

Director's Protest Resolution Report

**Taos
Resource Management Plan**

July 11, 2012



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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 and Responses
NEPA

Topic heading

Submission number

Issue Number: PP-CA-ESD-08-0020-10
Protest issue number

Organization: The Forest Initiative
Protesting organization

Protester: John Smith
Protester's name

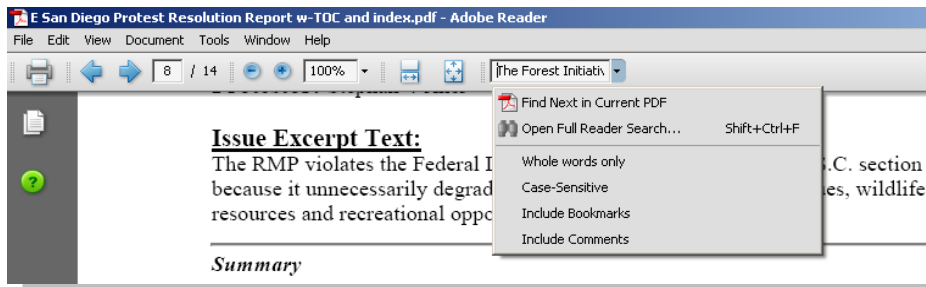
Issue Excerpt Text:
Rather than analyze these potential impacts, as required by NEPA, BLM postpones analysis of renewable energy development projects to a future case-by-case analysis.
Direct quote taken from the submission

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	NEPA	National Environmental Policy Act
BLM	Bureau of Land Management	OHV	Off-Highway Vehicle (has also been referred to as ORV, Off-Road Vehicle)
CFR	Code of Federal Regulations	PRMP/FEIS	Proposed Resource Management Plan/Final Environmental Impact Statement
DRMP/DEIS	Draft Resource Management Plan/Draft Environmental Impact Statement	RMP	Resource Management Plan
EIS	Environmental Impact Statement	SRMA	Special Recreation Management Area
FLPMA	Federal Land Policy and Management Act of 1976	VRM	Visual Resource Management
FR	Federal Register		
GHG	Greenhouse Gas		

Protesting Party Index

Protester	Organization	Submission Number	Determination
Mauzy, Eddy	Individual	PP-NM-TAOS-12-01	Denied – Issues and Comments
Dwyer, Frederick A.	Individual	PP-NM-TAOS-12-02	Denied – Issues and Comments
Sullivan-Dwyer, Barbara	Individual	PP-NM-TAOS-12-03	Denied – Issues and Comments
Weeks, Ken	Individual	PP-NM-TAOS-12-04	Dismissed – No Standing
Alexander, Raymond L.	Individual	PP-NM-TAOS-12-05	Denied – Issues and Comments
Brubaker, Dean R.	Individual	PP-NM-TAOS-12-06	Dismissed – Comments Only
Leute, Edward J.	Individual	PP-NM-TAOS-12-07	Denied – Issues and Comments
Rogers, David	Individual	PP-NM-TAOS-12-08	Denied – Issues and Comments
Krusick, Janet	Individual	PP-NM-TAOS-12-09	Dismissed – No Standing
Fecht, Bradley	Individual	PP-NM-TAOS-12-10	Dismissed – No Standing
Krusick, John M.	Individual	PP-NM-TAOS-12-11	Dismissed – No Standing
Johnson, George	Individual	PP-NM-TAOS-12-12	Dismissed – No Standing
Hepler, William M.	Individual	PP-NM-TAOS-12-13	Dismissed – Comments Only
Grant, Maxine	Individual	PP-NM-TAOS-12-14	Dismissed – No Standing
Grant, Walter	Individual	PP-NM-TAOS-12-15	Dismissed – No Standing
Manges, Joseph E.	Shamrock Metals LLC	PP-NM-TAOS-12-16 PP-NM-TAOS-12-16a	Denied – Issues and Comments
Brown, Dennis L.	Individual	PP-NM-TAOS-12-17	Denied – Issues and Comments
Gallegos, Alonzo	La Bajada Community Ditch	PP-NM-TAOS-12-18	Denied – Issues and Comments
Muenzberg, Darrin	La Bajada Traditional		

N. Dickens, Carl Barela Lopez, Jose	Village Committee La Cienega Valley Association La Cieneguilla		
Lovett, Wesley Lovett, Crystal	Individuals	PP-NM-TAOS-12-19	Denied – Issues and Comments
Spivack, Joanne Alcon, Rick	New Mexico Off Highway Vehicle Alliance R&S Powersports Group and Dynamic Promotions, Inc.	PP-NM-TAOS-12-20	Denied – Issues and Comments
Cochran, Robert M.	Tres Rios Ranch	PP-NM-TAOS-12-21	Denied – Issues and Comments
Kulhoff, Pat Henderson, Mark	Salida del Sol Chapter, Old Spanish Trail Association Chupadero Archaeological Resources LLC	PP-NM-TAOS-12-22	Denied – Issues and Comments
Dickens, Carl	La Cienega Valley Association	PP-NM-TAOS-12-23	Denied – Issues and Comments
Alcon, Rick	R&S Powersports Group	PP-NM-TAOS-12-24	Denied – Issues and Comments
Stoltenberg, Herbert	Individual	PP-NM-TAOS-12-25	Denied – Issues and Comments
Varela Lopez, Jose J.	Puerta del Canon, LLC	PP-NM-TAOS-12-26	Denied – Issues and Comments
Gonzales, Bobby	Individual	PP-NM-TAOS-12-27	Denied – Issues and Comments
Hobaugh, Lloyd	Individual	PP-NM-TAOS-12-28	Dismissed – Comments Only

Issue Topics and Responses

National Environmental Policy Act

Response to Public Comments

Issue Number: PP-NM-TAOS-12-01-11

Organization:

Protestor: Eddy Mauzy

Issue Excerpt Text:

The November 2011 PRMP now "proposes" (i.e. has decided) that Alternative A will be adopted as the Taos RMP Alternative, including its decisions and provisions to close all of the San Pedro Mountains except San Lazarus Gulch to mineral material sales.

That is an arrogant and inexcusable repudiation of the concerns of the majority of the commentors. It is the equivalent of a repudiation of the BLM's own rules and procedures which require a comment process.

Issue Number: PP-NM-TAOS-12-01-16

Organization:

Protestor: Eddy Mauzy

Issue Excerpt Text:

In fact, the BLM's "Responses" to the commentors that opposed Alternative A closures amount to nothing more than arrogant restatements of the BLM's prior positions and decisions. An example is the BLM Response to Comment 0-14 mentioned above. An even more egregious example is the BLM Response to Comment 0-45. In his comment (0-45), David Rogers contends that mineral producing lands or any lands that may contain valuable mineral resources should not be taken out of use, but should remain for the well being of the people of New Mexico. The BLM Response (Response 0-45) to David Rogers is that the proposed Plan Final EIS "considers a range of alternatives, one of which is Alternative C, and Alternative C allows the BLM to give careful consideration to optimizing mineral resource development on public lands".

The PRMP (page 164, Vol. I) states that Alternative C "allows for the maximum salable mineral development" and "Management would be the same as under the No-Action Alternative" Since Alternative C would give David Rogers

everything he asked for in his comment, the BLM response to David Rogers is the ultimate insult to David Rogers and to all of the other citizens who favor continuation of mining in the San Pedro Mountains, and a complete fraud, since in the real world, neither Linda Rundell nor Sam DesGeorges nor anyone else at the BLM ever had the slightest intention to "prefer" or to "propose" or even to "consider" Alternative C.

Issue Number: PP-NM-TAOS-12-01-18

Organization:

Protestor: Eddy Mauzy

Issue Excerpt Text:

My hereby protest is made on the grounds that the BLM has ignored the overwhelming majority of comments made to the June, 2010 RMP Draft which opposed Alternative A insofar as it affects the San Pedro Mountains, and which opposed any closure or restriction of mining activities in the San Pedro Mountains, and on other grounds stated and/or implied in this letter.

Issue Number: PP-NM-TAOS-12-01-2

Organization:

Protestor: Eddy Mauzy

Issue Excerpt Text:

Note: The language on page 457, Vol. I, of the PRMP is exactly the same language that appeared on page 451 of the June, 2010 RMP Draft. That fact is unequivocal and compelling evidence that the BLM (Linda Rundell, Sam DesGeorges, etc.) had a fatal bias against mining interests and in favor of the few anti-mining activists and in favor of Alternative A, prior to the June, 2010 RMP Draft insofar as the San Pedro Mountains are concerned, and that the BLM's invitation to the public to submit comments regarding the June, 2010 RMP Draft was ingenuous and contrary to laws, rules and regulations concerning RMPA procedures, and therefore requires any provision of the PRMP that in any way prevents or

restricts mining or development of mineral resources in the San Pedro Mountains to be invalid and invalidated.

Issue Number: PP-NM-TAOS-12-01-22

Organization:

Protestor: Eddy Mauzy

Issue Excerpt Text:

Another document obtained pursuant to FOIA request was an e-mail dated 09/09/2009, sent by Santa Fe County Planning Manager Robert Griego to Brad Higdon, the point person in Taos for the (then) Taos RMP Amendment process.

The said e-mail was extremely damaging to the RMP Amendment process, because it attached a comment page which stated that Santa Fe County "supported the withdrawal from locatable minerals and the closure of mineral material sales" on BLM lands within Santa Fe County. The San Pedro Mountains are situated entirely within Santa F County. (copy of e-mail and attached comment enclosed herewith)

Mr. Griego's said comment did not reflect or represent Santa Fe County decisions or policy. It had not been authorized by the County Board of Commissioners, and was completely and absolutely incorrect and absurd..

We contacted and met with our County Commissioner, Robert Anaya, and with Mr. Griego and his Supervisor, Jack Kolkmeier, immediately upon seeing the Griego e-mail, and each agreed that it was a horrible mistake. Mr. Kolkmeier wrote a rescission letter to SamDesGeorges, (copy enclosed herewith)

The Kolkmeier rescission was and is too late. The damage to the Taos RMP Amendment process has been done, and was almost certainly given much weight in the planning process, especially given the extreme pressures inflicted on the BLM at the time by the anti-mining activists. The Griego e-mail occurred prior to the issuance of the June, 2010 RMP Draft, and obviously prior to the current November, 2011 PRMP, and the Kolkmeier 07/11/2011 rescission letter could not possibly have any effect on either document. The Griego e-mail poisoned the Taos RMP process beyond redemption.

Issue Number: PP-NM-TAOS-12-01-6

Organization:

Protestor: Eddy Mauzy

Issue Excerpt Text:

The statement on page 308, Vol. I of the PRMP that "There is a quarry on private land producing aggregate from the Madera limestone just east of Edgewood" is a false and misleading statement. I am very familiar with the Edgewood quarry. It was at one time operated by the large construction materials company, LaFarge. But LaFarge relinquished the operation several years ago due to the fact that it was uneconomic. The operation was picked up by some inexperienced local individuals who are attempting to operate without even a crusher, and with fierce opposition from immediately adjacent homeowners who constantly object to any blasting. The operation is not producing Madera limestone material. When Joe Mirabal, the geologist assigned to the PRMP review process, was asked recently if he had ever been to the Edgewood quarry operation, he responded that he had not. It is notable that one of Mr. Stoltenberg's September 7, 2010 comments to the June, 2010 RMP (his Issue No.9) explicitly exposed the "Edgewood quarry" which was mentioned in the June, 2010 RMP Draft as a false issue, supported by copies of newspaper articles. Still, the PRMP now, a year and a half later, again mentions the "quarry just east of Edgewood" and implies that it is a legitimate full-scale operation and an "alternate source" of construction material which completely eliminates the need for the Madera limestone from the San Pedro Mountains. The conclusion is that the BLM made its decision to close the Mountain to mineral material sale- mining activists early in the planning process, doubtless because of strident complaints by anti-mining activists, and invented facts in the June, 2010 RMP Draft, and now in the PRMP, to support that decision. The ultimate conclusion is that the BLM cannot be trusted to be an impartial judge in the entire planning process.

Issue Number: PP-NM-TAOS-12-01-9

Organization:

Protestor: Eddy Mauzy

Issue Excerpt Text:

The BLM provided copies of 43 written comments in response to the FOIA request. Ten of the said comments favored Alternative A and opposed mining in general, but thirty-two of the said comments

opposed Alternative A and supported continuation of mining in the San Pedro Mountains.

Issue Number: PP-NM-TAOS-12-17-2

Organization:

Protestor: Dennis L. Brown

Issue Excerpt Text:

Alternative A should not be considered, since BLM and the point person for the RMP Draft, Brad Higdon were influenced by a false and unauthorized e-mail sent by Robert Griego on 9/9/2009. Jack Kolkmeier, Robert Griego's boss, wrote to Sam DesGeorges on 7/11/2011 rescinding Griego's e-mail of 9/9/2009. This letter was too late to influence the RMP Draft.

Issue Number: PP-NM-TAOS-12-18-12

Organization:

Protestor: La Bajada Community Ditch Inc.

Issue Excerpt Text:

Volume I ,CH 5 Consultation & Coordination:
5.2.2 Efforts did not include the Traditional Communities of La Bajada, La Cienega, or La Cieneguilla despite standing as subdivisions of the State as provided by New Mexico Statute. Such standing should be reflected under the Local Government heading. All of these communities have been actively participating in Santa Fe County's Sustainable Land Development Code development (BLM has been a participant in this process at its convenience, and without consistency). There is no mention or listing of the Traditional Communities along the Santa Fe River per se. This omission has obscured the evidence of RMP negative impact on the region's Acequias. BLM has consistently denied our existence as such, avoided accountability for its detrimental management practices, and evaded sound proposals for remedial action. This pattern has resulted in fragmenting Public Comments from the holistic perspective of Traditional Communities and presenting them singularly as those of "other groups" (described in 5.2.4 Interest groups). By taking this approach, BLM has responded to (and dismissed) the comments categorically as outside its jurisdiction, or beyond the scope of its duty for management of public resources. Traditional Community collaboration has been thwarted despite attempts facilitated by Santa Fe County to cooperate with BLM. Most recently, at a meeting facilitated by the NPS, with representatives

from La Bajada, Cochiti Pueblo, USFS and Santa Fe County present. BLM was invited but conspicuously absent. The opportunity for BLM to receive draft Cultural Landscape Surveys was missed. Refusal to recognize and accept the concerns of the Traditional Communities of La Bajada, La Cienega, and La Cieneguilla, have presented an obstacle to due process, and meaningful public comment. Duly established bodies representing the Traditional Communities of the Santa Fe River were never given proper notice of publication of the RMP/EIS, and relied on the diligence of individual community members who took "notice by publication" in local area newspapers. Publication of the RMP/EIS during the first week of Advent, was at best an insensitivity to the Religious observations and customs of Traditional Community members, or at worst a deliberate attempt to exclude meaningful protest.

