

*Director's Protest Resolution Report*

**Richfield  
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**

**Issue Topics**  
NEPA

Topic heading

Submission number

Protest issue number

**Issue Number:** PP-CA-ESD-08-0020.10

**Organization:** The Forest Initiative

Protesting organization

**Protester:** John Smith

Protester's name

**Issue Excerpt Text:**

Direct quote taken from the submission

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

**Summary**

General statement summarizing the issue excerpts (optional).

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

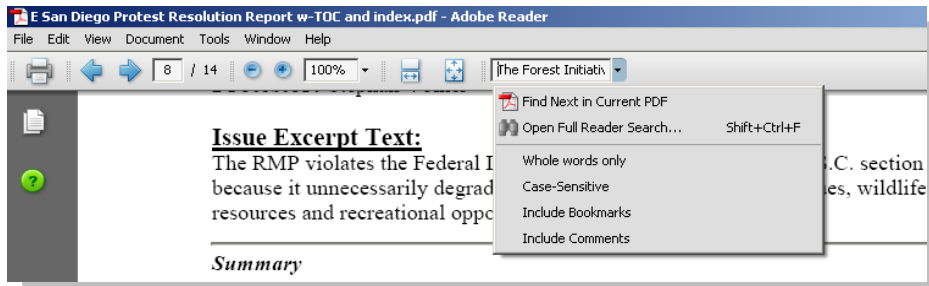
**Response**

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

Specific renewable energy projects are implementation-level decisions rather than 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**

<b>Protester</b>	<b>Organization</b>	<b>Submission Number</b>	<b>Determination</b>
	Center for Native Ecosystems	PP-UT-RICHFIELD-08-0005	Denied-Issues Comments
	Garfield County	PP-UT-RICHFIELD-08-0001	Denied-Issues Comments
	Glen Canyon Institute	PP-UT-RICHFIELD-08-0005	Denied-Issues Comments
	Grand Canyon Trust	PP-UT-RICHFIELD-08-0005	Denied-Issues Comments
	Great Old Broads for Wilderness	PP-UT-RICHFIELD-08-0005	Denied-Issues Comments
	Public Employees for Environmental Responsibility	PP-UT-RICHFIELD-08-0005	Denied-Issues Comments
	Red Rock Forests	PP-UT-RICHFIELD-08-0005	Denied-Issues Comments
	Sierra Club, Utah Chapter	PP-UT-RICHFIELD-08-0005	Denied-Issues Comments
	Southern Utah Wilderness Alliance	PP-UT-RICHFIELD-08-0005	Denied-Issues Comments
	The Wilderness Society	PP-UT-RICHFIELD-08-0005	Denied-Issues Comments
	Town of Hanksville	PP-UT-RICHFIELD-08-0001	Denied-Issues Comments
	Utah Shared Access Alliance	PP-UT-RICHFIELD-08-0001	Denied-Issues Comments
Carter, John	Western Watersheds Project	PP-UT-RICHFIELD-08-0002	Denied-Issues Comments
Cukjati, Gary	National Outdoor Leadership School	PP-UT-RICHFIELD-08-0003	Denied-Issues Comments
Danenhauer, Mark	Utah Rivers Council	PP-UT-RICHFIELD-08-0011	Denied-Issues Comments
Derrick, Milton	Individual	PP-UT-RICHFIELD-08-0017	Denied-Issues Comments
Emrich, Robert	Individual	PP-UT-RICHFIELD-08-0012	Denied-Issues Comments
Foutz, Connie and Don	Individuals	PP-UT-RICHFIELD-08-0001	Denied-Issues Comments
Glover, Robert and Arlene	Individuals	PP-UT-RICHFIELD-08-0015	Denied-Issues Comments
Hinchey, Maurice	U.S. House of Representatives	PP-UT-RICHFIELD-08-0019	Dismissed-Late Submission
Hopkins, Judy	Individual	PP-UT-RICHFIELD-08-0016	Denied-Issues Comments

Jackson, John	Individual	PP-UT-RICHFIELD-08-0001	Denied-Issues Comments
Jeffery, Thomas, DeRae Fillmore and Stanley Wood	Wayne County Commissioners	PP-UT-RICHFIELD-08-0004	Dismissed-Only Comments
Loyens, David	Individual	PP-UT-RICHFIELD-08-0018	Dismissed-Only Comments
Loyens, David	Individual	PP-UT-RICHFIELD-08-0001	Denied-Issues Comments
Montague, Chris, Liz and Keith	Individuals	PP-UT-RICHFIELD-08-0007	Denied-Issues Comments
Mortensen, Paul	Wayne County et al.	PP-UT-RICHFIELD-08-0001	Denied-Issues Comments
Pederson, Kim	Individual	PP-UT-RICHFIELD-08-0013	Denied-Issues Comments
Ramsley, Randy	Individual	PP-UT-RICHFIELD-08-0009	Denied-Issues Comments
Schelz, Charles	ECOS Consulting	PP-UT-RICHFIELD-08-0010	Denied-Issues Comments
Scotter, Troy	Utah Rock Art Research Association	PP-UT-RICHFIELD-08-0006	Denied-Issues Comments
Shumway, Cindy	Individual	PP-UT-RICHFIELD-08-0013	Denied-Issues Comments
Sims, Forrest and Mona Rae	Individuals	PP-UT-RICHFIELD-08-0001	Denied-Issues Comments
Spangler, Jerry	Colorado Plateau Archaeological Alliance	PP-UT-RICHFIELD-08-0008	Granted in Part
Thiriot, Toni	Individual	PP-UT-RICHFIELD-08-0014	Granted in Part
Thomas, Winston and Deanne	Individuals	PP-UT-RICHFIELD-08-0007	Denied-Issues Comments



## Issue Topics and Responses

### NEPA

#### *Close examination of Baseline Data and Modeling*

**Issue Number:** PP-UT-RICHFIELD-08-0002-15

**Organization:** Western Watershed 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 Planning Area open to OHV use, then the BLM has not adequately supported its alternatives or the decisions made in the RMP.

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**Issue Number:** PP-UT-RICHFIELD-08-0002-28

**Organization:** Western Watershed 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, micro-biotic crusts, fish and wildlife, and native vegetation.

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**Issue Number:** PP-UT-RICHFIELD-08-0002-32

**Organization:** Western Watershed 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, micro biotic crusts, fish and wildlife, and native vegetation.

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**Issue Number:** PP-UT-RICHFIELD-08-0002-45

**Organization:** Western Watershed 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.

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**Issue Number:** PP-UT-RICHFIELD-08-0002-49

**Organization:** Western Watershed Project, Inc.

**Protester:** John Carter

**Issue Excerpt Text:**

The RMP fails to present any baseline or other inventory data on weeds and invasive, in particular, the most significant vectors spreading weeds: livestock grazing and OHVs.

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**Issue Number:** PP-UT-RICHFIELD-08-0002-53

**Organization:** Western Watershed 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.

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**Issue Number:** PP-UT-RICHFIELD-08-0002-55

**Organization:** Western Watershed 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.

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**Issue Number:** PP-UT-RICHFIELD-08-0002-61

**Organization:** Western Watershed 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.

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**Issue Number:** PP-UT-RICHFIELD-08-0005-80

**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:**

1. BLM has not adequately evaluated impacts from OHV use under NEPA. In the PRMP, BLM is relying on flawed data that inaccurately portrays the amount of recreational OHV use in violation of NEPA's requirement that decisions be based upon accurate, high quality data and analysis. This compromises BLM's ability to conduct a thorough analysis of direct, indirect, and cumulative environmental impacts from its recreation management decisions. The recreation analysis in the PRMP focuses disproportionately on OHV use. Non-motorized use is described, but severely underemphasized in terms of importance. By designating over 90 percent of total land area available to OHV use, BLM has ignored its own multiple-use mandate intended to benefit all stakeholders. Based upon BLM's own statistics, the number of non-motorized users exceeds the number of motorized recreational users. PRMP, Table 3-23. From these same statistics, the number of visitor days logged for non-motorized use also exceeds visitor days logged for motorized use. *Id.* BLM has also not performed an adequate socio-economic analysis with respect to recreational uses.

Different types of recreation have been examined to derive estimates of the economic value derived from a single user day. According to Kaval and Loomis (2003), the average value of a day of non-motorized recreation is worth more than twice the value derived from a day of motorized use. So, even if it is assumed that motorized and non-motorized recreational use days are roughly equal, the economic value derived from traditional forms of recreation exceeds that of motorized-recreational users.

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**Issue Number:** PP-UT-RICHFIELD-08-0005b-11

**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 PRMP includes a list of perennial stream segments in the RFO (PRMP at 3021), however, the PRMP's baseline information is inadequate as it fails to disclose the current functioning condition assessment (i.e. properly functioning, functioning at risk, not functioning) and the trend analysis for these riparian areas.

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***Summary***

The BLM has not presented baseline inventories and evaluations that allow assessment of the impacts of livestock grazing and OHV use on other resources, including biological soil crusts. This violates the National Environmental Policy Act's (NEPA) requirement that environmental analysis provide a full and fair discussion of the alternatives considered and their potential environmental consequences.

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***Response***

The requisite level of information necessary to make a reasoned choice among the alternatives in an EIS is based on the scope and nature of the proposed decision. The baseline data provided in Chapter 3 and 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 through the Appendices.

A land use planning decision is broad in scope and, therefore, does not require an exhaustive gathering of baseline data. The BLM realizes that more data could always be gathered, the baseline data provides the necessary basis to making 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 levels, such as for oil and gas field development, allotment management plans, 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 a site specific project proposal (in accordance with 40 CFR § 1502.20). In compliance with the NEPA process, the public will have the opportunity to participate in the project-level 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 planning-level. The data requirements for a land use plan-level analysis of the planning area, which constitutes over 2.1 million acres of public land, 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. The BLM consulted all its internal files, including range files, OHV monitoring files, wilderness files, and many other types of internal documentation.

The BLM used the most recent and best information available that was relevant to a land use planning scale of analysis. During preparation of the PRMP/FEIS, the BLM consulted with and utilized data from other agencies and 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; US 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 the incorporation of available data into the PRMP/FEIS with its cooperating agencies and additional 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; greater sage-grouse breeding, nesting, brood-rearing and wintering areas; travel management; 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 consultations, the Field Office gathered the necessary data essential to make a reasoned choice among the alternatives analyzed in detail in the PRMP/FEIS. The BLM used the available data to provide an adequate and reasoned analysis that led to an adequate disclosure of the potential environmental consequences of the PRMP alternative and other alternatives. Therefore, the BLM has taken a “hard look,” as required by the 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 microbiotic crusts: Soil surveys and ecologic site descriptions are provided by NRCS. The BLM’s standard is to use NRCS data, recognizing this agency’s special expertise and responsibility. As NRCS develops and updates the surveys and site descriptions, the BLM will use that information. In accordance with the BLM planning handbook, baseline information on soils, including biological soil crusts, is presented in Section 3.3.2. These ecological site descriptions generally do not contain specific information about the quantities of cryptobiotic crusts that are expected to be on the site. While there has not been a systematic inventory of soil crusts within the decision area, the BLM has data confirming the existence of small areas of more dense soil crusts, especially in areas with less dense vegetative cover. The BLM does fully acknowledge the important role macrobiotic crusts serve on rangelands or forested landscapes.

The BLM Interdisciplinary (ID) Team, using their professional judgment, determined that the amount of biological crusts present in functional and healthy ecological sites are adequate to support ecological processes in conjunction with the vascular plants present. The PRMP/FEIS management alternatives addressed the functioning and ecological condition of the planning unit rather than attempting to manage for biological crusts alone. The alternatives in the PRMP/FEIS are designed to maintain or improve rangeland health because healthy, functioning rangelands maintain biological soil crusts at an appropriate level and distribution. The impacts to biological soil crusts at the landscape level are addressed in Chapter 4 of the PRMP/FEIS, and are adequate to the level of decision making in the PRMP/FEIS. Site-specific impacts to biological soil crusts will be covered in the implementation level NEPA analysis (e.g., term permit renewals, special recreation permits, realty actions, 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 the 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: therefore, it is not reasonable to consider the impacts from these currently disturbed linear surfaces such as routes. However, the impacts from the current situation are considered in the cumulative analysis. A sufficient analysis that includes discussion of potential impacts from OHV travel is provided in section 4.2.6 of the PRMP/FEIS. This analysis is also adequate to determine 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 the BLM's policy as described in the FEIS, Chapter 2, p. 2-43, decisions regarding authorized livestock use, levels and the terms and conditions under which they are managed is an implementation decision (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 Utah's "Guidelines for Rangeland Management" 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.

Riparian and properly functioning conditions: As noted on pages 155-157 of the BLM response to comments submitted by the public on the DRMP/DEIS, the impacts analysis used the best

available information and methodology to determine the condition of and impacts to riparian areas associated with the DRMP/DEIS. Section 3.3.4.4 of the PRMP/FEIS includes results of the BLM's most recent condition surveys. The BLM completed a condition assessment of all inventoried riparian areas in allotments in the early 1990s. More recently, under the Utah Standards for Rangeland Health and Guidelines for Grazing Management, the definition for riparian areas was expanded to include seeps and springs. To date, approximately 59 percent of riparian areas, under the more comprehensive definition, have been inventoried.

The Properly Functioning Conditions (PFC) ratings of these areas are not in a format that currently allows for spatial analysis. The actual PFC reports are maintained in individual riparian files as well as monitoring study files. Summaries regarding riparian conditions that are present in the FEIS were based on the BLM's field data; the inclusion of this voluminous data do not materially add to the public or decisionmaker's understanding of the effects of uses on riparian areas. The information compiled for analysis in this EIS provides a sufficient baseline to support the analysis of the BLM's proposed management alternatives. All future actions potentially impacting riparian areas will be subject to the management decisions of the RMP and will require further site-specific NEPA assessment.

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### *Analytical Discussion of Impacts*

**Issue Number:** PP-UT-RICHFIELD-08-0002-20

**Organization:** Western Watershed Project, Inc.

**Protester:** John Carter

**Issue Excerpt Text:**

2. 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, loss, of ecosystem resiliency in the face of climate change 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.

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### ***Response***

The PRMP/FEIS provides an adequate discussion of the environmental consequences of the PRMP and alternatives in Chapter 4. As required by 40 CFR § 1502.16, the PRMP/FEIS provides a discussion of “[t]he 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 decision-maker with sufficiently detailed information to aid in determining whether to proceed with the PRMP 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, detailed, and specific analysis will 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 for oil and gas development, realty actions, allotment management plans, and public land use authorizations, or other ground disturbing activities proposed. 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 project-specific actions.

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### ***Statement of Incomplete or Unavailable Information***

**Issue Number:** PP-UT-RICHFIELD-08-0005-36

**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:**

NEPA contains specific requirements governing the treatment of uncertain conditions and imposes an obligation to state, with support, that existing evidence is inconclusive and to summarize the conclusions of that evidence. With respect to incomplete or unavailable information, 42 C.F.R. § 1502.22 provides 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 4-4. 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).

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### ***Response***

The purpose of the Council on Environmental Quality (CEQ) regulations at 40 CFR § 1502.22 is to advance decision-making, even in the absence of complete information regarding environmental effects associated with the proposed action.

Chapter 3 of PRMP/FEIS at Section 3.3.1.1 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, 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. The PRMP/FEIS continues to disclose 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 would require many assumptions that are premature or highly speculative, which would in turn call into question the BLM's ability to make an informed decision.

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## ***Response to Public Comments***

**Issue Number:** PP-UT-RICHFIELD-08-0002-70  
**Organization:** Western Watershed 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.

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**Issue Number:** PP-UT-RICHFIELD-08-0003-3  
**Organization:** National Outdoor Leadership School  
**Protester:** Gary Cukjati & Aaron Bannon

### **Issue Excerpt Text:**

Also, several other legitimate comments made in the Group Size Recommendations section of our letter were overlooked completely. These comments are as follows:

- Until recently, the NOLS permit allowed it to run a group size of 18. NOLS has asked the BLM to consider running a group size of 15, which allows for 12 students and three instructors, within the proposed Dirty Devil SRMA. Such a limitation allows NOLS to operate safely, adhere to its own risk management standards, and train new staff. Unless this language is changed in the final draft, it will place an unnecessarily restrictive limitation on the school's operations, making it difficult to run courses in the area. Imposing such restrictions should be delayed until an activity plan for the SRMA is developed, which would initiate the National Environmental Policy Act (NEPA) process.

- NOLS asks the RFO to consider our camping practices on a case-by-case basis. By splitting

groups, NOLS would remain sensitive to the concerns of group size.

- If the BLM insists on using group size as a measure of impact, NOLS makes the following recommendations, until an activity plan for the Dirty Devil SRMA can be completed: camp in groups no larger than 15, and adhere to strict, canyon-specific Leave No Trace ethical guidelines in these camps. Groups should not camp within 1/2 mile of known Mexican Spotted Owl nests and should be conscientious of potential unknown nests in critical habitat. Hike in groups no larger than eight, move on durable surfaces and be conscientious of other hikers in the backcountry.

