acknowledges a conundrum of "conflicting policies," noting that revised NHPA regulations state OHV permits are considered an undertaking subject to Section 106 review, but that the statewide protocol agreement with the Utah SHPO, as well as Utah BLM handbooks, indicate that such permits are exempt from Section 106 review. CPAA contends that federal law takes precedence over BLM guidelines and state protocol agreements that are in direct conflict with federal law and implementing regulations.

Issue Number: PP-UT-MOAB-08-0012a-73

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

The failure of BLM to conduct adequate analysis in the past related to ORV impacts along routes currently being used by motorized vehicles was and still remains an abrogation of the agency's Section 106 responsibilities, and the failure of the agency to recognize or correct this deficiency in the proposed plan appears to validate and perpetuate the agency's failure to comply with Section 106 requirements in the past.

Issue Number: PP-UT-MOAB-08-0012a-74

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

the failure to require Class III inventories along routes prior to designation suggests the agency official has already made a determination, as per 36 CFR § 800.3(a), that travel route designations in such

instances are not an undertaking as defined in 36 CFR § 800.16(y).

Issue Number: PP-UT-MOAB-08-0012a-78

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

BLM must conduct Class III inventories for areas proposed for cross-country ORV use, due to the unavoidable destruction that can occur from such use. CPAA DRMP comments at 11-12. This recommendation is particularly relevant for White Wash Sand Dunes. These dunes are known to contain large and important archaeological sites, primarily evidence of hunting and gathering during all periods of human occupancy of the region. These adaptations remain largely uninvestigated and poorly understood. Even if the management of open travel areas were structured to avoid known archaeological sites, the nature of subsurface deposits in sand dunes is such that many archaeological sites may not be identified until after the ground surface has been altered, either through natural erosion or human factors. Hence, vehicular traffic may subsequently expose cultural materials that were not visible at the time a Class III inventory was conducted, enhancing the need for ongoing monitoring and future data recovery. This will require a significant ongoing commitment of limited BLM resources to ensure that damage to sites exposed in the future is avoided, minimized and/or mitigated. Furthermore, data recovery is an adverse effect that must be properly considered through the Section 106 process.

Issue Number: PP-UT-MOAB-08-0012b-38

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

As the PRMP notes, "[p]otential areas of high site density or significant site types may need to be closed to vehicular travel." *Id.* at 3-23. Without first completing cultural resource surveys for each ORV area and trail that is designated in the PRMP including the White Wash Sand Dunes proposed "open" play area, BLM cannot have the adequate information on which to base ORV area and trail designation decisions, rendering the PRMP not in

Summary

The BLM has not properly addressed impacts to cultural resources. Specifically, the direct and cumulative impacts of OHV use on existing routes is not addressed. Impacts are not known because sites remain undiscovered. The BLM has not responded to comments on the DEIS related to impacts to cultural resources. The BLM must comply with Section 106. A Class III inventory is required for the White Wash Sand Dunes open area.

Response

The prerequisite level of information necessary to make a reasoned choice among the alternatives is based on the scope and nature of the proposed action. In preparing the PRMP/DEIS, the BLM used the best available information to form the basis for the cultural resources analysis. This baseline data is a result of Section 106 and 110 inventories of the area and represents the volume of information available. Based on the BLM's professional knowledge and experience, the BLM determined sufficient information existed to form the basis of the analysis. Any potential surface disturbing activities based on future proposals will require compliance with Section 106 and site-specific NEPA documentation. The BLM will comply with its Section 106 responsibilities as directed by the NHPA regulations and BLM WO IM-2007-030 (Clarification of Cultural Resource Considerations for Off-Highway Vehicle Designation and Travel Management). As described in BLM WO IM-2007-030, cultural resource inventory requirements, priorities, and strategies will vary depending on the effect and nature of the proposed OHV activity and the expected density and nature of historic properties based on existing inventory information.

A. Class III inventory is not required prior to designations that (1) allow continued use of an existing route; (2) impose new limitations on an existing route; (3) close an open area or travel route; (4) keep a closed area closed; or (5) keep an open area open.

B. Where there is a reasonable expectation that a proposed designation will shift, concentrate or expand travel into areas where historic properties are likely to be adversely affected, Class III inventory and compliance with Section 106 focused on areas where adverse effects are likely to occur, is required prior to designation.

C. Proposed designations of new routes or new areas as open to OHV use will require Class III inventory of the Area of Potential Effect and compliance with Section 106 prior to designation. Class III inventory of the Area of Potential Effect and compliance with Section 106 will also be required prior to identifying new locations proposed as staging areas or similar areas of concentrated OHV use.

D. Class II inventory, or development and field testing of a cultural resources probability model, followed by Class III inventory in high potential areas and for specific projects, may be appropriate for larger planning areas for which limited information is currently available.

The BLM analyzed cumulative impacts in Chapter 4 and presented a reasonable estimate of the incremental impact to cultural resources as a result of trends in management direction, oil and gas development, increased recreational use of public lands and the protection or lack thereof

afforded by the various alternatives. While these impacts are impossible to quantify, the PRMP/FEIS presents what the BLM considers to be a realistic and qualitative forecast of the general types of impacts that may be expected from various uses. This forecast is comparative. For example, these kinds of impacts would increase or decrease more under alternative X than they would under alternative Y. The analysis is based in large part on existing legislation, regulation and policy that require inventory and mitigation on all Federal undertakings. The BLM has conducted all necessary consultation with the SHPO, and the SHPO has provided written concurrence, which will be appended to the ROD. The Class III inventory for White Wash Sand Dunes was done on 3,518 acres (the 1,866 acre open area in the RMP is a subset of these inventoried acres). The sample was a Class III 33% block sample. Lithic scatters were found (UT-00-A!-0570b). Sites were recorded but none were found eligible for the National Register of Historic Places. The SHPO concurred with this determination of significance on July 17, 2008.

National Register of Historic Places Nominations

Issue Number: PP-UT-MOAB-08-0012a-81

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

CPAA commented that the PRMP should include more robust Section 110 compliance efforts and expanded priority lists for National Register nominations. BLM's response was to eliminate the priority list altogether. PRMP Response to Comments, at 1-26. BLM now contends, citing BLM land-use planning handbook 1601-1, that prioritization of sites for nomination is not a land use planning decision. SUWA disagrees with this interpretation. As evidenced by controversy surrounding the recent National Register nomination of Nine Mile Canyon, Utah, to the National Register, local officials there clearly perceived National Register designations as a planning issue that could impact their county land-use plans and inhibit economic development. *See* Carbon County Commission letter to BLM state director Selma Sierra (2008) (opposing the Nine Mile Canyon nomination). Given that Section 110 of the NHPA unequivocally states federal agencies will identify, evaluate, and nominate properties to the National Register, any BLM post-hoc efforts to actually

nominate properties not identified in the RMP could be perceived by opponents as activities beyond the scope of the RMP and in conflict with local land-use plans. SUWA agrees with CPAA that prudent planning warrants the identification of those sites and districts BLM intends to nominate to the National Register.

Issue Number: PP-UT-MOAB-08-0012a-82

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

As noted in CPAA's DRMP comments, the PRMP reflects reluctance on the part of the agency to fully embrace BLM's responsibilities under Section 110, as it does not identify those eligible properties the agency will nominate to the National Register, nor does it indicate the willingness of the agency to prioritize properties under its jurisdiction for National Register nominations. Given the federal agency's mandate to actually "nominate" properties to the register, the PRMP should reflect the commitment of BLM to actually nominate eligible sites and archaeological districts where the cultural resources have been determined eligible for National Register listing.

Summary

The BLM did not fulfill its responsibilities under Section 110 because appropriate properties are not identified to be prioritized for nomination to the Register.

Response

The BLM integrates the protection of resource values such as cultural resources with its responsibilities for land use planning and resource management under FLPMA to ensure that the affects of any activity or undertaking is taken into account when developing land use plans. In addition, the National Programmatic Agreement, which regulates BLM's compliance with NHPA, serves as the procedural basis for BLM managers to meet their responsibilities under Sections 106 and 110. Until 1980, Section 106 of the NHPA required agencies to consider the effects of their undertakings only on properties listed on the National Register of Historic Places. However, in 1980, Section 106 was amended to require agencies to consider an undertaking's effects on properties included in or eligible for inclusion in the National Register. Since that time the BLM, through its land use planning process, outlines specific management prescriptions and mitigation measures to protect sites both listed and eligible for the National Register. Any potential surface disturbing activities based on future proposals must comply with Section 106 and be accompanied by site-specific NEPA analyses.

The BLM's position remains that National Register nomination is done on a site-specific basis and does not occur during high-level land use planning. For this reason, the prioritization of National Register nominations has been removed from the PRMP/FEIS. Nomination of properties in the RMP would unnecessarily constrain future management opportunities. Regardless of the perception of opponents, future designations would be in conformance with the PRMP. However, if an RMP does contain a specific list of nominations, future proposals to nominate properties not on that list would indeed not be in conformance. Proactive Section 110 cultural surveys are taking place on a case-by-case basis.

Validity of Statistical Sample

Issue Number: PP-UT-MOAB-08-0005-14
Organization: Colorado Plateau Archaeological Alliance
Protester: Jerry Spangler

The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

The BLM cannot properly manage cultural resources it does not know exist, and hence the absence of a statistically valid sample militates against adequate consideration of potential impacts to unknown cultural resources.

Issue Excerpt Text:

BLM cannot properly manage cultural resources it does not know exist, and hence the absence of a statistically valid sample militates against adequate consideration of potential impacts to unknown cultural resources.

Issue Number: PP-UT-MOAB-08-0012a-83
Organization: Southern Utah Wilderness Alliance,

Summary

Too little of the planning area has been inventoried to allow a valid statistical sample for estimation of effects to cultural resources.

Response

The prerequisite level of information necessary to make a reasoned choice among the

alternatives is based on the scope and nature of the proposed action. In preparing the PRMP/FEIS, the BLM used the best available information to form the basis for the cultural resources analysis. This baseline data is a result of Section 106 and 110 inventories of the area and represents the volume of information available. Based on the BLM's professional knowledge and experience, the BLM determined that sufficient information on the nature and extent of the direct, indirect, and cumulative effects associated with the alternatives were known in order to form the basis of the analysis. In addition, substantive comments received concerning cultural resources were considered and addressed, as appropriate. Any potential surface disturbing activities based on future proposals will require compliance with Section 106 and be accompanied by site-specific NEPA analyses.

Fish, Wildlife, Plants, Special Status Species *Special Status Species*

Issue Number: PP-UT-MOAB-08-0018-96
Organization: Western Watersheds Project, Inc
Protester: John Carter

Issue Excerpt Text:

In the RMP, BLM ignores impacts to T&E species from livestock grazing which can directly alter habitats for T&E, Utah and BLM-sensitive species and Conservation Agreement species.

Summary

The BLM ignores impacts to T&E species from livestock grazing.

Response

The BLM has completed Section 7 consultation with the Fish and Wildlife Service (FWS), and has received a Biological Opinion which concludes that implementation of the plan would not be likely to jeopardize the continued existence of any listed species, including those cited in the protest. Resource Protection Measures for special-status species are identified in Appendices C and K. The impacts of livestock grazing decisions on special-status species are discussed in the PRMP/FEIS at Section 4.3.15.7.

California Condor

Issue Number: PP-UT-MOAB-08-0004-21
Organization: Independent Petroleum Association of Mountain States
Protester: Kathleen Sgamma

Issue Excerpt Text:

California Condor Stipulations: In Appendix C, Stipulations and Environmental Best Practices Applicable to Oil and Gas Leasing and Other Surface-Disturbing Activities, page C-44, stipulations are specified for the California Condor. However, the California condor is listed as an experimental, nonessential population in all areas outside of California. A designation of experimental,

nonessential prohibits the application of Section 7(a)(2) of the Act except in National Wildlife Refuge and National Park Service lands.

Issue Number: PP-UT-MOAB-08-0004-22
Organization: Independent petroleum Association of Mountain States
Protester: Kathleen Sgamma

Issue Excerpt Text:

Since the California Condor was not analyzed in the draft RMP /EIS, IPAMS has standing to protest the inclusion in the final RMP/EIS and the lack of Section 7 consultation.

Summary

Since the California condor is an experimental, non-essential population, the BLM cannot impose stipulations under Section 7(a)(2). The Independent Petroleum Association of Mountain States has standing to protest, since the California condor was not mentioned in the DRMP/DEIS.