Issue Number: PP-NM-TAOS-12-24-3

Organization: R&S Powersports Group

Protestor: Rick Alcon

Issue Excerpt Text:

The lack of public transparency, comment and complete disregard for public input on this proposed inclusion in the RMP is extremely inappropriate. I have worked closely with the various user groups and individuals who have submitted formal comments on this issue and urge you to legitimately review and address their requests.

Issue Number: PP-NM-TAOS-12-25-10

Organization:

Protestor: Herbert Stoltenberg

Issue Excerpt Text:

3. Santa Fe County's Unauthorized and Damaging Comment. I obtained a document recently pursuant to a FOIA request that irretrievably damaged the entire Taos RMPA process insofar as mineral availability on BLM lands in the San Pedro Mountains are concerned. The document is an e-mail from Santa Fe County Planning Manger Robert Griego to Brad Higdon, the BLM point person in Taos for the PRMP. Mr. Griego's e-mail attached a page which stated that Santa Fe County "supports the withdraws from locatable minerals and the closure of mineral material sales" (on BLM lands) in Santa Fe County, A copy of Mr. Griego's e-mail and its attachment is enclosed

herewith as Ex. C)

The San Pedro Mountains are situated entirely within Santa Fe County.

Mr. Griego's statement to 'the BLM was totally unauthorized and did not and does not reflect the positions of Santa Fe County in any manner.

We met with our County Commissioner, Robert Anaya, and with Mr. Griego and his superior, Jack Kolkmeier, as soon as we saw the e-mail, and all of them said that the e-mail was completely unauthorized and did not reflect Santa Fe County's position in the matter. Mr. Kolkmeier immediately wrote to Sam DesGeorges and rescinded the e-mail. (copy enclosed herewith as Ex, D))

Mr. Kolkmeier's rescission was too late. The damage was done when Mr. Griego sent the e-mail in 2009, prior to the June, 2010 RMP Draft and obviously prior to the current PRMP. The e-mail poisoned the Taos RMPA process beyond redemption. Therefore, any provision of the PRMP that closes or withdraws or restricts mineral resource availability on BLM lands in the San Pedro Mountains in any way or manner is invalid, and the PRMP must be changed accordingly.

Issue Number: PP-NM-TAOS-12-25-7

Organization:

Protestor: Herbert Stoltenberg

Issue Excerpt Text:

The PRMP itself states that "Adequate local supplies of these basic resources (i.e. mineral materials) are vital to the economic life of every community." (Vol. I, page 306)

The BLM response is (i) There is a quarry on private land producing aggregate from the Madera limestone just east of Edgewood." (Vol. I, page 308); and (ii) "The San Pedro Mountains are not the only source of materials in New Mexico," (Response to Comment 0-14, Vol. II, page 207)

The BLM mention of the Edgewood quarry amounts to a blatant misrepresentation. My 09/07/2010 Comment Letter (Issue No. 0, top of page 19) exposed the Edgewood quarry excuse as a lie. I stated actual facts, including that the Edgewood quarry was formerly operated by LaFarge, and that LaFarge relinquished the quarry years ago because it was uneconomic and that some local inexperienced individuals took the quarry over and it is not being operated and cannot be operated as a full-scale quarry, and that it does not even have a crusher, and that it does not produce Madera limestone, and that immediately adjacent homeowners continue to object to any blasting at the quarry.. I attached copies of newspaper articles in support of my statements.

Summary

The Bureau of Land Management's (BLM's) comment responses on the Draft Resource Management Plan/Draft Environmental Impact Statement (DRMP/DEIS) were insufficient and violated the National Environmental Policy Act (NEPA) because:

The BLM ignored the overwhelming majority of comments that supported continuation of mining in the San Pedro Mountains.

The BLM improperly relied on an email from Santa Fe County Planning Manager Robert Griego when selecting a preferred alternative.

Response

The BLM appreciates the comments provided by all groups and individuals on the DRMP/DEIS. The BLM complied with the requirements of NEPA by performing a detailed comment analysis

which assessed and considered all substantive comments received on the DRMP/DEIS (see 40 CFR 1503.4). Appendix J of the Proposed Resource Management Plan/Final Environmental Impact Statement (PRMP/FEIS) presents the BLM's responses to all of the substantive comments.

Each of the 94 submissions received were compiled, reviewed, and analyzed to determine whether the comments submitted were substantive. The method of comment collection and analysis is described in detail in Appendix J at page 155. As stated in Appendix J, "comments are not treated or tallied as "votes." Rather the substances of the comments help the BLM to understand and weigh the multiple factors considered as part of its decision-making process."

As stated in Appendix J, the Taos Field Office made every effort in its comments analysis to be inclusive of comments, even if technically not substantive. This provided the public with the greatest opportunity to have their comments acknowledged and considered as part of the PRMP/FEIS. Responses to substantive comments were provided, including the basis or rationale for the methodology or assumptions used and changes made to the document when applicable.

Regarding the letter from Robert Griego, the Taos RMP never reflected the position expressed in the unauthorized and subsequently retracted comments discouraging all locatable and salable mineral development on public lands in Santa Fe County. In fact, none of the alternatives evaluated in the Final EIS provided for this option. The document did provide for maximizing mineral resource development opportunities on public lands in Santa Fe County as an alternative given full consideration, consistent with mining opportunities. The decision made by the BLM on mineral resource development opportunities in the San Pedro Mountains was objective, rational, and reasoned; while considering public input. The Griego e-mail had no bearing on the selection of the preferred alternative as part of the Taos RMP process.

Impacts Analysis

Issue Number: PP-NM-TAOS-12-20-22

Organization: New Mexico Off Highway Vehicle Alliance

Protestor: Joanne Spivack

Issue Excerpt Text:

The RMP/FEIS failed to present cumulative negative impacts of closures which reduced motorized recreation opportunity, both within the proposed RMP and cumulatively with known Forest Service proposed closures. As discussed later in this Protest, the Land Allocation Table S-1 shows the true cumulative reduction of motorized access in the district. In addition, the nearby Santa Fe National Forest is deep into its Travel Management decision process for 1.6 million acres of non-wilderness land.

That forest has been entirely 'open', including cross country travel. Its Proposed Action closes over half the existing roads and trails to motorized use. There is no doubt about the foreseeable negative impacts of Forest Service decisions on motorized recreation. Foreseeable Lack of Other Locations for Motorized Recreation Access. The RMP/FEIS recognizes that the BLM OHV areas (EI Palacio and Buckman) can be used year round, whereas higher elevation Forest Service roads and trails are inaccessible. Those roads are snow-covered from approximately November through April. Page 319:

There has been a high level of public interest in maintaining opportunities in the planning area for both nonmotorized and motorized access. The lower

elevations generally allow four-season access, unlike the higher elevations managed by the Forest Service.

Issue Number: PP-NM-TAOS-12-20-37

Organization: New Mexico Off Highway Vehicle Alliance

Protestor: Joanne Spivack

Issue Excerpt Text:

The RMP/FEIS provides no documentation of the existing use or trail network. It does not claim there are problems. No analysis is presented. The Taos BLM has no trail inventory for Buckman, they just cut a huge swath out of the motorized area, with no idea or concerns about what the effects would be. To propose such a reduction in the total absence of any data or consideration of impacts or cumulative effects is a textbook example of an 'arbitrary and capricious' decision. Unlike the disposal, this decision does not require a separate NEPA process. The motorized access reduction would be finalized when the RMP is finalized. The agency's proposed management for motorized recreation does not match the statements it makes in its RMP/FEIS.

Issue Number: PP-NM-TAOS-12-20-39

Organization: New Mexico Off Highway Vehicle Alliance

Protestor: Joanne Spivack

Issue Excerpt Text:

The FEIS Land Allocation reducing motorized access violates CEQ in multiple ways:

- utterly fails to admit to its overall effect of reducing motorized access.
- does not disclose impacts to motorized access in its comparison of alternatives.
- does not disclose that such an impacts analysis is required.
- does not admit to 'missing information' as required by CEQ: it has no inventory of existing roads and trails and that data gap is material and substantive and affects the analysis.

Issue Number: PP-NM-TAOS-12-20-41

Organization: New Mexico Off Highway Vehicle Alliance

Protestor: Joanne Spivack

Issue Excerpt Text:

CEQ requires that the Action Alternatives be

compared to the No Action Alternative. For the 2011 RMP/FEIS, the 1988 RMP, and the current management direction and level of management intensity, is the No Action Alternative. The 2011 RMP/FEIS violates CEQ because it does not compare its Alternatives to the No Action, and does not disclose a significant cumulative impact: the reduction of motorized access which has a negative effect on all recreation, not only OHV recreation.

Issue Number: PP-NM-TAOS-12-20-43

Organization: New Mexico Off Highway Vehicle Alliance

Protestor: Joanne Spivack

Issue Excerpt Text:

The most severely impacted area is Buckman, one of two areas identified in the RMP favored by the public for motorized recreation. The RMP greatly reduces the 'motorized area' with no analysis. The area has always been multiple use, and shared by many types of recreationists. The word 'Buckman' appears 32 times in the FEIS. Most of the instances are about utility corridors, fire management etc., with several mentions of Buckman identified as an area used for OHV recreation. There is not a shred of data, or analysis, or even discussion about the OHV use at the area. None the less, at page 148, we see this:

The area east of Buckman Road and south of Boondocks pasture would contain a system of roads/trails used for motorized recreation. These routes would be kept about a mile from private property boundaries to reduce impacts to residents from noise and dust. Some reroutes are anticipated that would be needed to protect cultural sites.

There is NO justification for creating a mile wide buffer zone; that is excessive and unjustified. The RMP presents no analysis, no impacts, no cumulative effects. There is no trail inventory at all, the agency doesn't know what it is closing or why. It has no idea what recreation or how much is occurring. The statement at page 148 is deceptive and does not disclose the area has many miles of established trails, very few of which are near housing. Page 32 of Appendix is inconsistent with the statement at page 148:

transportation and access - the area east of Buckman Road and south of Boondocks pasture would contain a medium density of routes used for motorized recreation; these routes would be located at least 1/2

mile from private property boundaries to reduce impact to residents from noise and dust; some reroutes are anticipated that would be needed to protect cultural sites

'About a mile' or 'at least half a mile'and why? There is no data and not even qualitative discussion. The agency has no traffic counts. We could understand a statement that motorized use would be located to minimize impacts to adjacent housing. But a blanket buffer zone prior to any analysis is contradictory to the rational analysis required under NEPA.

The Taos BLM is abusing its discretion by applying access restrictions over broad areas, with no consideration of the impacts on the resources, and without communicating adequately with the public.

Issue Number: PP-NM-TAOS-12-20-45
Organization: New Mexico Off Highway Vehicle Alliance
Protestor: Joanne Spivack

Issue Excerpt Text:

The use of the existing routes is allowed under the 1988 RMP which is the No Action Alternative. The RMP/FEIS changes the 1988 'existing routes' policy, claiming it is 'too hard to manage'. We have yet to see the agency make any attempt to manage it. Now the agency wants to simply adopt more restrictive closures, with no proof that the 1988 policy doesn't work. The agency does not claim or show it was causing resource damage. They are imposing the harsher 'designated' policy with no proper analysis or disclosure of impacts. The RMP does not compare the action alternatives to the No Action Alternative of the existing 1988 RMP management. It only compares action alternatives to each other.

Issue Number: PP-NM-TAOS-12-20-7
Organization: New Mexico Off Highway Vehicle Alliance

Protestor: Joanne Spivack

Issue Excerpt Text:

We protest the land Allocation which greatly reduces motorized access with unanalyzed 'blanket' closures described only by acreage. This bans motorized access on all formerly open existing roads and trails on the district, but with no inventory, no analysis, no disclosure of cumulative effects, and no consideration of social-economic effects or of Environmental Justice. All motorized access that is currently 'open to existing' would become 'limited to designated' routes. All those formerly legal routes are thrown into limbo, until and IF, the agency ever gets around to doing designations. The RMP retains the existing 'open to limited' for five years subsequent to RMP approval, and use will change to 'limited to designated' when the agency does a designation process. There should not be a five year limit on allowed use of existing routes. 24 years have passed since the 1988 RMP and the Taos BLM still hasn't done the route designations described in that RMP. Existing routes should remain open until a designation decision is made, without limiting that to five years.

We protest the 30% reduction in motorized use area in the Buckman area. Buckman is one of two area identified in the RMP favored by the public for motorized recreation. The RMP greatly reduces the 'motorized area' with no analysis. The area has always been multiple use, and shared by many types of recreationists. The RMP presents no analysis, no impacts, no cumulative effects.

Summary

The EIS violates NEPA as it does not compare the action alternatives to the No-Action Alternative of the existing 1988 RMP.

The Taos RMP reduces the size of available area for motorized recreation in the Buckman area by establishing a buffer zone precluding motorized recreation a certain distance from private property boundaries. The impacts of this buffer zone are not analyzed in the EIS.

Response

The Taos PRMP/FEIS properly compared the action alternatives to the No-Action Alternative for the transportation and travel management designations. Table 4-14 on Page 466 of the PRMP/FEIS discloses the differences in the designation of routes, comparing the No-Action Alternative, to action alternatives A, B, and C. The No-Action Alternative, which is the current management situation under the existing RMPs, would allow use of all existing roads and would allow the most options for access to the public lands in the planning area (PRMP/FEIS Section 4.6.8). Under Alternative A, "the proposed alternative, options for open and cross country access by the public would be eliminated," drawing a clear distinction between that alternative and the No-Action Alternative (PRMP/FEIS Section 4.6.8). Section 4.6.8 also states that "the no action alternative would allow the most options for access to the public lands in the planning area since more areas would allow use of all existing roads and more acreage would remain in the open category."