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**Issue Number:** PP-UT-RICHFIELD-08-0003-6  
**Organization:** National Outdoor Leadership School  
**Protester:** Gary Cukjati & Aaron Bannon

### **Issue Excerpt Text:**

NOLS also made the following comment, which was not addressed:

-Buck, Pasture, and White Roost Canyons should have the same leasing stipulations' and buffer zones that have been applied to the rest of the Dirty Devil SRMA. Though these areas are outside of the SRMA, they are still popular recreation areas. No explanation is given for why these areas were not considered for more stringent stipulations.

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**Issue Number:** PP-UT-Richfield-08-0008-28  
**Organization:** Colorado Plateau Archeological Alliance  
**Protester:** Jerry Spangler

### **Issue Excerpt Text:**

On a minor point, CPAA made numerous recommendations regarding changes as to preferred nomenclature, temporal ranges and factual inaccuracies. The responses (Response to Comments

Page 107-108) indicated the Proposed RMP "has been revised to clarify the discrepancies." In fact,

these changes were not incorporated into the PRMP.

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### **Summary**

The BLM did not respond to comments on the DRMP/DEIS. Specifically:

- The BLM did not consider information provided by Western Watershed Project (WWP) on livestock grazing.
- The BLM did not respond to comments from National Outdoor Leadership School (NOLS) on camping group size.
- The BLM did not respond to comments from NOLS on Buck, Pasture, and White Roost Canyons.
- The BLM did not incorporate changes in the Colorado Plateau Archeological Alliance (CPAA) comment as indicated in the response.

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### **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.

The BLM fully considered the information provided by WWP on livestock grazing. However, this information was submitted outside the timeframe for comments on the DRMP/DEIS, so no specific response was given in the Response to Comments included in the PRMP/FEIS.

The BLM responded to the NOLS comment regarding group size in the Comment Responses (as sorted by commenter) on p. 87, and responded to the NOLS comments regarding Buck, Pasture, and White Roost Canyons in the Comment Responses (as sorted by commenter) on pp. 85 to 87.

The BLM would like to thank the CPAA for the information provided. The recommendations that were provided by CPAA were considered to be related simply to nomenclature, temporal ranges and minor factual inaccuracies in Chapter 3. While the BLM committed in our response to those comments to alter the analysis to reflect the recommendations and information, this correction was inadvertently not completed. The BLM regrets this oversight. Such information does not, however, substantively alter the BLM's analysis of the PRMP/FEIS, nor does it alter the proposed planning decisions described in Chapter 2. The Approved RMP will clarify the following discrepancies:

- The Approved RMP, Section 3.3.5.3 has been revised to show an Archaic temporal range of 8,000 B.C. to 600 A.D. (correcting Section 3.3.5.3, p. 3-39 of the PRMP/FEIS).
- The Approved RMP, Section 3.3.5.3 has been revised to show 600 A.D. as the beginning of the Formative thematic period (correcting Section 3.3.5.3, p. 3-40 of the PRMP/FEIS).
- The sentence, "Evidence of agriculture exists in southern and southeastern Utah, dated to early Anasazi cultures around 1000 B.C." (section 3.3.5.3, p. 3-39 of the PRMP/FEIS) has been deleted from the Approved RMP, Section 3.3.5.3.2.



- From section 3.3.5, Cultural Resources, subheading 3.3.5.1, p. 3-37 of the PRMP/FEIS, the BLM deletes the sentence: “Rock art has not been attributed to specific groups with any degree of assurance, but is believed that rock art with the RFO represents groups living from before 9000 B.C. to the present.” It is replaced with, “Rock art sites can with some confidence be assigned to Archaic, Fremont, Anasazi, Athapaskan or other cultural entities, many of which have modern descendants who assign ceremonial significance to the images.” This will be reflected in Section 3.3.5.1.1 of the Approved RMP.
- The term “cist” in the Approved RMP, Section 3.3.5.1.1, has been replaced with “storage facilities”. In addition, the sentence, “Storage Facilities were commonly utilized as burial chambers” has been added to the Approved RMP, Section 3.3.5.1.1.

### *Limited Range of Alternatives*

**Issue Number:** PP-UT-RICHFIELD-08-0002-5  
**Organization:** Western Watershed 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),

**Issue Number:** PP-UT-RICHFIELD-08-0002-8  
**Organization:** Western Watershed 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.

**Issue Number:** PP-UT-RICHFIELD-08-0005c-126  
**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:**

In response to comments about BLM’s inadequate protection of visual resources, BLM repeatedly stated: “The Draft RMP/EIS considers a range of alternatives.” See, e.g., PRMP Response to Comments, sorted by Category, at 228, 230. Commenter Andrew Blair commented: “Fewer places in the US have the visual resource of Southern Utah. BLM should increase its protection for these resources for future generations.” Id. at 228. Commenter Bonnie Mangold said the Richfield Field Office is an “area containing some of the most stunning visual resources in the world. . . . visitors do not come to see ‘modified landscapes’ . . . . Id. at 228. In response to these and other similar comments, BLM responded with the same statement about its consideration of a range of alternatives. This response fails to address the concerns raised in the comments or explain why BLM chose the alternative that it did. These commenters are concerned that BLM is not doing enough to protect its unique visual resources; BLM’s response to these commenters failed to explain why BLM believes it is doing “enough.”

**Issue Number:** PP-UT-Richfield-08-0010-20  
**Organization:** ECOS Consulting  
**Protester:** Charles Schelz

**Issue Excerpt Text:**

Failure to Provide an Adequate Range of Alternatives BLM’s Richfield 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 Richfield BLM Decision Area from the impacts of OHV route designation and associated use, livestock grazing, and mineral development throughout the Decision Area, as it fails to include an alternative that would protect riparian areas, wildlife habitat, and minimize fugitive dust emissions.

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**Issue Number:** PP-UT-Richfield-08-0011-39

**Organization:** Utah Rivers Council

**Protester:** Mark Danenhauer

**Issue Excerpt Text:**

According to river mile, the different alternatives recommend the following miles as suitable: a) 0, PRMP) 5, c) and d) 135 miles. In other words the only alternative that the Richfield Field Office Proposed Resource Management Plan and Final

Environmental Impact Statement. Chapter 2, page 2 - 3.14 is reasonable considers a measly 5 miles of river miles as suitable. Therefore, the BLM did not in fact provide a reasonable range of alternatives.

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**Issue Number:** PP-UT-Richfield-08-0011-41

**Organization:** Utah Rivers Council

**Protester:** Mark Danenhauer

**Issue Excerpt Text:**

We submit that the BLM did not rigorously explore all reasonable alternatives and that there may be several more it could reasonably include for consideration. The only reasonable alternative that the BLM considered that balanced preservation and resource use was the Proposed RMP, which only included the one very short section of the Fremont River as suitable.

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***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. There is not a range of alternatives with respect to Wild and Scenic Rivers. Additionally, there is no alternative which would provide for the protection of riparian areas from impacts due to grazing, mineral development, and OHV use.

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***Response***

The BLM considered a reasonable range of alternatives in the PRMP/FEIS in full compliance with the NEPA. The CEQ regulations (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, five alternatives were analyzed in detail in the PRMP/FEIS that best addressed the issues, and concerns identify by the affected public. A detailed rationale was also provided for the alternatives and management options considered but eliminated from detailed analyses in Section 2.5 (refer to pp. 2-4 to 2-7).

The BLM’s range of alternatives represented the full spectrum of options including a no action alternative (Alternative N); an alternative emphasizing commodity production (Alternative A); the Proposed RMP (crafted primarily from the Preferred Alternative B); an alternative emphasizing resource protection (Alternative C), and an alternative that would manage non-WSA lands with wilderness characteristics so as to preserve, protect and maintain those characteristics (Alternative D). The management strategies considered range from the 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 large number of variations to alternatives put forth in the Richfield planning process. However, the BLM is not required to analyze in detail each variation, including those determined not to meet the RMP's purpose and need, or those determined to be unreasonable given BLM's mandates, policies, and programs including the FLPMA and other Federal laws and regulations applicable to public lands. The CEQ addressed this issue as follows: "For some proposals there may be a very large or even an infinite number of reasonable alternatives.... When there are potentially a very large number of alternatives, only a reasonable number of examples, covering the full spectrum of alternatives, must be analyzed and compared in the EIS..." (Forty Most Asked Questions Concerning CEQ's NEPA Regulations, 46 Fed. Reg. 18,026, 18,031 (March 23, 1981)). Each of the alternatives considered and analyzed in detail achieves the purpose and need for the plan, is implementable, and addresses all significant issues. The BLM's Proposed Plan is the result of a broad range of analysis and public input and represents a balanced, multiple use management strategy that protects resources and allows for commodity uses. As described in Sections 2.5.1 and 2.5.2, 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 RMP.

The BLM discussed consideration of a "No Grazing Alternative" in Section 2.5.1 and determined that further, detailed analysis of the alternative was unnecessary as it would not meet the purpose and need of the PRMP/FEIS. Likewise, section 2.5.3, "Livestock Grazing Adjustments Alternative" was considered but not carried forward as an alternative analyzed in detail. As noted in section 2.5.3, this alternative was added to the PRMP/FEIS to address comments that the BLM consider adjustments to livestock numbers, livestock management practices, and the kind of livestock grazed on allotments within the Richfield Field Office (RFO) to benefit wildlife, protect and promote land health, including soils, hydrologic cycles, and biotic integrity.

Under the BLM's policy, decisions regarding authorized livestock use, levels and the terms and conditions under which they are managed are implementation level decisions (H-1610-1, Appendix C, page 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 Utah's Guidelines for Grazing Management 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. It is the BLM's policy, regarding the adjustments to the authorized levels of livestock use, to monitor and inventory range conditions under existing stocking levels and make adjustments, as necessary based on the collected data, to ensure that Standards for Rangeland Health and resource objectives are met. Regulations at 43 CFR § 4130.3 require that the terms and conditions under which livestock use are authorized "ensure conformance with the provisions of subpart 4180" (Standards for Rangeland Health) and further states, "livestock grazing use shall not exceed the livestock carrying capacity of the allotment."

With respect to Wild and Scenic Rivers, the range of alternatives varies based on the miles of river segments found suitable. Under Alternative A, no segments would be suitable. Under Alternatives C and D, all 12 eligible river segments, totaling 135 miles, would be recommended

as suitable. The Proposed Plan recommends one segment (5 miles) as suitable. By considering the recommendation of no miles of river segments and all miles of river segments, a full range of alternatives for Wild and Scenic Rivers has been analyzed.

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## Discussion of Vegetation Treatments

**Issue Number:** PP-UT-RICHFIELD-08-0002-18

**Organization:** Western Watershed Project, Inc.

**Protester:** John Carter

**Issue Excerpt Text:**

Over the course of a 20 year planning period, this would amount to 1,472,000 acres, or 69% of the planning area affected. There were no alternatives describing different levels of vegetation treatments, removing livestock grazing and other surface disturbing activities to accelerate restoration or protecting sensitive areas.

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***Response***

The BLM considered a reasonable range of alternative with respect to vegetation treatments as required by NEPA regulations (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 mixture of vegetative types; eliminate noxious weeds and/or non-native invasive plant species; restore and maintain healthy functioning landscapes; habitats and riparian areas to benefit wildlife such as sage-grouse, and other special status species; and to achieve rangeland health objectives. Variations in the alternatives consist of vegetation treatment methods (prescribed fire, mechanical, chemical, biological, woodland product removal and wildland fire use) and areas to be treated. This is discussed in detail at p. 2-12 to 2-14 (See also, response to DRMP/DEIS comments, sorted by commenter, p. 36). With respect to other issues raised by protester, see response the topic “Limited Range of Alternatives”.

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## Public Opportunities to Comment

**Issue Number:** PP-UT-RICHFIELD-08-0002-79

**Organization:** Western Watershed 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 24 comments on them. See 40 C.F.R. § 1502.25(a).

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:**

Here, BLM introduced an important issue concerning the future management of the Richfield Field Office for the very first time in the final plan. The public, interested parties, and those with expertise in climate change had no opportunity to review the information before the release of the final plan and provide input to BLM about its accuracy or completeness. This is a violation of NEPA’s objective to educate both the public and the decision maker, and as a result, the climate information should be improved and released for public comment in a draft plan and EIS.

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**Issue Number:** PP-UT-RICHFIELD-08-0005-46

**Organization:** Southern Utah Wilderness Alliance, The Wilderness Society (TWS), Grand Canyon Trust,

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### ***Summary***

The public was not provided an opportunity to comment on significant changes between the DEIS and the FEIS, or the biological assessment (BA) and the FWS biological opinion (BO) and therefore a supplement is required.

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### ***Response***

A supplemental RMP/EIS, as defined by the CEQ regulations, 40 CFR 1502.9, is not warranted. The BLM made no substantial changes to the DRMP/DEIS. No significant new circumstances or information was identified that would substantially affect the BLM's decision. This information was included pursuant to public comment and did not lead to substantial changes in the proposed action or to significant new circumstances or information relevant to environmental concerns and bearing on the proposed actions. As a consequence, the range of alternatives and associated management prescriptions analyzed in the DRMP/DEIS have substantially similar environmental consequences as the alternatives analyzed in the PRMP/FEIS.

The BLM is in full compliance with Section 7(a)(2) of the ESA and CEQ regulations (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 Sections 5.2.3, the BLM consulted with the FWS, as required. As part of the formal consultation process, a BA was prepared based on the PRMP, which was provided to FWS for review and comment. While that BA was not presented for public review, the BLM used the same information and biological data to prepare both the BA and to analyze the environmental impacts on affected endangered species in the environmental impact statement. The BO 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. The FWS has issued a BO, which concludes that implementation of the PRMP will not be likely to jeopardize the continued existence of any listed species or adversely modify critical habitat. A copy of the BO will be included in the ROD.

Response to protest topic "Possible Supplemental Draft" addresses the protester's statement regarding climate change and public review.

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### ***Discussion of Cumulative Impacts/Connected Actions***

**Issue Number:** PP-UT-RICHFIELD-08-0005-85

**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:**

By not evaluating all potential and foreseeable direct, indirect, and cumulative environmental impacts from its designation of SRMAs, BLM is in violation of NEPA. The PRMP focuses almost exclusively on the benefits of leaving areas open for OHV use, while simultaneously ignoring and/or underestimating the impacts of motorized recreation. BLM fails to take the requisite "hard look" at the environmental implications of their SRMA designations as required by NEPA. The agency does acknowledge some basic consequences; 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 evaluated only superficially. 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. BLM must provide objective analysis to support its proposed SRMA designations in the PRMP.

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### ***Response***

The PRMP/FEIS assesses and discloses the environmental consequences of the PRMP and alternatives in Chapter 4. As required by 40 CFR § 1502.16, a discussion of "[t]he 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..." was provided. The PRMP/FEIS presented the decision-maker with sufficiently detailed information to aid in determining whether to proceed with the PRMP or make a reasoned choice among the other alternatives in a manner such that the public would have an understanding of the environmental consequences associated with alternatives. Land use plan-level analyses are typically broad and qualitative rather than quantitative or focused on site-specific actions; therefore, a more quantified, detailed and specific analysis will be required only if the scope of the decision was a discrete or specific action.

The protester expresses specific concerns relating to the BLM's impact analysis regarding OHV use in SRMAs. The discussion of direct and indirect effects in the PRMP/FEIS addresses these impacts in broad and qualitative terms as appropriate for this level of analysis. Chapter 4 provides an analysis of the direct and indirect effects of OHVs in the discussions related to various resources. Cumulative impacts to various resources are discussed in Section 4.7.4. The BLM will conduct subsequent NEPA analyses, including site-specific project and implementation-level actions, such as for oil and gas development, realty actions, allotment management plans, and public land use authorizations, or other ground disturbing activities proposed. These activity plan-level analyses will tier to the RMP analysis and expand the environmental analysis when more specific information is known (see 40 CFR § 1502.20). In addition, as required by NEPA, the public will be offered the opportunity to participate in the NEPA process for these project-specific actions.

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### ***Deferral of Analysis***

**Issue Number:** PP-UT-RICHFIELD-08-0005-91  
**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 BLM's response to our comments on the DRMP states that SRPs are evaluated on a case-by-case basis. However, site-specific projects will tier to the

NEPA analysis performed in the RMP and thus will never be fully analyzed. The possibility of future analysis 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 CFR § 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).

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**Issue Number:** PP-UT-RICHFIELD-08-0005-92  
**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:**

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

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***Summary***

The DEIS or FEIS do not adequately address cumulative impacts with respect to special recreation permits (SRP).

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***Response***

The issuance of a 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 that provide an analytical foundation for subsequent project-specific NEPA documents. The cumulative analysis in the PRMP/FEIS considered the present effects of past actions, to the extent that they are relevant, and present and reasonably foreseeable (not highly speculative) federal and non-federal actions, taking into account the relationship between the proposed action and these reasonably foreseeable actions. 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.