Response

The California condor was not mentioned in the DRMP/DEIS. However, it is discussed in some detail in the final document and in the subsequent biological assessment and biological opinion. There are two situations under which the condor is managed in Utah. First, it is a federally-listed endangered species with non-essential, experimental status south of Interstate 70 and west of Highway 191 (see p. 3-151 of the PRMP/FEIS). Under section 10(j) of the Endangered Species Act (ESA), 16 U.S.C. § 1536(c)), the BLM is required to treat non-essential, experimental populations as a proposed species for purposes of Section 7 when they occur on Agency-administered lands. In accord with this requirement, the BLM has conferred with the FWS and, at the request of FWS, has included stipulations in the FEIS for this area based on the input from the FWS during this conference (see p. 2-48 and Appendix C, p. C-45 of the PRMP/FEIS).

Secondly, on lands north of Interstate 70 and east of Highway 191, the condor loses non-essential, experimental status and is recognized as an endangered species. As a result, Section 7 consultation with FWS was required on these lands as with any other listed species. The oil and gas lease notice discussed above was developed to apply to both management situations. This stipulation will be a part of the RMP and will be a part of any site-specific action authorized by the RMP. The BLM addresses the condor in the biological assessment prepared for the plan. The species was also addressed in the FWS's biological opinion (attached to the Record of Decision).

In addition, BLM policy (see BLM Manual 6840) requires that Agency planning efforts reflect those actions necessary for the recovery of the species to the extent that BLM management can influence recovery. Such provisions have been included in the Proposed Plan. As noted on p. 2-48 of the PRMP/FEIS, within potential habitat for the California Condor (both inside and outside of the area designated for non-essential, experimental status), surveys will be required prior to operations unless species occupancy and distribution information is complete and available.

Restrictions on Fluid Mineral Leases

Issue Number: PP-UT-MOAB-08-0004-15

Organization: Independent petroleum Association of Mountain States

Protester: Kathleen Sgamma

Issue Excerpt Text:

Prohibiting any above-ground structures is de facto NSO, and a two-mile buffer is excessive and differs greatly from other BLM land use plans throughout the Intermountain West. IPAMS believes this revision from the draft is arbitrary and capricious, especially since there are no active Gunnison or Greater Sage Grouse leks in the Moab planning area.

Response

The BLM acknowledges that there are inconsistencies regarding buffers for the Gunnison and Greater Sage Grouse with other Utah BLM land use plans. The Proposed Plan will be made consistent with other plans with the following modification, which will be incorporated into the Record of Decision:

- Regarding the Greater Sage Grouse, a 0.5-mile controlled surface use stipulation is applied to leks, and a timing limitation stipulation is applied within two miles of a lek in nesting/early brood-rearing habitat.
- Regarding the Gunnison Sage Grouse, a 0.6-mile controlled surface use stipulation is applied to leks. No permanent above-ground facilities will be allowed within this 0.6 mile buffer. Minor limitations will occur in year-round habitat (within four miles of active leks from May 16 to March 19), consistent with the Gunnison Sage Grouse Rangeland Conservation Plan (2005).

The oil and gas leasing stipulations have also been changed to reflect these two modifications. These changes make the Moab planning decisions consistent with sage grouse decisions State-wide.

Migratory Birds

Issue Number: PP-UT-MOAB-08-0018-31

Organization: Western Watersheds Project, Inc

Protester: John Carter

Issue Excerpt Text:

Migrant birds are not addressed in violation of NEPA, FLPMA and Executive Order 13186 requiring a memorandum of understanding with the Fish and Wildlife Service and to consider the effects that planned or authorized activities will have on migratory birds and their habitats and to consider migratory birds in their land use planning efforts. No analysis was presented considering effects of livestock grazing and trampling, OHVs and other uses, habitat fragmentation from vegetation treatments and infrastructure, including range improvements.

Response

Migratory birds are adequately addressed in chapter 4 of the PRMP/FEIS. See section 4.3.19.16.2.5 on pp 4.485, and pp. 4-63, 4-112, 4-242, 4-254, 4-411, 4-439, 4-453, 4-485, 4-489, 4-493, and 4-494.

Table 4.148 in Chapter 4 provides the habitat associations for wildlife species, including neotropical (migratory) birds. Most impacts are discussed in terms of impacts to specific habitats because the impacts to wildlife from activities on public lands are generally the result of loss of habitat and habitat fragmentation. It is very difficult and unreliable to extrapolate changes to populations resulting from impacts to habitat, but qualitative inferences of the relative effects on populations among the alternatives can be drawn. Vegetation-altering projects would be avoided during the nesting season under all alternatives. The impacts of habitat fragmentation to migratory birds are discussed in Section 4.3.19.18.2.4. The impacts of livestock grazing on migratory birds were judged to be minimal through adherence to the Standards for Rangeland Health and Guidelines for Rangeland Management.

Lands and Realty

Issue Number: PP-UT-MOAB-08-0004-10

Organization: Independent petroleum Association of Mountain States

Protester: Kathleen Sgamma

Issue Excerpt Text:

Specific Identification and Mapping of ROW Areas. While the PRMP identifies the aggregate acreage with ROW prescriptions based upon the general categories listed in Section 4.3.5.3.3, the PRMP/FEIS does not specifically identify which lands exactly are defined as ROW avoidance or ROW exclusion areas, nor does the BLM provide a map of these areas for ease of reference. IPAMS requests that the BLM include in the Final RMP/FEIS a map detailing all lands that are designated as ROW avoidance areas and exclusion areas.

Response

The PRMP/FEIS states that right-of-way avoidance and exclusion areas correlate to the stipulations for oil and gas leasing and other surface disturbing activities given in Appendix C. All NSO areas are avoidance areas for rights-of-way and all Closed areas are exclusion areas for rights-of-way. Oil and gas stipulations, including NSO and Closed areas, are shown on Map 2-5-C. An essentially duplicate map was not considered necessary to display avoidance and exclusion areas.

Leasable Minerals

Accuracy of Reasonably Foreseeable Development Scenario

Issue Number: PP-UT-MOAB-08-0012a-93

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

The RFD Is Inaccurate. BLM must also modify its reasonably foreseeable development (RFD) scenario figures in the Moab PRMP to better reflect actual productive regions and historical rates of development. As SUWA demonstrated in its comments on the Moab Draft RMP, the RFD is improperly high due to the use of inaccurate and unreasonable assumptions in its calculation. As discussed above, the agency is required to use high quality data and methods for analyses; the inaccurate RFD must be corrected.

Response

This issue was extensively addressed in the response to DRMP/DEIS comment 124-95. The reasonably foreseeable development scenario (RFD) is in fact based on historic data as the commenter suggested, but it also considered projected economic trends and advances in technology. The RFD predicts new development as well as continued production from existing fields. Of course, the BLM recognizes that there will be a greater degree of predictive uncertainty associated with estimates of new discoveries. The BLM used the best available data in the preparation of the RFD, including BLM experience, production information, new permitting, geologic information, and economic data. This information was gathered from BLM experts, industry professionals, the Energy Policy and Conservation Act Oil and Gas Inventory Report, the Utah Division of Oil, Gas, and Mining, and the Utah Geological Survey. The RFD was prepared in compliance with Washington Office Instruction Memorandum (IM) 2004-89.

No Leasing Alternative

Issue Number: PP-UT-MOAB-08-0004-13

Organization: Independent Petroleum Association of Mountain States

Protester: Kathleen Sgamma

Issue Excerpt Text:

Further, on page 2-16, it states that portions of non-WSAs would be closed to oil and gas leasing. However, decisions removing lands from mineral leasing are withdrawals. FLPMA defines a withdrawal as "withholding an area of Federal land from settlement, sale, location, or entry, under some or all of the general land laws...." 43 U.S.C. § 1702). For tracts of lands greater than 5,000 acres, the Interior Secretary must provide Congress a variety of information in order to fully disclose the closure's impacts, costs, and need so that Congress can decide whether to disapprove the withdrawal. A withdrawal also requires public notice and hearing, and consultation with state and local governments. 43 U.S.C. at § 1714(c)(1)–(12), (h); 43 C.F.R. Parts 2300, 2310. By a 2006 Directive from the BLM Director, the BLM cannot effect a de facto closure of thousands of acres of public lands to oil and gas leasing without following FLPMA's Section 204 withdrawal procedures: "Except for Congressional withdrawals, public lands shall remain open and available for mineral exploration and development unless withdrawal or other administrative actions are clearly justified in the national interest in accordance with the Department of the Interior Land Withdrawal Manual 603 DM 1, and the BLM regulations at 43 CFR 2310." BLM Energy and Non-Energy Mineral Policy (April 21, 2006). The BLM formally adopted this policy through IM 2006-197. Consequently, the 2006 Energy and Non-Energy Mineral Policy with which the BLM must comply, conditions the closure of lands available to mineral exploration and development on FLPMA's withdrawal procedures.

Response

The Moab RMP closed approximately 370,250 acres to oil and gas leasing, of which 25,306 acres are outside Wilderness or Wilderness Study Areas (WSAs). Those 25,306 acres are closed to oil and gas leasing because the BLM determined that it is not reasonable to apply a no surface occupancy (NSO) stipulation, particularly to areas where the oil and gas resources are physically inaccessible by current directional drilling technology from outside the boundaries of the NSO areas.

The FLPMA withdrawal language cited by the Independent Petroleum Association of Mountain States does not apply to those 25,306 acres outside Wilderness or WSAs. Withdrawals are defined by FLPMA § 103(j) as follows:

the term 'withdrawal' means *withholding an area of Federal land from settlement, sale, location, or entry*, under some or all of the general land laws, for the purpose of limiting activities under those laws in order to maintain other public values in the area or reserving the area for a particular public purpose or program; or transferring jurisdiction over an area of Federal land . . . from one department, bureau or agency to another department, bureau or agency.

43 U.S.C. § 1702(j) (emphasis added). The terms "settlement," "sale," "location," or "entry" are all terms contemplating transfer of title to the lands in question, particularly the patenting, or potential patenting, of lands out of Federal ownership into the hands of private parties based on the provisions of the General Mining Law of 1872, as amended, the various Homestead Acts, and other general land law. It is inapplicable to mineral leasing occurring under the Mineral Leasing Act of 1920 (MLA). A Federal mineral lease sale is not a "sale" of public land under Section 203 of FLPMA, and a closure to leasing is not a "withdrawal" as described in Section

204 of FLPMA. Therefore, the BLM was not required to complete the procedures associated with a withdrawal when it decided to close the 25,306 acres in the Moab planning area to oil and gas leasing in the Moab PRMP/FEIS.

Livestock Grazing

Issue Number: PP-UT-MOAB-08-0006-11

Organization: ECOS Consulting

Protester: Charles Schelz

Issue Excerpt Text:

This statute, the organic legislation that guides the management of public lands by the BLM, requires the agency to manage public lands in a manner that provides for "a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations. . . ." These values include "recreation. . . wildlife and fish, and natural, scenic, scientific and historical values." 43 U.S.C. § 1702(c). Of the 83 allotments managed within the Moab Field Office boundary, ten allotments are meeting Standards and 73 allotments have not been assessed (BLM Analysis of the Management Situation 2003). This Moab PRMP/FEIS does not provide for balanced multiple use as livestock grazing is being allowed on the vast majority of lands covered by the RPMP. Furthermore, the decisions for managing livestock grazing on these public lands are not in accordance to range science and ecological principles, and the BLM's own Standards for Rangeland Health and Guidelines for Grazing Management. Thus, unacceptable damage to streams, riparian habitats, upland habitats, soils, soil crusts, vegetation, and fish and wildlife populations is occurring.

Response

Allocation of a planning unit for livestock grazing does not necessarily exclude that area from other uses. Nevertheless, multiple use does not mean every use on every acre. The goal of the FLPMA multiple use mandate is to create a balance of uses on the public lands for sustained yield. The BLM has done that in the Moab planning area. Livestock have been excluded from a number of areas within the planning area to enhance wildlife and provide for recreational activities such as camping. Other areas include limitations to livestock use to provide for bighorn habitat. Further, grazing permits include terms and conditions which provide for the attainment of rangeland health standards and other RMP- and activity-based objectives. These terms and conditions can be changed when conditions warrant assuring that these objectives are met.