The Recreation impacts analysis in the PRMP/FEIS discusses the differences among alternatives relating to transportation and access, stating that in Alternative A "decreases in open areas and substantial closure of routes would help maintain more primitive and back country settings, as well as promote the quality of nonmotorized recreation." It recognizes that closing areas to Off-Highway Vehicle (OHV) use could diminish opportunities for recreation, but states that "the overall quality of motorized use would improve with well-defined open and closed areas and clearly designated routes" (PRMP/FEIS Section 4.6.6(B)(j)).

The PRMP/FEIS also discusses the cumulative impacts of reducing motorized access on recreational opportunities, stating that the use of OHVs would continue to increase based upon current trends, decreasing undeveloped, open, and unconfined settings in the planning area, and decreasing opportunities for solitude (PRMP/FEIS Section 4.9.2.12).

With regard to the Buckman motorized recreation area and the proposed Santa Fe Ranch Area of Critical Environmental Concern (ACEC) that would be established, only about two percent of the area would be closed to OHV travel under the preferred alternative in the PRMP/FEIS. However, as the protestor points out, a measure to preclude route designations in a mile-wide buffer from private property boundaries would render a substantial portion of the area unavailable to OHV travel, such that the measure would essentially equate to a closure. Since this measure was intended by the BLM to serve as a guide for future travel management planning, rather than a stringent condition; and since the analysis of potential impacts from the decisions on transportation and access did not reflect this condition, this measure will not be carried forward into an approved RMP. Instead, this area will continue to be open to OHV travel. Consideration of route designations in close proximity to private lands will be made on a case-by-case basis during subsequent implementation-level planning for the area.

The Record of Decision will make clear that the decisions describing a buffer zone in the Buckman area (see PRMP/FEIS 2.6.3.8(7) and Appendix A, Table 18) will not be carried

forward in the Approved RMP.

Public Notification

Issue Number: PP-NM-TAOS-12-01-13
Organization:
Protestor: Eddy Mauzy

mining were not given notice of the said 30-day extension.

Issue Excerpt Text:

It is interesting to note that the September, 2006 Scoping report regarding the June, 2010 RMP Draft, made much of the fact that the majority in number of the commentors opposed mining (copies of pages from the scoping report enclosed). That even in the face of the fact that the comment period was extended for an additional 30 days at the request of the anti-mining activists and that the supporters of

Issue Number: PP-NM-TAOS-12-27-3
Organization:
Protestor: Bobby Gonzales

Issue Excerpt Text:

The RMP was posted for review during the holiday season. There is no clear declaration as to when the posting was completed and when the final 30 day protest period begins and ends.

Summary

The BLM did not give certain parties notice of the 30-day extension of the scoping period for the RMP/EIS process.

The PRMP/FEIS provided no clear declaration as to when the posting was completed and when the protest period began and ended.

Response

As indicated in Section 1.3 of the PRMP/FEIS, notice of the extension to the public scoping period was provided through a broadly distributed news release issued on August 4, 2006. Notice of the extension was also provided on the BLM Taos Field Office's website.

The Dear Reader letter in the PRMP/FEIS stated that parties could protest approval of the planning decisions within 30 days from the date the Environmental Protection Agency published the Notice of Availability in the Federal Register. Additionally, the Notice of Availability (76 FR 75556) was published on December 2, 2011, and clearly states that all protests must be filed within 30 days of the filing of the Notice. Therefore, the protest period closed on January 3, 2012 (as January 1 was a Sunday and January 2 was a federal holiday).

Areas of Critical Environmental Concern

Issue Number: PP-NM-TAOS-12-16-2

Organization:

Protestor: Shamrock Metals LLC

Issue Excerpt Text:

The TRMP does not state or explain how the existing Ojo Caliente ACEC or the proposed entire 66,580 acre Ojo Caliente ACEC satisfies the (a) relevance or (b) importance criteria. There is no explanation of how the entire 66,580 acreage satisfies the relevance criteria, apart from the existence of certain unidentified archaeological sites. [FOOTNOTE 2 - The June 1990 cultural resource management plan for the Ojo Caliente ACEC identified 4 Pueblo sites which required protection, Hupubi, Posi, LA 6244 and Ponsipa Akeri. The 1990 plan proposed to withdraw 252 acres from mineral location in order to protect these sites. See June 1990 Cultural Resource Management Plan, p. 21 -24, Ex. "D", The TRMP at issue identifies no new archaeological sites. It appears that the 1990 cultural resource plan has not been updated. Consequently, at most a total of 252 acres should be considered for withdrawal, and the TRMP fails to explain why any greater protection is necessary, particularly where the 252 acres was sufficient in 1990.] The evaluation states that certain archaeological sites were found along El Rito Creek and south of the existing ACEC. TRMP, 328. However, most of the enlarged ACEC is not adjacent to El Rito Creek and is not south of the existing ACEC. Almost all of the enlarged ACEC is located west of the existing ACEC. See Map 2-36. There is no identified new evidence of archeological ruins in the western area. To the contrary, the area west of the existing ACEC lies in the heart of Shamrock's mining claim and state leases and includes many old dig sites, large ore stockpiles, exploration pits, two water wells, tanks, tailing, fences, cisterns and an old mill site. There are improved roads with culverts and drainage. See Shamrock's Comments, pp. 7-10, Exhibit C. The enlarged area which has been subjected to extensive mineral exploration and operations with no documented archeological sites. There is no identified archeological evidence supporting the western enlargement of the existing ACEC to the west.

The rationale also states that the BLM received public comments during the scoping process regarding scenic quality, wildlife corridors, unspecified cultural resources and erodible soils which warranted enlargement of the ACEC. (TRMP p. 328.) There is no explanation, however, how these

values are "significant" within the "relevance" criteria or how the values satisfy the "importance" criteria and are of "more than local" or of national significance. Further, there is also no explanation of how the entire 66,580 acreage is relevant or important, or "more than locally significant especially compared to any similar resource."

The TRMP also states that the enlarged area has an "erodible soils" hazard. (TRMP p. 328). Shamrock personnel have extensively traveled the entire area and unequivocally state that "erodible soil" allegation is a myth and that the soils do not present any hazard to human health, much less a significant hazard. This purported hazard does not stand independent scrutiny. It does not remotely satisfy the requirement of a natural hazard presenting a "significant threat" to human health. See eg. Ron Wilcher, 178 IBLA 109 (2009) (a 30,000 acre ACEC declared due to asbestos exposure arising in 5 part from nearby asbestos mine listed as a superfund site by the EPA.) In Wilder, the presence of high levels of asbestos in the soil was sufficient to justify the occasional seasonal closing of the 30,000 acre tract at issue. However, there is no similar health hazard identified here. There is no evidence or explanation regarding how these alleged erodible soils present a "significant threat" to human life or the environment and none is apparent.

Issue Number: PP-NM-TAOS-12-16-4

Organization:

Protestor: Shamrock Metals LLC

Issue Excerpt Text:

It is undisputed that the existing archeological sites could still be protected within a smaller 250+ acre ACEC, by virtue of the BLM's own prior planning documents. See June 1990 Cultural Resource Management Plan, pp. 21-24, Ex. "D". An ACEC of 66,580 acres is not needed to protect the 252 acres of archeological sites which have been identified, assuming the sites are "more than locally significant"... "especially compared to any similar resource."

Issue Number: PP-NM-TAOS-12-16-5

Organization:

Protestor: Shamrock Metals LLC

Issue Excerpt Text:

Furthermore, designation of the entire area as an ACEC will unduly interfere with principles of

multiple use and public access to the area, including access to the existing mining claims and mining areas.

Issue Number: PP-NM-TAOS-12-16-8

Organization:

Protestor: Shamrock Metals LLC

Issue Excerpt Text:

No meaningful effort was made to narrowly limit or restrict the acreage withdrawn to the requisite "minimum size" necessary to accomplish the stated purposes. There is little, if any, connection between the withdrawal of the 66,580 acres from location and the resources or interests to be protected in the ACEC. As indicated above, withdrawal of the 66,580 acres of land is not necessary to protect the identified archaeological sites which are either near El Rita creek or south of the existing ACEC. Withdrawal of the entire acreage is not necessary to protect any of the other unidentified resources or interests either, including the scenic qualities, wildlife corridors or cultural resources. With respect to the presence of "erodible soils hazard," there is no evidence or explanation of how the withdrawal of all land from mineral location, leasing or sale is necessary to guard against this alleged hazard, either.

Issue Number: PP-NM-TAOS-12-16a-2

Organization:

Protestor: Shamrock Metals LLC

Issue Excerpt Text:

The TRMP and EIS do not satisfy or meet the requirements of Council on Environmental Quality (CEQ) regulations. The TRMP and EIS do not accurately document existing conditions in the Ojo Caliente planning unit. The alternative presented in the TRMP and EIS as the "No Action" alternative does not comply with 40 CFR 1502.14(d) in two ways. First, the "No Action" alternative presented does not accurately portray the present management direction or level of management intensity and second, the agency has failed to adequately explain, define, and document the existing conditions.

Issue Number: PP-NM-TAOS-12-16a-4

Organization:

Protestor: Shamrock Metals LLC

Issue Excerpt Text:

As explained at length in Shamrock's protest at pages 5-6, 8-10, 11-12 and 15-16, the TRMP and EIS fail to accurately portray the existence of numerous roads and improvements in the Ojo Caliente planning unit. It ignores the existence of many mining claims, existing mines, dig sites, exploration pits and related improvements. It ignores the existence of numerous roads, culverts, fences, water wells, and buildings, all as described in Shamrock's protest. The presence of these conditions should have been disclosed and would have impacted numerous analysis in the TRMP and EIS, including the wilderness characteristic analysis set forth at page 257-262. It simply fails to provide a true, accurate or even adequate baseline. Without an accurate baseline for the public and the decisionmaker to use in making a rational, reasoned consideration of the benefits and risks and their associated trade-offs, the TRMP and EIS misses its CEQ-required mark by a wide margin.

Supplemental Conclusion:

The lack of a CEQ compliant and accurate baseline (or a No Action alternative baseline) fundamentally skews the resulting comparisons of the No Action alternatives with the action alternatives such that the EIS is rendered useless with respect to the Ojo Caliente planning unit. The TRMP and EIS, whose comparisons utilize a fatally flawed existing condition baseline and No Action alternative, should be withdrawn. A Supplemental TRMP and EIS which accurately identifies, describes, and documents the existing baseline and No Action Alternation and meets CEQ regulations should be prepared.

Issue Number: PP-NM-TAOS-12-23-3

Organization: La Cienega Valley Association

Protestor: Carl Dickens

Issue Excerpt Text:

Comment C-13: The BLM should preserve and protect important and archaeologically sensitive areas near La Cienega. The Old La Bajada Ranch (formerly Santa Fe Canyon Ranch) should be a priority among areas needing protection. (La Cienega Valley Association)

Response: La Cienega ACEC was developed in the 1988 Taos RMP, recognizing this sensitive area. Because of the great deal of archaeological data that has been gathered since 1988, the Proposed Plan includes an expansion of the ACEC.

LCVA Protest: The BLM response is misleading and empty. The expansion of the ACEC does not encompass the Old La Bajada Ranch which contains

over 50 archaeological sites with over 30 deemed as significant. The expansion of the ACEC does nothing to protect this incredibly rich archaeological area.

Issue Number: PP-NM-TAOS-12-26-3
Organization: Puerta del Canon, LLC
Protestor: Jose J. Varela Lopez

Issue Excerpt Text:

the basis of this protest, is the proposed expansion of the La Cienega Area of Critical Environmental Concern (ACEC) from 3,730 acres to 13,390 acres. Puerta del Cañon, LLC properties are currently adjacent to the BLM public lands that comprise the current ACEC. Should the proposed action become final, Puerta del Cañon, LLC properties will be surrounded by the expanded ACEC boundaries. As such, we believe that our rights to develop our surface and mineral right estates will be irreparably diminished as a result of being embedded within a special management designation area such as an ACEC.

Issue Number: PP-NM-TAOS-12-26-5
Organization: Puerta del Canon, LLC
Protestor: Jose J. Varela Lopez

Issue Excerpt Text:

The response from BLM to our comment (U-48) regarding this issue states in part that "...the indirect effects from public land management decisions on adjacent private lands are too speculative and unpredictable to be meaningfully evaluated as part of this analysis." It is our contention that there is nothing speculative, nor unpredictable, about the fact that being adjacent to, and even more so being surrounded by, a special management area, will have an adverse impact on our use and enjoyment of our private property. The indirect and direct consequences of expanding the ACEC to surround our properties do not have to be quantified in order to evaluate an impact. Designations such as an ACEC affect private properties surrounded by them, both in perception by the public and uses permitted by local governments as a result of such a designation. If the impact is to be quantified it can easily be ascertained by a land use attorney or real estate appraiser. In short, a meaningful evaluation of this issue should have been part of the proposed RMP/EIS analysis.

Summary

The existing Ojo Caliente ACEC and its expansion does not meet the relevance and importance criteria for ACEC designation and the Taos RMP does not describe the existing conditions in the area.

The Taos RMP did not adequately analyze the expansion of the La Cienega ACEC regarding the inclusion of nearby archeological resources, including those located within the Old La Bajada Ranch area.

The Taos RMP did not consider how the proposed expansion of the La Cienega ACEC would affect the adjacent private landowners' ability to develop their properties or mineral interests, particularly considering potential changes in perception by the public and uses permitted by local governments as a result of such a designation.

Response

Nearly all public lands in the vicinity of the Santa Fe River Canyon and La Bajada Mesa area are included within the proposed La Cienega ACEC. This includes approximately 93 percent of the

contiguous public lands in the area—all public lands except those currently used for mining, or those available for disposal under the Recreation and Public Purpose Act (see Section 2.6.3.2 of the PRMP/FEIS.).