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***Federal Land Policy and Management Act***

**Issue Number:** PP-UT-RICHFIELD-08-0002-24  
**Organization:** Western Watershed Project, Inc.  
**Protester:** John Carter

management or protection, such as special status species, special recreation management areas (SRMAs), or ACECs." Neither the DEIS or FEIS provide this analysis.

**Issue Excerpt Text:**

As was true with the Draft, the PRMP/FEIS fails to disclose BLM's criteria for its assessment of acres to be made available or not available for livestock grazing. 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 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

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**Issue Number:** PP-UT-RICHFIELD-08-0002-63  
**Organization:** Western Watershed 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. Overwhelming scientific evidence points to livestock grazing as extremely environmentally destructive. Grazing cannot cause significant environmental degradation at the same time that it results in restoration, protection, or

enhancement of the environment. This is not a reasoned decision.

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**Issue Number:** PP-UT-Richfield-08-0010-12

**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). The extremely high historical stocking rates, overgrazing, and livestock preferences for certain

more palatable plants, has lead to significant alterations in the species composition of vegetation types across the Southwest (leopold 1924; Cottam and Steward 1940; Cooper 1960, Buffington and Herbel 1965; Humphrey 1987; Grover and Musick 1990, Archer 1994, Fleischner 1994; Pieper 1994; Mac et al. 1998). This Richfield PRMP/FEIS does not provide for balanced multiple use as livestock grazing is being allowed on the vast majority of lands covered by the PRMP. 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.

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***Summary***

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

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***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. Therefore, the BLM has the discretion to make decisions that satisfy a range of needs. The term is defined in the FLPMA (Section 103(c)) as "[t]he management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people. . . ." Accordingly, the BLM is responsible for the complicated task of striking a balance among the many competing uses to which public lands 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 the mandate is to require the BLM to evaluate and choose an appropriate balance of resource uses, which involves tradeoffs between competing uses. The alternatives in the DRMP/DEIS and PRMP/FEIS reflect this provision.

During the scoping process, the BLM considered a number of factors, including those identified in the BLM Land Use Planning Handbook (H-1601-1), when developing the range of alternatives for the grazing program. The potential impacts to these resources are analyzed within the EIS. This aided the BLM in identifying lands as available or not available for livestock grazing (43 CFR § 4130.2(a)). For instance, the PRMP considers "mitigating conflicts between livestock grazing and other uses" (p. 2-33 of the PRMP/FEIS); includes monitoring and mitigating measures (including potential modification to livestock numbers, seasons of use, and grazing system) to address potential grazing impacts on riparian resources (p. 2-8); sets a goal of maintaining functional watersheds (p. 2-31); will avoid changes in kind of livestock within nine miles of Desert bighorn sheep habitat (p. 2-33); approves the use of grazing in allotments to address noxious/invasive weed control as possible (p. 2-32); and no longer authorizes grazing in the Water Canyon Allotment to protect municipal water supplies (p. 2-32). These decisions



reflect how the BLM addresses potential impacts to these resources and are documented in the BLM's analysis contained in Chapter 4 of the FEIS.

The BLM also has sufficient latitude for periodic adjustments of a particular use. It is the BLM's policy, regarding the adjustments to the authorized levels of livestock use, to monitor and inventory range conditions under existing stocking levels and make adjustments, as necessary based on the collected data, to ensure that Standards for Rangeland Health and resource objectives are met. Therefore, the BLM appropriately applied its land use planning policy and is in full compliance with FLPMA's principle of multiple use.

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### ***Section 202 Inventory Requirements***

**Issue Number:** PP-UT-RICHFIELD-08-0002-39

**Organization:** Western Watershed 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. Id. § 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.

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### ***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). The BLM does periodically, and on a continuing basis, monitor existing WSAs in accordance with the Interim Management Policy for Lands Under Wilderness Review (IMP), but has no authority to create new ones. The WSAs reported to Congress must be maintained in a condition that is suitable for designation as wilderness per the requirements of FLPMA Section 603. 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.

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### ***The Unnecessary and Undue Degradation Standard***

**Issue Number:** PP-UT-RICHFIELD-08-0002-65

**Organization:** Western Watershed Project, Inc.

**Protester:** John Carter

made an informed decision in the RMP and the agency ignores the multiple use and unnecessary and undue degradation mandates of FLPMA.

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**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

**Issue Number:** PP-UT-RICHFIELD-08-0005-98  
**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 Richfield PRMP travel plan and OHV area and trail designations, including the decision to allow cross-country travel for 50 feet on either side of the designated trail, and 150 feet on either side of the trail for parking and campsite access, fail FLPMA's

UUD standard. The proposed travel plan and OHV 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.

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***Summary***

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

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***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 multiple-use mandate, there would be conflicting uses and impacts on the public land. Unnecessary and undue degradation is a management standard that does not apply to the BLM's management decision for public lands.

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***Areas of Critical Environmental Concern***

Issue Number: PP-UT-RICHFIELD-08-0005c-43

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:**

E. Inconsistencies in Acreages for Existing ACECs BLM's 2005 ACEC Evaluation Report lists total existing ACEC acreage at 16,200 acres. It also lists existing individual ACEC acreages as: Beaver Wash ACEC – 3,400 acres, Gilbert Badlands – 3,700 acres, North Caineville Mesa – 3,800 acres, and South Caineville Mesa – 5,300 acres. See ACEC Evaluation Report at p. 2. However, in the Draft and Proposed RMP the total existing ACEC acreage is listed at 14,780 acres; or individually: Beaver Wash ACEC – 4,800 acres, Gilbert Badlands – 3,680 acres, North Caineville Mesa – 2,200 acres, and South Caineville Mesa – 4,100 acres. See DRMP at 3-91 and PRMP at 3-122. This is a difference of 1,420 acres. The discrepancy may be a mapping error, which often happens converting old mylar physical files into the GIS-digitized world, but it is a suspiciously and disproportionately large variance that goes unexplained in the PRMP. Any intentional change in the acreage of an ACEC outside of the planning process would be illegal, of course. Either by accident or via a more sinister process, the PRMP has apparently reduced the acreage of ACECs in the Richfield Field Office. The discrepancy must be addressed and corrected. In the meantime, the PRMP fails to provide accurate data and analyses to the public in violation of NEPA. 40 CFR § 1500.1(b).

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***Response***

No adjustments to any existing ACEC boundaries have been made. In planning for the Richfield Field Office, the BLM created the new estimation in GIS, utilizing exactly the same mapping information and legal descriptions for ACEC boundaries that were identified in the original designating document (the Henry Mountain Management Framework Plan (1982)). Acreages in all of the planning documents should be considered "approximate." As stated in the DRMP/DEIS and PRMP/FEIS, there are approximately 14,780 acres of existing ACECs in the planning area. The BLM regrets the inconsistency.

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## *Areas of Critical Environmental Concern Designation Priority*

**Issue Number:** PP-UT-RICHFIELD-08-0005c-26

**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:**

In essence, FLPMA directs BLM to prioritize protection and designation of ACECs across all alternatives under consideration, not simply the “conservation” alternative. In the Richfield PRMP, BLM has neither recognized nor carried out this statutory mandate. To resolve this, once BLM has determined that certain areas in the Richfield Field Office contain the requisite relevant and important values (R&I values) and that the PRMP does not protect all of the R and I values—which the Richfield 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.

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### ***Response***

A comparison of estimated effects and trade-offs associated with the alternatives leads to 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 of the CD). The rationale for designation of individual ACECs carried forward into the PRMP 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 “After 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.

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## ***ACEC Relevant and Important Values***

**Issue Number:** PP-UT-RICHFIELD-08-0005c-28

**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:**

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 99.7% of acreage that BLM did not

designate as ACECs, BLM fails to give priority to the adequate protection of the identified R and I values. Instead, BLM prioritizes OHV route designation and oil and gas development over protecting critical R and I values, in direct violation of FLPMA.

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**Issue Number:** PP-UT-RICHFIELD-08-0005c-30

**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:**

where BLM has found special values that meet the R and 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 acreage 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 and I values from the irreparable harm that is likely to result from these other activities.

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**Issue Number:** PP-UT-RICHFIELD-08-0005c-34

**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:**

Areas with R and I values that are jeopardized by OHV use and oil and gas drilling 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 AND I values.

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***Summary***

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

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***Response***

The BLM gave full consideration to the designation and preservation of ACECs and their values during this land use planning process. 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 values are provided protective measures by other management actions in the PRMP. A discussion of each of the ACECs, both existing and proposed, including how relevant and important values will be protected in areas not being proposed for designation, is provided in Appendix 1. The rationale for each ACEC decision will be documented in the ROD.

The BLM Manual 1613.23 states that “After 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.” In the 1613 Manual at Section 22B “Incorporate Management Prescriptions for Potential ACEC into Appropriate Alternatives” it states that “management prescriptions will generally vary across the plan alternatives.” It further states, “Because 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 affects and trade-offs associated with the alternative leads to development and selection of the preferred alternative. Nowhere does the 1613 Manual state 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, “The management prescription for a potential ACEC may vary across alternatives from no special management attention to intensive special management attention” (Section .22B1). Elaborating further, “Situations in which no special management attention would be prescribed (i.e. 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.

The designation of existing routes and the potential impacts from those designations are not land use planning issues that may be protested.

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### *Areas of Critical Environmental Concern within Wilderness Study Areas*

**Issue Number:** PP-UT-RICHFIELD-08-0005c-35  
**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:**

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.

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**Issue Number:** PP-UT-RICHFIELD-08-0005c-37  
**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:**

Delaying ACEC 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 AND 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 South Caineville Mesa, Dirty Devil, Henry Mountains, Horseshoe Canyon and Little Rockies Potential ACECs that meet the R AND I criteria runs afoul of its own ACEC Guidance—cited in BLM Response to Comments, by Commenter, at p. 223—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).

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**Issue Number:** PP-UT-RICHFIELD-08-0005c-41  
**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:**

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 resolution in the land use plan. Layering of program decisions is not optional for BLM, but required by the FLMPA and National BLM planning and program specific regulations. For example, the BLM has 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 AND 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 AND I values and the BLM maintains that the size of the ACEC areas is appropriate to the R AND I values identified. Moab 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 Richfield PRMP to comply with this accurate statement of the agency’s policies and obligations.

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### ***Summary***

Wilderness Study Areas (WSAs) and management under the Interim Management Policy for Lands under Wilderness Review (IMP) are not adequate to protect the relevant and important (R and I) values identified in the potential ACECs.

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### ***Response***

The BLM agrees that management under the 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 and guidelines, as well as 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 but 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. These 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, should any WSA, in whole or in part, be released from wilderness consideration, such released lands will be managed in accordance with the goals, objectives, and management prescriptions established in this RMP, unless otherwise specified by Congress in its releasing legislation (PRMP/FEIS p. 2-104). The BLM will examine proposals in the 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 the prescriptions identified in this plan unless and until the plan is amended, the relevant and important values would continue to be protected regardless of whether these lands are within the WSA or not.

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### *Fremont Gorge/Cockscomb*

**Issue Number:** PP-UT-RICHFIELD-08-0005c-52  
**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:**

BLM has not provided a sufficient explanation as to how the proposed management for this potential ACEC will protect the R and I values and thus cannot justify its decision not to propose designation of the Fremont Gorge/Cockscomb Potential ACEC. The PRMP makes no special provisions to manage the riparian upstream impacts.

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**Issue Number:** PP-UT-RICHFIELD-08-0005c-53  
**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:**

BLM's proposed management [for the Fremont Gorge/Cockscomb Potential ACEC area] would allow development, OHV activities within the potential ACEC, and Section 203 disposal/sale of up to 7% of the potential ACEC thereby adversely impacting the R and I values, and because BLM failed to prioritize the designation of the Fremont Gorge/Cockscomb ACEC and failed to provide a sufficient rationale supporting its decision, BLM must designate the Fremont Gorge/Cockscomb ACEC.

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### *Summary*

The decision not to designate Fremont Gorge/Cockscomb is not justified and the upstream riparian values have not been protected.

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### *Response*

As stated in Appendix 1, the management prescriptions for the Fremont Gorge WSA and for the Fremont Gorge suitable wild and scenic river segment would provide protection within 13 percent of the area. Existing laws, rules, and regulations, and other resource decisions within the PRMP, such as VRM designations, protection of crucial deer habitat from cross-country OHV use and surface disturbance, would provide protection for relevant and important values, reducing or eliminating potential impacts to the potential ACEC. For example, the Class A

scenery which occurs within 8 percent of the potential ACEC would be protected by the BLM's VRM decisions. In fact, 17 percent of the potential ACEC would be designated as VRM Class I or II and the entire area's motorized use would be limited to designated routes or closed. No surface disturbing activities would be allowed within 330 feet on each side of streams or within the 100 year floodplain, whichever is greater, unless it could be shown that there are no practical alternatives, all long-term impacts could be fully mitigated and the activity would benefit and enhance the riparian area, therefore, protecting riparian values.

Although some parcels are identified for Section 203 disposal, the area's relevant and important values (all of which are elements the BLM analyzes under NEPA) would be considered prior to disposal. As noted in Table 2-17, p. 2-85, a site specific environmental analysis would be required "in accordance with NEPA for all future land disposal actions." Also, consistent with Table 2-17, p. 2-86, and Table 2-4, p. 2-14, and the Utah BLM Riparian Management Policy, "riparian areas will be retained in the public land system unless it can be clearly demonstrated that specific sites are so small and isolated that they cannot be managed in an effective manner by BLM." Resource protection of these values within the potential Fremont Gorge/Cockscomb ACEC is discussed further in Chapter 4, pp. 4-480 to 4-482 of the PRMP/FEIS. Resource decisions included in the PRMP would provide adequate protection to the relevant and important values without the need to designate the area as an ACEC.

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### *Dirty Devil/North Wash*

**Issue Number:** PP-UT-RICHFIELD-08-0005c-49

**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:**

BLM's proposed management [for what had been proposed as the Dirty Devil/North Wash Potential ACEC] would allow development (especially the impacts associated with potential leasing and development of tar sands in the Tar Sand Triangle STSA) or OHV activities within the potential ACEC, thereby adversely impacting the R and I values, and because BLM failed to prioritize the designation of the Dirty Devil/North Wash ACEC and failed to provide a sufficient rationale supporting its decision, BLM must designate the Dirty Devil/North Wash ACEC.

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### ***Response***

As stated in Appendix 1, 64 percent of the potential ACEC is within WSAs where management under the Interim Management Policy for Lands under Wilderness Review (IMP) would protect all relevant and important values from surface disturbing activities. Existing laws, rules, and regulations, as well as other resource decisions within the PRMP for Visual Resource Management (VRM), fish and wildlife, travel, minerals management, and best management practices would adequately protect and/or mitigate potential impacts to relevant and important values not within the WSA. Although there is some potential for leasing or mineral exploration, these activities would only be allowed within 2 percent of the potential ACEC under standard lease terms and 11 percent leased with controlled surface use or timing stipulations. Appendix 11 of the PRMP/FEIS identified Timing and Controlled Surface Use requirements for the protection of relevant and important Special Status Species and wildlife, as well as requirements for the protection of VRM Class II areas (22 percent of the potential ACEC), outside the WSAs. In addition, Committed Conservation Measures and Best Management Practices for Federally



Listed Species (Appendix 14) have been developed in conjunction with the FWS and would apply to any of the BLM projects that could impact these species. Motorized use in the area would no longer include cross-country OHV use; 51 percent of the potential ACEC would be closed to motorized use, with use limited to designated routes within the remaining acres. These PRMP decisions, as well as others analyzed in Chapter 4, pp. 4-469 to 4-472 of the PRMP, would provide adequate protection to the relevant and important values without the need to designate the area as an ACEC.

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## ***Badlands***

**Issue Number:** PP-UT-RICHFIELD-08-0005c-45

**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:**

There is no evidence that the reopening of acres closed by the 2006 emergency closure will protect the special status cactus species that provoked the closure and is one of the R and I values for the Badlands Potential ACEC. Accordingly, the management of many acres in this Potential ACEC as prescribed in the PRMP will impair the R and I values.

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## ***Response***

As stated in Appendix 1, this potential Research Natural Area (RNA) ACEC (which includes the existing North and South Caineville Mesa ACECs) would not be designated. The existing North Caineville Mesa ACEC (2,200 acres) would continue to be designated to protect the relict vegetation relevant and important values. The management of the Mount Ellen/Blue Hills WSA (46 percent of the potential ACEC) pursuant to the Interim Management Policy for Lands under Wilderness Review (IMP) would provide adequate protection for the relevant and important values within that area. Resource decisions related to riparian protection zones, special status species, and restricting off-highway vehicle (OHV) use to designated routes and a small managed open area would also provide protection to relevant and important values. Under the Proposed Plan, 50 percent of the potential ACEC is closed to motorized use and 41 percent would be limited to designated routes. The areas identified to be open for cross-country OHV use (9 percent of the potential ACEC) have been delineated to avoid Threatened and Endangered (T&E) species populations. In addition, management prescriptions and monitoring has been identified for this area (see Appendix 18, Factory Butte SRMA Recreation Management Zones and Management Prescriptions). The Factory Butte Restriction Order would not be rescinded until the identified infrastructure and monitoring is in place to ensure protection of the T&E species. For example, the relevant and important value of Class A scenery was identified within 77 percent of the potential ACEC and 72 percent of 72 percent of the Badlands Potential ACEC would be protected by VRM Class I and II designations in the PRMP.