The land use planning decisions for livestock grazing involve identifying the areas that are available or not available for grazing. There is a narrow range in the alternatives for livestock grazing because the entire area is considered chiefly valuable for livestock grazing. Therefore, only areas with known major resource conflicts were considered for not grazing during the life of the land use plan. All other resource concerns involving livestock grazing are evaluated on a site-specific allotment basis during permit renewal utilizing the *Standards for Rangeland health and Guidelines for Grazing Management for BLM Lands in Utah*. See also Chapter 2, which details the grazing alternatives considered but dismissed from further analysis.

It is BLM policy to monitor existing livestock use levels, forage utilization, proper functioning condition of riparian areas, inventories of threatened and endangered species habitat, and other resource condition trends to make necessary adjustments on an allotment or watershed basis. These actions are activity-based actions and are part of the implementation of an RMP to assure that Rangeland Health Standards are met, as well the other objectives of the RMP. Regulations

at 43 CFR § 4130.3 require that the terms and conditions under which livestock are authorized “ensure conformance with the provisions of subpart 4180” (the Standards for Rangeland Health). Further, 43 CFR § 4130.3-1 requires that “livestock grazing use shall not exceed the livestock carrying capacity of the allotment.”

The MFO is actively monitoring allotments. As noted, the completed assessments indicate that much of the planning area is not meeting the standards. However, assessment of over 32,750 acres for PFC has shown that less than 10% have been found not to be functioning. The RMP provides for changes in management to correct these existing resource conditions. As this process continues, allotments found not to be meeting Rangeland Health Standards will be evaluated and changes will be made to the applicable grazing permit in order to move the allotment or watershed towards meeting these Standards in order to prevent damage to other resource values in the planning area.

Recreation and Visitor Services

Issue Number: PP-UT-MOAB-08-0012a-113

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

Although SRMAs are designated to provide ample recreation opportunities for users of different types (motorized, equestrian, biking, hiking), the land management plan lacks true balance in the designation of allowable activities within the SRMAs. Of the 658,642 acres proposed within 10 SRMAs, a considerable majority is open to motorized recreation. Only 50,528 acres are designated specifically for non-motorized recreation (although within some of these SRMAs, vehicle camping is allowed). Thus, only 7.7% of the total land area specifically identified for emphasis of recreation opportunities will be managed to preserve a non-motorized recreation experience.

Response

By focusing only on areas within special recreation management areas (SRMAs) "designated specifically for non-motorized recreation" (a term not used in the PRMP/FEIS), the protester understates the opportunities for non-motorized use. In the Moab planning area, approximately 350,000 acres in WSAs are also closed to motorized use. Another 47,000 acres of wilderness character lands are essentially roadless and devoted to non-motorized recreation. Approximately another 100,000 acres emphasize non-motorized recreation opportunities but do have limited roads for access. For example the 31,000-acre Dolores Canyon area has only eight miles of designated routes. Taken as a whole, non-motorized use is appropriately balanced with other uses.

Validity of Visitor Use Data

Issue Number: PP-UT-MOAB-08-0001B-20

Organization: Colorado 500 Legal Defense Fund, Colorado Off Highway Vehicle Coalition

Protester: Don Riggle, Jerry Abboud

Issue Excerpt Text:

In response to our DEIS comment, that no source was

cited for the NVUM, and as such it was not readily available to reviewers, BLM response # 6-7 now says the study was not finished. However, BLM never offered a "draft copy" for review during the comment period. If BLM did use the NVUM data throughout the process, then BLM used the incomplete study without disclosing that it was incomplete, and as we

noted in our comment, BLM provided what appeared to be BLM's own edit of what we now know was unfinished survey data. BLM adds no information that might verify the accuracy of BLM's edit.

Issue Number: PP-UT-MOAB-08-0001B-23
Organization: Colorado 500 Legal Defense Fund, Colorado Off Highway Vehicle Coalition
Protester: Don Riggle, Jerry Abboud

Issue Excerpt Text:

We contend that Table 4-77 is capricious use of the data, because: a) BLM repeated the exact same Table and description in the PRMP (the NVUM was conducted in the "MPA"), even after we specifically pointed out during the comment period that this would skew the results; b) the survey was not available for review during the allotted time; c) the survey was not finished until after the analysis was done; d) the edited data provided in Table 4-77 is unreliable....

Issue Number: PP-UT-MOAB-08-0001B-27
Organization: Colorado 500 Legal Defense Fund, Colorado Off Highway Vehicle Coalition
Protester: Don Riggle, Jerry Abboud

Issue Excerpt Text:

The trouble is, "personal communications" do not meet the CEQ 1502.21 standard for including only information in the analysis that is readily available to reviewers during the time allotted for review. By their very nature, "personal communications" are never available for review. The writers of the DEIS are saying that those five people made up Table 3-18 on May 5 2003. There is no reliable way to assure the accuracy or fidelity of the personal communication that produced Table 3-18.

Issue Number: PP-UT-MOAB-08-0012a-101
Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

Summary

The BLM improperly reference the National Visitor Use Monitoring study in response to comments when it was not available for public review. The BLM failed to consider the NVUM study in its analysis. This is significant new information and a supplement should have been prepared.

The assessment of visitor use for the Moab Field Office provided in the NVUM is precisely the kind of significant new information contemplated in the NEPA regulations and BLM Handbook. The comments for the Draft RMP were due on November 30, 2007. Although the survey data was collected during FY2006, the final report of the survey results was not released until December, 2007. This is significant new information about recreation and must be analyzed accordingly under NEPA.

Issue Number: PP-UT-MOAB-08-0012a-104
Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

Not only is the NVUM a current and reliable scientific survey of recreational uses in the area, but also it is the best data available at this time. BLM lists activities by use in Table 3.18. PRMP at 3-85. This table not only fails to provide accurate information regarding the actual use or impacts of recreational activities in the planning area, but also relies on findings from personal communication from over five years ago. *Id.*

Issue Number: PP-UT-MOAB-08-0012a-98
Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

Because the NVUM is the best data BLM has on recreational uses in the Moab Field Office to date, its findings and conclusions should have been incorporated into BLM's management decisions in the PRMP. However, BLM did not rely on this data for its management decisions and also failed to provide an adequate analysis of the effects of recreation and on recreationists in the PRMP.

Response

The BLM used the raw, preliminary, descriptive data from the NVUM study in Table 4-77. This data is reliable and represented the best available data for the analysis. The meta-analysis on this descriptive data is not completed, however, and upon review does not support any particular conclusions regarding visitor use in the Moab planning area. Thus, it should not be considered a definitive snapshot of recreation use but simply additional data source to be considered with other data. As stated in response to comment 6-7, the BLM will make the NVUM data available for review on request, and it remains part of the administrative record. However, the NVUM study is not complete and the BLM did not rely on its conclusions. Therefore, there is no requirement under NEPA to issue a supplemental EIS in order to accommodate public review of the document. For more discussion about the NVUM study, see response under "Use of the Most Recent Inventories" above.

Assessment of Special Recreation Permit Impacts

Issue Number: PP-UT-MOAB-08-0012a-119

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

[T]he possibility of future analysis (for the effects of SRPs on various categories) does not justify BLM avoiding an assessment of the potential environmental consequences of the action that it is approving in the RMP. As a matter of NEPA policy, compliance with the Act must occur "before decisions are made and before actions are taken." 40 C.F.R. § 1500.1(b). For purposes of NEPA compliance, "it is not appropriate to defer consideration of cumulative impacts to a future date when meaningful consideration can be given now." *Kern v. U.S. Bureau of Land Management*, 284 F.3d 1062, 1075 (9th Cir. 2002).

Issue Number: PP-UT-MOAB-08-0012a-126

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

There is No Evidence to Support BLM's Assertion That Increasing the Number of SRPs Issued Will Increase Protection of Resources. In response to our comment on the Draft RMP that BLM has not

provided a range of alternatives for the issuance of SRPs, the PRMP states: "SRPs provide protective stipulations for public land users. These stipulations do not apply to the general public. Therefore, increasing the number of SRPs would be more beneficial in terms of reducing user conflict and protecting resources because there would be more protection and preservation related stipulations on cultural and natural resources." BLM Response to Comments, sorted by Resource, at 124-111. While it is true that SRPs are intended to provide protective stipulations for public land users, it is a fallacy to assert that therefore more permits will lead to more resource protection. To reiterate our comments on the Draft RMP, BLM does not substantiate this claim with any data or evidence, and does not adequately discuss environmental or cultural impacts of increasing SRP Issuance.

It is not that the stipulations will lead to more protections, it is instead the fact that activities requiring SRPs are naturally more destructive and in need of these stipulations. Because SRPs are issued for large group activities, which have more adverse environmental impacts than those of small groups or single individuals, the fewer SRPs that are issued, the more protected the area's resources will be. In fact, the reason SRPs are necessary is to mitigate the negative impacts from large group activities. Not only is the statement flawed that more SRPs will lead to more protection, BLM actually recognizes the need for SRPs to be limited in the PRMP due to constraints on BLM to adequately monitor and enforce the SRPs and their stipulations: Due to recent increases in recreational use in the MP A that exceed monitoring capability and available space, priority for authorization of new SRPs for land-based

commercial and competitive events is given (where conflicts exist) to applicants proposing uses that do not duplicate existing uses; take place outside the months of March, April, May and October; use lands and facilities off public lands for overnight accommodation of guests; display and communicate the Canyon Country Minimum impact Practices; and focus visitation on sites and areas capable of withstanding repeated use. The great number of visitors to public lands during peak periods led to the promulgation of these rules in order to protect resources and to disperse visitation.

Other factors are also considered including the public demand for the proposed use, the capability of the applicant to carry out the proposed use, projected government revenues, and past performance. PRMP at 89. Not only is BLM's response to our comment unsupported and unsupportable, but statements in the PRMP refute statements in the agency's response. This arbitrary and capricious conclusion and approach to management of SRPs must be remedied before the record of decision is issued.

Summary

The BLM improperly defers analysis of the impacts of issuance of special recreation permits (SRPs). There is no justification for the assertion the more SRPs will result in greater resource protection.

Response

As stated in the response to comments, land use planning is a tiered process ranging from broad general allocations and management prescriptions to subsequent site-specific authorizations. The issuance of an SRP is a site-specific implementation-level authorization, which requires full compliance with NEPA, including analyzing the direct, indirect, and cumulative impacts associated with each proposal. Any attempt to analyze the impacts of future SRPs would merely be an exercise in unfounded speculation. The PRMP/FEIS (pp. 2-29 to 30) provides general evaluation factors, criteria, and restrictions for SRPs appropriate to the issues raised in the RMP.

The tiered approach to SRP issuance is in compliance with the regulations and guidance at 43 CFR § 2930 and the BLM Handbook (H-2930-1).

Social and Economic Interests

Issue Number: PP-UT-MOAB-08-0012b-110
Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

In discussing the potential impacts to socioeconomic conditions from cultural resource decisions BLM says these impacts "could include" increases or decreases in visitor spending, "could lead to" degradation of sites, and concludes by stating: "For the purposes of this analysis, it is suggested that a greater emphasis on restoration, preservation, and inventories of cultural sites within the MPA would

maintain and/or enhance recreationists' experience, leading to greater long-term beneficial impacts." PRMP at 4-257. To simply assume that this is the case is unacceptable. It is clear that no attempt whatsoever was made to quantify the impacts associated with the greater risk of degradation acknowledged in the PRMP. Even the qualitative assertions are extremely weak.

Issue Number: PP-UT-MOAB-08-0012b-115
Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

In order to fully comply with NEPA, BLM must include an analysis of the costs of implementing each alternative, and the costs of the mitigation plans contained within each alternative. These costs must then be compared to the expected budget level to assess the probability of mitigation measures being fully implemented.

Issue Number: PP-UT-MOAB-08-0012b-129

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

The assertion which BLM attributes to SUWA does not appear in SUWA's comments. Rather, the request was made of BLM to examine the impacts that may occur. In fact, BLM's response implies an unfounded assumption that the PRMP will not impact the local economy if the amenities and environmental quality of surrounding BLM lands deteriorates. Furthermore, a recent study of the impacts of oil and gas development in northwest Colorado (BBC Research and Consulting 2008) does find that many of the potential impacts described in the comments on the Moab DRMP/DEIS have been occurring, including a repellent effect on retirees and tourism.

Summary

The BLM must include an analysis of the costs of implementing each alternative. The analysis of the costs of development is inadequate and qualitative. The costs of damages to cultural resources are not assessed. The costs of development to other resource users must be assessed.