The BLM has no authority to make land use planning decisions on non-public lands, such as the Old La Bajada Ranch, which is currently owned by Santa Fe County. The PRMP does, however, state that "Lands supporting special values acquired within or adjacent to administrative special designations, such as ACECs and Special Recreation Management Areas (SRMAs), would be incorporated into and managed according to the prescriptions for the special designation" (PRMP/FEIS, section 2.4.2.2). This provides the opportunity for potential future acquisition of properties containing archaeological resource values in the vicinity of La Cienega ACEC.

The BLM reviewed and evaluated all recommended areas for ACECs consistent with 43 CFR 1610.7-2 and BLM Manual 1613-1-.11 and .12. Areas that met both importance and relevance criteria were considered as part of the La Cienega and Ojo Caliente ACECs in the Draft RMP/EIS alternatives. Areas that failed to meet both the relevance and importance criteria were not considered as part of the La Cienega or Ojo Caliente ACECs in the DRMP/DEIS alternatives.

Section 3.3.10.1 describes the existing conditions and resources present in the existing Ojo Caliente ACEC and in the area recommended for expansion of the ACEC which includes the former Black Mesa ACEC, the Rincon del Cuervo/Cerro Colorado area, and the Ku Pueblo SMA. The BLM analyzed the relevance and importance criteria for the Ojo Caliente ACEC as discussed in Section 3.3.10.1. Management direction for this ACEC is in Appendix A, Table A-9.

The PRMP/FEIS does not address the potential for special designations to alter the ability of adjacent private landowners to develop their properties or mineral interest because the potential for such an effect is too speculative, particularly given that it is unknown how local land ordinances could be modified as a result of the special designation.

Cultural Resources

Issue Number: PP-NM-TAOS-12-18-1

Organization:

Protestor: La Bajada Community Ditch Inc.

Issue Excerpt Text:

(ii) Issue - Negative Impact on Traditional Communities located in the EI Camino Real de Tierra Adentro National Historic Trails corridor and their ancient and sustainable microeconomies (particularly with regard to Cultural Resources, Vegetation Resources, and Water Resources) has been inadequately assessed. This is partly due to the fragmented consideration of diverse Natural, Cultural

and Historic resources within the planning area. Multijurisdictional efforts to inventory these resources have been underway for the last 5 years, and are 90% complete at the time of RMP/EIS publication. If such Cultural and Historical landscape Surveys are excluded from the RMP, any action by the BLM in this area that does not recognize Traditional Communities and their role as an integral part of the Natural Environment is based on myopic assessments, and is potentially harmful to the riparian ecosystem in the Santa Fe River Canyon, and citizens of the United States.

Issue Number: PP-NM-TAOS-12-18-10

Organization:

Protestor: La Bajada Community Ditch Inc.

Issue Excerpt Text:

4.7.2g Environmental Justice: is based on ethnographic and economic assumptions and criteria that do not reflect the complex evolution of the history of New Mexico, and the Santa Fe River Watershed. These assumptions and criteria would be better defined by inclusion of the Cultural Landscape Surveys in question. Consideration of these data and findings would significantly impact the alternatives submitted in the proposed RMP.

Issue Number: PP-NM-TAOS-12-18-11

Organization:

Protestor: La Bajada Community Ditch Inc.

Issue Excerpt Text:

4.9.2.3 Cultural resources: considers little else than OHV impact in this assessment. Information contained in the forthcoming Cultural Landscape Surveys demonstrates the role that the Traditional Communities of the Santa Fe River Watershed have played as stewards of A FRAGILE BUT BALANCED ECOSYSTEM for over four centuries. Negative impact findings were presented to BLM by representatives of Traditional Communities from 2001 to 2011, and ignored.

Issue Number: PP-NM-TAOS-12-18-3

Organization:

Protestor: La Bajada Community Ditch Inc.

Issue Excerpt Text:

The proposed RMP currently submitted for approval should not be considered a "FINAL" Environmental Impact Statement. The RMP Makes no mention of sustaining the health of the Acequias of the Santa Fe River Watershed (already damaged by BLM projects

upstream), or of the negative impact that has been experienced to date as a direct result of projects implemented on BLM land. Opportunities for the submission of 70% and 95% Drafts of the Cultural landscape Surveys relevant to the EIS were obstructed by BLM absence from crucial Intergovernmental Cooperation Meetings coordinated and conducted in 2010 and 2011. BLM was duly and timely notified (and cordially invited) to be present at both functions.

Issue Number: PP-NM-TAOS-12-18-5

Organization:

Protestor: La Bajada Community Ditch Inc.

Issue Excerpt Text:

Volume I ,CH 3.2.2 Cultural Resouces : makes provision in paragraph 8 for continued habitation of Culturally sensitive sites by Native Americans, but does not afford the same consideration to the United States Citizens of Hispanic descent who continue to sustain the fragile and threatened "folkways, customs, lifeways, architecture" and agriculture of our Spanish Colonial Ancestors. In effect this oversight suggests a BLM policy that is contrary to its mission "To sustain the health, diversity, and productivity of the public lands for the use and enjoyment of present and future generations."

Ostensively the mission being implemented by the Taos Field Office effectively promotes the extinguishing of our Traditional Communities through impairment of access to Domestic Water, Irrigation Water, and Grazing Land contrary to the provisions of the Treaty of Guadalupe Hidalgo and the Taylor Grazing Act. The implication is that our continuously inhabited Traditional Communities and their Acequias will not be within the scope of BLM concern until our way of life is gone, our villages are abandoned, and our ancestral homes are nothing more than "remains of human activity, occupation or endeavor" providing interesting ruins and artifacts for visitors to enjoy.

Summary

The Taos RMP inadequately assessed negative impacts on traditional communities in the El Camino Real de Tierra Adentro National Historic Trail's corridor, by wrongly excluding analysis of multi-jurisdictional cultural and historic landscape surveys in the RMP.

The Taos RMP wrongly distinguished between the protection of culturally-sensitive sites for Native Americans and those for U.S. citizens of Hispanic descent.

Response

The BLM continues to adequately inventory, survey, classify, and preserve cultural resources throughout the planning area as required under the Federal Land Policy Management Act Section 103(c), 201(a) and (C), and the National Historic Preservation Act, Section 110a.

The BLM has recently conducted an inventory using contractors funded by the American Recovery and Reinvestment Act of 2009 which developed field data on the cultural landscape associated with sections of the Camino Real de Tierra Adentro National Historic Trail. Though a final report has not yet been completed, the study did not reveal significant new information regarding cultural landscapes beyond that available to the BLM, as it focused on previously identified segments of the Trail. It provided additional documentation rather than generated new understandings of the cultural landscapes. While the inventory material was not available to the BLM during its preparation of the Draft and Final EISs, the study will be used as appropriate to implement the RMP through project- and activity-level planning.

The BLM is also aware of several on-going field studies relating to La Bajada community, a section of the historic Route 66, and the Santa Fe River acequia systems, but has no knowledge of any published reports on these studies. As the studies become finalized and published, the information they contain will be available to the BLM and used to the extent they are relevant in consideration of projects or activity-level planning in the vicinity of the local Hispanic communities.

Other recent and on-going studies to identify potential National Register nominations provide important documentation of sites, but do not alter the BLM understanding of their significance. These sites were well-known to the BLM at the time the PRMP/FEIS was prepared and are taken into account in the proposed decisions.

The Protestor points to the cumulative impacts analysis in PRMP/FEIS Section 4.9.2.3 to state that the only negative impacts considered relating to cultural resources had to do with OHV use. However, the direct and indirect impacts analysis in PRMP/FEIS Section 4.5.2(a) discusses adverse impacts on cultural resources from resources including land tenure adjustments, land-use authorizations, livestock grazing, transportation and access, mineral resource management, recreation, renewable energy, and special designations.

The Protestor alleges that the BLM provides for the continued habitation of "Culturally-sensitive sites by Native Americans, but does not afford the same consideration to the United States Citizens of Hispanic descent who continue to sustain the fragile and threatened "folkways, customs, lifeways, architecture" and agriculture of our Spanish Colonial Ancestors." In the Management Common to All Alternatives section of the PRMP/FEIS, a goal listed for cultural

resources is for BLM to "[i]dentify, preserve, and protect significant cultural resources and ensure that they are available for appropriate uses by present and future generations" (PRMP/FEIS Section 2.4.1.2). No distinction is drawn between Native American cultural resources and those relating to U.S. citizens of Hispanic descent.

Underlining this point, Section 3.2.2 of the PRMP/FEIS discusses in detail a number of the culturally-significant sites associated with Spanish colonization, including "portion[s] of the Camino Real de Tierra Adentro, house structures, and a church with associated Spanish quarters at San Lazaro Pueblo in the Galisteo Basin." The RMP includes management direction to protect these culturally-significant sites. Additionally, the El Camino Real de Tierra Adentro is protected by national historic trail designation (PRMP/FEIS Section 3.3.10.3) and special attention would be directed to protecting and preserving cultural resources within the Galisteo Basin by the Archaeological Sites Protection Act (PRMP/FEIS Section 2.4.1.2).

Lands, Realty

Issue Number: PP-NM-TAOS-12-20-10

Organization: New Mexico Off Highway Vehicle Alliance

Protestor: Joanne Spivack

Issue Excerpt Text:

1. The RMP/FEIS includes a significant element that was not disclosed in the DEIS. The issue is a land disposal in the FEIS Proposed Alternative that is some 600% larger than the acreage described in the DEIS for the same disposal. The disposal is within the EI Palacio OHV Special Management Area, This OHV SMA was established in the 1988 RMP, and has been designated for motorized recreation for the past 24 years. This enlarged disposal area is not disclosed in the DEIS (not even as a possibility), and the public was deprived of the opportunity to comment on it. The greatly enlarged FEIS disposal area creates substantially more and different negative impacts on the public.

The newly revealed disposal would eliminate important areas in the EI Palacio OHV area that were specifically excluded from the DEIS disposal. The lands identified for disposal in the FEIS include the main access (road connecting to State Highway 68), the 'staging area' (parking, unloading, gathering of riding groups, etc.) and the main trails leaving the parking area which connect to the trail network. The DEIS disposal was much less land and specifically excluded the staging area by name. The FEIS disposal does not exclude the staging area, and does

not mention it at all. The access road into the OHV area ('Fun Valley') is described at FEIS page 319 (bold added). This is the access that would be cut off by the disposal.

Issue Number: PP-NM-TAOS-12-20-12

Organization: New Mexico Off Highway Vehicle Alliance

Protestor: Joanne Spivack

Issue Excerpt Text:

2. The RMP/DEIS contained a deliberate misrepresentation of significant facts that kept the public 'in the dark' about the agency's true intentions. The agency clearly knew that the size of the disposal lands in the OHV SMA, as described in the DEIS was substantially understated, but did not inform the public.

The administrative record shows that before and during the DEIS comment period, the agency was talking to the Ohkay Owingeh Pueblo about a disposal five times larger than the disposal disclosed in the DEIS. This is documented in the Pueblo's comments to the DEIS. The agency's response to those comments does not deny it, but concedes the point and states it will change the FEIS to show the acreage the Pueblo's comment identifies.

The RMP/DEIS obscured the nature of the disposal (fails to identify the disposal being in the designated

OHV area)and the extent (fails identify acreage)of the This violates CEQ's order that the agency clearly disclose their plans to the public). This falsely led the public to believe the proposed disposal would not have significant negative impacts. Even in the FEIS, the agency is still attempting to disguise the disposal by giving a only an upper limit for the acreage. , This is deceptive, and is not the specific acreage the Pueblo names in its comment.

Issue Number: PP-NM-TAOS-12-20-16
Organization: New Mexico Off Highway Vehicle Alliance
Protestor: Joanne Spivack

Issue Excerpt Text:

3. The RMP/DEIS deprived the public of their right to comment on the disposal and exchange by not revealing accurate facts in the DEIS. and therefore obstructed public participation. During the planning process, the public was not informed during the comment period about the true size of the disposal, the nature of the exchange, or allowed to participate in any way on the planning for the proposed disposal and exchange.

Issue Number: PP-NM-TAOS-12-20-18
Organization: New Mexico Off Highway Vehicle Alliance
Protestor: Joanne Spivack

Issue Excerpt Text:

Below is the Taos BLM's statement on Disposal, on page 8 of the Scoping Report (bold added). This statement is in striking contradiction with the RMP proposed disposal/exchange of land in the OHV area. It also was misleading to the public.

"Disposal areas should be small and isolated. Areas that are urban in nature may be candidates if no resource values." (Agency)

The disposal land in the designated OHV area does not fit this profile. It is NOT 'small and isolated' or without resource values. It is easily accessible to population center on a main highway and has exceptionally high value as a recreation resource. This value as a recreation resource is recognized throughout the DEIS and FEIS, in agency statements and in the section on the results of Scoping. The FEIS states the management objectives for it at page 135, for Alternative A, the proposed RMP. EL

PALACIO PLANNING UNIT-PALACIO ARROYOS SRMA Management Objectives: This area is both a destination for motorized, and motorcycle use across New Mexico as well as routine use by nearby communities in this middle country setting.

Issue Number: PP-NM-TAOS-12-20-2
Organization: New Mexico Off Highway Vehicle Alliance
Protestor: Joanne Spivack

Issue Excerpt Text:

We protest the FEIS's proposed disposal of lands within the 24 year old designated 'Fun Valley' OHV Special Management Area ('disposal'), to be used for exchange with the Ohkay Owingeh Pueblo. The disposal and exchange is contrary to the FEIS's own statements on public interest, BLM testimony to Congress, to FLPMA, to BLM land Use Planning Regulations, and to 43 CFR 2200.0-6 (b)(1) and (2).

Issue Number: PP-NM-TAOS-12-20-20
Organization: New Mexico Off Highway Vehicle Alliance
Protestor: Joanne Spivack

Issue Excerpt Text:

The FEIS disposal became five times larger than the DEIS disposal. 'Updated' does NOT explain or justify this substantial change, The FEIS refuses to tell us where the change came from, or acknowledge that a 600% increase is substantial.