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## **Air Resources**

### ***Emissions Inventory/Modeling and Air Quality***

**Issue Number:** PP-UT-RICHFIELD-08-0005-10

**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 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 Factory Butte open areas) requires that such modeling and quantification be undertaken. See PRMP at 4-6 (admitting that various activities, including oil and gas development and OHV use, generate various pollutants, as well as fugitive dust). The routes identified in this plan that will be open to vehicular travel will never face further analysis whereby better estimates might be developed. BLM must conduct these analyses now. Besides, 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. This reality directly refutes the Richfield PRMP's insistence that such efforts would be too difficult at this time. Finally, as part of the "hard look" requirement, NEPA 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.

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**Issue Number:** PP-UT-RICHFIELD-08-0005-15

**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:**

Without preparing modeling to determine what the ambient concentrations of relevant pollutants will be, BLM cannot understand or disclose the impacts of these pollutants on humans, wildlife, vegetation, water bodies, or the 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 air quality analysis does not satisfy NEPA's hard look requirement.

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**Issue Number:** PP-UT-RICHFIELD-08-0005-18

**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 Richfield PRMP improperly attempts to quantify select OHV emissions by simply extrapolating what the percentage of OHVs traveling in the planning area might be based on national OHV-use figures multiplied by the fraction of the nation's population living in Utah further multiplied by the planning area's acreage compared to the acreage of the state as a whole. This methodology asks the wrong questions and thus gets the unreliable answers. It does not account for the actual estimated OHV-usage figures for the planning area and the mathematical function relationship between the number of routes designated and the number of miles traveled by OHVs and other vehicles.

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**Issue Number:** PP-UT-RICHFIELD-08-0005-3

**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:**

II. Air Quality The Richfield 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 Richfield 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.

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**Issue Number:** PP-UT-RICHFIELD-08-0005-7

**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:**

Not only has BLM prepared an incomplete emissions inventory for the Richfield PRMP, but it has also failed to conduct modeling that analyzes the likely concentrations of pollutants that will result. See, e.g., PRMP at 4-7 to -20 (predicting likely quantities in tons per year—not ambient concentrations—of

various pollutants that will result from plan implementation). As discussed below, the Richfield 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.

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### ***Summary***

The BLM failed to satisfy its FLPMA and NEPA obligations to take a hard look at air quality resources. The inadequacies include:

- lack of comprehensive emissions inventory;
- inadequate modeling of pollutant concentrations;
- lack of near-field, far-field, and cumulative analyses; and
- lack of determination of baseline conditions. In addition, the BLM's methodology for quantifying OHV emissions is unreliable.

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### ***Response***

The BLM is in full compliance with the requirements of the FLPMA and the 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; including, 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 that is 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 that the 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 3.3.1 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 predicted using standard methodology and assumption factors. 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.

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### *Compliance with the Clean Air Act*

**Issue Number:** PP-UT-RICHFIELD-08-0005-24

**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:**

In summary, the Richfield PRMP does not adequately analyze the impacts to air quality that will result from the area and route designations, and activities planned and permitted in this document. Because the planning area has levels of ozone and PM<sub>2.5</sub> that already exceed NAAQS, BLM is prevented by FLPMA from approving any activities that would further exacerbate or exceed these levels. 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. BLM may not authorize any activities which will contribute ozone precursors (NO<sub>x</sub> and VOCs) or PM<sub>2.5</sub> to ambient concentrations in the planning area (e.g. it may not permit any vehicular travel on designated routes or permit any oil and gas development).

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**Issue Number:** PP-UT-RICHFIELD-08-0005-4

**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:**

FLPMA, and the Richfield PRMP, require that BLM manage the planning area according to federal and state air quality standards. See Richfield PRMP at 2–8; 43 C.F.R. § 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 Richfield PRMP has failed to satisfy its FLPMA obligation: it permits activities (e.g. route designation and vehicle travel on designated routes) that the PRMP’s emissions inventory show will contribute PM<sub>2.5</sub> and ozone precursors (both volatile organic compounds—VOCs—and nitrogen oxides—NO<sub>x</sub>), thereby increasing ambient concentrations and further exceeding NAAQS. See Richfield PRMP at 4-7 to -20.

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### ***Summary***

The BLM failed to adequately consider Hazardous Air Pollutants (HAPs) under the CAA and the associated State of Utah Air Quality Standards.

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### ***Response***

Section 4.3.1 contains a summary of existing and predicted emissions for NAAQS. Emission calculations included HAPs to the extent that data was available or could be estimated. 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.

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## Climate Change

### Analysis of Potential Climate Change

**Issue Number:** PP-UT-RICHFIELD-08-0005-31  
**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:

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, and – as noted below – was even recognized by BLM and DOI officials a year before the PRMP was released. 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 MFO, and an important aspect of that challenge.

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**Issue Number:** PP-UT-RICHFIELD-08-0005-35  
**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:

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 Richfield 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.

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**Issue Number:** PP-UT-RICHFIELD-08-0005-49  
**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:

As noted above, no analysis of potential climate change impacts was provided in the plan and EIS. BLM simply ignored the Secretarial Order. See, e.g., PRMP at 1-13 (outlining “planning criteria,” which does not mention Secretarial Order 3226).

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### **Summary**

The BLM has failed to take a hard look at the impacts of climate change, despite the Secretarial Order.

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### **Response**

The DRMP addressed existing climate within the planning area (Section 3.3.1.1.), but did not directly address global climate change. Based on public comment and internal technical guidance, general information regarding climate change and related potential impacts to and from BLM activities was added in the PRMP/FEIS. Changes were not made in the alternatives based on the information presented. There is no technical basis or accepted standard protocols for evaluating activities conducted under this PRMP for making changes to alternatives considered based on global climate change. The general nature of the issue and its availability as

general public knowledge do not meet the criteria for significant new information that would trigger further NEPA analysis by the BLM. Because of the lack of data or modeling methodology, in the PRMP/FEIS in Section 4.3.1.1., the impacts of climate change are discussed at a level of detail appropriate to landscape-level analysis.

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 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 level actions, 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 PRMP. As the emergence of more recent studies on climate change become available, the existing analysis presented in the PRMP/FEIS will be evaluated to determine its validity in light of new climate change information and details about subsequent proposed actions in the planning area.

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### ***Possible Supplemental Draft***

**Issue Number:** PP-UT-RICHFIELD-08-0005-43

**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 PRMP gave short shrift to the scientific evidence and studies provided by SUWA, and simply failed to respond to key studies and conclusions about the impacts of climate change on the Colorado Plateau. Other studies released while BLM was completing the PRMP contained additional information about climate change, and included specific recommendations about management strategies that would address the changes expected from climate change. Again, even though these documents were widely publicized by the federal government’s Climate Change Science Program and easily accessible on the internet, BLM did not even mention these clearly relevant studies. The compelling information about climate change necessitates that BLM provide a supplement EIS on this issue prior to signing the record of decision for the Richfield PRMP. 40 C.F.R. § 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 C.F.R. § 1508.27.

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### ***Response***

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 of informing the decision maker about the impacts of the BLM's 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 (i.e. change in temperature or ambient atmospheric concentration); (2) the FEIS addresses climate and drought issues adequately, given that 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.

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### *Cultural Resources* *Class III Inventory*

**Issue Number:** PP-UT-RICHFIELD-08-0005-63  
**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 PRMP is further in conflict with the NHPA in that it goes far beyond exempting the designated routes themselves from Section 106 review. The PRMP would allow vehicles to pull off designated routes 50 feet to either side for staging, and 150 feet to either side for camping (PRMP 4-91). The Proposed Plan would exempt from Section 106 inventory and review these staging and camping areas – a virtual 300-foot corridor along 4,277 miles of route, even though the proposed plan acknowledges it could result in impacts to surface features, broken artifacts and surface disturbance of archaeological sites. The Proposed Plan seeks to designate staging and camping areas without any Section 106 review as required by law.

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**Issue Number:** PP-UT-RICHFIELD-08-0005b-13  
**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:**

Without first completing cultural resource surveys for each OHV area and trail that is designated in the PRMP, BLM does not have the adequate information on which to base OHV area and trail designation decisions, resulting in a PRMP that is not in compliance with NEPA's hard look requirement, the NHPA, and FLPMA's UUD and minimization mandates.

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**Issue Number:** PP-UT-Richfield-08-0008-14  
**Organization:** Colorado Plateau Archeological 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 perpetuate the agency's failure to comply with Section 106 requirements in the past.

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**Issue Number:** PP-UT-Richfield-08-0008-18  
**Organization:** Colorado Plateau Archeological Alliance  
**Protester:** Jerry Spangler

**Issue Excerpt Text:**

The proposed plan represents a conundrum of "conflicting policies." 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 handbook, 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.

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**Issue Number:** PP-UT-Richfield-08-0008-21  
**Organization:** Colorado Plateau Archeological

Alliance  
**Protester:** Jerry Spangler

**Issue Excerpt Text:**

The PRMP is further in conflict with existing NHPA regulations in that it goes far beyond exempting the designated routes themselves from Section 106 review. The PRMP also allows vehicles to pull off designated routes 50 feet to either side for staging, and 150 feet to either side for camping (PRMP 4-91). The Proposed Plan would exempt from to Section 106 inventory and review these staging and camping areas - a virtual 300- foot corridor along 4,277 miles of existing routes - even though the proposed plan acknowledges it could result in impacts to surface features, broken artifacts and surface disturbance of archaeological sites. The Proposed Plan seeks to designate staging and camping areas without any Section 106 review as required by law.

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***Summary***

The BLM did not properly address impacts to cultural resources. Specifically, the direct and cumulative impacts of OHV use on existing routes are 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.

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***Response***

The requisite 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 Sections 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 exists 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 (APE) and compliance with Section 106 prior to designation. Class III inventory of the APE 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 BLM has conducted all necessary consultation with Utah State Historic Preservation Office (SHPO) and the Utah SHPO has provided written concurrence which will be included in the ROD (See PRMP/FEIS p. 5-4).

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### *National Register of Historic Places Nominations*

**Issue Number:** PP-UT-RICHFIELD-08-0005-69

**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 PRMP reflects reluctance on the part of BLM to fully embrace the agency'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 the BLM to actually nominate eligible sites and archaeological districts where the cultural resources have been determined eligible for National Register listing.

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### ***Response***

The BLM integrates the protection of 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 RMPs. In addition, the National Programmatic Agreement, which serves as the basis for the BLM's compliance with the National Historic Preservation Act, is the procedural control for BLM managers to meet their responsibilities under Section 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 will require compliance with Section 106 and site-specific NEPA documentation.

The BLM's position remains that National Register nomination is done on a site-specific basis and does not require a land use plan decision. 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. However, if an RMP does contain a specific list of nominations, future proposals to nominate properties not on that list would not be in conformance. Proactive Section 110 cultural surveys are taking place on a case-by-case basis.

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### *Validity of Statistical Sample*

**Issue Number:** PP-UT-RICHFIELD-08-0005-55  
**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 BLM cannot properly plan for and 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.

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**Issue Number:** PP-UT-Richfield-08-0006-8  
**Organization:** Utah Rock Art Research Association  
**Protester:** Troy Scotter

**Issue Excerpt Text:**

. Decisions regarding cultural resources were made with inadequate information regarding the cultural resources of the area. "Overall, less than 5% of the RFO has been inventoried." (RMP Page 3-19)

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**Issue Number:** PP-UT-Richfield-08-0008-7  
**Organization:** Colorado Plateau Archeological

Alliance  
**Commenter:** Jerry Spangler

**Issue Excerpt Text:**

The BLM cannot properly plan for and 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.

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**Issue Number:** PP-UT-Richfield-08-0008-8  
**Organization:** Colorado Plateau Archeological Alliance  
**Protester:** Jerry Spangler

**Issue Excerpt Text:**

[BLM lands within the RFO have benefited from previous Section 106 compliance activities associated with natural resource extraction that resulted in a series of Class III investigations that identified "several thousand cultural properties." However, less than 5 percent of the RFO has been subjected to archaeological inventory] It therefore must be concluded that entire environmental and ecological ranges remain unexamined, and that the RFO has little or no data as to the nature, diversity or distribution of cultural resources on roughly 95 to 99 percent of the lands it manages.

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### *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 Sections 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 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 site-specific NEPA documentation.

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

**Issue Number:** PP-UT-RICHFIELD-08-0002-22

**Organization:** Western Watershed 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.

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### ***Response***

The PRMP/FEIS considers migratory birds throughout the document. Under Fish and Wildlife Common to All Alternatives the document states: "Implement the conservation actions identified in Executive Order 13186, Federal Agency Responsibilities Under the Migratory Bird Treaty Act, with particular emphasis on those migratory birds identified as Priority Species in the Utah Conservation Strategy." Chapter 3 of the PRMP/FEIS described migratory birds in the affected environment (see Section 3.3.9.4). Chapter 4 of the DPRMP/DFEIS analyzed the environmental consequences of potential management actions on migratory birds (see Section 4.9).

Additionally, migratory birds were considered in Appendices 3, 8 and 10. Furthermore, the PRMP/FEIS considered the FWS Birds of Conservation Concern and the Utah Partners in Flight Priority Species to identify and conserve priority nesting habitats for migratory birds for all alternatives. The PRMP/FEIS is also in compliance with BLM IM 2008-50 Migratory Bird Treaty Act – Interim Management Guidance. 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.

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### ***Special Status Species***

**Issue Number:** PP-UT-RICHFIELD-08-0002-82

**Organization:** Western Watershed 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.

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### ***Response***

The BLM has completed Section 7 consultation with the FWS, and has received a BO, which concludes that implementation of the plan would not be likely to jeopardize the continued existence of any listed species, including the ones cited in the protest. The impacts to Special Status Species from livestock grazing in the PRMP are in fact described at p. 4-163 as similar to the impacts of Alternative N, which are detailed at pp. 4-148 and 149.

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### ***Habitat Connectivity***

**Issue Number:** PP-UT-RICHFIELD-08-0005c-128

**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:**

in order to comply with the requirements of NEPA to conduct a thorough analysis of impacts of the management alternatives and to facilitate meaningful public participation and review of the RMP/EIS, the BLM must thoroughly analyze the specific impacts of habitat fragmentation on affected species. The RFO's analysis of fragmentation is insufficient.

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### ***Response***

An adequate analysis of habitat fragmentation resulting from management decisions is found throughout Chapter 4 of the PRMP/FEIS in the discussions of impacts to resource values from the various uses.

Among the measures in the PRMP/FEIS designed to protect habitat, and thereby promote habitat connectivity, are no surface occupancy or seasonal restrictions on various surface-disturbing activities including oil and gas leasing, the leasing stipulations and best management practices listed in Appendices 11 and 14 (preventing fragmentation), prioritization of vegetation treatments to enhance habitat (reducing fragmentation), and ROW avoidance areas. Additionally, limiting OHV use to designated roads will prevent further habitat fragmentation.

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### **Lands and Realty**

**Issue Number:** PP-UT-Richfield-08-0013-6

**Protester:** Kim Pederson & Cindy Shumway

#### **Issue Excerpt Text:**

2. Appendix 5, Table 5-4. Lands for Proposed Sale Under FLPMA Section 203, Wayne County, Tracts 28A and 28B These parcels were not included in the draft proposal which we reviewed in January. They have been added to the disposal list without the necessary time for public comment and question.

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**Issue Number:** PP-UT-RICHFIELD-08-0015-4

**Protester:** Robert & Arlene Glover

#### **Issue Excerpt Text:**

3) Appendix 5, Table 5-4. Lands for Proposed Sale Under FLPMA Section 203, Wayne County, Tracts 28A and 28B These parcels were not included in the draft proposal which we reviewed in January. They have been added to the disposal list without the necessary time for public comment and question. It is not appropriate to include them at this point in the process.

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**Issue Number:** PP-UT-RICHFIELD-08-0016-12  
**Protester:** Judy Hopkins

**Issue Excerpt Text:**

3) Appendix 5, Table 5-4. Lands for Proposed Sale Under FLPMA Section 203, Wayne County, Tracts 28A and 28B These parcels were not included in the draft proposal which we reviewed in January. They have been added to the disposal list without the necessary time for public comment and discussion. It is not appropriate to include them at this point in the process.