Response

The BLM responded to these issues extensively in the response to DRMP/DEIS comments 124-118 through 131. As noted in its response to Comment 124-120 in the Draft RMP, in preparing a resource management plan, the BLM is not obligated to analyze implementation costs and project the level of field office funding likely to be available. The BLM recognizes that recreation is the driving force of the planning area economy. The BLM further recognizes that activities which cause environmental degradation can impose costs on those users who prefer more pristine settings. Such effects were stated qualitatively. The BLM did not have available, and was not required to prepare an analysis of non-market values to quantify these potential effects on the human experience of a relatively undeveloped environment. Contrary to the protester's assertion, analysis of such non-market values and associated impacts is considerably more speculative than the analysis of "hard" benefits, such as those that would result from development and extractive activities. For these reasons, disclosure of anticipated non-market costs is appropriately stated in qualitative terms.

Treatment of "Lost" Revenue

Issue Number: PP-UT-MOAB-08-0012b-123

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Old Broads for Wilderness

Issue Excerpt Text:

Rather than respond to this comment, BLM actually included even more egregious assumptions that Alternative B would be a loss to the oil and gas industry by inserting analysis requested by the counties that estimates "lost" revenues. These revenues are not lost. If oil and gas drilling takes place, any revenues accruing to the local governments should be treated as a gain. And in order to analyze the net benefits, the losses associated with the development to other multiple uses and resource values should also be included.

Response

Response to comment 124-124 states that, “[i]n accordance with BLM policy and its recognition of the Energy Policy Act of 2005, as discussed in Chapters 2 and 3, mineral resource development would be allowed throughout the Moab planning area subject to standard lease terms unless precluded by other program prescriptions, as specified in this Draft RMP.” The commenter’s proposal is basically to start from a “no lease” alternative, which BLM is not required to do. Ultimately, however, it is irrelevant to the decision whether production foregone is described as a “loss” or current production is considered a “gain.”

Soil

Issue Number: PP-UT-MOAB-08-0006-15

Organization: ECOS Consulting

Protester: Charles Schelz

Issue Excerpt Text:

Failure to Protect Soils: Activities that disturb and destroy the soil surface and Biological Soil Crusts (BSC's) such as livestock grazing, off-road vehicle use, mining and oil and gas development activities, have a severe impact on many vital parts and functions of the ecosystem. Soil trampling and destruction from OHV routes and use, and livestock grazing, contribute immensely to soil erosion and the production of fugitive dust. The BLM has failed to take steps to analyze and minimize these impacts thoroughly, and it fails to acknowledge the actual amount of time it takes for BSC's to recover from impacts. The PRMP fails to include management actions to address and reduce fugitive dust and its negative impacts on vegetation, BSC's, water and air quality, snowpack, etc.

Issue Number: PP-UT-MOAB-08-0006-19

Organization: ECOS Consulting

Protester: Charles Schelz

Issue Excerpt Text:

Not considering the direct, indirect, and cumulative impacts of fugitive dust and the destruction of BSC's is a direct violation of the BLM's own "Fundamentals of Range-land Health", which directs the BLM to manage livestock grazing so that: "Ecological processes. . . are maintained, or there is significant progress toward their attainment, in order to support healthy biotic populations and communities," 43 CFR § 4180.1 (b); and Watersheds are in, or be making significant progress toward, "properly functioning physical condition, including their upland, riparian-wetland, and aquatic components," 43 CFR § 4180.1(a).

Summary

The PRMP/FEIS contains inadequate discussion of the impacts to biological soil crusts, and of the impacts of fugitive dust.

Response

This issue was addressed in detail in the response to DRMP/DEIS comment 9-12. The BLM performed the appropriate level of analysis of the impacts to biological soil crusts based on the nature and scope of the RMP-level decisions being made. The PRMP/FEIS contains a discussion of biological soil crusts in Section 3.14.2.2.4, and discussions of the potential impacts to biological soil crusts in various places in Chapter 4 in the discussions of impacts of other resource uses or activities, including impact producing factors to soils. Impacts of fugitive dust from a variety of sources are discussed at various places in Section 4.3.2, Air Quality and Climate.

The importance of biological soil crusts is acknowledged, and the impacts of grazing, OHV use, and oil and gas development, among other activities, are described. These discussions are necessarily in qualitative terms since data is lacking and these crusts have not been mapped. Currently, there are no laws, regulations, or policies requiring the protection of biological soil crusts.

Travel Management

Issue Number: PP-UT-MOAB-08-0007-3

Organization: Moore, Smith, Buxton, and Turcke Chartered

Protester: Paul Turcke

Issue Excerpt Text:

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.

Response

As stated in the response to DRMP/DEIS comment 123-6, Moab Field Office complied with all relevant policy and guidance in the preparation of the PRMP/FEIS. Washington Office Instruction Memorandum 2004-005, states specifically that "selection of a network of roads and trails should be performed for all limited areas in each RMP. This requires establishment of a process that includes selecting specific roads and trails within the limited area or subarea and specifying limitations placed on use." In addition, further guidance is provided by Utah State Office Instruction Memorandum 2004-008, which instructs Field Offices to undertake travel planning in conjunction with the RMP planning in Utah. Utah State Office Instruction Memorandum 2004-061 further explains how to undertake travel planning with respect to the RMP efforts in the State. Therefore, the BLM fully complied with BLM policy and guidance in performing travel management analysis.

Discussion of Impact Minimization

Issue Number: PP-UT-MOAB-08-0012b-30

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

While "reducing" impacts is laudable, BLM must minimize impacts, and the PRMP fails to disclose how these ORV designation decisions will minimize impacts to riparian areas, especially when ORV use will be allowed within the SRMAs, and there are routes designated directly within riparian areas.

Issue Number: PP-UT-MOAB-08-0012b-46

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

BLM's proposed plan fails to minimize impacts to vegetation from ORV designations and the travel plan.

Issue Number: PP-UT-MOAB-08-0012b-81

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra

Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

The DRMP failed to present this information with respect to the various ORV area and trail designations and the travel plan under consideration

and the PRMP did not correct these gross omissions. Without this information and data, the public has no way of discerning the basis for BLM's decisions regarding the specific area and trail designations and travel plan decisions, and cannot confirm that BLM has, in fact, ensured that these designations comply with the minimization requirements and other legal and policy obligations set out above.

Summary

The BLM has failed to take all measures to minimize impacts from OHV use as required by policy.

Response

The Executive Orders, regulations, and policy requirements to minimize impacts cited by the protester must be understood in light of both a "rule of reason" and the multiple-use mandate. "Minimize" does not mean "reduce to zero." Designated routes were screened for impacts to sensitive resources. By limiting OHV use to designated roads and trails in most areas, along with closing some areas to OHV use, the BLM has minimized impacts while still providing an appropriate mix of uses of the public lands. See also response under "Recreation and Visitor Services".

Off-Highway Vehicle Impacts

Issue Number: PP-UT-MOAB-08-0001A-15
Organization: Colorado 500 Legal Defense Fund, Colorado Off Highway Vehicle Coalition
Protester: Don Riggle, Jerry Abboud

Issue Excerpt Text:

BLM also disregarded 40 CFR 1502.16 (a) and (b). BLM has not documented the direct effects, i.e. the result of no new recreational routes and the elimination of several other routes will be to make the environment more "roadless," and flowing from that, fewer people can go there. The indirect effect will be, as visitorship declines, so also does use of the roads decline, the roads deteriorate, and thus the environment evolves into a "roadless area." As the entire area surrounds existing WSA's, the cumulative effect will be to expand WSA-like characteristics into this non WSA environment. This is a measurable physical effect upon the environment, and as such, it must be disclosed.

Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

The PRMP fails to adequately analyze and inform the public and the decision maker as to the potential indirect and cumulative impacts to the natural and cultural resources from the ORV area designations and travel plan decisions. *See* PRMP at 4-512 ("ORV travel management would have beneficial cumulative effects on recreational experiences. . . The Proposed Plan would contribute an amount in between Alternative B and Alternative D to the cumulative impacts on recreation."). There is no discussion of specific ORV designations or travel plan decisions in the cumulative impact analysis for riparian areas. *See id.* at 4-513, soil and water, *see id.* at 4-514, or non-WSA lands with wilderness character, *see id.* at 4-511. The cumulative impacts analysis for cultural resources, air quality, wildlife, and vegetation merely mention ORV use and/or conclude that the cumulative impacts would be minimal. *See id.* at 4-507-516. In general, the PRMP fails to adequately assess the impact that the dense network of routes (nearly 90% of public lands south of 1-70 are within 0.5 miles of a route) have on wildlife, soils,

Issue Number: PP-UT-MOAB-08-0012b-154
Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter,

vegetation, riparian areas, air and water quality, WC lands, cultural resources, and other users.

Issue Number: PP-UT-MOAB-08-0012b-28

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

In the context of the Moab PRMP, the decisions made with regard to designation of ORV areas and trails and the travel plan fail to fully analyze all effects of those decisions on riparian and wetland areas, cultural resources, soils, vegetation, air quality, water quality, wildlife and wildlife habitat, wilderness character areas, and other users, as discussed below.

Issue Number: PP-UT-MOAB-08-0012b-33

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

Although the PRMP includes a list of MFO's riparian areas and proper functioning condition assessments, PMRP at 3-95, it fails to notify the public which specific riparian areas will be impacted by the ORV area and trail designations, and the travel plan, and it fails to analyze the impacts of the ORV area and trail designations on the specific riparian areas affected. *See id.* at 4-249 ("[T]here are 321.9 miles of designated routes with possible riparian conflicts. . . 50.1 miles of these routes are not identified for travel."). BLM contends, again with no supporting analysis or data, that "[t]he impacts of limiting OHV use to designated roads and trails would be the same as closure of riparian areas to OHVs." *Id.* at 4-247. However, by BLM's own admission, approximately 270 miles of ORV routes would be designated in riparian areas, *see id.* at 4-249; this is clearly not the "same as closure." BLM's conclusory statement is not persuasive and falls short of NEPA's hard look requirement.

Issue Number: PP-UT-MOAB-08-0012b-47

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute,

Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

The PRMP fails to adequately analyze and disclose the impacts of the ORV designations and travel plan on vegetation resources, as required by NEPA.

Issue Number: PP-UT-MOAB-08-0012b-48

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

The PRMP is conspicuously silent on the impacts to air quality as a result of the ORV designations and travel plan. There is no discussion of these impacts in Table 2.2, "Impacts Summary Table." *See* PRMP at 2-60 for summary of impacts to air quality. There are two (2) sentences in Chapter 4: Environmental Consequences regarding the impacts of ORV designations and travel management on air quality, that can be summed up by saying that BLM expects the proposed plan to have less impacts to air quality than the existing management strategy due to the "minor additional restraints" to motorized vehicle use. *See* PRMP at 4-26. EPA requested that BLM provide more specific information on the role that ORV use has on air quality. BLM responded: "Specific quantifiable details on the impacts of OHV use are not available." PRMP Response to Comments, sorted by Commentor, at 479-21.

Issue Number: PP-UT-MOAB-08-0012b-52

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

As presented in the PRMP, there are known impacts to wildlife from ORV routes and use, yet the PRMP fails to adequately analyze the potential impacts to wildlife and wildlife habitat from the ORV area and trail designations and the travel plan.

Issue Number: PP-UT-MOAB-08-0012b-64

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

To comply with NEPA's hard look requirement and the ORV regulations' minimization mandate, BLM must incorporate the information gathered in the Moab Visitor Use Monitoring Survey into the PRMP's affected environment and environmental consequences analysis sections.

Issue Number: PP-UT-MOAB-08-0012b-68

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

The PRMP fails to include an analysis of whether the proposed area and route designations are sustainable over the long term. To ensure that the agency has taken the required hard look, its analysis must be supplemented and provided for public review before the ROD is issued.

Issue Number: PP-UT-MOAB-08-0012b-78

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for

Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

BLM must disclose accurate baseline information to the public and decision maker regarding the impacts of current ORV use, Class B routes, and current miles of route designated for ORV use and allow public comment before issuing final decisions for ORV area and trail designations and the travel plan.

Issue Number: PP-UT-MOAB-08-0012b-92

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

The PRMP even states that "[t]he impacts of limiting ORV use to designated roads and trails would be the same as closure of riparian areas to ORVs." PRMP at 4-247. This reasoning ignores the real impacts from continued ORV use of an already designated trail and is an arbitrary and irrational departure from the Utah Riparian Policy.