Issue Number: PP-NM-TAOS-12-20-24
Organization: New Mexico Off Highway Vehicle Alliance
Protestor: Joanne Spivack

Issue Excerpt Text:

12. The disposal is contrary to national BLM policy described in testimony from the BLM to Congress.

Statement of Jim Hughes, Deputy Director BLM, June 15,2005 to the House Resources Committee Subcommittee on Forests and Forest Health Impacts of Federal land Ownership on Communities and local Governments

Typically, lands are identified as potentially available for disposal if they meet one or more of the following

qualifications:

- lands consisting of scattered, isolated tracts that are difficult or uneconomic to manage;
- lands that were acquired for a specific purpose and are no longer needed for that purpose; or
- lands that could serve important public objectives, such as community expansion and economic development if made available for disposal

The disposal lands do not meet any of these qualifications. They are integrated into a formally designated recreation area. They are not scattered or isolated, they are needed for their specific purpose. There is no 'public objective' served by letting the Ohkay Owingeh Pueblo have this public land. The Pueblo has plenty of economic development developed on its own lands along state highways.

Issue Number: PP-NM-TAOS-12-20-29
Organization: New Mexico Off Highway Vehicle Alliance
Protestor: Joanne Spivack

Issue Excerpt Text:

These lands are not listed for disposal in the 1988 RMP, which serves as the No Action Alternative. The disposal appears out of nowhere in the FEIS, with no context and no explanation. It just 'happens'. We find NO rationale presented in the RMP/FEIS at all; no statements that support nominating these parcels for disposal and exchange. In fact, there is no discussion at all about how, why or when these lands in the designated OHV area became identified for disposal.

Issue Number: PP-NM-TAOS-12-20-3
Organization: New Mexico Off Highway Vehicle Alliance
Protestor: Joanne Spivack

Issue Excerpt Text:

We protest the planning process used for the disposal. The Taos BLM violated NEPA by obstructing public participation. Our members and the general public were deprived of their right to comment on the disposal described in the FEIS, because the true extent of the disposal was not revealed in the DEIS. The disposal described in the FEIS is 600% larger than the same disposal described in the DEIS. The FEIS disposal is materially different in how it negatively impacts the public.

Issue Number: PP-NM-TAOS-12-20-32
Organization: New Mexico Off Highway Vehicle Alliance
Protestor: Joanne Spivack

Issue Excerpt Text:

The agency acknowledges the public's recreation needs, trends, desires, but its response is to propose disposing of the core area of its only designated OHV site. Nominating these lands for disposal is explicitly contrary to the public interest that the agency itself has documented.

Issue Number: PP-NM-TAOS-12-20-34
Organization: New Mexico Off Highway Vehicle Alliance
Protestor: Joanne Spivack

Issue Excerpt Text:

16. The RMP/FEIS identifies no change in policy on disposal from the 1988 RMP which serves as the No Action Alternative. The FEIS disposal of EI Palacio lands is contrary to stated policy.

The FEIS No Action Alternative is defined as no change from the 1988 RMP. We look to the 1988 RMP for its policy on disposal. We find this at page 2-1:

Issue #4 - Land Ownership Adjustments
Within the planning area, 84,518 acres have been identified for exchange or disposal (see map 23 and maps 6-1 through 6-4). Lands not within these areas will be retained and expanded to consolidate federal ownership and improve public access.

The EI Palacio lands are not listed for disposal in the 1988 RMP. The policy hasn't been changed.

Issue Number: PP-NM-TAOS-12-24-2
Organization: R&S Powersports Group
Protestor: Rick Alcon

Issue Excerpt Text:

First and foremost, I feel the public, including myself, have been done a major disservice at the least, and there has possibly been a circumventing of the NEPA process at the worst, by the documents

position in all of the action alternatives to convey ownership of "up to 3200 acres" of BLM land in the El Palacio area to the Ohkay Owingeh Indian Pueblo. Specifically: FEIS 2.6.3.2 Page 110: The BLM would consider disposal through exchange an area of up to one mile east of Ohkay Owingeh lands, subject to existing land use authorizations and access, consisting of portions of sections 5, 6, 7, 8, 17, 18, 19, 20, 29, and 30 in T. 21 N., R. 9 E.. This area, of up to 3,200 acres, has resources or values that are important to Ohkay Owingeh. This is a substantial and inappropriate surprise action created in the final hours, of the final document before the final decision of what has been a 5-6 year document development process and 23+ year management process since the last RMP.

Issue Number: PP-NM-TAOS-12-24-5
Organization: R&S Powersports Group
Protestor: Rick Alcon

Issue Excerpt Text:

the factual details and potential impact to the OHV community, and public as a whole, were never presented to the public prior to the document that is before us. I want to reemphasize in no uncertain terms, neither myself as a 20+ year permittee, my fellow permittee peers, or ANY member of the OHV community, were ever made aware through public documents or otherwise, of the significance of the proposed conveyance of public BLM Land to the Ohkay Owingeh Indian Pueblo before the release of this document in December 2011.

Summary

Availability for Disposal

The BLM violated NEPA by making certain lands in the Fun Valley OHV Special Management Area available for disposal without making the size or nature of this information available for public review and comment.

Propriety of Disposal

The BLM's proposed disposal of lands within the Fun Valley OHV Special Management Area is contrary to the EIS's statements on public interest, BLM testimony to Congress, Federal Land Policy and Management Act of 1976 (FLPMA), BLM Land Use Planning Regulations, and 43 CFR 2200.0-6(b)(1) and (2) because it does not take into consideration the important OHV opportunities in the area, including use of a staging area and network of routes.

Response

Availability for Disposal

Due to an error in calculation, the acreages listed in the DRMP/DEIS mistakenly excluded certain lands as identified as available for disposal. Per both the DRMP/DEIS and the PRMP/FEIS, "The BLM would consider disposal through exchange an area of up to one mile east of Ohkay Owingeh lands, subject to existing land use authorizations and access." The area up to one mile east of the Ohkay Owingeh includes portions of Section 5 and 6, which were identified in the DRMP/DEIS, as well as portions of Section 7, 8, 17, 18, 19, 20, 29, and 30, which were not identified in the DRMP/DEIS (see Map 2-23 of the PRMP/FEIS). The description in the PRMP/FEIS fixes this mistake.

The impacts analysis in both the DRMP/DEIS and PRMP/FEIS are properly the same despite the change in acreages available for disposal. Section 4.6.6 of the PRMP/FEIS indicates there may be some adverse impacts on recreation as a result of changes to land tenure, while Section 4.6.8 states that opportunities for managed OHV use may be decreased by land disposals.

As stated in the PRMP/FEIS, lands in the El Palacio planning unit are available for disposal, "subject to existing land use authorizations and access." The OHV staging area is one of the existing land use access points that would be retained in Federal ownership, but not all access routes may be retained. This will be clarified in the Approved RMP/Record of Decision.

Propriety of Disposal

The land use planning decision in this RMP is to identify certain lands available for disposal, not to actually dispose of those lands. Any future disposal of BLM lands through exchange is beyond the scope of this RMP and would be consistent with FLPMA, its implementing regulations and other applicable laws and policies. Any future action would also be analyzed through site-specific implementation-level NEPA, including the opportunity for public participation.

Livestock Grazing

Issue Number: PP-NM-TAOS-12-18-15
Organization:
Protestor: La Bajada Community Ditch Inc.

Issue Excerpt Text:

Continuation of grazing and diversion of water from the Santa Fe River are protected as traditional uses by the Treaty of Guadalupe Hidalgo and the Taylor Grazing Act.

Any curtailment of available grazing land and/or water in the Santa Fe River Canyon effectively deprives the public in the planning area of available local produce, and beef. The Traditional Communities in the Santa Fe River Watershed have provided healthy fruits, vegetables, and organic grass fed beef on the hoof to the public in the entire region for over 400 years.

Issue Number: PP-NM-TAOS-12-23-4
Organization: La Cienega Valley Association
Protestor: Carl Dickens

Issue Excerpt Text:

Comment R-43: Off-road joy riding has caused serious and lasting damage to traditional grazing lands. (La Cienega Valley Association)

Response: The intent of current BLM travel management is to limit OHV use to designated routes after a thorough review of user needs and resource impacts. Under the Proposed RMP, no areas would be open to cross-country travel.

LCVA Protest: The degradation of grazing lands continues unabated. Designated routes work well in theory but fail in practice. Off

road activities coupled with National Guard drills has caused severe erosion problems

during a time of sustained drought.

Summary

Continuation of grazing is protected as a traditional use by the Taylor Grazing Act.

Despite limiting OHV use to designated routes in the Taos RMP, OHV use continues to cause degradation to grazing lands.

Response

Consistent with the BLM's regulations (43 CFR 4130.2(a)) and Land Use Planning Handbook (H-1601-1, Appendix C(II)(B)), the Taos RMP makes appropriate land use planning decisions by identifying lands available or not available for livestock grazing (see PRMP/FEIS Section 2.5.3.4). Further, the Taos RMP complies with the Taylor Grazing Act, which does not preclude the BLM from identifying some lands not available to livestock grazing.

The PRMP/FEIS acknowledges that large areas of the planning area have conflicts associated with OHVs accessing grazing allotments, including precluding livestock from grazing areas, vandalism, cutting fence, and harassment. According to BLM's impact analysis, the decision to control OHV access will reduce the interactions between public land users and livestock and will reduce disturbance and harassment threats (PRMP/FEIS Section 4.6.4). As the Taos Office implements the RMP, the BLM will continue to monitor unauthorized OHV use that causes damage to grazing lands.

Minerals

Issue Number: PP-NM-TAOS-12-01-17

Organization:

Protestor: Eddy Mauzy

Issue Excerpt Text:

I hereby protest the November, 2011 PRMP insofar as it closes any BLM lands in the San Pedro Mountains to mineral material sales, and insofar as it prohibits or restricts any form of mining or mining activities in the San Pedro mountains, and further insofar as it designates any portion of the San Pedro Mountains as a Special Recreation Management Area or as a VRM of any class.

Issue Number: PP-NM-TAOS-12-01-20

Organization:

Protestor: Eddy Mauzy

Issue Excerpt Text:

the BLM had instituted and was instituting a moratorium without following the strict requirements of laws and regulations in connection with such drastic action. The said moratorium instituted by the BLM concerning our A&M Rock quarry, will result in an absolute termination of all of our rights if the PRMP mineral materials closure becomes a reality.

Issue Number: PP-NM-TAOS-12-01-4

Organization:

Protestor: Eddy Mauzy

Issue Excerpt Text:

The PRMP itself emphasizes the need FOR and the importance of mineral materials, and states that "Adequate local supplies of these basic materials are vital to the economic life of every community." "It is the BLM's policy to make these materials available to the public and local governmental agencies whenever possible and wherever environmentally acceptable." (Vol. I, page 306)

3. High Quality Madera Limestone Deposits Exist In San Pedro Mountains

The PRMP admits that there are untold millions of tons of highly desirable Madera limestone in the San Pedro Mountains. The PRMP states on page 308, Vol. I, that "The Madera limestone. . . crops out in the western part of the San Pedro Mountains. The proposed quarry (i.e. the terminated A&M Rock Madera limestone quarry in Sections 21 and 28) contains an estimated 12.4 million tons of recoverable and marketable construction aggregate. This is undoubtedly a small fraction of the total volume of material present in the San Pedro Mountains."

New Mexico Bureau of Mines Bulletin 77 shows that the Madera limestone deposit in the San Pedro Mountains is several hundred feet thick and crops out on the surface only in the western part of the Mountain, and lies at least two hundred feet beneath the surface of the ground in San Lazarus Gulch and is therefore not minable or recoverable by any mining operation in San Lazarus Gulch. The conclusion is that the PRMP (Proposed Alternative A), by closing the entire San Pedro Mountain to mineral material sales with the exception of San Lazarus Gulch, effectively locks away from the American people forever, all of the best construction materials resources (the Madera limestone) on all BLM lands on the Mountain.

Issue Number: PP-NM-TAOS-12-02-2

Organization:

Protestor: Frederick A. Dwyer

Issue Excerpt Text:

By restricting access on existing roads to our claims, you would be restricting many persons in our Association from accessing our claims and we are guaranteed this right of access by the current Mining Act of 1872.

Issue Number: PP-NM-TAOS-12-02-4

Organization:

Protestor: Frederick A. Dwyer

Issue Excerpt Text:

Regarding 4.6.5.3.A Restricting saleable minerals on the s/w slope of the San Pedro's is not acceptable. This would cause inferior products to be the only available close resource, or cause an increase in the cost of procuring suitable material for local use. Increased cost for transportation due to distance and gasoline charges would be the first noticed, along with wear and tear on State and local roads, dust and noise that is much more excessive. The owner of the local quarry has filed and paid for all of the mining permits, and as such should have these permits continue as long as they are kept up to date and paid on time.

Issue Number: PP-NM-TAOS-12-03-2

Organization:

Protestor: Barbara Sullivan-Dwyer

Issue Excerpt Text:

However, by restricting access on existing roads to our claims, you would be restricting many persons in our Association from accessing our claims. We are guaranteed this right of access by the current Mining Act of 1872.

Issue Number: PP-NM-TAOS-12-03-4

Organization:

Protestor: Barbara Sullivan-Dwyer

Issue Excerpt Text:

Regarding 4.6.5.3.A Restricting saleable minerals on the s/w slope of the San Pedro's is not acceptable: This would cause inferior products to be the only available close resource or cause an increase in the cost of procuring suitable material for local use. Increased cost for transportation due to distance and gasoline charges would be the first noticed, along with wear and tear on State and local roads, dust and noise that is more excessive. The owner of the local quarry has filed and paid for all of the mining permits, and as such should have these permits continue as long as they are kept up to date and paid on time.

Issue Number: PP-NM-TAOS-12-05-1

Organization:

Protestor: Raymond L. Alexander

Issue Excerpt Text:

I am concerned with the lack of and limited vehicle use in these areas. Of particular concern is the following paragraphs contained in the Volume 1: Proposed Taos RMP and Final EIS on page 149 sections 2,3 and 4 shown below:

"Limited to designated routes - 11,830 acres; 2. The Cerrillos Hills area would be managed in partnership with Santa Fe County's Cerrillos Hills Historic Park. Vehicle use would be limited to designated roads, primarily used to access rock and mineral collection areas. 3. The San Pedro area would have several roads designated that provide access to rock and mineral collection areas. 4. In the remainder of the transportation planning area, vehicles would be limited to designated roads which are needed to access trailheads, private lands, or research sites. The BLM would work closely with Santa Fe County and adjacent private land owners to identify a transportation network that allows access to BLM lands, particularly access to appropriate Galisteo Basin cultural sites. Many routes would be further limited to permitted use for research or protective work, and for access to a few range improvements." My concern with paragraph 2 is that Santa Fe County seemingly has no interest in and has blocked vehicle usage on established roads through the park and has worked to prohibit access via surrounding private lands to legitimate BLM mining claims in the Cerrillos Hills. Thus we are currently being locked out of prior established access to legitimate BLM Recreational Mining Claims.