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**Issue Number:** PP-UT-RICHFIELD-08-0017-2  
**Protester:** Milton G. Derrick  
**Commenter Type:** Individual

**Issue Excerpt Text:**

3) Appendix 5, Table 5-4, Lands for Proposed Sale Under FLPMA Section 203, Wayne County. Tracts 28A and 28B. Apparently, tracts 28A and 28B were added to the disposal list subsequent to the draft proposal reviewed in January. The tracts were apparently added without the required time for public comment and discussion.

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***Summary***

Tracts 28A and 28B were added to the disposal list subsequent to the DRMP/DEIS. The tracts were added without the required time for public comment and discussion.

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***Response***

Before completing the DRMP/DEIS, the BLM received recommendations and requests from the State of Utah, State Institutional Trust Lands Administration (SITLA; received in April 2007) and a private group (Carcass Creek Properties, submitted in November 2006 and modified in January 2007) to include these parcels on the list for proposed sale. The BLM reviewed the request and determined that the described parcels meet the BLM's criteria as being isolated, disconnected and difficult to manage public land. The tracts were surveyed as part of 'A Threatened, Endangered and Candidate Species Survey Report' (completed in July 2008), which found that no special status plant species were present on the tracts. The BLM also determined that such a sale may serve the public interest. Further, by including the parcels in the PRMP/FEIS, the BLM would not be required to amend the RMP if the sale of the tracts were approved in the future. Note: a tract's inclusion on the list does not, in and of itself, constitute a decision by the BLM to sell the lands.

The BLM inadvertently omitted the parcels from the list of lands identified for proposed sale in the DRMP and failed to describe the omission when explaining changes made to the DRMP (section 1.6 of the PRMP). The addition of these tracts to the list of lands identified for proposed sale in Appendix 5 of the PRMP/FEIS is not a significant change to the PRMP (8.3 acres out of more than 16,000 acres identified) and would not have changed the BLM's analysis of impacts as described in the DRMP/DEIS. Thus, this would not require supplemental analysis or additional public comment. However, as noted on p. 2-85 of the PRMP, further NEPA is required. The BLM will not complete land tenure adjustments (including the sale of tracts of land identified in Appendix 5) without site-specific environmental analysis and review and an opportunity for public involvement. "[A] subsequent analysis may reveal resource conditions that could not be mitigated to the satisfaction of the authorized officer and may therefore preclude disposal." (PRMP/FEIS Appendix p. 5-1).

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## *Parcel Considered for Disposal*

**Issue Number:** PP-UT-RICHFIELD-08-0014-14

**Protester:** Toni Thiriot

**Commenter Type:** Individual

**Issue Excerpt Text:**

There were specifically EIGHT other letters from the Miners Mountain Road community who all commented on the above mentioned issues as well as others that were totally ignored. As others were ignored historically before. I'm sorry you have to review all of this but those of us who live here and love this area want to see preserved not only for us and the wildlife but for generations to come.

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**Issue Number:** PP-UT-RICHFIELD-08-0014-2

**Organization:**

**Protester:** Toni Thiriot

**Issue Excerpt Text:**

I have 44 acres on Miners Mountain Road, Grover Utah which includes an array of buildings as well as a home in which I reside at least half of the year or more. The land includes farm land, a stream, and a hill side of pinon and juniper. The land is adjacent to

the parcels listed below, and, in fact, 81/2 acres of the land I own are included in the parcels proposed for sale.

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**Issue Number:** PP-UT-RICHFIELD-08-0014-5

**Protester:** Toni Thiriot

**Issue Excerpt Text:**

I am also concerned that the BLM continues to ignore its own edict: (page 4-23 of the proposed RMP/Final EIS under Impact from special status species it states that "Alternative N (and all the other alternatives) prohibit actions that destroy, adversely modify, or fragment federally listed species habitat; proposes habitat improvements for special status species; generally retains special status species habitat in federal ownership; and considers special status species habitat in all wildland fire-suppression efforts. These parcels have already historically before as now been shown to contain endangered species and the Richfield office continues to put them on the list for sale which goes against BLM's own policy.

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### ***Summary***

Tracts 27 and 29 of the PRMP (listed as Tracts 19 and 20 in the DRMP/DEIS) on the Lands Identified for Sale, Table 5-4, PRMP, are habitat for the special status species Last Chance Townsendia and Townsendia Spruce. Disposal of these parcels would violate BLM's policy.

There were eight other letters from the Miners Mountain Road community who all commented on the above mentioned issues as well as others that were ignored.

8-1/2 acres of private land are included in the parcels proposed for sale.

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### ***Response***

A survey of plant species on tracts 27 and 29 of the PRMP/FEIS was completed in July 2008 by a BLM contracted specialist. For lands within tract 27, no Threatened, Endangered or Candidate species were found to occupy the habitat; no Last Chance Townsendia was found.

During the July 2008 survey, Last Chance Townsendia was found on tract 29. The BLM grants your protest as it relates to tract 29 and has removed tract 29 from the list of "Lands Identified for Proposed Sale under FLPMA, Section 203, Wayne County," (PRMP/FEIS Appendix 5). This protest is granted in accordance with BLM Manual 6840.06.A4 ("Special Status Species Management") and is consistent with the Proposed Plan's goal for management of Special Status Species on p. 2-22. This modification will be noted in the BLM's ROD.

The protester's letter expressed concern that approximately 8.5 acres within Tract 29 was privately owned and could not be sold by the BLM. Because this tract will be removed from the list of lands identified for proposed sale, this issue is moot. However, please note that no decisions in the RMP would apply to private lands included within the administrative boundaries of the RFO. The BLM has no authority to identify private lands for sale.

As noted on p. 2-85 of the PRMP, the BLM will not sell tracts of land identified in Appendix 5 without site-specific environmental analysis and review and an opportunity for public involvement. "[A] subsequent analysis may reveal resource conditions that could not be mitigated to the satisfaction of the authorized officer and may therefore preclude disposal." (PRMP/FEIS Appendix p. 5-1).

The BLM provided extensive responses to comments raised on the DRMP/DEIS relating to these two tracts (again, the DRMP/DEIS listed these tracts as tract 19 and 20). Please refer to pages 65-71 and 73-77 of the "Public Comments and Responses (Sorted by Category)" which can be found on the CD which was attached to the PRMP/FEIS, or at the RMP's internet page at: <http://www.blm.gov/ut/st/en/fo/richfield/planning.html>

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### Leasable Minerals

**Issue Number:** PP-UT-RICHFIELD-08-0005-72  
**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:**

BLM has failed to consider a no leasing alternative in the Richfield 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 Marshall Alliance v. Hodel*, 852 F.2d 1223, 1228 (9th Cir. 1988).

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 PRMP dismisses the no leasing alternative by mischaracterizing its implications and conflating it with the no action alternative. See Richfield PRMP at 2-5 to -6. The no leasing alternative does not require BLM to buy back all existing leases. See Richfield PRMP at 2-5. 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.

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**Issue Number:** PP-UT-RICHFIELD-08-0005-74  
**Organization:** Southern Utah Wilderness Alliance,

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### ***Summary***

The PRMP/FEIS fails to consider a realistic no-leasing alternative. The no-leasing alternative considered but eliminated from detailed analysis would require a "buy-back" of existing leases. This mischaracterizes the alternative - a more realistic "no-leasing" alternative would not require a "buy-back" of existing leases, but simply that no new leases would be issued. This alternative should have been analyzed in detail for baseline purposes.

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***Response***

As cited in Section 2.5.2, 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 honor valid existing rights. A "buy-back" of existing leases was considered as only one potential feature of a "no-leasing" alternative, not necessarily the defining feature. The BLM determined that a "no-leasing" alternative would not meet the purpose and need for the plan because it would lead to the elimination of a principle use of the public lands in the RFO.

Additionally, a "no-leasing" alternative was not considered 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 NSO, are insufficient to resolve issues or conflicts raised during scoping. The DRMP/DEIS 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 because it would unnecessarily restrict mineral exploration and production on the public lands. The proposed oil and gas leasing categories, associated lease stipulations in Appendix 11, and BMPs identified in Appendix 14 would sufficiently address issues or conflicts raised during scoping and address adequate mitigation of competing resource values and uses.

A “no future leasing” alternative was not considered because other alternatives were available that: (1) would meet the purpose and need of the land use plan, 2) would reduce the adverse environmental effects of the proposed action; (3) are feasible; (4) are not substantially similar in effects to other alternatives that analyzed; and (5) whose effects can be analyzed.

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***Accuracy of the Reasonably Foreseeable Development Scenario***

**Issue Number:** PP-UT-RICHFIELD-08-0005-76

**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:**

B. The RFD is inaccurate BLM must also modify its reasonably foreseeable development (RFD) scenario figures in the Richfield PRMP to accurately reflect historical rates of development. As SUWA demonstrated in its comments on the Richfield Draft RMP, the RFD rate is improperly high. As discussed above, the agency is required to use high quality data and methods for its analyses; the inaccurate RFD must be corrected.

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***Response***

This issue was addressed in the response to DRMP/DEIS comment (p. 95, as sorted by category). The RFD is in fact based on historic data as commenter suggested, but 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 (EPCA), 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 2004-89.

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## **Recreation and Visitor Services**

**Issue Number:** PP-UT-RICHFIELD-08-0005-86

**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:**

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 activities emphasized in the proposed SRMAs. Of the 830,390 acres proposed within 5 SRMAs, a considerable majority is open to motorized recreation. There is not a single SRMA designated exclusively for non-motorized access. On the other hand, two of the five SRMAs are designated specifically for motorized recreation. This kind of planning does not represent the proportional make-up of recreational use in the planning area; non-motorized recreation represents the majority of recreation within the Richfield Field Office, while motorized users are a much smaller constituency (consistently less than one quarter of all recreational use). PRMP at Table 3-23. According to recreation figures, there should be SRMA(s) designed specifically for non-motorized recreation in order to accommodate the public instead of the other way around.

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### **Response**

By focusing only on areas within SRMAs "designated specifically for non-motorized recreation" (a term not used in the PRMP/FEIS) the protesting party understates the opportunities for non-motorized use. There are 446,900 acres of Wilderness Study Areas (WSAs) that are managed according to the Interim Management Policy for Lands under Wilderness Review (IMP) to protect their suitability for wilderness designation and the PRMP/FEIS recommends the Fremont Gorge as a suitable Wild and Scenic River with a tentative classification of "wild" ( PRMP/FEIS pp. 2-102, 2-106). Additionally, 78,600 acres of non-WSA lands are managed to maintain wilderness characteristics (PRMP/FEIS p 2-37). Although there are designated routes identified in portions of these areas, there are only 44 miles of open ways within the WSAs and 25.1 miles of designated routes in non-WSA lands with wilderness characteristics (See Response in Section 43.2; PRMP/FEIS pp. 4-270, 4-271. The purpose of these ways and routes is to continue to provide access for trailheads and other valid uses including non-motorized recreation. Approximately 209,900 acres within the RFO planning area are closed to motorized use and 9,890 acres that are specifically designated open for motorized recreation (PRMP/FEIS p.2-70).

Although the PRMP/FEIS designates two SRMAs specifically for OHV use, these are relatively small acreages, 24,490 acres total. In addition, the Factory Butte SRMA only designates 8,500 acres within the OHV Play Area Recreation Management Zone (RMZ) (open to motorized use), with 11,300 acres in the Motorized Touring RMZ (limited to designated routes) and contains a 4,600 acre Landmarks RMZ that would be closed to motorized use (PRMP/FEIS p. 2-52). The remaining three SRMAs (Henry Mountains, Dirty Devil and Capitol Reef Gateway), 835,900 acres all have a non-motorized component within them that provides for primitive recreation opportunities (PRMP/FEIS pp. 2-62, 2-64, 2-54, 2-57, 2-58, 2-60). Motorized access would continue to be allowed for currently used trailheads and facilities and for access to large primitive areas within the Mount Ellen-Blue Hills, Bull Mountain, Mount Pennell, Mount

Hillers, Dirty Devil, French Spring/Happy Canyon, Horseshoe Canyon and Fremont Gorge WSAs (PRMP/FEIS p. 4-330).

Taken as a whole, non-motorized use is appropriately balanced with other uses. The protesting party claims that non-motorized users outnumber motorized users, and cites the Recreation Management Information System (RMIS) data in Table 3.23. However, it is impossible to draw this conclusion from RMIS data. Camping, for example, may be non-motorized or motorized. Also, most users that would be considered "non-motorized" have likely used a designated route to access a trailhead.

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## *Social and Economic Interests*

**Issue Number:** PP-UT-RICHFIELD-08-0005b-73

**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:**

Later in the responses to public comments, BLM pulls out another portion of the longer discussion above: The BLM must make a thorough examination of the full socioeconomic impacts likely to occur if the management alternatives are implemented. These analyses must take into account the impacts that BLM land management actions will have on the surrounding communities, including the added cost of providing services and infrastructure, the longterm costs of the likely environmental damage, and the impacts on other sectors of the economy. The BLM must examine the role that protected public lands (including lands with wilderness characteristics) play in the local economy. Public Comments and Responses Richfield Draft RMP/EIS August 2008 Sorted by Category at 172. The agency's response to this comment makes the claim that they have in fact done an adequate analysis of the impacts to the local economy. However, the impacts that were actually assessed are merely the customary narrow range which includes only the extractive industries and motorized recreation which lies at the heart of the issue raised by the comment in the first place: The DRMP/DEIS evaluates the socioeconomic impacts of having access to BLM lands for multiple uses. This includes economic contributions to local communities from various recreational uses, energy production, livestock grazing, and other resource programs. A discussion of this analysis is provided in section 4.6.1. The comment asserts that surrounding communities will have additional costs of providing

services, but provides no evidence to support this assertion. The comment asserts that long-term environmental damage from BLM actions are "likely", but provide no specifics, let alone evidence. The socioeconomic section of Chapter 4 does analyze the impacts of BLM actions to socioeconomics under the resource programs listed in the RMP chapter 4 Environmental Consequences section. Other programs were determined to have little or no impact on socioeconomic conditions. Public Comments and Responses Richfield Draft RMP/EIS August 2008 Sorted by Category at 172. The manner in which BLM ignores the substance of the comment is unacceptable. The response simply refers the commenter back to the agency's section that is being questioned. This fails to address or respond to the concerns raised by SUWA, and is inadequate as a response. This form of response is not an isolated case. There are several comments (from SUWA, other organizations, and even individuals) that call into question the validity of analysis performed by the agency. BLM has responded to them almost always by referring the commenter back to its own section of the Draft RMP.

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**Issue Number:** PP-UT-RICHFIELD-08-0005b-75

**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:**

SUWA presented BLM with a very extensive review of peer-reviewed literature on the costs associated with the impacts of off-road motorized recreation. BLM chose to extract only the very beginning of the comment: "The RMP DEIS does not mention, let alone analyze the well-documented and potentially

significant costs associated with off-road motorized recreation." Public Comments and Responses Richfield Draft RMP/EIS August 2008 Sorted by Category at 172. BLM's response to this comment dismisses it as unsupported by any documentation: "The comment does not provide references to documentation or other evidence to support this assertion. The DRMP/DEIS does evaluate the socioeconomic impacts of recreational use for

various activities, including off-road motorized vehicles. A discussion of this analysis is provided in section 4.6, Impacts To The Social and Economic Environment." Public Comments and Responses Richfield Draft RMP/EIS August 2008 Sorted by Category at 172. However, the actual comment by SUWA was several pages long, and includes numerous examples of studies of the costs of off-road motorized recreation or its impacts:

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### ***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 development to other resource users must be assessed.

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### ***Response***

The BLM responded to these issues extensively in the response to DRMP/DEIS comments (pp. 158-159 and 172, sorted by category). 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.

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## **Soil**

**Issue Number:** PP-UT-Richfield-08-0010-15

**Organization:** ECOS Consulting

**Protester:** Charles Schelz

### **Issue Excerpt Text:**

Activities that disturb and destroy the soil surface and BSC's such as livestock grazing, off-road vehicle use, mining and oil and gas development activities, can cause severe impacts 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.

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### ***Response***

Chapter 4 contains analysis of the potential effects to biological soil crusts in the discussion of impacts of activities to soils. 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 (PRMP/FEIS pp. 4-25, 4-26). These discussions are necessarily in qualitative terms since data is lacking and these crusts have not been mapped. There are no laws, regulations, or

policies requiring the protection of biological soil crusts. Impacts of fugitive dust from a variety of sources are discussed at various places in Section 4.3.1, Air Quality and Climate, and in the discussions of impacts to various resources (PRMP/FEIS pp. 4-4 to 4-20). The impacts of fugitive dust to air quality and visual resources are acknowledged (PRMP/FEIS pp. 4-4 to 4-20).

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## ***Travel Management***

**Issue Number:** PP-UT-RICHFIELD-08-0001-10

**Organization:** Hank and Mortensen PC

**Protester:** Paul Mortensen

### **Issue Excerpt Text:**

BLM has failed to consider the scarcity of cross-country OHV recreation resources under FLPMA section 202( c)( 6). BLM's PRMP will restrict 99% of the Richfield Field Office lands from cross-country OHV access. Similar plan amendments and revisions throughout Utah and the West have likewise radically restricted or eliminated cross-country OHV opportunities.