Summary

The BLM has failed to analyze the impacts of travel management decisions. The BLM has failed to analyze the impacts of OHV use on wildlife, riparian areas, air quality, vegetation, and soils. The BLM has failed to analyze how elimination of routes and failure to create new routes will lead to the creation of *de facto* WSAs. Additionally, the BLM failed to include an analysis of whether the proposed area and route designations are sustainable over the long term.

Response

The BLM has presented sufficient information and analysis to reach informed decisions concerning the impacts of OHV use and travel management decisions on other resources, such as wildlife, riparian areas, air quality, vegetation and soils. This information and analysis is detailed in Chapter 4 of the PRMP/FEIS, in the discussion of impacts to each resource. This information is summarized in Appendix G. These impacts are described at a level appropriate to a landscape-level document.

Elimination of routes will not cause visitation to decline, and therefore will not result in deterioration of roads and conversion to wilderness as cited by protester. As stated in the analysis in Section 4.3.12.2.10, visitation is expected to remain constant or increase under all alternatives.

Route Inventories

Issue Number: PP-UT-MOAB-08-0001B-11

Organization: Colorado 500 Legal Defense Fund, Colorado Off Highway Vehicle Coalition

Protester: Don Riggle, Jerry Abboud

Issue Excerpt Text:

BLM response 6-22: "The Travel Plan process is described in full in Appendix G of the DRMP/EIS... Designation or non-designation was based not on literature, but on on-the-ground resource conflicts that may or may not have been present along the route... each route was examined individually." But, in App. G in the DEIS and the FEIS, BLM states that actual on-the-ground inspections were not the protocol (PRMP page G-12 and G-13: "The maps and associated GIS data encompass tens of thousands of road segments in an area covering more than 1.8 million acres. This makes an on the ground verification of each road segment impractical...." BLM is in error. The funding, technology and skills are available and are currently being used throughout BLM nationwide. Grand Junction Field Office is the relevant example, as GJFO and Moab share boundaries. On page 0-13, BLM continues, "fortunately, methods exist which can greatly reduce the road verification workload and still achieve satisfactory results." Please note: BLM clearly states again that "other" methods were used for data gathering.

Response

The two statements are not contradictory. The first statement refers to resource conflicts. Every one of the identified resource conflicts on each route were based on an interdisciplinary review using baseline resource information. The second statement simply says that BLM did not perform an on-the-ground verification of each route segment provided by the county for inclusion in the route inventory which constituted the baseline. Statistical sampling was used to establish how many road segments required verification to establish a 95% confidence level.

Consideration of Travel Management Criteria

Issue Number: PP-UT-MOAB-08-0001B-8

Organization: Colorado 500 Legal Defense Fund, Colorado Off Highway Vehicle Coalition

Protester: Don Riggle, Jerry Abboud

Issue Excerpt Text:

Travel Plan Development Purpose and Need: Please refer to page G.7.2 in the PRMP: "Moab Field Office Criteria for Travel Plan." The Benefits of recreational routes are not included in this criteria. Yet 1601-1 specifically states that benefits to the visitor are to be one of the components that must be considered in the analysis.

Response

The BLM considered benefits to the visitor, including the benefits of providing routes for visitor enjoyment. These benefits were weighed against the other criteria listed in the handbook (H-1601-1) and the potential for impacts to other resources in arriving at the travel management decisions. Benefits to the user are considered under the sub-criteria listed in Section G.7.2 for Purpose and Need under "Access: Routes identified in guide books, including popular routes used in the Easter Jeep Safari event; Scenic overlooks; Recreation opportunities and Experiences." Visitor use of routes was an important purpose and need for a majority of the routes in the Moab Travel Management Plan.

Tribal Interests

Issue Number: PP-UT-MOAB-08-0014-21

Organization: The Center for Water Advocacy

Protester: Harold Shepherd

Issue Excerpt Text:

Alternative G, therefore, likely provides more protection of ORVs which would therefore provide sustainable ecological system that would be more likely to protect tribal rights than if these rivers were allowed to be diverted or would lose their free-flowing nature. The FEIS rejection of Alternative G in favor of an alternative that will allow more developments, increased water pollution and water diversions of the rivers and streams not found suitable and, therefore, violates the Executive Order and the agency's own Environmental Justice policy in adopting the proposed alternative.

Response

The Executive Order on Equal Justice (EOEJ) does not require any specific outcome. Therefore, the BLM's decision to adopt the proposed alternative sufficiently complies with the EOEJ.

Further, the protester does not provide information to support the contention that designations would be more likely to protect tribal rights, or that he is speaking on behalf of any recognized tribal entity or disadvantaged population.

Vegetative Communities

Issue Number: PP-UT-MOAB-08-0006-24

Organization: ECOS Consulting

Protester: Charles Schelz

Issue Excerpt Text:

The BLM fails to show that the lands covered by of the Moab PRMP/FEIS are functioning properly, or will be functioning properly in the next 10-20 years.

Issue Number: PP-UT-MOAB-08-0012b-97

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

Additionally, the PRMP fails to provide all the information required by the Utah Riparian Policy and the information required for the public to understand the current condition and proposed management of each riparian area. FLPMA, 43 U.S.C. §§ 1701-1785, § 1701(a)(2) (2000), declares that "the national interest will be best realized if the public lands and their resources are periodically and systematically inventoried." The Utah BLM Riparian Policy explains that each field office is "responsible for...mapping and inventorying all riparian areas in

[its] jurisdiction" and "will, to the extent possible... [i]nventory and map riparian areas within each office." Utah BLM Riparian Policy at 3. The policy further explains that this responsibility will normally be completed during the Resource Management Planning (RMP) process. In order to be useful, the RMP, at a minimum will: (1) contain the Field Office riparian area priority list; (2) identify key riparian areas using PFC inventory and determine whether or not they are properly functioning systems; (3) identify riparian areas for possible acquisition; (4) identify riparian areas which meet policy tests for disposal or exchange; (5) identify easement acquisition which will improve Bureau management of existing riparian areas; (6) identify riparian areas with outstanding qualities to be considered for special designation or management; and (7) contain planning and monitoring objectives for riparian area management. Utah BLM Riparian Policy at 7-8. While the PRMP does provide the total acreage and percentage of riparian areas in the Moab Field Office that are labeled under each category of riparian status (Proper Functioning Condition, Functioning at Risk, and Non-Functioning) and lists the names of the riparian areas, it does not provide other relevant information necessary for the reader to understand the relationship between a riparian area's category status and how it will be managed under the RMP.

Summary

The BLM fails to show that the lands covered by of the Moab PRMP/FEIS are functioning properly, or will be functioning properly in the next 10-20 years.

Additionally, the PRMP/FEIS fails to comply with the Utah Riparian Policy because it does not contain the Field Office riparian area priority list;

- identify key riparian areas using PFC inventory and determine whether or not they are properly functioning systems;
- identify riparian areas for possible acquisition;
- identify riparian areas which meet policy tests for disposal or exchange;
- identify easement acquisition which will improve Bureau management of existing riparian areas;
- identify riparian areas with outstanding qualities to be considered for special designation or management; and
- contain planning and monitoring objectives for riparian area management.

Response

Properly-functioning riparian condition (PFC) is a goal of the plan and specific management prescriptions were formulated to achieve that goal. As stated in Section 3.12.5, not all of the lands in the planning area are currently in PFC. Many of the planning decisions, such as those related to grazing and riparian area management, are designed to move non-functioning areas towards this goal. However, it is impossible to provide the absolute assurance that this goal will be met within a specific timeframe that protester seeks.

The Utah Riparian Policy, UT-IM-2005-091, states that existing planning documents will be reviewed to determine if riparian are in compliance with the minimum requirements list for RMPs cited by the protesters. Pursuant to the policy, existing plans will be updated through activity level plans or plan revisions if they are found to be noncompliant. This riparian policy was issued in 2005, two years after the Moab RMP Notice of Intent. Therefore, the Moab RMP was considered to be an existing plan; any noncompliance with the Utah Riparian Policy would be rectified by activity-level planning.

Nevertheless, the Moab RMP has substantially complied with the policy as follows:

- Riparian priorities are listed in the Riparian section of the PRMP/FEIS in three different places. First, the RMP states that the Moab Field Office will prioritize restoration areas in riparian systems that are either functioning at risk or are non-functioning. *See* PRMP/FEIS at 2-30. Additionally, the following riparian areas would be given priority for evaluation: Ten Mile from Dripping Spring to the Green River, Mill Creek, Seven Mile Canyon, and East Coyote. *See* PRMP/FEIS at 2-30. Lastly, the Moab Fireld Office gives priority to the development and implementation of the Watershed Management Plans and riparian studies for the following areas: Ten Mile, Kane Springs, Bartlett Wash, Tusher Wash, Mill Canyon, Courthouse Wash, Cottonwood-Diamond, and Onion Creek. *See* PRMP/FEIS at 2-31.

- The condition of riparian areas is identified in Chapter 3 in Table 3.22. *See* PRMP/FEIS at 3-95. In addition, the Analysis of the Management Situation lists every stream in the planning area with extensive data on its condition.
 - Acquisition of riparian areas is listed as a high priority for acquisition in Appendix A: Land Tenure Adjustment and Withdrawal Criteria. *See* PRMP/FEIS at A-1.
 - Under the disposal criteria (Appendix A), riparian areas would only be disposed of if higher quality riparian areas could be acquired. *See* PRMP/FEIS at A-1.
 - Riparian areas with outstanding qualities have been identified and considered for special designation or management. Mill Creek and Ten Mile ACECs have listed riparian areas as relevant and important values. *See* PRMP/FEIS at 2-36, 2-37. Additionally, Cottonwood-Diamond, Behind the Rocks, and Highway 279/Shafer Basin/Long Canyon ACECs have listed natural systems as a relevant and important value which includes riparian values. *See* PRMP/FEIS at 2-32 to 2-38.
 - Monitoring objectives will be in the Monitoring appendix accompanying the ROD.
-

Water

Baseline Information and Monitoring Data

Issue Number: PP-UT-MOAB-08-0006-5

Organization: ECOS Consulting

Protester: Charles Schelz

Issue Excerpt Text:

These conditions are not evident in the Moab Field Area and are not adequately described or addressed in the Moab PRMP/FEIS.

Issue Number: PP-UT-MOAB-08-0012b-98

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

The Moab Field Office simply failed to provide the information necessary for the public to understand the status of each riparian area and how the Moab Field Office is going to manage those areas. Apparently, the Moab Field Office made such information available only upon public request, but should have included it in the PRMP to satisfy NEPA's requirement and the purpose of the planning process that information be provided to the public sufficient to inform the public and decision makers of all alternatives and the proposed management plan.

Issue Number: PP-UT-MOAB-08-0012c-1

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra

Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

Water Quality: The Moab PRMP fails to analyze and model the impacts of the activities that it permits on water quality in the planning area. Both FLPMA and NEPA require that BLM prepare such analysis. BLM must analyze and model pollutant concentrations in order to understand if the PRMP will comply with federal and state water quality standards, as required by FLPMA.

Issue Number: PP-UT-MOAB-08-0012c-12

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

Because BLM failed to analyze water quality baselines and similarly failed to model the water-quality effects of activities in the PRMP, there is no evidence that the Moab PRMP will comply with federal and state water quality standards, as required by FLPMA.

Issue Number: PP-UT-MOAB-08-0012c-15

Organization: Southern Utah Wilderness Alliance,

The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

Without analyzing baseline concentrations and preparing modeling to determine what the baseline concentrations of relevant pollutants will be, BLM cannot understand or disclose the impacts of these pollutants on water quality. For an example of appropriate analysis and modeling, see Exhibit E. BLM's lack of water quality analysis does not satisfy NEPA's hard look requirement. BLM must analyze and model water quality to understand these impacts.

Issue Number: PP-UT-MOAB-08-0012c-2

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

Without conducting water quality analyses and modeling, BLM will not understand the effects of the pollutants generated from activities authorized by the PRMP, and will thereby violate NEPA and its

requirement that BLM understand the environmental impacts of the activities it is permitting.

Issue Number: PP-UT-MOAB-08-0012c-5

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

In order to comply with FLPMA, the PRMP should provide a summary of water quality analyses for the water bodies in the planning area. This summary should provide monitoring of water quality indicators, including temperature, alkalinity, specific conductance, pH, dissolved oxygen, turbidity, hardness, dissolved solids, and suspended solids, as required by the CWA. For an example of appropriate analysis and modeling, see West Tavaputs DEIS, Natural Gas Full Field Development Plan, February 2008, at 3-56 to -64 (attached as Exhibit E). The PRMP should state what the current baseline water quality is, as measured by these indicators, for each water body in the Moab planning area. Knowing the baseline water quality is essential to understanding whether the activities permitted in the PRMP will violate WQS. See 43 CFR § 2920.7(b)(3); 43 U.S.C. § 1712(c)(8).