Issue Number: PP-NM-TAOS-12-07-2

Organization:

Protestor: Edward J. Leute

Issue Excerpt Text:

Denying permits to A & M Rock Quarry and the other claim owners with similar salable reserves is simply, short sighted. The quality of the Madera Limestone in these areas is excellent for buildings and road construction. The limestone reserves are proven and are needed by large metropolitan areas like Albuquerque. The 240 permitted acres in San Lazarus Gulch, owned by Mr. Mauzy, is only suitable for decorative rock only.

Allowing for the production of the Madera Limestone

reserves would impact the Local Community positively. The quarry would create jobs; employing truck drives, heavy machinery operators, mechanics and machinists. Not to mention fuel to run the vehicles creating a boost to the local tax base.

Not allowing the mining of the Madera Limestone reserves in the San Pedro Mountains would hurt the local economy and go against the 1872 Mining Law with regards to salable minerals.

Issue Number: PP-NM-TAOS-12-08-3

Organization:

Protestor: David Rogers

Issue Excerpt Text:

My second and final protest is the provision to allow only saleable materials from San Lazarus gravel mine. This is outrageous to say the least. The owners of A & M Rock have invested thousand of dollars and hundreds of hours in the development of the madera limestone quarry off NM- 344 not to mention other BLM claim holders who also stacked claims with the thought of future sailable materials of the limestone deposits. The gravel mine on San Lazarus is for the purpose of decorative landscaping rocks only and does not contain the madera limestone needed for roads and homes. This provision is not acceptable and should be changed before this proposal continues any further. Your response on Section 4.6.5.3 does not take into account the distance need to truck the needed material back southern Santa Fe county nor the lifespan of the deposits at the alternate locations. The true socio-economic of growth in the area demands that these deposits be utilized to there full extent.

Issue Number: PP-NM-TAOS-12-16-11

Organization:

Protestor: Shamrock Metals LLC

Issue Excerpt Text:

The TRMP states in several places that the Ojo Caliente area has a "low potential" for gold or other valuable minerals recovery, and therefore, there will be little impact by the withdrawal of the 66,580 acres land from location under the mining laws or mineral sales or lease. See pp, 301; appendix Map 3.16. This is both wrong and misleading. The TRMP substantially omits or misstates the long history of mining operations in the Ojo Caliente and Petaca Mining Districts and use of this land for this purpose.

For example, pg. 301 of the report states that "mica" is the only principal locatable mineral in the Ojo Caliente Mining District and summarizes the entire mineral history as follows:

There is gold prospecting south of the Ojo Caliente Mining District involving 170 active mining claims in T 23 and 24 N, R 8 E. However, there is no history of the occurrence of gold in this area. There is low potential for the occurrence of gold or other valuable minerals in this area. (301)

The Ojo Caliente and Petaca Mining Districts have a long established history of producing a broad range of valuable minerals, including but not limited to, gold, silver, uranium, mica, fergusonite, neodymium, niobium and other rare earths and valuable minerals, including a recent history of gold, silver and rare earth mineralization which has been improperly ignored. This history is documented and includes, but is not limited to, the numerous scientific, technical and geological studies which were provided to the BLM and which establish that the Ojo Caliente area has a proven history of mineral production, a history which has been virtually ignored by the BLM. The history is set forth in Shamrock's comments at pp. 3-6.

Issue Number: PP-NM-TAOS-12-16-13

Organization:

Protestor: Shamrock Metals LLC

Issue Excerpt Text:

In addition, the TRMP ignores the existence of Shamrock's existing mine known as the "Northstar Mine" is located in Section 33 as follows:

Northstar #36 NMMC 155625

Northstar #41 NMMC 155630

Issue Number: PP-NM-TAOS-12-16-19

Organization:

Protestor: Shamrock Metals LLC

Issue Excerpt Text:

Closure of such access roads would also violate the Mining Law. The BLM lacks authority to prohibit access to mining claims and doing so is not in the public interest and contrary to law. The General Mining Law of 1872, 30 U.S.C. § 21, et seq., granted a well recognized right-of-entry to public lands to mining claimants. Specifically, both surveyed and

unsurveyed lands of the United States are "free and open to exploration" under 30 U.S.C. § 22. Based upon this statutory right of mineral entry, the BLM regulations have recognized that any individual or legal entity conducting or proposing to conduct mining claims-related activities "is entitled to access to his operation consistent with provisions of the mining law," 43 C.F.R. 420(b)(1).

Issue Number: PP-NM-TAOS-12-16-21

Organization:

Protestor: Shamrock Metals LLC

Issue Excerpt Text:

Further, the BLM looks to its respective surface management regulations, which acknowledge mining claimants' access rights, rather than the right-of-way provisions of the Federal Land Management Policy Act ("FLPMA"). See 4 American Law of Mining (2nd ed.) 101.02[4][a]. Accordingly, even after FLPMA's adoption in 1976, "no permission, approval, or right-of-way is needed to cross over federal lands if existing roads can be used without modification or if access can otherwise be achieved without any significant disturbance of the federal lands." Id; see also 45 Fed. Reg. 78,902, 78,908 (1980) (access to mining claims is not regulated by Title V of FLPMA).

Issue Number: PP-NM-TAOS-12-16-22

Organization:

Protestor: Shamrock Metals LLC

Other Sections: 32

Issue Excerpt Text:

The proposed road closures in Alternative A would unlawfully interfere with and preclude access to mining claims, six sections of state lands in the area, grazing land and for traditional activities. Alternative A of the RMP proposes to close off roads in the Ojo Caliente area except one cherry stemmed road which the BLM does not describe. It is impossible for the public or county to meaningfully respond to the alternatives without knowing, in advance, which roads will be closed, locked up or otherwise barricaded by the BLM. The "no action" alternative map - map 2-21 – improperly provides that presently all transportation is limited to the use of existing roads in the bluehatched 63,490 acre area.

Issue Number: PP-NM-TAOS-12-16-26

Organization:

Protestor: Shamrock Metals LLC

Issue Excerpt Text:

On August 21, 2006, the IBLA issued a decision and Order which recognized the validity of the grandfathered Northstar Mine, and furthermore, issued a stay which required the BLM to continue to recognize the validity of those operations. The BLM agreed that the operations would be allowed to continue as "notice level" operations. The TRMP ignores those legal proceedings and violates the terms of the stay and agreement to the extent any of the alternatives interfere with Shamrock's operations at the Northstar Mine authorized under the stay. The TRMP should be amended to reflect the impact of the litigation and the Court's order, including the existing operations. Moreover, a taking will occur if Shamrock's mining operations are precluded, or substantially interfered with by the BLM under the guise of oppressive, preclusive planning actions which effectively prohibit mining activities.

Issue Number: PP-NM-TAOS-12-16-9

Organization:

Protestor: Shamrock Metals LLC

Issue Excerpt Text:

The TRMP is confusing and contradictory with respect to the withdrawal, closure or removal of public lands from location under the Mining Law. Section 4.6.5.2 regarding locatable minerals provides as follows:

Locatable minerals are Federal minerals that can be explored for and mined under the General Mining Law of 1872, as amended. This includes most metallic minerals and some nonmetallic minerals, and involves the locating (staking) of a mining claim on lands with Federal minerals open to location .

Entry under the Mining Law can be prohibited only by a formal withdrawal, such as a Public Law or Public Land Order. There is no discretion on the part of the BLM manager to close an area without a formal withdrawal.

However, Section 4.6.5.2A (p. 454) provides that land could be administratively withdrawn from location under the mining laws or closed by virtue of special designation by the BLM. Section 4.6.5.2.A2 provides that Alternative A withdraws 340,700 acres from entry under the Mining Law. (TRMP,454-55.)

This is contrary to Section 4.6.5.2 above]

Issue Number: PP-NM-TAOS-12-19-3

Organization:

Protestor: Wesley and Crystal Lovett

Issue Excerpt Text:

The San Pedro Mountains contain a number of mineable minerals and salable materials. The class2 VRM rating can cause problems for companies and individuals extracting these materials. Advances in mineral extraction techniques will, in the future, make this a profitable area.

Issue Number: PP-NM-TAOS-12-19-5

Organization:

Protestor: Wesley and Crystal Lovett

Issue Excerpt Text:

Section 4.6.5.3 alternative A on salable materials, closes the entire San Pedro Mountains to salable materials with the exception of 240 acres in the San Lazarus Gulch. The entire San Pedro Mountains should be open for salable materials because: There is a very large deposit Madera limestone which is the most desirable salable mineral in the San Pedro Mountains. This material is available handily to the East Mountains, Santa Fe area and surrounding areas.

Issue Number: PP-NM-TAOS-12-25-11

Organization:

Protestor: Herbert Stoltenberg

Issue Excerpt Text:

4. The PRMP Still Fails To Examine A&M Rock Limestone Quarry Matter

On December 15, 2003, the BLM entered into a written contract with A&M Rock for the sale to A&M Rock of 440,000 tons of Madera limestone material in the western part of the San Pedro Mountains. The said contract has never been canceled or disaffirmed.

However, on June 23, 2005, after an Environmental Assessment on the project had been completed, the BLM halted the said project and promised A&M Rock that it would include the said project in the Taos Resource Management Plan Amendment process. (Exhibit #30 to the 09/07/2010 Comment Letter) The BLM website (Exhibit #33 to the 09/07/2010 Comment Letter) stated that "it has been determined that (the A&M Rock quarry project) can best be analyzed in the upcoming Taos Resource Management Plan Amendment."

Issue No 8 of my 09/07/2010 Comment Letter

complained that the June, 2010 RMP Draft failed to keep BLM's promise to A&M Rock to include or examine the quarry project in the June, 2010 RMP Draft. Now, the current PRMP has been issued and the A&M Rock quarry matter has still not been analyzed in the RMPA process as promised. Even more disturbing, Issue No. 8 of my 09/07/2010 Comment Letter has not been mentioned at all and no response given thereto in Appendix J of the PRMP, even though all issues raised by other comment letters were mentioned and responses given by the BLM.

Issue No 8 of my 09/07/2010 Comment Letter described the A&M Rock quarry Contract and subsequent events in great detail, supported by numerous document exhibits, and I would expect the PRMP to acknowledge same. I object to the failure of the PRMP to acknowledge my said issue No 8 and to fail to keep the BLM's promise to analyze the Quarry matter in the RMPA Process.

Issue Number: PP-NM-TAOS-12-25-13

Organization:

Protestor: Herbert Stoltenberg

Issue Excerpt Text:

I contended from the outset that the said halting amounted to an unlawful moratorium which is a drastic action that requires strict compliance with laws and regulations for imposition none of which was done in connection with the A&M quarry. The BLM (Linda Rundell) contended that the halting was authorized by the land use planning handbook (copies of Linda's 10109/2009 letter and page 47 of the Handbook are enclosed herewith as Exs. F and G - also, Exhs. # 35 and #36, to 09/07/2010 Comment Letter) The Handbook provides that "the BL. Manager has the discretion to defer or modify proposed implementation-level actions" Linda states in her letter that in A&M's case she "exercised that discretion to defer action on A&M's application pending completion of the plan".

Linda's letter neglected to include the qualifier in the Handbook which provides that she had the discretion to defer or modify proposed implementation-level actions "and require appropriate conditions of approval, stipulation, relocations, or redesigns to reduce the effect of the action on the values being considered through the amendment or revision process. "

In other words, the qualifying language gives the BLM manager the authority to "require conditions, stipulations, relocations or redesigns" but as

qualifying language, it limits the manager's authority to impose only the conditions stated and prevents the manager from cancelling or invalidating the action in its entirety.

The Handbook may give the BLM manager the authority to "temporarily defer" an action, but it does not give the manager the authority to relinquish all jurisdiction over the action to the RMP amendment process, which process, by its nature, is not designed or equipped to, "manage" individual actions. The duty to manage "actions" resides with the administrative divisions of the BLM, and neither the District BLM administrative office nor the State BLM administrative office has the right to avoid that responsibility and neither have the right to delegate their duties to an RMP Amendment process. Linda Rundell's contention that she exercised her "discretion" in halting the A&M quarry is also contradicted by the very extensive efforts that she and the Taos BLM personnel expended in their attempts to obtain a "consensus" from the anti-mining activists (see issue No 8 , sub-paragraphs (g),(h),(i) and (j) of the 09/07/2010 Comment Letter) and her statement to Steve Henke that she would permit the A&M quarry to resume if the anti-mining activists "agreed with and supported" the quarry (issue no. 8, sub-paragraph (j))

The result could be either that the "manager" has retained jurisdiction over the A&M quarry action and that the A&M Environmental Assessment process survives and can continue after the finalization of the RMP, or that the RMP amenders contend that they have taken complete jurisdiction over the A&M action and can close the Mountain to mineral materials disposals and terminate A&M's rights absolutely.

The June, 2010 RMP Draft and/or the current PRMP could have addressed the matter and stated their position, but did not do so. I therefore hereby protest the failure of the PRMP to deal with the matter, and hereby demand that the PRMP deal with same.

Issue Number: PP-NM-TAOS-12-25-2

Organization:

Protestor: Herbert Stoltenberg

Issue Excerpt Text:

1: The PRMP Incorrectly Assumes That San Lazarus Gulch Can Fulfill The BLM's Obligation To Provide Highly Desirable Madera Limestone
The PRMP (Alternative A) closes the entire San Pedro Mountains to mineral material disposals except for within San Lazarus Gulch. That would lock away

from the American public, untold millions of tons of the most desirable and valuable mineral resource on the Mountain, namely the Madera limestone, since Madera limestone is not minable or recoverable in San Lazarus Gulch.

