



***Bureau of Land Management
Director's Protest Resolution Report***

**Proposed Resource Management
Plan Amendment and Final
Environmental Assessment for the
San Rafael Swell Recreation Area**

August 3, 2026

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Acronyms

Term	Definition
ACEC	Area of Critical Environmental Concern
BA	Biological Assessment
BiOp	Biological Opinion
BLM	Bureau of Land Management
BRC	Blue Ribbon Coalition
CFR	Code of Federal Regulations
DOI	U.S. Department of the Interior
EA	Environmental Assessment
ERMA	Extensive Recreation Management Area
ESA	Endangered Species Act
EXPLORE	Expanding Public Lands Outdoor Recreation Experiences
FLPMA	Federal Land Policy and Management Act
FONSI	Finding of No Significant Impact
NEPA	National Environmental Policy Act
OHV	off-highway vehicle
PFO	Price Field Office
PRMP	Proposed Resource Management Plan
PRMPA	Proposed Resource Management Plan Amendment
RMP	Resource Management Plan
RMPA	Resource Management Plan Amendment
RMZ	Recreation Management Zone
ROW	right-of-way
SRMA	Special Recreation Management Area
SUWA	Southern Utah Wilderness Alliance
U.S.C.	United States Code
USFWS	U.S. Fish and Wildlife Service
VRM	Visual Resource Management

Introduction

The Bureau of Land Management (BLM) Price Field Office (PFO) released the San Rafael Swell Recreation Area Proposed Resource Management Plan Amendment (PRMPA) and Final Environmental Assessment (EA) on May 14, 2026. The BLM received six unique protest letter submissions during the subsequent 30-day protest period, which ended on June 15, 2026.

The planning regulations at 43 Code of Federal Regulations (CFR) 1610.5-2 outline the requirements for filing a valid protest of proposed land use planning decisions. The BLM received six protest letters from six protesting parties. The BLM evaluated all submissions to determine which protest letters were complete and timely, and which parties have standing to protest. All letters were timely but only three protesting parties had standing to protest; therefore, three letters were dismissed due to their respective protesting party's lack of standing as shown in the Protesting Party Index, below. The other three letters contained valid protest issues. The BLM has documented its responses to the valid protest issues and recorded the protest decision in writing, along with the reasons for the decision, in this protest resolution report. No changes to the San Rafael Swell Recreation Area PRMPA/Final EA have been identified as necessary to address the valid protest issues received.

The BLM's Assistant Director for Resources and Planning addressed the protest letters received and has issued this protest resolution report to the protesting parties and posted the report on the BLM's website. The decision was sent to the protesting parties by certified mail, return receipt requested. Consistent with the BLM Delegation of Authority Manual (MS-1203, *Delegation of Authority*), resolution of protests is delegated to the BLM Assistant Director for Resources and Planning, whose decision on the protest is the final decision of the U.S. Department of the Interior (DOI) (43 CFR 1610.5-2(b)).

Protesting Party Index

Letter Number	Protestor	Organization	Determination
PP-UT-SRS-EA-26-01	TerryAnn Towers Saint Armand	--	Dismissed: No Standing
PP-UT-SRS-EA-26-02	Jason Keith	Access Fund	Denied
PP-UT-SRS-EA-26-03	Michael Friedrichs	--	Dismissed: No Standing
PP-UT-SRS-EA-26-04	Ann Dorsey	--	Dismissed: No Standing
PP-UT-SRS-EA-26-05	Neal Clark	Southern Utah Wilderness Alliance	Denied
PP-UT-SRS-EA-26-06	Simone Griffin	BlueRibbon Coalition	Denied

Dingell Act Consistency: Areas of Critical Environmental Concern

BlueRibbon Coalition

Simone Griffin

Issue Excerpt Text: The Dingell Act, Section 1222 (codified at 16 U.S.C. § 460ddd-1), establishes the framework for management of the San Rafael Swell Recreation Area. Section 1222 makes no reference to Areas of Critical Environmental Concern (ACECs), does not require their retention, and does not direct BLM to impose ACEC-based restrictions on recreation. The Dingell Act requires only that the Recreation Area be managed consistent with FLPMA and the purposes of the Recreation Area—which explicitly include recreation. Oftentimes ACEC designations restrict motorized use and recreation.

The PRMP proposes to retain 4,917 acres as ACECs and, per Section 2.3.2, prohibits new developed campground sites within ACECs and restricts firewood gathering. These restrictions go significantly beyond what the Dingell Act requires or authorizes. BLM has not demonstrated that retention of these ACEC designations with their attendant restrictions serves any purpose required by the Dingell Act, or that the restrictions are necessary to protect the specific values for which the ACECs were designated.

Moreover, the prohibition on new campground development in ACECs, when combined with other restrictions in the PRMP, will effectively foreclose future recreation infrastructure investment in a significant portion of the planning area—contrary to the Dingell Act’s recreation mandate and inconsistent with the goals of the Expanding Public Lands Outdoor Recreation Experiences (EXPLORE) Act.