Summary

The PRMP/FEIS does not disclose sufficient baseline information on riparian area condition or water quality to support the impact analysis or the decisions. Water quality monitoring is needed to establish a baseline.

Response

The BLM works cooperatively with the State of Utah Department of Environmental Quality (DEQ) to monitor water quality. The results of this water quality monitoring, along with other best available data, formed the basis for the discussion of existing water quality in Section 3.14.3.2. In particular, the DEQ annual Integrated Report was incorporated. The nature and scope of the proposed action dictates the level of analysis, and the specificity of the information required. For the broad planning level analysis, the information provided in Chapter 3 provides a general summary of baseline water quality, which is sufficient to make a reasoned choice among the alternatives. Therefore, more detailed water indicators are not necessary or required. This issue was addressed in response to comment 9-18 on the DRMP/DEIS.

Impact Analysis of Impacts and the Need for Modeling

Issue Number: PP-UT-MOAB-08-0012c-4

Organization: Southern Utah Wilderness Alliance,

The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for

Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

Because the Moab PRMP permits activities (e.g. oil and gas development, vehicle travel on designated routes, mining, etc.) without modeling the effect that these activities will have on ambient concentrations of pollutants in water, the PRMP fails to satisfy its FLPMA obligation.

Issue Number: PP-UT-MOAB-08-0012c-6

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

Furthermore, BLM must quantify the various pollutant levels (e.g. phosphorus, dissolved oxygen, aluminum, nitrate, chloride, ammonia, etc.), as

identified in the CW A, which will result from the decisions made in the PRMP, in order to comply with FLPMA. Likewise, the PRMP fails to quantify contaminant levels to be expected from cumulative impacts in the area. After determining the baseline pollutant concentrations, BLM must model the effects on water quality that will result from the activities authorized in the PRMP. These results should then be compared to the CWA standards for protection of WQS. Only in this way can BLM know whether it is complying with federal and state water quality standards, as FLPMA requires.

Issue Number: PP-UT-MOAB-08-0018-90

Organization: Western Watersheds Project, Inc
Protester: John Carter

Issue Excerpt Text:

There was no analysis of the role of livestock in degradation of water quality, or the role of range improvements in degradation of water quality and quantity, loss of wetlands and impacts to wildlife in the RMP.

Summary

The PRMP/FEIS fails to adequately analyze the impacts to water quality. Modeling is required for an adequate impacts analysis.

Response

The scope and nature of the specific proposed action determines the level of analysis necessary to comply with the requirements of NEPA. Resource Management Plans are used to evaluate broad policies and plans, and provide an analytical foundation for subsequent project-specific NEPA documents. The impacts to water quality as a result of the management decisions in the PRMP/FEIS are analyzed at the appropriate level of detail for RMP-level decisions and are fully disclosed in Section 4.2.3., as well as in sections pertaining to specific water uses. Water quality modeling was not conducted at the planning-level of analysis because many of the necessary inputs or variables, such as detailed information on sources, are not available. Modeling at a landscape-level is extremely complex and standardized models and protocols are not available. However, modeling will be conducted, where appropriate, for site-specific analysis at the project-level.

Wild and Scenic Rivers

Issue Number: PP-UT-MOAB-08-0012c-76

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

There is some discrepancy in the PRMP. For example, PRMP at 2-4 states both that "(t)wenty-eight river segments were found to meet the eligibility criteria" and that "the 29 river segments identified for eligibility would remain in eligibility."

PRMP at 2-4. BLM must explain this discrepancy and correctly identify the number of eligible river segments and the total eligible river miles.

Issue Number: PP-UT-MOAB-08-0012c-77

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

Again, there is some discrepancy in the PRMP. For example, PRMP at 2-5 notes that ten river segments totaling 127.3 miles are suitable, while the PRMP at 4-352 and 4-339 state that eleven river segments totaling 155 miles are suitable. BLM must explain this discrepancy and correctly identify the number of suitable river segments and the total suitable river

miles.

Issue Number: PP-UT-MOAB-08-0012c-91

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

Furthermore, it is not exactly clear which segments of the Green River BLM [it] proposes to designate as suitable. The PRMP recommends Segment 4(a) of the Green River, from the confluence with the San Rafael River to Canyonlands National Park as suitable. PRMP 2-41 to -42. However, on the same pages, BLM states that Segments 4, 5, and 6, which are included in Segment 4(a) are not suitable. *Id.* BLM must explain this discrepancy

Summary

The PRMP/FEIS contains inconsistent information: The PRMP at 2-4 states both that “(t)wenty-eight river segments were found to meet the eligibility criteria” and that “the 29 river segments identified for eligibility would remain in eligibility.” PRMP at 2-4. The PRMP at 2-5 notes that ten river segments totaling 127.3 miles are suitable, while the PRMP at 4-352 and 4-339 state that eleven river segments totaling 155 miles are suitable. Additionally, the PRMP recommends Segment 4(a) of the Green River, from the confluence with the San Rafael River to Canyonlands National Park as suitable. PRMP 2-41 to -42. However, on the same pages, the BLM states that Segments 4, 5, and 6, which are included in Segment 4(a) are not suitable.

Response

Through an oversight, the text “twenty-eight” at page 2-4 was not corrected in the PRMP/FEIS. Twenty-nine eligible segments is the correct figure. With regard to the suitable segments/mileage, Colorado River 3(a) and 3(b) were considered one segment or two segments at different stages in the process. Eleven segments, which separates 3(a) and 3(b) is the correct figure. Mileage figures for the Green River segments were derived from the Price Field Office planning effort. These were re-segmented in the process, resulting in differing mileage figures. Running the geographic information system calculations multiple times can introduce error as well. Upon recalculation, the correct figure is 151.5 miles of suitable river along the Green, Colorado, and Dolores Rivers. Neither of these minor discrepancies substantially affects the analysis or decisions.

Wild and Scenic River Eligibility Process

Issue Number: PP-UT-MOAB-08-0011-20

Organization: Utah Rivers Council

Protester: Amy Defreese

Issue Excerpt Text:

The BLM acted arbitrarily in its final suitability determinations for each river it evaluated.

Issue Number: PP-UT-MOAB-08-0011-3

Organization: Utah Rivers Council

Protester: Amy Defreese

Issue Excerpt Text:

Based on the description provided, we submit that the BLM's initial act to inventory eligible rivers was arbitrary and capricious, and in violation of the Wild & Scenic Rivers Act (WSRA). Furthermore, we submit that the BLM did not properly disclose its process and results as required by the WSRA and the National Environmental Policy Act (NEPA) as well as subsequent policy guidance including BLM Manual 8351, and the Wild & Scenic River Review in the State of Utah. Process and Criteria for Interagency Use (July 1996) (BlueBook). If the BLM intends to disclose rationale for its eligibility and suitability processes in the Record of Decision (ROD), we submit that is unacceptable because the public will no longer be able to provide comment.

Issue Number: PP-UT-MOAB-08-0011-5

Organization: Utah Rivers Council

Protester: Amy Defreese

Issue Excerpt Text:

While the BLM Moab Office clearly conducted a process of segmentation, it does not articulate how the process was conducted nor does it document the

results of that process in its Eligibility Determination, Draft RMP/EIS or PRMP/FEIS.

Issue Number: PP-UT-MOAB-08-0011-7

Organization: Utah Rivers Council

Protester: Amy Defreese

Issue Excerpt Text:

We submit that the BLM did not disclose its process of segmentation which is critical to the public's understanding of its decision-making process.

Issue Number: PP-UT-MOAB-08-0014-10

Organization: The Center for Water Advocacy

Protester: Harold Shepherd

Issue Excerpt Text:

The decision to not recommend many of the eligible rivers as proposed in the FEIS is Arbitrary & Capricious. This is because, there does not appear to be any administrative record supporting the removal of such rivers from the suitability list. In addition, the FEIS lacks any kind of objective criteria in evaluating the values attached to different ORV and the wide range of values assigned over the course of the 3 documents and the FEIS failure to provide any information about the ORVs of rivers that were dropped from suitability considerations.

Summary

The PRMP/FEIS fails to adequately disclose how rivers were segmented. The eligibility/suitability decision-making process is not adequately described. The BLM cannot defer providing rationale to the issuance of the ROD because the public will not have the opportunity to comment.

Response

The BLM's rationale for all eligibility and suitability determinations is detailed in Appendix J of the PRMP/FEIS. The BLM is required to provide the rationale supporting suitability determinations for eligible river segments studied in the RMP. However the BLM is not required to provide public review and comment for these decision rationales. Therefore, the rationale for the final decisions will be detailed in the ROD for the Moab RMP in compliance with BLM-M-8351 section .33(b) (8351 – Wild and Scenic Rivers – Policy and Program Direction for Identification, Evaluation, and Management) and 40 CFR § 1505.2.

The Eight Wild and Scenic River Act Factors

Issue Number: PP-UT-MOAB-08-0011-15

Organization: Utah Rivers Council

Protester: Amy Defreese

Issue Excerpt Text:

The BLM acted arbitrarily, and in -violation of the WSRA, because it considered factors beyond the 8 enumerated in the WSRA. Specifically, the BLM lists for consideration two inappropriate and arbitrary factors: i) Manageability of the river if designated

and other means of protecting values; and ii) Interest of federal, public, state, tribal, local, or “other public entity in designation or non-designation including administrative sharing.”

Issue Number: PP-UT-MOAB-08-0011-17

Organization: Utah Rivers Council

Protester: Amy Defreese

Issue Excerpt Text:

In the WSRA, Congress enumerated a suitability factor that only considers the interest of the State in helping to preserve and administer suitable rivers. The BLM again inappropriately and unlawfully expands the scope of suitability factors to include the willingness of other governments to participate and those government's opinions on designation. Specifically, as it evaluates “the interest of federal, public, state, tribal, local or other public entity, in designation or non-designation, including administration sharing,” the BLM uses local; state agency, and water users' opposition to designation to support its non-suitability determinations. Again, the BLM acts arbitrarily and in direct conflict with suitability factors clearly articulated in the WSRA.

Issue Number: PP-UT-MOAB-08-0012c-78

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

BLM violates the WSRA by failing to recommend a river segment that otherwise qualifies for inclusion in the NWSRS simply because the river is already within a WSA. *See* 16 U.S.C. § 1275(a); PRMP at 4-307; *see e.g.*, Rattlesnake Canyon, Cottonwood Canyon, North Fork and South Fork Mill Creek, and Negro Bill Canyon.

Issue Number: PP-UT-MOAB-08-0012c-79

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

Likewise, BLM violates the WSRA by relying on WSA status and accordingly failing to classify river segments as “wild,” “scenic,” or “recreational,” assuming instead that IMP protections will apply. *See* 16 U.S.C. § 1273(b); PRMP at 4-307; *see e.g.*, Negro

Bill Segment 2 recreational classification, PRMP at Appendix J-47; Cottonwood Canyon scenic classification, PRMP at Appendix J-41. Wild and Scenic Rivers Act classifications and suitability determinations are factual determinations that the agency is required to make; the existence of a designated WSA does not obviate this duty, although the existing evaluation of the area's wilderness characteristics can also provide indications of the character of the river segments.

Issue Number: PP-UT-MOAB-08-0012c-88

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

BLM's non-suitable decision for Segment 4 of the Green River apparently rests on its intention to designate routes along the rim and within the river corridor to off-road vehicles and perhaps due to the presence of several private inholdings. PRMP J-81 to J-85. Permitting and encouraging vehicle use within the corridor would impair the values that the Price FO found to be outstandingly remarkable, and would compromise the river's inclusion in the NWSRS, in violation of the WSRA and BLM's Manual. BLM Manual § 8351.32(C); *see* 16 U.S.C. § 1273(b). Intent to develop an area cannot and should not influence a suitability determination.

Issue Number: PP-UT-MOAB-08-0014-12

Organization: The Center for Water Advocacy

Protester: Harold Shepherd

Issue Excerpt Text:

Not only is the FSHB criteria separate and distinct from that provided in the Statute, however, but it violates the [WSRA's] mandate that, without considering other factors, rivers and streams will meet suitability determinations if they possess “outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values.” Section I(b). Nowhere in the Act, for example, does Congress authorize the agency to weigh the benefits or non-benefits of other uses in suitability determinations or allow the agency to evaluate “the benefits and impacts of wild and scenic river designation.”