Issue Number: PP-NM-TAOS-12-25-4

Organization:

Protestor: Herbert Stoltenberg

Issue Excerpt Text:

The effect of the closure of the entire Mountain to mineral materials except within San Lazarus Gulch would be that the untold millions of tons of highly desirable Madera limestone on BLM land in the Mountain would be locked away forever from use by the American public.

The reason that the Madera Limestone would be locked away is that the Madera limestone is not minable or recoverable in San Lazarus Gulch which is the only area that the PRMP would not close to mineral material disposals.

The PRMP states (correctly) that the Madera limestone outcrops in the western part of the San Pedro Mountains. (Vol. I, page 308) New Mexico Bureau of Mines Bulletin 77 also shows that the Madera limestone deposit outcrops on the surface of the ground only in the western part of the San Pedro Mountains, and that the deposit lies more than 200 feet beneath the surface of the ground in San Lazarus Gulch. It is therefore not minable or recoverable in San Lazarus Gulch.

Issue Number: PP-NM-TAOS-12-25-9

Organization:

Protestor: Herbert Stoltenberg

Issue Excerpt Text:

The Mining and Minerals Policy Act of 1970 expresses the National policy to foster and encourage private enterprise in the development of domestic mineral resources, • I hereby protest the fact that the PRMP ignores the mandate of the said Act with respect to the San Pedro Mountains by closing an mineral materials on all BLM lands on the Mountain except San Lazarus Gulch, which said Gulch produces only landscape and fill material, and which

existing operation in the Gulch operates on pre-55 mining claims, concerning which the BLM has no discretion to prevent sale of salable minerals. The PRMP is consequently patently biased in favor of the antimining activists and fails to comply with the mandates of the 1970 Act.

Issue Number: PP-NM-TAOS-12-27-6

Organization:

Protestor: Bobby Gonzales

Issue Excerpt Text:

Acknowledging my comment regarding the existence of valuable minerals, the respondent still maintains that "the BLM believes that the remaining mineralization is not presently economical to develop. This statement is not back up by science. I believe based on personal experience and extensive research that the San Pedro and surrounding area is one of the richest mineral deposits in the State. I submit that my belief is better supported by science (Exploration logs, NM Bureau of Mines records, NMIMT research reports and archive etc.) than the belief represented in an official BLM document.

Issue Number: PP-NM-TAOS-12-27-8

Organization:

Protestor: Bobby Gonzales

Issue Excerpt Text:

To recap, my concern was limiting saleable mineral sales to 240 acres in San Lazarus Gulch will not be sufficient to meet the extreme needs for concrete and asphalt paving aggregates anticipated in the San Pedro area.

a) San Lazarus Gulch does not have ample quantity of high quality rock (meeting current road and bridge construction standards) that anticipated development will demand over the next 20 years. As mentioned previously, this location is controlled by one operator and there is no guarantee that they will continue providing materials for the duration of the RMP.

1) I suspect that this does not conform to the principles of multiple use and sustained yield. In fact it appears to be a reduction in yield.

Summary

Unlawful Moratorium on Mineral Development

The Taos RMP created an unlawful moratorium on mineral development activities in the San Pedro Mountains and the surrounding areas by allocating portions of this region as a SRMA, by closing the San Pedro Mountains to mineral material sales, and closing and limiting routes to existing mining claims.

Faulty Socio-economic Impact and Existing Condition Analyses

The Taos RMP's justifications for restricting mineral development activities were faulty because such provisions did not take the socio-economic impacts of that decision into account and failed to adequately analyze the area's existing conditions by stating that mineralization was not presently economical to develop in the San Pedro Mountains and surrounding areas.

Contradicting Land Withdrawal Statements

The Taos RMP is confusing and contradictory with respect to the withdrawal of public lands from location under the Mining Law.

Failure to Address A&M Rock Quarry and Northstar Mine Appeal

The Taos RMP did not analyze or address the A&M Rock limestone quarry or the validity of the grandfathered Northstar Mine appeal.

Response

Unlawful Moratorium on Mineral Development

The designation of the San Pedro Mountains as a Special Recreation Management Area did not violate the General Mining Act of 1872 (Mining Law), nor did it create an unlawful moratorium on salable minerals. None of the alternatives in the PRMP/FEIS would close the San Pedro Mountains to mining. Under the Proposed Alternative (Alternative A) and Alternative B, a majority of the public lands in the San Pedro Mountains would be closed to mineral leasing and sales, those actions for which the BLM has discretion to take. Under the No-Action Alternative and Alternative C, the San Pedro Mountains would continue to be open to mineral leasing and sales.

Per PRMP/FEIS Section 3.3.6, "SRMAs are administrative units where the existing or proposed recreation opportunities and recreation setting characteristics are recognized for their unique values, importance, and/or distinctiveness, especially as compared to other areas used for recreation." The San Pedro Mountains area was discussed in PRMP/FEIS Section 2.6.3.6, and the objectives of the area are to manage the area to provide access to trails and opportunities for routine exercise and escape such as hiking dog walking, biking, horseback riding, and prospecting. The proposed management of the area by the BLM would complement the efforts by Santa Fe County Open Space to provide for recreational trails for local communities. Given the hazards associated with abandoned mines in the area, special management actions would be

necessary to safely provide for these opportunities.

The public lands are managed under the concept of multiple-use. As part of the resource management planning process, the BLM makes determinations on the appropriate uses on various parcels of land. Although the BLM recognizes that the San Pedro Mountains contain mineral values, such as limestone, this does not mean the BLM must make this parcel of land open for these mineral values. In this case, based on the importance of the area for its recreational opportunities and the special considerations necessary to provide these opportunities in a safe manner, the BLM properly designated the San Pedro Mountains as a SRMA.

The BLM recognizes that prospecting is occurring on lands in the San Pedro Mountains, as well as other places in the planning area, and will be allowed to continue in the planning area. (PRMP/FEIS Appendix J, Comment Response O-12). Although prospecting is not an activity recognized by the 1872 Mining Law, the BLM does recognize recreational mineral collecting and will preserve these rights in the San Pedro Mountains and throughout the planning area.

The PRMP/FEIS does not include decisions on route designations, but instead defers decisions on specific routes until area-specific travel management planning is completed. The PRMP/FEIS would, however, classify areas as open, limited, or closed to motorized activity. Criteria for open, limited, and closed area designations are established in 43 CFR 8340.0-5(f), (g) and (h), respectively. The San Pedro Mountains area would be classified as limited to designated trails, so any decisions on routes, including those that might access mining claims, would be considered during subsequent area specific travel management planning.

Faulty Socio-economic Impact and Existing Condition Analyses

The PRMP/FEIS does recognize that the availability of mineral materials could be constrained by the decision to limit disposal to San Lazarus Gulch in the San Pedro area, and also recognizes that demand for mineral materials has increased as the area has grown and developed. The BLM revised its impact analysis as a result of public comments on the DRMP/DEIS, better acknowledging that there could be negative consequences from closing certain areas from mineral material development, including increases in haul distances, road wear, costs to consumers, energy consumption, and GHG emissions (see PRMP/FEIS Section 4.6.5.3). However, the PRMP/FEIS also recognizes that large-scale mineral development could impact the areas visual quality as well as alter recreation settings, affecting access, remoteness, and naturalness, among other impacts.

As indicated in PRMP/FEIS Section 3.3.5, the potential for occurrence of mineral resources is determined using guidance provided in the BLM Manual 3031 – Energy and Mineral Resource Assessment. The Manual sets standards for assessing, classifying, and reporting the potential for occurrence of mineral resources on land managed by the BLM. The potential occurrence of a mineral resource includes both exploitable and potentially exploitable occurrences, and does not evaluate whether the mineral resource can be developed economically. Within each mineral potential category, the potential must be supported according to a level of certainty regarding the available data. The level of certainty is a measure of confidence in the data that was assessed.

Mineral potential categories are displayed on the mineral resource potential maps in the PRMP/EIS. The levels of certainty are annotated in the narrative of mineral resource potential using the letter designations described in the PRMP/FEIS Section 3.3.5, Page 298.

The BLM makes decisions based on the best available data during the alternative development period. The public was provided the opportunity to comment on the DRMP/DEIS. No significant new or additional analysis or data regarding the potential of mineral resources in the San Pedro Mountains was submitted to the BLM throughout the planning process. Therefore, the preferred actions set forth in the DRMP/DEIS were brought forward in the PRMP/FEIS.

Contradicting Land Withdrawal Statements

The PRMP/FEIS does not withdraw any lands from the public lands laws. The PRMP/FEIS does recommend that certain lands be withdrawn, including some areas within ACECs (PRMP/FEIS Section 2.6.3.5). Any future withdrawals are separate from the land use planning process and will be consistent with NEPA, FLPMA, applicable regulations and other applicable laws.

Failure to Address A&M Rock Quarry and Northstar Mine Appeal

As discussed in response to comment U-57 in Appendix J of the PRMP/FEIS, opportunities for the development of limestone and other salable minerals in the San Pedro Mountain area, including the A&M Rock Quarry site, is addressed in the FEIS at the level consistent with BLM land use planning. The BLM Land Use Planning Handbook (H-1601-1) at Appendix C (J) specifies that the BLM make the following decisions consistent with the goals and objectives for the exploration, development, and disposal of mineral materials in concert with the protection of natural resources: 1) areas open or closed to mineral material disposal, and 2) any terms, conditions, or other special considerations needed to protect resource values while operating under the mineral materials regulations. The Scoping Report for this EIS, made available to the public in September 2006, clearly stated that the decision to be made through the planning process related to mineral development in the San Pedro Mountain area is to "Determine areas open or closed to mining, leasing, or mineral material disposal." Despite the generality of the respective land use planning decision, the proposed rock quarry is provided for under the No-Action Alternative and Alternative C, and is recognized under PRMP/FEIS Sections 3.3.5.3 and 4.6.5.3(B).

The PRMP/FEIS recognizes the existence of the notice-level mining claim to the south of the Ojo Caliente district where the Northstar claims are located (see PRMP/FEIS Section 3.3.5.2). It is not necessary or practical for the document to specify each claim or other authorization on public lands by name, and, as is indicated throughout the document, all valid existing rights associated with mining claims will continue to be honored under the PRMP. Although the Northstar claim will be within an ACEC, all existing regulations will apply.

Issue Number: PP-NM-TAOS-12-22-2
Organization: Salida Del Sol Chapter, Old Spanish Trail Association
Protestor: Pat Kulhoff

Issue Excerpt Text:

The Taos RMP & EIS fails to specify interim or long term protection and management practices consistent with the designation of the National Historic Trail under the National Trail System Act and a unit of the National Landscape Conservation System. Instead the Taos RMP & EIS defers specific management and protection measures to a future management plan (Section 2.4.3.3) and fails to recognize obligations under the Acts for the entire trail regardless of ownership (Appendix A, Table A-10).

Issue Number: PP-NM-TAOS-12-22-4
Organization: Salida Del Sol Chapter, Old Spanish Trail Association

Protestor: Pat Kulhoff

Issue Excerpt Text:

In the 10 years since designation of the Old Spanish National Historic Trail there is insufficient on the ground marking, protection or management of this component of the National Landscape Conservation System in the Taos BLM Planning Area, and visible deterioration of the scenic, historical and archeological qualities of the trail can be documented to have occurred. Unauthorized off-highway vehicle travel has occurred on public lands damaging the historic integrity of the trail, which-due to the lack of marking or designation of the trail as a vehicle closure might have been averted or at least provided basis for enforcement. The landscape of the historic trail continues not to be managed in a manner to protect the significant qualities of the setting of the trail by allowing incompatible developments in the trail viewshed.

Summary

The BLM fails to specify interim or long-term protection and management practices for the Old Spanish National Historic Trail consistent with the designation of the trail under the National Trail System Act and the National Landscape Conservation System.

There is insufficient management of the Old Spanish National Historic Trail in terms of on-the-ground marking, protection of scenic, historic, and archaeological qualities, OHV travel, and incompatible developments.

Response

The Old Spanish National Historic Trail would be managed under the guidance of the National Trails System Act of 1968. The Taos RMP's management for the Old Spanish National Historic Trail can be found in the PRMP/FEIS Appendix A, Table A-10. To meet the trail protection needs, the management guidance for this area includes withdrawal for locatable minerals, closure to salable minerals, closure to wind and solar energy development, limiting transportation within the trail corridor, and designation of VRM Class II.

As indicated in the PRMP/FEIS Section 2.4.3.3, within five years after approval of the RMP, a management plan would be developed to layout goals for the trail including inventory, changing VRM Classes, and resource development to provide visitor opportunities.

Renewable Energy

Issue Number: PP-NM-TAOS-12-16-28

Organization:

Protestor: Shamrock Metals LLC

Issue Excerpt Text:

In addition the Ojo Caliente area has obvious potential for geothermal energy development. Shamrock's water well encountered water temperatures in excess of 112 degrees F and the Ojo Caliente springs themselves evidence the presence of geothermal energy. The TRMP is devoid of any analysis of this resource, effectively ignoring it. See pp. 317-318.

Summary

The Taos RMP ignores the potential for geothermal energy development in the Ojo Caliente portion of planning area.

Response

The Taos RMP fully describes the potential for geothermal energy development in the planning area. PRMP/FEIS Section 3.3.7 states that "Geothermal energy is managed as a leasable fluid mineral and is discussed in PRMP/FEIS Section 3.3.5.1, Leasable Minerals."

PRMP/FEIS Section 3.3.5.1 describes 12 geothermal energy resources in Rio Arriba County, which are all centered in the Ojo Caliente Hot Springs area. The Section also states that there are currently no Federal geothermal leases within the planning area.

Travel Management

Issue Number: PP-NM-TAOS-12-16-16

Organization:

Protestor: Shamrock Metals LLC

Issue Excerpt Text:

the TRMP and the maps in the appendix, map 2-21; map 2-22A and map 2-22B, ignore the existence and history of roads, including designated county roads, in the Ojo Caliente area. The BLM is aware of the existence of historical Rio Arriba County roads in the Ojo Caliente area, including Rio Arriba County Road numbers 477 and 478, but has still failed to acknowledge or identify any of these on any of the maps provided in the TRMP. This is wrong and

misleading. See Ex. 8 to Shamrock's comments. The USGS topographical maps and BLM Quad maps show these roads have been in existence for decades. See Exs. 9, 9A, 10 to Shamrock's comments. In addition, the BLM's very own maps identify the existence of several BLM roads in tile Ojo Caliente area, including BLM Road #1003.