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### ***Response***

The BLM fully considered the fact that 99% of the lands in the planning area would be closed to cross-country travel to protect resource values and minimize user conflicts. This is disclosed repeatedly in Chapters 2 and 4.

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## ***Discussion of Impact Minimization***

**Issue Number:** PP-UT-RICHFIELD-08-0005-100

**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 PRMP makes critical misrepresentations in its discussion of travel management decisions. First, the PRMP states that the “goals and objectives” of the travel plan designation process are to “[m]aintain existing access . . . meet public and administrative needs . . . establish[] a route system that contributes to protection of sensitive resources . . .” PRMP at 2-70 (emphasis added). Secondly, the PRMP states that BLM will “[d]esignate routes for motorized use unless significant, undue damage to or disturbance of the soil, wildlife, wildlife habitat, improvements, cultural, or vegetative resources or other authorized uses of the public lands is imminent.” These statements incorrectly characterize BLM’s responsibilities pursuant to FLPMA and the OHV regulations. The PRMP must be corrected to inform the public and the decision maker of BLM’s

overriding duty to “protect the resources of the public lands . . . and to minimize conflicts among the various uses of those lands.” 43 C.F.R. § 8340.0-2. BLM is required to locate OHV areas and trails to “minimize damage to soil, watershed, vegetation, air, or other resources of the public lands, and to prevent impairment of wilderness suitability . . . [and] to minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands . . . taking into account noise and other factors.” 43 C.F.R. § 8342.1(a), (c). BLM’s own 8340 manual explains that “minimizing” means that the agency should reduce impacts to the maximum extent feasible. See BLM Manual 8340 – Off-Road Vehicles (General) (1982).

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**Issue Number:** PP-UT-RICHFIELD-08-0005-81

**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:**

2. BLM has failed to minimize conflicts between OHV use and other uses BLM's OHV regulations require the agency to designate areas and trails for OHV use "to minimize conflicts between off-road vehicle use and other existing or proposed

recreational uses of the same or neighboring public lands, and to ensure the compatibility of such uses with existing conditions in populated areas, taking into account noise and other factors," 43 C.F.R. § 8342(c), but the PRMP fails to comply with this duty

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### **Summary**

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

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### **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. Minimization of impacts does not necessarily mean that impacts should be reduced 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.

The NEPA does not require the decision maker to select the environmentally preferable alternative or prohibit all adverse environmental effects. Where it is feasible to do so, specific protections or mitigation measures to minimize impacts to resources, such as air quality, fragile soils, wildlife, cultural resources, etc. have been developed to reduce, eliminate, compensate or avoid the adverse effect (Also, see response to issues in the "Recreation and Visitor Services" section).

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## ***Analysis of Off-Highway Vehicle Impacts***

**Issue Number:** PP-UT-RICHFIELD-08-0005b-21

**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 PRMP has failed to adequately analyze and disclose the impacts of the OHV area and trail designations, travel management decisions, and resulting motor vehicle use of these areas and routes on air quality. Although admitting that "OHV use impacts air quality by increasing fugitive dust levels," and that OHVs also cause vehicular emissions of PM, CO, NO, NOx, and VOCs, the PRMP's impacts analysis is limited to a comparison between the number of acres open and miles of designated route between the proposed plan, and the other alternatives. See PRMP at 4-9, and 4-6. In this superficial comparison, BLM determines that since

the proposed plan has slightly fewer miles of route (i.e. 32 miles, or less than 1%), and a smaller open area than Alternative N, that the potential for emissions is decreased. See PRMP at 4-12. Ultimately, BLM concludes that "OHV use in open areas compared to designated and existing routes has the potential to cause the greatest amount of direct impacts to air quality" but that "[o]verall impacts to air quality would be negligible to minor" depending on level of use, vehicle speed, wind, soil moisture, etc. PRMP at 4-13. There is no evidence that the PRMP complies with the minimization requirements of the OHV regulations, and a mere simplistic comparison between alternatives does not satisfy NEPA's hard look requirement.

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**Issue Number:** PP-UT-RICHFIELD-08-0005b-23

**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:**

Although BLM acknowledges the uncontroverted impacts to wildlife from OHV routes and use, the PRMP fails to minimize impacts to wildlife, and its generalized statements fail to adequately analyze the potential impacts to wildlife and wildlife habitat from the OHV area and trail designations and the travel management decisions.

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**Issue Number:** PP-UT-RICHFIELD-08-0005b-35

**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:**

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.

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**Issue Number:** PP-UT-RICHFIELD-08-0005b-41

**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 DRMP failed to present this [site specific analysis of the purpose and need for the area and trail designations, and the potential impacts associated with the designation and use of all proposed OHV areas and trails] information with respect to the various OHV area and trail designations and the travel management decisions 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.

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**Issue Number:** PP-UT-RICHFIELD-08-0005b-43

**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 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 OHV area designations and travel plan decisions. See PRMP at 4-605 (As a result of designating routes, “there could be increased concentrations of vehicles within certain areas of the RFO, that is, restricting the miles of roads open for motorized travel would be expected to increase vehicle concentrations more in the RFO than in surrounding areas that do not impose travel restrictions.”). There is merely a mention of OHV designations and use, but no discussion of specific OHV designations or travel plan decisions in the cumulative impact analysis for cultural resources, see id at 4-599, vegetation, see id at 4-599, riparian areas, see id. at 4-513, soil and water, see id. at 4-598, air quality, see id at 4-597, or WSAs and non-WSA lands with wilderness character, see id. at 4-603. In general, the PRMP fails to adequately assess the cumulative impact that the dense network of routes (over 90% of public lands in the RFP are available for OHV use) have on wildlife, soils, vegetation, riparian areas, air and water quality, WSAs, non-WSAs with wilderness character lands, cultural resources, and other users, when taken in combination with other actions, including oil and gas development, vegetation treatments, grazing, and climate change.

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**Issue Number:** PP-UT-RICHFIELD-08-0005b-7

**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:**

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

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### ***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, water quality, vegetation, and soils.

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### ***Response***

The BLM has presented sufficient information and disclosed the impact analysis to reach an informed decision 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 the PRMP/FEIS in Chapter 4 in the discussion of impacts to each resource. The description of the process and criteria for the designation of routes is presented in Appendix 9. These impacts are described at a level appropriate to a landscape-level document. Also, see responses under “Analytical Discussion of Impacts”.

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### ***Travel Management in the Factory Butte Area***

**Issue Number:** PP-UT-RICHFIELD-08-0005-102

**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 PRMP states that the Factory Butte travel restriction order – issued in September 2006, to limit the open play area to 2,600 acres and limit OHV use in the remaining 142,000 acres in the Factory Butte area to designated routes – will “remain in effect until the RFO Record of Decision (ROD) become final.” PRMP at 3-99. The OHV regulations require that the closure remain in effect “until the adverse effects are eliminated and measures taken to prevent recurrence.” 43 C.F.R. § 8341.2. The PRMP presents no evidence that the adverse effects have been eliminated. To the contrary, the Proposed plan “would still result in impacts to soil from vehicle use” in the 9,890 acres proposed to managed as open OHV areas. PRMP at 4-31. In addition, SUWA has presented photographic evidence to BLM that, in fact, illustrates that the adverse effects have not been eliminated and that measures, including user-compliance, have not been established to prevent recurrence. See SUWA letter dated May 22, 2008, Exhibit B.

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### ***Response***

The OHV regulation cited does not require elimination of all adverse effects. It only requires that the adverse effects that prompted issuance of the closure order be eliminated. The closure order for Factory Butte was issued to prevent adverse effects to two species of threatened and endangered plants. Adverse effects to the plants would be eliminated by restricting OHV use to areas where the plants do not occur. As a matter of clarification, the order would not be lifted until infrastructure and a monitoring plan were in place (see Appendix 18). The authorized officer would then formally rescind the order.

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## Vegetative Communities

### Discussion of Riparian Areas

**Issue Number:** PP-UT-RICHFIELD-08-0005b-50  
**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:**

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: . 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. . Contain planning and monitoring objectives for riparian area management. Utah BLM Riparian Policy at 7–8. While the PRMP does provide the total miles or acreage and percentage of surveyed riparian areas in the Richfield Field Office that are labeled under each category of riparian status (Proper Functioning Condition, Functioning at Risk,

and Non-Functioning), it does not list the names of the riparian areas and their locations, does not provide a map of riparian areas, and 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. See PRMP at 3-32, Table 3-9: Riparian Conditions Inventory. For example, the PRMP does not explain where the 400 OHV stream crossings are located or where else the PRMP authorizes OHV use near riparian areas. Nor does the PRMP explain how it will ensure that all riparian areas either attain or are maintained at a Proper Functioning Condition status. Further, the PRMP does not contain the Field Office priority list, identify riparian areas with outstanding qualities to be considered for special designation or management, and does not contain planning objectives for riparian area management, all of which is required by the Utah BLM Riparian Policy.

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**Issue Number:** PP-UT-RICHFIELD-08-0005b-52  
**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 Richfield Field Office simply failed to provide the information necessary for the public to understand the status of each riparian area and how the Richfield Field Office is going to manage those areas. The Richfield Field Office should have included this information in the PRMP to satisfy both the substantive requirements of the wetlands and riparian area policies, and also NEPA’s procedural requirement to provide information to the public sufficient to inform the public and decision makers of the state of the existing environment and the effects the various alternative, particularly the proposed alternative, will have on that environment.

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### ***Summary***

The PRMP/FEIS does not provide sufficient information on riparian areas. Riparian areas are not prioritized, and the status is not assessed. There are no management objectives for riparian areas.

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### ***Response***

The Utah Riparian Policy, UT 2005-091, states that existing planning documents will be reviewed to determine if riparian areas 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, four years after the Richfield PRMP/FEIS Notice of Intent. Therefore, the Richfield PRMP/FEIS was considered to be an existing plan and any noncompliance with the Utah Riparian Policy would be rectified by activity-level planning.

Nevertheless, the Richfield PRMP/FEIS has substantially complied with the policy as follows:

- Management objectives for riparian areas are found at p. 2-12 of the PRMP/FEIS, which states, "Manage all riparian areas to maintain, restore, or improve unique habitat characteristics, including diversified plant species composition, plant species structural diversity, and adequate native vegetative cover and density for stream bank stabilization. All riparian areas would be managed to be in properly functioning condition."
- Detailed information on riparian condition is available in the RFO and is part of the administrative record. This voluminous information, including the properly functioning range condition (PFC) inventory, was summarized in Section 3.3.4.4 and Table 3-9 of the PRMP/PFEIS.
- In the administrative records, special management has been identified specifically for some riparian areas including- Otter Creek, Fremont Gorge, East Fork of Sevier.
- The PRMP/FEIS provides special management that would generally provide protection to certain riparian areas including Fremont Gorge SRMA and WSR as well as the Dirty Devil SRMA. (PRMP/FEIS pp. 2-57, 2-58).
- Planning and monitoring objectives for riparian area management can be found on pages 2-10, 2-11, 2-14, 2-30 and 2-57. More detailed information will be included in the approved RMP.

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### ***Vegetation Treatment Decisions***

**Issue Number:** PP-UT-Richfield-08-0010-23

**Organization:** ECOS Consulting

**Protester:** Charles Schelz

#### **Issue Excerpt Text:**

The BLM is proposing to conduct "vegetation treatment" projects of an average of 73,607 acres per year, or over 70% of the total area of the Rich-field planning area in the next 10-20 years. This appears to be an arbitrary and excessive figure for which no basis is provided in the PRMP.

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### ***Response***

As stated in the responses to comments on the PRMP/FEIS, the management action to perform vegetation treatments on an average of 73,607 acres a year is designed to give BLM management flexibility in performing vegetation treatments. The treatment of 73,607 acres a year is the maximum average amount of acres that would potentially be treated per year. This average is based on the acres anticipated for treatment in the 2005 Fire Management Plan Environmental Assessment, which provides the supporting rationale. The actual areas to be treated in any given

year will vary based on available funding, cooperator support, and availability of contractors and other resources.

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### ***Discussion of Proper Functioning Condition***

**Issue Number:** PP-UT-Richfield-08-0010-30  
**Organization:** ECOS Consulting  
**Protester:** Charles Schelz

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

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**Issue Excerpt Text:**

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

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**Issue Number:** PP-UT-Richfield-08-0010-8  
**Organization:** ECOS Consulting  
**Protester:** Charles Schelz

**Issue Excerpt Text:**

BLM must maintain a current inventory of its resources, pursuant to FLPMA Sec. 201, and the agency must conduct PFC analyses of these riparian areas and disclose to the public and the decision-maker, the current condition as well as the trend before issuing a final RMP.

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**Issue Number:** PP-UT-Richfield-08-0010-5  
**Organization:** ECOS Consulting  
**Protester:** Charles Schelz

**Issue Excerpt Text:**

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### ***Summary***

The BLM fails to show that the lands covered by of the Richfield PRMP/FEIS are functioning properly, or will be functioning properly in the next 10-20 years. The BLM must keep a current inventory of riparian areas, conduct proper functioning condition (PFC) analysis and disclose their current condition and trend.

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### ***Response***

Properly functioning condition (PFC) is a goal of the plan and specific management prescriptions were formulated to achieve that goal. As stated in 3.3.4, not all of the lands in the planning area are currently in a 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 the protester seeks.

Detailed information on riparian condition is available at the Richfield Field Office and is part of the administrative record. This voluminous information was summarized in Section 3.3.4.4 and Table 3-9 of the PRMP/PFEIS. Additionally, the BLM completes a PFC inventory for the planning area on a yearly basis to determine whether or not riparian areas are properly functioning systems.

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### **Visual Resource Management**

**Issue Number:** PP-UT-RICHFIELD-08-0005c-116  
**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:**

Lands with popular and easily accessible vantage points should be managed for visual resources, such as VRM Class II, to “retain the existing character of the landscape,” including clear provisions dealing with oil and gas development and other human disturbance. Indeed, the BLM guidelines for assigning VRM Classes includes distance zones as one of the three factors considered when assigning VRM Classes. BLM, BLM Manual 8410 – Visual Resource Inventory at V(A)(1).

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**Issue Number:** PP-UT-RICHFIELD-08-0005c-122  
**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:**

Relying on an inventory conducted over three decades ago to make management decisions that will impact visual resources for the next several decades is arbitrary and capricious and violates FLPMA and NEPA. As many commenters pointed out, much has changed since the 1970s. NEPA requires BLM to understand the consequences of the decisions it makes during the RMP process. BLM cannot possibly fully understand the consequences of its visual resource management decisions without knowing the current conditions of the Field Office’s visual resources. BLM must conduct a new visual resources inventory to assess actual modern day conditions. Once BLM possesses such information, it can understand the real consequences of any future disturbance and can make new, informed visual resource management decisions.

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**Issue Number:** PP-UT-RICHFIELD-08-0005c-124  
**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:**

BLM failed to adequately respond to comments on the draft RMP. BLM received many comments about the inadequacy of the old visual resource inventory and BLM’s inadequate protection of visual resources in its management decisions. BLM failed to adequately respond to both of these types of comments. In response to several comments about the old, outdated inventory, BLM responded: “The Draft/EIS uses the existing Visual Resource Inventory. The best available data was used in developing the Draft RMP/EIS.” See, e.g., PRMP Response to Comments, sorted by Category, at 229–31. The fact that BLM used the “best available data” does not address the problem.

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**Issue Number:** PP-UT-Richfield-08-0012-4  
**Protester:** Robert Emrich

**Issue Excerpt Text:**

I was informed in the same phone call to the BLM, mentioned above, that most of the VRI was done in the 1970’s and early 1980’s. I would venture to guess that a lot has changed in the past 25-30 years and would question whether the VRI is consistent with FLPMA statements “current” and “maintain on a continuing basis.” The outdated lack of information makes it impossible for the public to evaluate the proposed actions comprehensively. A current VRI is therefore needed for this plan to be properly evaluated.

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**Issue Number:** PP-UT-Richfield-08-0012-7  
**Protester:** Robert Emrich

**Issue Excerpt Text:**

Issue 2: Visual Resources Chapter: 3-47 FLPMA states the visual resource inventory shall be prepared and maintained on a continuing basis on all public lands. The current inventory is 25-30 years old. Outdated information should not be used for such an important Decision. Please see my previous comments in attached letter.

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***Summary***

The Visual Resource Inventory is 25-30 years old and the data is outdated.

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***Response***

The current visual resource inventory (VRI) represents the best available data for preparation of the PRMP/FEIS. VRI classes are informational in nature and provide the basis for considering visual values in the RMP process. They do not establish management direction and should not

be used as a basis for constraining or limiting surface disturbing activities (See H-8410-1, Visual Resource Inventory). The VRI was considered along with other resources in establishing the Visual Resource Management (VRM) Classes in the existing land use plans. After the Richfield Field Office inventoried 15,127 acres in the Parker Mountains that had not been inventoried and then completed a field review of the existing landscape conditions, management conformity with the current land use plan, and the relevance of the existing visual resource inventory, it was determined that the current VRI was satisfactory to make informed decisions during this RMP process.