Issue Number: PP-UT-MOAB-08-0014-13

Organization: The Center for Water Advocacy

Protester: Harold Shepherd

Issue Excerpt Text:

The arbitrariness of the proposed alternative in the FEIS is further illustrated by the BLM’s determination that an "evaluation of the adequacy of local zoning and other land use controls in protecting the river's outstandingly remarkable values by preventing incompatible development" may also be used in suitability determinations. FEIS at 1-4. Not only, however, does this standard not appear anywhere in the Act but it is not even contained in the FSHB or any other BLM regulations.

Issue Number: PP-UT-MOAB-08-0014-14
Organization: The Center for Water Advocacy
Protester: Harold Shepherd

Issue Excerpt Text:

Neither the FEIS nor federal law, however, authorizes the BLM to use development of surrounding lands as a means for excluding Mill Creek or other rivers from suitability recommendations.

Issue Number: PP-UT-MOAB-08-0014-16
Organization: The Center for Water Advocacy
Protester: Harold Shepherd

Issue Excerpt Text:

Similarly, not contained in the Act, agency regulations or the FSHB, the BLM has authorized itself to consider political criteria over ORVs or other legal standards by considering "[s]upport or opposition to designation" and "the potential for water resources development in making suitability determinations." FEIS at 1-4. In addition, this standard violates the Act's mandate that rivers will meet suitability determinations if they possess “outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values,” since such consideration are based on political factors and not the criteria listed in the Act.

Issue Number: PP-UT-MOAB-08-0014-4
Organization: The Center for Water Advocacy
Protester: Harold Shepherd

Issue Excerpt Text:

Neither the FEIS nor federal law authorizes the BLM to use development of surrounding lands as a means for excluding Mill Creek or other rivers from suitability recommendations.

Summary

The BLM considered arbitrary and inappropriate factors in reaching the suitability decisions. These include manageability, interest of other agencies, adjacent private lands or inholdings, WSAs, other use and development (including OHV use and anticipated water development), local zoning, and support or opposition.

Response

The BLM suitability analysis complies with BLM policy and guidance as detailed in the BLM Wild and Scenic Rivers Manual BLM-M-8351 (8351 – Wild and Scenic Rivers – Policy and Program Direction for Identification, Evaluation, and Management). According to Manual Section 8351.33(a), the BLM should consider, among other factors, “Federal, public, State, tribal, local, or other interests in designation or non-designation of the river, including the extent to which the administration of the river, including the costs thereof, may be shared by State, local, or other agencies and individuals.” Section .33(a)(8) provides the BLM with discretion to consider issues and concerns other than those enumerated in the Wild and Scenic Rivers Act. Therefore, the specific factors considered by the BLM (detailed in Appendix J of the PRMP/FEIS) in ascertaining the eligibility or suitability of river segments in the Moab Planning Area are within the discretion of the BLM and are not arbitrary and capricious.

Designation of Wild and Scenic River Segments

Issue Number: PP-UT-MOAB-08-0011-10
Organization: Utah Rivers Council

Protester: Amy Defreese

Issue Excerpt Text:

Classification is an objective determination the BLM made in its eligibility process based on the type and degree of human development associated with the river and adjacent lands as they exist at the time of the evaluation.

Issue Number: PP-UT-MOAB-08-0011-11

Organization: Utah Rivers Council

Protester: Amy Defreese

Issue Excerpt Text:

It is arbitrary and capricious to change those classifications in various alternatives during the Draft and Final EIS process.

Issue Number: PP-UT-MOAB-08-0011-12

Organization: Utah Rivers Council

Protester: Amy Defreese

Issue Excerpt Text:

In BLM Manual 8351 0.32 C, the BLM describes protective management-of eligible river segments. It states that "When a river segment is determined eligible and given a tentative classification, its identified outstandingly remarkable values shall be afforded adequate protection" and "until the eligibility determination is superseded, management activities and authorized uses shall not be allowed to adversely affect either eligibility or the tentative classification, i.e., actions that would change the tentative classification from a wild river area to a scenic river area or a scenic river area to a recreational river area." Here, the BLM and other agencies imply that tentative classification is final upon determination of eligibility. In its Eligibility Determination (2004), the BLM asserts that it has made a final determination of eligibility; therefore it cannot arbitrarily change classification as it moves toward a suitability determination by evaluating alternatives with varying degrees of classification.

Issue Number: PP-UT-MOAB-08-0011-23

Organization: Utah Rivers Council

Protester: Amy Defreese

Issue Excerpt Text:

The range of alternatives the BLM chose to include was inadequate and incomplete. According to its own internal guidance, "At least one alternative analyzed in detail shall provide for designation of those eligible river segments in accordance with the tentative classifications which have been made." (BLM Manual 8351).

Issue Number: PP-UT-MOAB-08-0011-31

Organization: Utah Rivers Council

Protester: Amy Defreese

Issue Excerpt Text:

The BLM acted arbitrarily in assigning segmentation to the Colorado River. According to BLM Manual 8351 and the Blue Book, the BLM should have segmented the Colorado River once during the eligibility process as the BLM must determine tentative classification and ORVs according to those segments. Instead, the BLM re-segmented the Colorado River as it prepared for its suitability evaluation in the Draft RMP, long after it had published its final determination of eligibility. It did not re-evaluate tentative class or ORVs at that point.

Issue Number: PP-UT-MOAB-08-0011-34

Organization: Utah Rivers Council

Protester: Amy Defreese

Issue Excerpt Text:

In the Draft RMP/EIS and PRMP/FEJS, the BLM re-segmented the Colorado River, yet was not consistent in that segmentation among various alternatives. For example, in Alternatives B and D, the BLM used its original segmentation as follows for suitability evaluation: 1, 2, 3, 4, 5 and 6. In Alternative C, however, the BLM evaluated new segments 3a and 3b for suitability, but did not evaluate Segment 3. It is completely arbitrary to re-segment the river among various alternatives and such practice confuses the reader as to the BLM's decision making process

Issue Number: PP-UT-MOAB-08-0011-35

Organization: Utah Rivers Council

Protester: Amy Defreese

Issue Excerpt Text:

According to BLM Manual 8351 and the Blue Book, the BLM should have segmented the Green River only once during the eligibility process as the BLM must-determine tentative classification and ORVs according to those segments. Instead, the BLM re-segmented the Green Rivet as it prepared for its suitability evaluation in the Draft RMP/EIS, long after it had published its final determination of eligibility. It furthermore re-segmented the Green River again between the Draft RMP/EIS and the PRMP/FEIS. It did not re-evaluate tentative class or ORVs in either instance nor did it disclose the change for public comment. Re-segmentation is a significant change from the BLM's Final Eligibility determination as it results in differing protections for different portions of the original segments.

Issue Number: PP-UT-MOAB-08-0011-37

Organization: Utah Rivers Council

Protester: Amy Defreese

Issue Excerpt Text:

In the Draft RMP/EIS and PRMP/FEIS the BLM re-segmented the Green River yet was not consistent in that segmentation among various alternatives. For example, Alternatives B and D of the Draft RMP/EIS, the BLM used its original segmentation as follows for suitability evaluation: 1, 2, 3, 4, 5, and 6. In Alternative C, however, the BLM evaluated new segments 1a, 3a, and 4a for suitability. Again, in Alternatives B and D of the PRMP/FEIS, the BLM used its original segmentation as follows for suitability evaluation: 1, 2, 3, 4, 5 and 6. Yet in Alternative C it evaluates a new set of segments 1, 2, 3, 4, 4a, 5, and 6. It is completely arbitrary to re-segment the river among various alternatives and such practice confuses the reader as to the BLM's decision making process.

Issue Number: PP-UT-MOAB-08-0012c-81

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

In violation of the WSRA and its own manual, and in disregard of SUWA's comments on the draft RMP, BLM chose to downgrade the classification of Segment 6 of the Colorado River and Segment 2 of

the Dolores River from "wild" in the eligibility study to "scenic" in the PRMP, and Segments 1 and 3 of the Dolores River from "scenic" in the eligibility study to "recreational" in the PRMP. PRMP at 2-40; *id.* at Appendix J-67, J-68; *see* BLM Manual § 8351.32(C); 16 U.S.C. § 1273(b). It is BLM's own policy to protect the values identified in the eligibility process by protecting the ORVs and tentative classifications, yet BLM disregarded its policy and failed to designate certain river segments as eligible with the proper criteria. *See* BLM Manual Section 8351.32C.

Issue Number: PP-UT-MOAB-08-0012c-85

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

Tentative classifications may only be superseded by a BLM determination of non-suitability, typically made in the PRMP process or by Congressional action to study the river segment further. BLM Manual §§ 8351.3, 8351.32(C), 8351.33(A), 8351.52(C). In this case, BLM determined that the segment was suitable, but nonetheless downgraded the classification level. Therefore, BLM's decision to downgrade the classification, and resulting protection, of Segment 6 of the Colorado River violates the BLM Manual and stated policy.

Summary

The BLM may not re-segment between the DEIS and the FEIS, or analyze different segments in the alternatives. The BLM's decision to downgrade segments from "wild" to "scenic," or from "scenic" to "recreational," violates the policy stated in Manual 8351. The BLM must consider at least one alternative that analyzes the suitability of eligible segments in accordance with the tentative classifications made during the eligibility process.

Response

As stated in the response to comments on the DRMP/DEIS, the BLM's wild and scenic rivers manual BLM-M-8351 section .33(c) (8351 – Wild and Scenic Rivers – Policy and Program Direction for Identification, Evaluation, and Management) states, "[w]henver an eligible river segment has been tentatively classified, e.g., as wild, other appropriate alternatives may provide for designation at another classification level (scenic or recreational)." The eligible segments were re-segmented to examine different combinations of classifications in the alternatives. In some cases, re-segmentation preserved the primitive character of parts of longer segments. The BLM considered suitability for all eligible river segments in their original tentative classifications in Alternative B except for Salt Wash. Salt Wash was excluded because the majority of the river (7.95 of 8 miles) is located within Arches National Park. Given the very

short (.05 miles) stretch that is within BLM administrative responsibility, it is more appropriate to defer to the Park Service determination for the eligibility and suitability of Salt Wash. Once the National Park Service makes a determination for Salt Wash the BLM will defer to its decision.

Information on Existing Wild and Scenic Rivers

Issue Number: PP-UT-MOAB-08-0001A-24

Organization: Colorado 500 Legal Defense Fund, Colorado Off Highway Vehicle Coalition

Protester: Don Riggle, Jerry Abboud

Issue Excerpt Text:

The point of our comment and protest is reflected in the BLM proposal to nominate almost the entire distance of the Colorado River within the MFO Jurisdiction as a Wild and Scenic River segment. The DEIS declines to ever state whether the MFO has any designated or nominated Wild and Scenic River segments. None are reported in the Affected Environment chapter and there is no map of Alternative A, existing situation, so we must speculate that the MFO has none.

Summary

Chapter 3 does not state whether there are currently any Wild and Scenic Rivers designated in the planning area.

Response

There are no previously designated Wild and Scenic Rivers in the planning area.

Classification of Private Lands

Issue Number: PP-UT-MOAB-08-0011-16

Organization: Utah Rivers Council

Protester: Amy Defreese

Issue Excerpt Text:

Manageability of the river upon designation is an inappropriate and unlawful suitability factor as it is used by the BLM in its PRMP/FEIS. Congress specifically states in the WSRA that the Secretary of the Interior and the Secretary of Agriculture shall give priority to those rivers which possess the greatest proportion of private lands within their areas. Yet, in the BLM's suitability evaluation of Segment 1 of the Colorado River, it appears that it determines this segment "not suitable" based on the amount of private land that surrounds the segment. The BLM makes the following considerations in its suitability evaluation for Segment 1 of the Colorado River.

Issue Number: PP-UT-MOAB-08-0012c-93

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter,

Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

River segments that run through private land should be given a greater priority for suitability designation, not a lesser priority.

The WSRA requires the Secretaries of the Interior and Agriculture to prioritize the suitability designation for rivers that run through private land. 16 U.S.C. §1275(a). The Act states that federal agencies "shall give priority to those rivers... which possess the greatest proportion of private lands within their areas." 16 U.S.C. § 1275(a). Nonetheless, BLM has indicated that it is de prioritizing the designation of rivers that run through private lands. For example, BLM determined that segment 3(a) of the Green River was not suitable, in part because it contains "a large amount of private land. This large amount of private ownership [sic] along these river segments would make manageability difficult." BLM Response to Comments, at 841; *see also id.* 2,903-04. This determination violates the priority requirements in the WSRA. *See* 16 U.S.C. § 1275(a).