Issue Number: PP-NM-TAOS-12-16-18

Organization:

Protestor: Shamrock Metals LLC

Issue Excerpt Text:

The TRMP is incomplete, misleading and defective with respect to the transportation plan because an inventory of well known, existing roads already exists, yet the TRMP pretends that there is no such inventory. This makes meaningful comment and response impossible, and sets the stage for the complete unilateral closure of all BLM lands in the Ojo Caliente area, in contravention of the principle of multiple use.

Issue Excerpt Text:

The proposed road closures in Alternative A would unlawfully interfere with and preclude access to mining claims, six sections of state lands in the area, grazing land and for traditional activities. Alternative A of the RMP proposes to close off roads in the Ojo Caliente area except one cherry stemmed road which the BLM does not describe. It is impossible for the public or county to meaningfully respond to the alternatives without knowing, in advance, which roads will be closed, locked up or otherwise barricaded by the BLM. The "no action" alternative map - map 2-21 – improperly provides that presently all transportation is limited to the use of existing roads in the bluehatched 63,490 acre area.

Issue Number: PP-NM-TAOS-12-16-22

Organization:

Protestor: Shamrock Metals LLC

Other Sections: 23

Summary

Ignorance of Existing Road Inventories

The RMP ignores existing inventories and the history of roads in the Ojo Caliente area.

Closure of Roads Interfering with Existing Activities

The road closures proposed in the selected alternative would unlawfully interfere with and preclude access to mining claims, state lands, grazing land, and for traditional activities.

Response

About one fifth of all lands in the Ojo Caliente transportation planning unit would be closed to motorized travel, while the remainder of the area would be limited to designated routes. However, as indicated in PRMP/FEIS Section 1.3.4, the RMP will recognize all valid existing rights, including those associated with any mining claim.

Currently, there are no established routes in use within the areas proposed to be closed, so no existing opportunity would be foregone as a result. (The proposed "cherry-stemmed" corridor through the Posi Recreation Area which provides for access for mining and OHV recreation would further assure that no established route would be closed.)

The primary reason to close certain defined areas to OHV travel in the PRMP/FEIS would be to protect the area's well-documented sensitive natural and cultural resources. In the Ojo Caliente transportation planning unit, consideration to protecting such resources was given priority over the potential to close any established route. Furthermore, regardless of not having accurate inventory data on lesser established routes, a full range of alternatives related to travel management in the Ojo Caliente area was provided and evaluated in the PRMP/FEIS, including not closing the areas.

Route inventories are necessary for implementation-level travel management planning which will occur after approval of this RMP. These inventories will be critical to identifying and considering an appropriate travel management network within the areas limited to designated routes. Any existing route within the limited area identified in an inventory would be considered for designation.

Ignorance of Existing Road Inventories

PRMP/FEIS Section 3.3.8 describes the transportation and access system in the planning area. Access to public land is defined by the Federal and state highway system. Roads providing direct access to public lands are mostly dirt and gravel routes that were created by the use of vehicles over time and were 'unplanned.' The BLM recognizes the difficulty of designating many parts of the planning area as limited to existing roads and trails, without the ability to adequately define an existing road. Developing definitions and designation would be made at subsequent implementation-level transportation planning, and would include the opportunity for public comment on the determination of status (i.e., open, closed, etc.) of specific roads and routes.

Specific transportation planning, including the route identification and designation processes would occur at the implementation stage and would be made in coordination with the Carson and Santa Fe National Forests, State Land Office, and county officials. The objective laid out in PRMP/FEIS Section 2.4.2.8 is to "inventory all transportation areas within three years following completion of the RMP in preparation for area-specific travel management plans, to be finalized within five years of the RMP's completion." This Section also lists a set of criteria that would be applied when determining the designation of routes in areas limited to existing roads.

Closure of Roads Interfering with Existing Activities

Per BLM's Land Use Planning Handbook H-1601-1, OHV areas are classified as open, limited, or closed to motorized travel activities. The closure of certain portions and the limiting of other portions to designated routes within the Ojo Caliente area is an appropriate land use planning decision. The change from areas limited to existing routes in the Ojo Caliente area to areas closed to motorized travel, and areas limited to designated routes, was done to protect sensitive natural and cultural resources (e.g., prehistoric ruins and petroglyphs, scenic quality, important wildlife habitat, highly erodible soils, and wilderness characteristics). This is a reasonable land use planning decision under the multiple use principle.

Visual Resource Management

Issue Number: PP-NM-TAOS-12-19-2

Organization:

Protestor: Wesley and Crystal Lovett

Issue Excerpt Text:

Section 2.6.2.8 of Alternative A refers to the VRM as class II for the west end of the San Pedro Mountains. This should be rated as class 3 or 4 because: This is an old mining district and as such, old roads, tailing piles, prospect holes and foundations are visible from times past. Especially in the town of Golden, NM.

Summary

The Visual Resource Management (VRM) Class II designation for the west end of the San Pedro Mountains is incorrect as the area is an old mining district and various detritus is visible in the area.

Response

The decision to manage the west end of the San Pedro Mountains as VRM Class II was made properly in the PRMP/FEIS. The Taos Field Office conducted a comprehensive visual resource inventory in 2006 and identified the San Pedro Mountains area as having the characteristics of Visual Resource Inventory Class II. The results of that inventory are available at the Taos Field Office. As stated in PRMP/FEIS Section 3.2.9, "[v]isual resource indicators as defined by the Visual Resource Inventory Handbook H-8410-1 are inventoried as a baseline" and take into account visible human-made features. These indicators include scenic quality, visual sensitivity levels, and viewer distance zones. Visual Resource Inventory Classifications I through IV establish visual values with Classification I having greater value than IV.

The Visual Resource Inventory is considered in the assignment of VRM Classes I through IV, which prescribe VRM objectives. Per Appendix C(I)(I) of the BLM Land Use Planning Handbook, "VRM management classes may differ from VRM inventory classes, based on management priorities for land uses."

The west end of the San Pedro Mountains would be managed as VRM Class II to protect the viewshed from the Turquoise Trail National Scenic Byway. The existence of mining detritus in the area does not disqualify the area from being managed under VRM Class II. According to the VRM Handbook H-8410-1, the objective of VRM Class II lands is "to retain the existing character of the landscape . . . Management activities may be seen, but should not attract the attention of the casual observer."

Overall in the planning area, management of visual resources at higher classes than inventories provide greater protection to areas more visible along travel routes and where the open topography is less able to absorb larger scale or multiple developments (PRMP/FEIS Section 4.5.8(B)(a)). Furthermore, allocating the visual resources with higher management objectives than the relative value they were rated for in the inventory can protect scenic quality according to the value placed on it by the public (PRMP/FEIS Section 4.5.8(A)(2)(a)).

Water

Issue Number: PP-NM-TAOS-12-18-6

Organization:

Protestor: La Bajada Community Ditch Inc.

Issue Excerpt Text:

3.2.3 Fish and Wildlife: mentions the Santa Fe River

as a perennial stream of concern with regard to water quality as an important habitat feature. It does not list the Santa Fe River as one of those in the planning area that experiences "extreme waterflow fluctuations". This has been the case since 2001. Wetland and River "Restoration" projects on City of Santa Fe and BLM lands in the Santa Fe River have contributed to these extreme waterflow fluctuations. Most notably, the Santa Fe River south of BLM administered lands in the La Cienega ACEC was dry for 33 consecutive days during the summer of 2011. These "anthropogenic" flow alterations on BLM lands are not mentioned. River water illegally impounded on BLM land to support artificial wetland never made it through the Santa Fe Canyon; resulting in death of fish, wildlife, as well as negative economic impact due to crop loss in the villages of La Bajada and La Cienega; and impairment of domestic water (sumps) in La Cieneguilla. The fact is that the Acequia irrigation (here misrepresented as the primary artificial flow regulation in the region) was not able to occur due to

lack of water caused by an unmanaged Beaver population that stopped the flow of water in the Santa Fe River. Water remained impounded in beaver ponds dammed by a recently introduced population. Beaver dam construction occurred where anthropogenic flow alterations, and sandbag foundations were made by BLM and quasi-public interest group personnel.

Issue Number: PP-NM-TAOS-12-18-7

Organization:

Protestor: La Bajada Community Ditch Inc.

Issue Excerpt Text:

Volume I, CH 4 Environmental Consequences: 4.5.2 (TABLE 4-2) : misrepresents grazing as the prime influence relating to riparian areas and does not address the flow interruption and lack of water to 75% of the Santa Fe River caused by wetland and river "restoration" projects that the BLM has implemented in the vicinity of the La Cienega ACEC.

Summary

Curtailment of water in the Santa Fe River Watershed is a major adverse contributor to riparian conditions and economic impacts. These impacts were not discussed in the RMP.

Diversion of water is protected as a traditional use; BLM may not curtail water in the Santa Fe River Canyon.

Response

The BLM has no specific regulatory authority related to use of water or enforcement of water quality laws. The BLM's role in water management is to acquire water use permission from the state engineer sufficient to fulfill its management purposes and in compliance with applicable laws and regulations (PRMP/FEIS Section 3.2.10).

PRMP/FEIS Section 4.5.9 discusses both the adverse and beneficial effects of resources and resource uses on water quality. Livestock grazing is listed as one of the adversely-impacting resources. Impacts of livestock grazing "include alteration of vegetative cover and composition that expose soil to erosion and increase sediment load into adjacent surface waters." Other adversely-impacting resources of water quality include: vegetation management, land tenure, land use authorizations, mineral development, and transportation and access.

Wilderness Characteristics

Issue Number: PP-NM-TAOS-12-16-24

Organization:

Protestor: Shamrock Metals LLC

Issue Excerpt Text:

The TRMP was substantially amended by the BLM from the draft TRMP, without proper notice to any interested parties, to include an additional enormous 31,352 acre parcel proposed for management for wilderness characteristics. See TRMP, p. 107, adding the "Cerro Colorado" area to proposed wilderness areas and TRMP, p. 8, and Appendix K, p. 277, acknowledging that the "Cerro Colorado" acreage was added to the draft TRMP. Shamrock owns mining claims and state mining leases which cover this entire area. Shamrock was not notified by the BLM that the 31,352 acre parcel was being proposed for management as a wilderness area. Shamrock objects to the lack of notice and to the substantial revision of this part of the draft TRMP.

The draft TRMP proposed 10,912 acres proposed for wilderness management in the Ojo Caliente unit called the "Rincon del Cuervo" parcel. The draft TRMP did not include or propose substantially enlarging this area to include the 31,352 additional acres, which is almost 4 times larger than originally proposed. The new TRMP substantially enlarges the wilderness acreage and constitutes the largest such wilderness designation in the entire plan. (TRMP, p. 8, 107, Appendix K, p. 277.) It did without proper notice to the affected parties or public. The designation of the additional 31,000+ acre parcel to be managed as having wilderness characteristics constitutes a very substantial and material change which was not analyzed in the EIS. At a minimum, the change requires the BLM to allow public comment and to conduct further analysis on the matter. See *New Mexico ex rei. Richardson v. BLM*, 565 F.3d 683, 704 (10th Cir. 2009).

Had Shamrock been given the opportunity to comment, then Shamrock would have pointed out that the Cerro Colorado area does not satisfy the characteristics of a wilderness area. The TRMP ignores the improved roads and culverts in this area; the longstanding and substantial history of mining and mineral exploration in this area, the mines in the area, as explained above in Issues 3 and 4 all which are deserving of support and protection. The Cerro Colorado area includes the Joseph mine; the Joseph Quarry; San Texas; Star Mine; Los Compadres Mine; Stanko/Springer Mine; Southwestern Mining Company Workings and numerous prospects, all of which are present. The Cerro Colorado area is adjacent to a populated area, frequented by vehicles, and is not suitable for protection as wilderness. Assuredly, most people will be shocked to learn the BLM plans to close this entire area to virtually all use, including vehicles.

Summary

The BLM violated NEPA by managing the Cerro Colorado area for wilderness characteristics without making the size or nature of this information available for public review and comment.

The Cerro Colorado area does not satisfy the criteria to be managed for wilderness characteristics, as there are a number of improved roads and culverts and a substantial history of mining and mineral exploration.

Response

Managing the Cerro Colorado area to protect its wilderness characteristics was identified and fully analyzed within the range of alternatives evaluated in the DRMP/EIS, released for public review and comment in June 2010. Alternative B of the DRMP/DEIS Section 2.7.2.10 identified

Cerro Colorado to be managed for wilderness characteristics. Based on public input during the comment period and further consideration given by the Taos Field Office, the decision was made to manage this area to protect the wilderness characteristics. This decision was reflected in the proposed alternative in the PRMP/FEIS.

The planning area was reviewed for the presence of wilderness characteristics in 2007 in order to update an existing wilderness inventory. For an area to be found to have wilderness characteristics, it must meet the size (at least 5,000 acres of contiguous BLM land), naturalness (are the lands and resources affected primarily by the forces of nature?), and outstanding opportunity for solitude or primitive/unconfined recreation (are sights, sounds, and evidence of other people rare and infrequent?).

Through this inventory, the Cerro Colorado area within the Ojo Caliente planning unit was found to meet each of the wilderness characteristics criteria. PRMP/FEIS Section 3.2.11 describes the area in detail, acknowledging that there are opportunities to access the area through washes and arroyos. As discussed, however, the presence of existing human impacts does not necessarily preclude a finding that the area contains wilderness characteristics. The wilderness characteristics inventory found that "away from these access ways the area does possess natural character with opportunities for primitive recreation and solitude." The 2007 wilderness characteristics inventory is available at the Taos Field Office. The Taos RMP properly analyzed this inventory as part of the land use planning process, and identified decisions that would protect or preserve the wilderness characteristics within the area (BLM Land Use Planning Handbook H-1601-1, Appendix C, page 12).