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## Water

### *Baseline Information and Monitoring Data*

**Issue Number:** PP-UT-RICHFIELD-08-0005c-12

**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:**

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 Richfield PRMP will comply with federal and state water quality standards, as required by FLPMA.

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**Issue Number:** PP-UT-RICHFIELD-08-0005c-15

**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:**

Without analyzing baseline concentrations and preparing modeling to determine what impacts permitted activities will have, BLM cannot understand or disclose the impacts on water quality from new activities that will increase pollutants. For an example of water quality analysis and modeling, see Exhibit E. BLM’s lack of water quality analysis does not satisfy NEPA’s hard look requirement.

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**Issue Number:** PP-UT-RICHFIELD-08-0005c-2

**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 Richfield 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.

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**Issue Number:** PP-UT-RICHFIELD-08-0005c-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:**

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.

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**Issue Number:** PP-UT-RICHFIELD-08-0005c-5

**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:**

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

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**Issue Number:** PP-UT-RICHFIELD-08-0005c-6

**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:**

In order to comply with FLPMA, the PRMP should provide a summary of water quality analyses and modeling 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

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***Summary***

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

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***Response***

Detailed baseline information on riparian conditions are available at in the Richfield Field Office, and is part of the administrative record. This voluminous information was summarized in Section 3.2.5 of the PRMP/PFEIS. 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 3.3.3.1. In particular, the DEQ Annual Integrated Report was incorporated. The nature and scope of the proposed action dictates the level of analysis, and specificity of 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.

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***Impact Analysis and the Need for Modeling***

**Issue Number:** PP-UT-RICHFIELD-08-0002-75

**Organization:** Western Watershed 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.

Wilderness

**Issue Excerpt Text:**

In summary, the Richfield PRMP does not adequately analyze the impacts to water 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 water quality standards, and NEPA, which requires that BLM disclose the impacts of the activities it is permitting.

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**Issue Number:** PP-UT-RICHFIELD-08-0005c-20

**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

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**Issue Number:** PP-UT-RICHFIELD-08-0005c-22

**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

**Issue Excerpt Text:**

The Richfield PRMP fails to accurately quantify anticipated OHV-related pollutant increases in the water bodies of the Field Office. See PRMP, at 4-12, Table 4-4. In fact, BLM ignores effects on water quality and proposes instead to designate 4,277 miles of routes with 400 stream crossings. PRMP at 2-145- to -146. See PRMP at 3-96, Table 3-23. These stream crossings will have a devastating effect on water quality. Before allowing such extensive OHV use through and near water, BLM must analyze the baseline water quality, and then continue to monitor water quality throughout the life of the RMP. If OHV use results in violations of WQS, TMDLs, or anti-degradation requirements, BLM must close the exceedance-causing areas to OHVs until it can demonstrate that water quality standards are protected and maintained. BLM’s lack of OHV-related water quality impacts does not satisfy NEPA’s hard look requirement.

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**Issue Number:** PP-UT-RICHFIELD-08-0005c-8  
**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

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***Summary***

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

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***Response***

The scope and nature of the specific proposed action drives what level of analysis must be done to comply with the requirements of NEPA. RMPs are used to evaluate broad policies and plans (not to authorize any site-specific activity), and provide an analytical foundation for subsequent project-specific NEPA documents. The impacts to water quality as a result of the management decision in the PRMP/FEIS are analyzed at the appropriate level of detail for planning-level decisions and are fully disclosed in Section 4.3.3 of the PRMP/FEIS, 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.

**Issue Excerpt Text:**

Furthermore, BLM must quantify and model the various pollutant levels (e.g. phosphorus, dissolved oxygen, aluminum, nitrate, chloride, ammonia, etc.), as identified in the CWA, which will result from decisions made in the PRMP, in order to comply with FLPMA. The PRMP must also quantify contaminant levels to be expected from cumulative effects of any other activity that will cause fugitive dust, run-off, or erosion (e.g. mining, oil and gas development, grazing, OHV use). Only then can BLM accurately estimate total dust emissions, run-off, and erosion concentrations that reach the water.

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**Issue Number:** PP-UT-Richfield-08-0009-21  
**Protester:** Randy Ramsley

**Issue Excerpt Text:**

Neither the Proposed RMP pertaining to the environmental impacts associated with Recreation nor the proposed RMP pertaining to Travel Management. (See sections in Chapter 4 page 4-328 and page 4-340) contain any information regarding the impacts off road machines would have on water quality if the Proposed Preferred Alternatives were implemented.

## *Recognition of Impaired Status*

**Issue Number:** PP-UT-Richfield-08-0009-20

**Protester:** Randy Ramsley

**Issue Excerpt Text:**

The RFO fails to recognize the Utah State Division of Water Quality documents pertaining to the impaired nature of the Lower Fremont River and the Lower Muddy Creek. On page 4-41 the PRMP states, "The lower Fremont is not listed as being impaired by sediment or selenium." "The RFO has failed to recognize that the Utah Division of Water Quality has stated that "The lower Fremont River watershed is impaired for designated beneficial use 4 (agriculture), due to high levels of TDS." (See Utah

Division of Water Quality document "Fremont River Watershed, Water Quality management Plan")

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**Issue Number:** PP-UT-Richfield-08-0009-23

**Protester:** Randy Ramsley

**Issue Excerpt Text:**

The RFO has also failed to consider the fact that the Lower Muddy Creek is listed on the Federal 303 d list as impaired for selenium. The RFO has included no consideration or offered any mitigating strategies that would reduce the selenium load in the Lower Muddy Creek. In fact, its proposed Factory Butte play area will increase erosion and therefore selenium load.

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### ***Summary***

The PRMP/FEIS fails to recognize the impaired nature of the lower Fremont River and the Lower Muddy Creek, and fails to analyze the increase in selenium in lower Muddy Creek that would result from an open OHV area at Factory Butte.

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### ***Response***

As stated in the PRMP/FEIS at p. 4-41, "In 2002, a Total Maximum Daily Load (TMDL) plan was approved for the [lower Fremont River] and the river was removed from the 303(d) list." The discussion at p. 4-41 concludes that closing the Swing Arm City area to open OHV use would not significantly improve water quality in the lower Fremont, because erosion does not immediately result in the delivery of eroded solid particles and solutes to a perennial stream, especially in an arid environment, and because Swing Arm City drains into a broad alluvial fan before reaching the Fremont River. Since a smaller area of Factory Butte drains into Muddy Creek, even less improvement in water quality would be expected.

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## **Wild and Scenic Rivers**

### ***Wild and Scenic River Eligibility Process***

**Issue Number:** PP-UT-Richfield-08-0011-21

**Organization:** Utah Rivers Council

**Protester:** Mark Danenhauer

**Issue Excerpt Text:**

a. The BLM acted arbitrarily in its Draft RMP because it failed to provide any information and/or documentation that explained how the suitability factors were interpreted and evaluated. This lack of documentation made it impossible for the public to provide any meaningful comments.

**Protester:** Mark Danenhauer

**Issue Excerpt Text:**

The BLM did not give the public adequate information necessary to provide meaningful comment, both upon publication of the Draft RMP and now with this latest document in the planning process, the PRMP. Therefore, the BLM acted arbitrarily and capriciously in its suitability determinations for all rivers in the Richfield Field Office.

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**Issue Number:** PP-UT-Richfield-08-0011-23

**Organization:** Utah Rivers Council

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**Issue Number:** PP-UT-Richfield-08-0011-3

**Organization:** Utah Rivers Council

**Protester:** Mark Danenhauer

**Issue Excerpt Text:**

The BLM did not provide adequate documentation about its eligibility study of rivers in the Richfield Field Office in any documents, beginning with the 2004 Wild and Scenic Rivers Preliminary Eligibility Study, the Draft Resource Management Plan, and now the Proposed Resource Management Plan. This failure to fully disclose or document information that the BLM used to make eligibility determinations for rivers in the Richfield Field Office did not allow the public to provide meaningful comments and therefore, violates both the WSRA and NEP A.

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**Issue Number:** PP-UT-Richfield-08-0011-49

**Organization:** Utah Rivers Council

**Protester:** Mark Danenhauer

**Issue Excerpt Text:**

The lack of information listed for each river in the suitability factors in Appendix 3, including how the different factors and information were evaluated; make it impossible to determine the true reasons for the BLM's suitability recommendations.

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**Issue Number:** PP-UT-Richfield-08-0011-52

**Organization:** Utah Rivers Council

**Protester:** Mark Danenhauer

**Issue Excerpt Text:**

In the BLM's comment analysis in Chapter 5 of the PRMP, it failed to adequately address substantive comments submitted by the Utah Rivers Council. For example, despite numerous examples of the

BLM's failure to disclose its rationale for suitability determinations in Alternative B, the agency does not provide an adequate response that explains its actions and determinations.

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**Issue Number:** PP-UT-Richfield-08-0011-53

**Organization:** Utah Rivers Council

**Protester:** Mark Danenhauer

**Issue Excerpt Text:**

The Council's comments on the Draft RMP, dated January 23, 2008, stated, 'We are extremely concerned with the approach to the suitability review of Robbers Roost provided in the Draft due to the lack of justification for the conclusions reached regarding the suitability of Robbers Roost Canyon.,<sup>21</sup> The PRMP does include this statement in the summary of public comments and responses on page 168. The BLM Comment Summary Response to this is, "The BLM's Wild and Scenic River Manual (835L33C) states 'Alternatives may be formulated for any combination of designations or classifications. Reasons for considering alternative tentative classifications include resolving conflicts with other management objectives, continuity of management prescriptions, or other management considerations.' Appendices 2 and 3 fully disclose the review and evaluation process for determining which river segments are eligible and suitable for such designation. Unfortunately, as has been explained above, neither Appendix 2 or 3 actually provide enough information or documentation to explain the conclusions reached regarding the suitability or non-suitability of different rivers.'

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***Summary***

The BLM acted arbitrarily and capriciously in its findings of eligibility and suitability. The BLM did not provide sufficient information to allow public comment or provide the reasons for the decisions.

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***Response***

The BLM's rationale for eligibility and suitability determinations is detailed in the eligibility report (Appendix 2) and the Suitability Recommendations (Appendix 3), respectively. The rationale for the final decisions will be detailed in the ROD. The BLM is not required to provide public review and comment for decision rationale.

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***The Eight Wild and Scenic River Act Factors***

**Issue Number:** PP-UT-RICHFIELD-08-0005c-63  
**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:**

BLM violates the WSRA by failing to recommend river segments that otherwise qualify for inclusion in the NWSRS simply because the segments are within WSAs. See 16 U.S.C. § 1275(a); PRMP at Map 3-15. In the Richfield PRMP, BLM admits that “eligible segments are recommended non-suitable because the values identified would be protected by alternative protection methods,” including by the IMP. PRMP at 4-422. BLM justifies its failure to exclude 98 out of 130 eligible river miles from suitability recommendation because they are located within WSAs and are managed under the IMP.26 PRMP at 4-422 to 4-423. Whether a river segment has an alternative method of protection is not an appropriate method to determine suitability. Suitability determinations are factual determinations and the fact that a certain segment falls within a WSA is immaterial.

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**Issue Number:** PP-UT-RICHFIELD-08-0005c-66

**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:**

By failing to designate river segments within WSAs that otherwise qualify as suitable, BLM defeats the purpose of the WSRA, i.e. to protect rivers and their outstanding remarkable values. 16 U.S.C. §§ 1271, 1272, 1276(d). NWSRS inclusion protects different values than WSA status does, and WSA management under the IMP does not necessarily protect eligible rivers and their outstanding remarkable values. The WSRA specifically protects rivers’ outstanding remarkable values, whereas the IMP does not specifically protect outstanding remarkable values. Section 10 of the WSRA confirms that Wilderness designation and NWSRS inclusion are two separate designations. 16 U.S.C. § 1281(b). Wilderness Areas receive the highest level of protection and must remain “unimpaired.” 16 U.S.C. § 1131(a). Yet even the fact that land is designated Wilderness, and thus already receives the highest level of protection, does not affect whether the same area should also be designated a Wild and Scenic River. Like Wilderness Areas, WSAs also receive high levels of protection, and must not be impaired. Thus, like rivers in Wilderness Areas, the fact that a river lies within a WSA does not affect whether the same area should

also be designated suitable for inclusion in the NWSRS.

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**Issue Number:** PP-UT-RICHFIELD-08-0005c-68

**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:**

Furthermore, the WSRA and the BLM Manual list specific factors that should be evaluated as part of the suitability analysis, and WSA status is not one of those factors. 16 U.S.C. § 1275(a); BLM Manual § 8351.33(A). Because BLM based its determination of non-suitability on a factor not listed in the WSRA or the Manual, BLM’s findings of non-suitability must be overturned. In order to best protect eligible rivers and the identified outstanding remarkable values, and to comply with the WSRA’s fact-based criteria for suitability determinations, BLM must conduct a factual determination of the suitability criteria, irrespective of WSA status, and then forward its determinations to Congress. See 16 U.S.C. § 1275(a).

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**Issue Number:** PP-UT-RICHFIELD-08-0005c-74

**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 new information that Happy Canyon, Horseshoe Canyon, and the Fremont River Segment below Mill Meadow Dam are ephemeral is not sufficient justification to remove them from classification as eligible. See PRMP at Appendix A2-5, A2-7 to -9. The WSRA requires only that rivers be free-flowing, which means “existing or flowing in natural condition without impoundment.” 16 U.S.C. § 1286(b). There is no requirement in the WSRA that streams be perennial in order to be eligible. In fact, the BLM Manual states that river flows may be intermittent, seasonal, or interrupted, as long as rivers flow for more than a few days a year. BLM Manual § 8351 at 63. And BLM admits that “the volume of water flow need only be sufficient to sustain or complement the identified resource values—rivers with intermittent or non-perennial flows already exist within the national river system.” PRMP at 5-47 to -48. Perennial flow is not necessary to protect the

scenic or geologic outstanding remarkable values of Horseshoe Canyon; nor are perennial flows necessary to protect the wildlife and recreation values of the Fremont River below Mill Meadow Dam; nor are perennial flows necessary to protect the scenic or recreation outstanding remarkable values of Happy Canyon. PRMP at Appendix A2-8; A2-2; A2-5.

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**Issue Number:** PP-UT-Richfield-08-0011-12

**Organization:** Utah Rivers Council

**Protester:** Mark Danenhauer

**Issue Excerpt Text:**

With respect to the PRMP, the BLM's application of the suitability factors t) all eligible rivers in the BLM Richfield Field Office's jurisdiction is arbitrary because they consider factors beyond the eight enumerated in the WSRA. For example, the BLM considers, "Bureau of Land Management's. (BLM) ability to manage and protect the values of the river segment as part of the NWSRS if designated by Congress, and other mechanisms to protect identified values or 3 16 U.S.C § 1275. 416 U.S.C. § 1275 (a).5 alternative ways to protect rivers other than through Congressional designation under the Act. ,,5

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**Issue Number:** PP-UT-Richfield-08-0011-13

**Organization:** Utah Rivers Council

**Protester:** Mark Danenhauer

**Issue Excerpt Text:**

b. In the WSRA, Congress enumerates 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 indirect conflict with suitability factors clearly articulated in the WSRA.

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**Issue Number:** PP-UT-Richfield-08-0011-16

**Organization:** Utah Rivers Council

**Protester:** Mark Danenhauer

**Issue Excerpt Text:**

The Richfield Field Office has no basis or rationale for finding certain rivers as not suitable simply because the river is located in an area where some other administrative. Or congressional protection already exists or is proposed to exist.

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**Issue Number:** PP-UT-Richfield-08-0011-8

**Organization:** Utah Rivers Council

**Protester:** Mark Danenhauer

**Issue Excerpt Text:**

1. . 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: a) Manageability of the river if designated and other means of protecting values; and b) Interest of federal, public, state, tribal, local, or other public entity in designation or non- designation, including administration sharing.

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***Summary***

The BLM considered arbitrary and inappropriate factors in reaching the eligibility and suitability decisions. These include: manageability, interest of other agencies, WSAs, ephemeral nature, and support or opposition. Management under the Interim Management Policy for Lands under Wilderness Review (IMP) does not necessarily protect outstandingly remarkable values.

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***Response***

The BLM eligibility and suitability analyses complies with BLM's policy and guidance as detailed in Manual 8351. According to BLM-M-8351 section .33(a), "Wild and Scenic Rivers – Policy and Program Direction for Identification, Evaluation, and Management," 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." The Manual (at section .33(a)(8)) also provides flexibility for the consideration of issues and concerns other than those enumerated in the Wild and Scenic Rivers Act (WSRA).