Summary

The Wild and Scenic Rivers Act (WSRA) states that Federal agencies “shall give priority to those rivers... which possess the greatest proportion of private lands within their areas.” 16 U.S.C. § 1275(a). Nonetheless, the BLM has indicated that it is de-prioritizing the designation of rivers that run through private lands.

Response

Section 1275(a) of the WSRA states, in relevant part,

The Secretary of the Interior or, where national forest lands are involved, the Secretary of Agriculture or, in appropriate cases, the two Secretaries jointly shall study and submit to the President reports on the suitability or unsuitability for addition to the national wild and scenic rivers system of rivers which are designated herein or hereafter by the Congress as potential additions to such system... *[i]n conducting these studies* the Secretary of the Interior and the Secretary of Agriculture shall give priority to those rivers (i) with respect to which there is the greatest likelihood of developments which, if undertaken, would render the rivers unsuitable for inclusion in the national wild and scenic rivers system, and (ii) which possess the greatest proportion of private lands within their areas.

16 U.S.C. § 1275(a) (emphasis added). This section of the WSRA directs the BLM to give priority to the study of rivers to determine their eligibility or suitability. It does not give any direction regarding the determination eligibility or suitability. Land ownership has no bearing on determining eligibility, which evaluates free-flow and the presence of outstandingly remarkable values. In determining suitability, the BLM must consider the manageability of the segment. Degree of control, i.e., the proportion of public to private land, is a reasonable factor in this consideration. BLM Manual 8351.33(A)(2).

Wilderness Characteristics

Existing Routes in Wilderness Characteristics Lands

Issue Number: PP-UT-MOAB-08-0012b-56

Organization: Southern Utah Wilderness Alliance, The Wilderness Society (TWS), Grand Canyon Trust, Sierra Club, Utah Chapter Public Employees for Environmental Responsibility (PEER), Southwest Chapter Center for Native Ecosystems, Glen Canyon Institute Red Rock Forests, Great Old Broads for Wilderness

Issue Excerpt Text:

The statement that routes in WC lands will not impact the area's natural character flies in the face of BLM's 1980 wilderness inventory documentation that included numerous statements regarding the existence of a route detracting from the naturalness of the area-which subsequently led BLM to drop the area from further wilderness consideration.

Response

Protester is correct that in some cases, a route can detract from naturalness. However, a vehicular route is only of concern (in the context of the 1980 wilderness inventory) if the impact

on naturalness rises to the level of being substantially noticeable in the unit as a whole. In selecting areas for management for wilderness characteristics, the 1980 inventory policies do not apply. Nevertheless, the relative impact of a route on naturalness would vary from case to case. Those that are not noticeable would not compromise naturalness.

New Wilderness Characteristic Information submitted for Consideration

Issue Number: PP-UT-MOAB-08-0012c-102

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

BLM's failure to consider and/or the agency's rejection of numerous SUWA-nominated wilderness character areas that were submitted to BLM with supporting narrative, maps, photographs, and other information is arbitrary and capricious.

Issue Number: PP-UT-MOAB-08-0012c-103

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

In addition, Appendix P of the PRMP and the DRMP, which addresses the identification of wilderness characteristics of non-WSA lands, states that BLM received no new information from SUWA regarding WC lands since December 2003, when SUWA submitted a list of proposed WC areas. PRMP at Appendix p-2. The PRMP is mistaken, however, as SUWA explained in its comments on the DRMP. See SUWA comments to the DRMP at 30. Specifically, prior to the release of the DRMP, SUWA provided the MFO with detailed narratives, maps, and photographic documentation.

Issue Number: PP-UT-MOAB-08-0012c-107

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

In this planning process, SUWA submitted

significant new information regarding the errors in the initial inventory and the wilderness characteristics of the UWC proposal, but BLM has improperly and illegally ignored this vital data.

Issue Number: PP-UT-MOAB-08-0012c-113

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

BLM has yet to address SUWA's new information regarding boundaries and areas that have wilderness characteristics for areas listed below (the letter indicates SUWA's specific comment in the information submitted with its DRMP comments): (1) Arches Adjacent Wilderness Character Unit: Comment A, B, C, D, E, F, and G; (2) Beaver Creek Wilderness Character Unit: Comment A, B, C, D, E and G; (3) Behind the Rocks Wilderness Character Unit: Comment A; (4) Big Triangle Wilderness Character Unit: Comment A; (5) Coal Canyon Wilderness Character Unit: Comment A, B, C, D, E, F, G and J; (6) Coyote Wash Wilderness Character Unit: Comment A; (7) Dead Horse Point Wilderness Character Unit: Comment A and B (8) Dome Plateau Wilderness Character Unit: Comment A and B; (9) Fisher Towers Wilderness Character Unit: Comment A; (10) Granite Creek Wilderness Character Unit: Comment A; (11) Hatch/Harts/Lockhart Basin Wilderness Character Unit: Comment A, B, C and D (12) Horse thief Point Wilderness Character Unit: Comment A; (13) Band D Hunter Canyon Wilderness Character Unit: Comment A; (14) Labyrinth Canyon Wilderness Character Unit: Comment A, B, C and D; (15) Mary Jane Canyon Wilderness Character Unit: Comment A, (16) Band C Mexico Point Wilderness Character Unit: Comment A (17) Mill Creek Wilderness Character Unit: Comment A and B (18) Negro Bill Canyon Wilderness Character Unit: Comment A; (19) Porcupine Rim Wilderness Character Unit: Comment A; (20) Renegade Point Wilderness Character Unit: Comment A; (21) Westwater Canyon Wilderness Character Unit:

Comment A; and (22) Band C Yellow Bird
Wilderness Character Unit: Comment A and B.
BLM's failure to consider this new information was

arbitrary and capricious and must be reversed, as it
violates FLPMA's mandate to maintain a current
inventory of resources.

Summary

The BLM failed to consider new information submitted by Southern Utah Wilderness Alliance (SUWA) on wilderness characteristics units, which violates FLPMA's mandate to maintain a current inventory.

Response

All information submitted by SUWA during scoping and during preparation of the DRMP/DEIS was considered by the BLM. The SUWA submitted timely information during the Scoping Period, which ended on January 31, 2004. On June 22, 2007, SUWA submitted supplemental information on five areas proposed by SUWA for wilderness. The BLM evaluated this information, along with all other information submitted by SUWA, in the wilderness characteristics review process. The results of the wilderness characteristics review process were made public on the Moab RMP website. This information was prepared in order to comply with the FLPMA's requirement to maintain resource inventories. Much of this information was submitted again by SUWA in comments on the DRMP/DEIS. In some cases, the new information resulted in minor adjustments to the wilderness characteristic area boundaries. See responses to DRMP/DEIS comments 124-207 through 274. Appendix P-2 cited by protester refers specifically to information submitted during the scoping period.

Wilderness Study Areas

Inventory of Wilderness Study Areas

Issue Number: PP-UT-MOAB-08-0018-64

Organization: Western Watersheds Project, Inc.

Protester: John Carter

Issue Excerpt Text:

This [lack of wilderness inventory] not only violates FLPMA and its regulations, but it also violates NEPA's policy of full public disclosure of the significant environmental impacts, affected environment, reasonable alternatives, and changed circumstances.

Response

The BLM has conducted inventories for wilderness characteristics on the subject lands. The results of these various inventories are discussed in Appendix P, and impacts to wilderness characteristics are analyzed in the FEIS. The BLM's authority for managing lands to protect or enhance wilderness characteristics is derived directly from FLPMA Section 202 (43 U.S.C. §1712). This section of BLM's organic statute gives the Secretary of the Interior authority to manage public lands for multiple use and sustained yield. Nothing in this section constrains the Secretary's authority to manage lands as necessary to "achieve integrated consideration of physical, biological, economic, and other sciences." 43 U.S.C. §1712(c)(2). Further, FLPMA makes it clear that the term "multiple use" means that not every use is appropriate for every acre of public land, and that the Secretary can "make the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for

periodic adjustments in use. . . .” 43 U.S.C. §1702(c). It is clear that Congress intended for the Secretary of the Interior to use land use planning as a mechanism for allocating resource use, including wilderness character management, among the various resources in a way that provides uses for current and future generations. The BLM has long acknowledged that FLPMA Section 603, 43 U.S.C. §1782, requiring a one-time wilderness review, has expired. All current inventory of public lands is authorized by FLPMA Section 201, 43 U.S.C. §1711. In September 2006, the Utah District Court affirmed that the BLM retained discretion to manage lands it determines to possess wilderness characteristics.

Motorized Use in Wilderness Study Areas

Issue Number: PP-UT-MOAB-08-0012c-98

Organization: Southern Utah Wilderness Alliance, The Wilderness Society, Grand Canyon Trust, Sierra Club - Utah Chapter, Public Employees for Environmental Responsibility - Southwest Chapter, Center for Native Ecosystems, Glen Canyon Institute, Red Rock Forests, Great Broads for Wilderness

Issue Excerpt Text:

The PRMP's Designation of "Ways" in WSAs Does Not Comply with the IMP. Given the legal and policy framework set out above, BLM's decision to continue permitting motorized use on so-called "inventoried ways" in WSAs is arbitrary. First, to the extent that BLM fully knows the location of inventoried ways in WSAs, SUWA disputes that BLM will follow the proposed action in the PRMP to discontinue use of these routes in the event that "use and/or non-compliance are found through monitoring efforts to impair the area's suitability for wilderness designation." PRMP at 2-45. The PRMP fails to include a monitoring schedule for the "ways" that will be designated as open routes in the Behind the Rocks and Lost Spring Canyon WSAs. In addition, the PRMP completely fails to analyze and disclose any adverse effects to the wilderness resources from the designation of these "ways," other than noting that Alternative B "adversely impacts wilderness values the least," which appears to be a backhanded way of saying that the proposed plan will impact wilderness values to some extent. *Id.* at 4-355. As the PRMP presents no evidence that motorized use on these "ways" currently are not causing impairment to the WSAs, BLM's decision to designate these ways as official routes appears to be arbitrary and capricious. In addition, BLM's proposal to designate 0.9 miles and 0.8 miles of "ways" in the Behind the Rocks and Lost Spring Canyon WSAs will certainly encourage motorized use, and such use will eventually denude the trails of all vegetation. These trails will then become a noticeable impact to the casual visitor and will affect the naturalness of the areas-which could deprive these WSAs of future wilderness designation.

Summary

The PRMP's designation of "ways" in WSAs does not comply with the Interim Management Policy and is arbitrary and capricious.

Response

The impacts of motorized use on the inventoried ways cited by protester are discussed in Section 4.3.14.5.1. Inventoried routes within the existing WSAs total 82.5 miles. Out of these miles, 80.8 miles are not designated for motorized travel in the PRMP/FEIS. The remaining 1.7 miles of inventoried routes, cited by protester, are designated in the PRMP because they were considered to have an overriding purpose and need. The first route (0.9 miles on the southeast corner of the Behind the Rocks WSA) provides access to two named arches which are popular destination points. The second route (0.8 miles on the west side of the Lost Spring Canyon WSA) is a permitted Jeep Safari route. These two routes have not resulted in threats to wilderness values and are continually monitored. They will continue to be monitored to ensure that impairment of wilderness values does not occur.

Authorization of Buffer Zones

Issue Number: PP-UT-MOAB-08-0001A-11

Organization: Colorado 500 Legal Defense Fund, Colorado Off Highway Vehicle Coalition

Protester: Don Riggle, Jerry Abboud

Issue Excerpt Text:

There is no statutory or regulatory authority, nor is there any BLM policy, that authorizes the withdrawal of lawful activities outside the boundaries of the WSA for the purpose of "protecting the Wilderness values" of a WSA. "Buffer zones" are specifically not authorized in the Interim Management Direction.

Summary

The BLM may not withdraw lawful activity outside of WSAs, or create "buffer zones."

Response

The PRMP/FEIS does not create "buffer zones." The route cited by protester, the so-called "Westwater Trail," is actually within the Westwater Canyon WSA. The BLM has the authority, under FLPMA and many other statutes, to restrict or preclude otherwise lawful activities on the public lands for the protection of other resources.