Therefore, the specific factors considered by the BLM (detailed in Appendix 2 and Appendix 3 of the PRMP/FEIS) in ascertaining the eligibility and suitability of river segments in the Richfield Planning Area are within the discretion of the BLM and are not arbitrary and capricious.

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### *Suitability Determination on the Dirty Devil River*

**Issue Number:** PP-UT-RICHFIELD-08-0005c-71

**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:**

Suitability determinations must be based upon the enumerated criteria listed in the BLM Manual and in the WSRA, namely land ownership and current uses in the area, reasonably foreseeable potential uses, the federal agency that administers the land, and the cost of acquiring land, manageability, and historical or existing rights. BLM Manual § 8351.33(A); 16 U.S.C. § 1275(a). In determining suitability for the Dirty Devil River, BLM considered factors beyond those enumerated in the WSRA and BLM Manual 8351, namely WSA status and the supposed protections of other management prescriptions. Because BLM considered factors beyond those specified above, BLM violated the WSRA and its own Manual. BLM Manual § 8351.33(A)(1)-(8); 16 U.S.C. § 1275(a). BLM's decision recommending the Dirty Devil not suitable must be overturned.

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**Issue Number:** PP-UT-Richfield-08-0011-26

**Organization:** Utah Rivers Council

**Protester:** Mark Danenhauer

**Issue Excerpt Text:**

With respect to the PRMP, the BLM's application of the suitability factors to the Dirty Devil River is arbitrary because they consider factors beyond the eight enumerated in the WSRA. For example, the BLM considers, "Bureau of Land Management's (BLM) ability to manage and protect the values of the river segment as part of the NWSRS if designated by Congress, and other mechanisms to protect identified values or alternative ways to protect rivers other than through Congressional designation under the Act. "

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**Issue Number:** PP-UT-Richfield-08-0011-27

**Organization:** Utah Rivers Council

**Protester:** Mark Danenhauer

**Issue Excerpt Text:**

2. The BLM reversed its suitability determination for the Dirty Devil River from the Draft RMP to the PRMP based on no new information. Appendix 20 of the 10PRMP shows that the only new information in the PRMP was not to any of the information in the suitability factors, but instead was simply a change in the conclusion reached. Based on the documentation of suitability in the PRMP, the BLM did not receive any new information, but decided for some unknown reason to reverse its suitability determination for the Dirty Devil River. The only information in the PRMP related to changes from the Draft RMP to the PRMP regarding suitability of rivers in the BLM is listed in Appendix 20. The BLM, "Clarified the alternative protection methods for wild and scenic rivers." The stated rationale for this change was, "To state how the outstandingly remarkable values would be protected under management actions for other resources and resource uses.,<sup>14</sup>Therefore, based on the documentation in the PRMP the BLM's decision to reverse its suitability determination on the Dirty Devil River from suitable to not suitable was arbitrary and capricious.

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**Issue Number:** PP-UT-Richfield-08-0011-30

**Organization:** Utah Rivers Council

**Protester:** Mark Danenhauer

**Issue Excerpt Text:**

1. The BLM's Decision is arbitrary and capricious because it is based on factors outside of those enumerated in the WSRA.

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**Issue Number:** PP-UT-Richfield-08-0011-45

**Organization:** Utah Rivers Council

**Protester:** Mark Danenhauer

**Issue Excerpt Text:**

All of the information under the suitability factors for the Dirty Devil, except for repeated statements that other land use prescriptions and protection mechanisms are in place that will protect the values identified for the Dirty Devil River, appear to lead towards a positive suitability finding for the Dirty Devil River to be included in the NWSRS. However,

the BLM's subjective judgment that is not explained nor documented anywhere in the PRMP, nor in any of the earlier documents (Draft RMP and Eligibility Study) contradicts all of this information, "[t]he BLM

believed that the quality of river characteristics in this segment would not significantly enhance nor contribute to the NWSRS.,18

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### **Summary**

The BLM's determination that the Dirty Devil River is not suitable for inclusion in the National Wild and Scenic River System is arbitrary and capricious because it is based on factors outside of those enumerated in the Wild and Scenic River Act (WSRA) and on no new information from the Draft RMP to the PRMP.

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### **Response**

The analysis in the PRMP/FEIS concluded that for the ephemeral Dirty Devil drainage segments, WSA management pursuant to the Interim Management Policy for Lands under Wilderness Review (IMP) would continue to have a beneficial impact on all outstandingly remarkable values within these segments by limiting development within these river corridors. The rationale for the suitability recommendation is detailed in Appendix 3; the rationale for the decision will be provided in the ROD.

For a discussion of the BLM's decision to consider factors outside of those enumerated in the WSRA, please see the "Eight Wild and Scenic River Act Factors" section above.

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## **Wilderness Characteristics**

**Issue Number:** PP-UT-RICHFIELD-08-0005b-26  
**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 BLM acknowledges that "the presence and noise of vehicles using these routes . . . would reduce visitors' opportunity to find solitude in the non-WSA areas, especially in proximity to the routes . . . Motorized uses could conflict with primitive and unconfined recreation opportunities sought in the non-WSA areas." Id. at 4-271. The PRMP concludes that limiting travel to designated routes would "confine to existing routes the soil and vegetation disturbance caused by motor vehicles, and would result in no additional change to the natural character of the non-WSA lands." Id. BLM's contention 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. BLM cannot have it both ways. Designating routes in WC lands will encourage more motorized use of the trail and the existence of a well-used trail bare of vegetation affects the naturalness of the area and its future eligibility for wilderness designation.<sup>13</sup> The PRMP does admit that naturalness will be impacted in the open play areas, i.e. Factory Butte. See id. ("Cross-country motorized travel in these non-WSA lands would continue to result in surface disturbance to soils and vegetation, altering the landscape and diminishing the natural character of these non-WSA lands.").

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**Issue Number:** PP-UT-RICHFIELD-08-0005c-111  
**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:**

BLM must take a hard look and analyze the loss or

the potential loss of naturalness due to the increased OHV use on these routes. In addition, the agency must analyze and disclose the impacts to resources from motor vehicles driving 50 feet off route on either side of the designated routes and 150 feet off

of the routes to look for campsites. BLM must revise the PRMP to accurately reflect the impacts to all of the wilderness character lands from route designations within these areas, including the parking and camping provisions.

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### **Summary**

The BLM failed to take a hard look and analyze the loss or the potential loss of naturalness due to the increased OHV use on these routes. The agency must analyze and disclose the impacts to resources from motor vehicles driving 50 feet off route on either side of the designated routes and 150 feet off of the routes.

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### **Response**

The PRMP/FEIS adequately analyzed the impacts to non-WSA lands with wilderness character from travel management decisions (PRMP/FEIS pp. 4-269 to 4-272). Although, the PRMP/FEIS allows motor vehicles to pull off of a designated route as far as 50 feet to either side of the centerline (i.e. parking/staging) and use existing spur routes for ingress and egress to established campsites within 150 feet of the centerline of designated routes, motor vehicles will be prohibited from traveling between multiple campsites, establishing motorized play areas and race tracks, or traveling across wet meadows or riparian areas. The PRMP/FEIS analyzed these actions and determined that because they are limited to parking and camping and thus confine the area in which soil and vegetation disturbance would occur, there will be limited change to the natural character of the non-WSA lands (PRMP/FEIS p. 4-272).

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## **Consideration of Small Parcels**

**Issue Number:** PP-UT-RICHFIELD-08-0005c-104

**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:**

As explained in SUWA’s comments on the Richfield DRMP, BLM’s outright rejection of SUWA-nominated wilderness character areas that are contiguous with roadless areas managed by the U.S. Forest Service or the National Park Service (combined lands over 5,000 acres) is arbitrary.

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**Issue Number:** PP-UT-RICHFIELD-08-0005c-108

**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:**

SUWA provided information to the RFO for each BLM area and larger area of public lands (which included BLM parcels), where naturalness and opportunities for solitude and/or a primitive recreational activity is present. See SUWA DRMP comments – Exhibit D. The areas retaining wilderness characteristics the RFO arbitrarily rejected due to an improper determination that they were of insufficient size are listed below: Cane Spring Desert Comment A South Sevier Plateau Parcel 1 North Sevier Plateau Parcels 1-20 Tushar Mountains Parcels 1-7 Aquarius Plateau Parcels 1-14 Thousand Lake Mountain Parcels 1-5 Wasatch Plateau Parcels 1-5 Pahvant Range Parcels 1-4 BLM must revisit each of these proposed wilderness units and consider whether standing alone they have the requisite attributes to be wilderness character areas of less than 5,000 acres and whether together with adjacent public lands – administratively endorsed or not – they constitute 5,000 acres of wilderness quality lands, identified as required by 43 U.S.C. § 1711(a).

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## **Summary**

The BLM arbitrarily failed to consider parcels of less than 5,000 acres.

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## **Response**

These issues were addressed in the BLM's response to comments on the DRMP/DEIS (pp 111 to 119, as sorted by issue). The BLM stands by the findings of its wilderness inventory. Established BLM practice with wilderness inventory has consistently recognized other land management agency designations which have officially "designated wilderness areas" or "administratively endorsed lands for wilderness management" when considering BLM managed land units that are less than 5,000 acres in size. Therefore, the non-WSA lands with wilderness characteristics in units of less than 5,000 acres, and not adjacent to designated wilderness or administratively endorsed lands for potential wilderness designation managed by other agencies, failed to meet the size requirement for wilderness characteristics. Other submissions, over 5,000 acres, lacked the requisite wilderness characteristics (PRMP/FEIS Appendix 16).

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## ***Inventory of Lands with Wilderness Characteristics***

**Issue Number:** PP-UT-RICHFIELD-08-0005c-102

**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:**

BLM's failure to consider SUWA's new information was arbitrary and capricious and must be reversed, as it violates FLPMA's mandate to maintain a current inventory of resources and NEPA's requirement to rely upon accurate information in evaluating and making management decisions. BLM must revisit each of these proposed wilderness units and consider SUWA's new information concerning arbitrary and natural boundaries and consider whether the areas—after appropriate boundary adjustments using human impacts—have the requisite attributes to be wilderness character areas (including areas of less than 5,000 acres).

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**Issue Number:** PP-UT-RICHFIELD-08-0005c-98

**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:**

Throughout this planning process, SUWA has submitted significant new information documenting wilderness characteristics that are present within the RFO and errors in the agency's wilderness character inventories, but BLM has improperly and illegally ignored this vital data.

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**Issue Number:** PP-UT-RICHFIELD-08-0005c-99

**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:**

BLM's response to SUWA's new information, which the agency used for several areas submitted by SUWA, essentially ignores SUWA's new information that included a detailed narrative, 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). Rather than using this new information to ground-truth and assess the area for wilderness characteristics, BLM chose to disregard this new information and continue to rely on its flawed inventory data.

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***Summary***

The BLM ignored significant new information submitted by the Southern Utah Wilderness Alliance regarding lands with wilderness characteristics.

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***Response***

The BLM carefully considered all information submitted by Southern Utah Wilderness Alliance. The BLM's detailed response to this information is found in the response to comments on the DRMP/DEIS (pp. 111 to 119, as sorted by issue).

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***Wilderness Study Areas******Inventory of Wilderness Study Areas***

**Issue Number:** PP-UT-RICHFIELD-08-0002-43

**Organization:** Western Watershed 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.

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***Response***

The BLM does not have the authority to designate new WSAs under the land use planning process. The BLM has 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 and made available to the public. The BLM's authority for managing public lands to protect or enhance wilderness characteristics is derived directly from FLPMA Section 202 (43 U.S.C. § 1712). This section of the 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)).

The 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)). The FLPMA intended for the Secretary of the Interior to use land use planning as a mechanism for allocating resource uses, including wilderness character management, amongst 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 authority to protect lands it determined to have wilderness characteristics in a manner substantially similar to the manner in which such lands are protected as WSAs.

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## *Motorized Use in Wilderness Study Areas*

**Issue Number:** PP-UT-RICHFIELD-08-0005c-78

**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:**

Given the legal and policy framework set out above, BLM’s decision to permit motorized use on so-called “inventoried ways” in WSAs, and, in fact, to increase the number of miles of WSA ways open to motorized use by 18 miles is arbitrary. See PRMP at 4-406 (41.5 miles of ways open to motorized use in the No Action alternative, and 59.5 miles of ways proposed to be open to motorized use in the Plan.). A review of Map 3-10 reveals that ways will be designated open to motor vehicle use in all of the WSAs in the RFO.27 BLM proposes to open ways that are currently closed in the Little Rockies, Mt. Hillers, Mt. Ellen, Dirty Devil, Bull Mountain, Mt. Pennell and French Springs WSAs.28

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**Issue Number:** PP-UT-RICHFIELD-08-0005c-85

**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 IMP identifies the following wilderness and

related values that BLM must analyze in evaluating the impact to wilderness values under the nonimpairment standard when designating ways as official routes: . How the proposed routes will (or will not) meet the conditions of the being substantially unnoticeable. . How the proposed routes will reduce or improve the overall wilderness quality of the WSA. . Soil stability, including erosion impacts. . Condition or trend of the vegetation including plant species composition and vegetal cover. . Natural biological diversity including numbers and species composition of microbes, invertebrates, fish, reptiles, amphibians, birds, and mammals. . Key visual resource characteristics (form, line, color and texture) of the landscape. . Naturalness. . Opportunities for solitude. . Opportunities for primitive and unconfined types of recreation, or quality of existing opportunities for primitive and unconfined types of recreation. . Description of special features. . Quality of surface water including dissolved solids, nutrient levels such as nitrates, and microbial concentrations. . Threatened or endangered plant and animal species. See H-8550-1 II.B.6.c. The PRMP’s impacts discussion is limited to one statement: “Use of OHVs within WSAs could impact wilderness characteristics, however this use is mitigated by the IMP . . .” PRMP at 4-408. This statement is not an analysis. It is insufficient, both under the IMP and under NEPA, for BLM not to analyze all direct, indirect, and cumulative impacts that are likely to occur, including those explicitly listed in the IMP. BLM must take a hard look at the impacts of designated ways and OHV use in WSAs, and revise the PRMP to reflect this analysis.

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### ***Summary***

To increase the number of miles of WSA ways open to motorized use by 18 miles is arbitrary. Analysis of the impacts of routes within WSAs is inadequate.

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### ***Response***

Under the PRMP, the BLM is not proposing to allow motorized use of any ways or portions of ways within WSAs that are not currently authorized for motorized use; the PRMP and the No Action alternative are the same. Further, ways that have been open to motorized use prior to the signing of the ROD will remain open to motorized use under the approved plan. The BLM erred in Chapter 4 (pp. 4-406 and 4-408) in analyzing the total number of inventoried ways (59.5 miles) rather than the total miles of ways open to motorized use. We regret the confusion this has created. In the PRMP, there are in fact 44 miles of ways designated for use subject to the



Interim Management Policy for Lands under Wilderness Review (IMP) (out of 60 miles inventoried within WSAs (p. 2-104 of the PRMP/FEIS).

The Interim Management Policy for Lands under Wilderness Review (IMP) allows for continued use of inventoried ways in WSAs during the WSA phase. The Interim Management Policy for Lands under Wilderness Review (IMP) does not specify that ways will be opened or closed. However, any use of ways must maintain the suitability of the WSA for designation as wilderness. The decision to allow continued use is based on a determination that such use does not affect wilderness suitability, therefore, vehicular use may continue. As for the identified routes (ways) available for motorized use, these routes have not resulted in impairment of wilderness values and are continually monitored. Where routes remain available for motorized use within WSAs, such use will continue on a conditional basis. Use of the existing ways could continue as long as the use of these routes does not impair wilderness suitability, as provided by the IMP.

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### ***Wilderness Study Area Acreage Closed and Limited to Travel***

**Issue Number:** PP-UT-RICHFIELD-08-0005c

**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:**

PRMP fails to provide accurate data and analyses to the public as required by NEPA. 40 CFR § 1502.8 and 1500.1b. The PRMP contains contradictory and misleading statements regarding the management of WSAs. PRMP at 4-343 states that the WSA acreage designated as closed and limited is the same as the No Action alternative. However, the PRMP at 4-405 states that 187,000 acres as closed in the No Action, and 175,300 acres of WSA will be closed in the PRMP. In addition, Table 2-19 is incorrect - the information shown in the PRMP column is the acreage amounts for the No Action alternative. The PRMP fails to disclose which WSAs are proposed to be managed as closed and limited, and it fails to disclose that some currently closed WSAs would no longer be closed in the PRMP. The only way the public and decision-maker can ascertain this is to compare Off-Highway Vehicle Area Designations Map 2-12 with Map 2-14.

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### ***Response***

Under the PRMP, the total acreage closed for OHV use in WSAs is 175,300 acres, as listed in Table 2-19 and p. 4-405. The total acreage of areas limited to OHV use under the PRMP is 271,600 acres, as listed in Table 2-19 and p. 4-406. To clarify, the statement made at p. 4-343 of the PRMP is intended to explain that the total acreage of limited or closed to OHV use areas is the same for the two alternatives (both equal a sum of 446,900 acres).