Summary:

A protestor claims the BLM was inconsistent with the Dingell Act in the San Rafael Swell Recreation Area PRMPA/Final EA because the act neither requires nor authorizes retention of ACECs or ACEC-based recreation restrictions within the San Rafael Swell Recreation Area. The protestor argues that prohibiting new developed campgrounds and firewood gathering in ACECs undermines the act’s recreation mandate and constrains recreation opportunities contrary to the Dingell Act’s recreation objectives as well as the goals of the EXPLORE Act.

Response:

The Dingell Act directs the Secretary of the Interior to administer the San Rafael Swell Recreation area in a manner that “conserves, protects, and enhances the purposes for which the Recreation Area is established; and in accordance with... the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and other applicable laws” (Sec 1222(a)(1) and (2)(B) and (C)). Section 202(c)(3) of the Federal Land Policy and Management Act (FLPMA) directs the BLM to give priority to the designation and protection of ACECs in the development and revision of land use plans (43 United States Code [U.S.C.] 1712(c)(3)). FLPMA defines ACECs as “areas within the public lands where special management attention is required...to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards” (43 U.S.C. 1702(a)). Section 111 of the EXPLORE Act declares “the policy of the Federal Government to foster and encourage recreation on Federal recreational lands and waters, to the extent consistent with the laws applicable to specific areas of Federal recreational lands and waters, including multiple-use mandates and land management planning requirements” (16 U.S.C. 8411).

The San Rafael Swell Recreation Area PRMPA/Final EA provides for recreation management by designating four Extensive Recreation Management Areas (ERMAs) under Alternative B (i.e., Cedar Mountain, Molen Reef, Mussentuchit, and San Rafael Reef) to manage recreation effects, protect resources, and balance targeted recreation activities and settings with other resource uses (PRMPA/Final EA Appendix G, pp. G-17 through G-19). The PRMPA/Final EA also provides planning-level direction for dispersed camping, bicycling, special recreation permits, interpretation and education, minimum necessary facilities for resource protection, and motorized use consistent with the Dingell Act, including limiting motorized vehicles to designated roads and motorized routes and prohibiting new user-created motorized campsites or access between campsites except through subsequent implementation-level National Environmental Policy Act (NEPA) analysis where appropriate (PRMPA/Final EA Appendix G, pp. G-17 through G-20).

The ACECs within the San Rafael Swell Recreation Area PRMPA/Final EA are retained because the BLM determined that relevant and important values require special management attention (PRMPA/Final EA pp. 39 through 40 and Appendix G, pp. G-7 through G-16). The BLM has identified that the ACECs require special management attention, such as restrictions on campground development and firewood gathering, in order to protect and prevent irreparable damage to the ACEC values identified (PRMPA/Final EA pp. 40 and Appendix G, pp. G-7 through G-16).

Under Alternative B, the BLM determined that approximately 4,917 acres contain relevant and important values that are not already protected under other designations, such as wilderness areas (PRMPA/Final EA pp. 41 through 42 and Appendix G, pp. G-7 through G-16). Under this alternative, the BLM retains only the portions of ACECs that encompass relevant and important values for which special management attention remains warranted and removed ACEC designations where values were not present or were adequately protected by other designations, such as wilderness or the Recreation Area (PRMPA/Final EA pp. 41 and 42 and Appendix G, pp. G-7 through G-16).

The BLM has appropriately considered designation of ACECs within the San Rafael Swell Recreation area consistent with the Dingell Act's directive to manage the area in accordance with FLPMA. Accordingly, this protest issue is denied.

Dingell Act Consistency: Recreation Management

Access Fund

Jason Keith

Issue Excerpt Text: Substantive protest: the PRMPA fails to provide adequate climbing management direction. The PRMPA/EA recognizes rock climbing and bouldering as recreation uses in the planning area, but the proposed plan does not provide sufficient management direction to preserve those uses while protecting cultural, natural, scenic, wilderness, wildlife, historical, and educational resources. This omission is inconsistent with the Dingell Act's integrated purpose for the Recreation Area and with FLPMA's requirement that BLM manage public lands through reasoned land-use planning.

Access Fund's scoping comments explained that the planning area includes hundreds of climbing routes, including remote desert towers such as Bottleneck Peak and the Weasel, traditional routes in the Buckhorn Wash/Mexican Mountain area, and approximately 250 routes at the San Rafael Reef/Sandstone Alps. BLM's scoping report also identified "Climbing routes: San Rafael Reef sandstone alps (250 climbing routes)" as part of the publicly identified affected environment.¹⁴ Some routes are traditional climbs, while others depend on fixed anchors for climber safety. The PRMPA/EA should identify these climbing resources and include plan-level direction for how BLM will manage them.

The defect is not that BLM failed to include Access Fund's preferred language. The defect is that BLM recognized climbing and bouldering as established recreation uses in the San Rafael Swell, but failed to adopt plan-level direction that would preserve those opportunities, provide certainty for fixed-anchor maintenance and replacement, coordinate future implementation, and protect resources through clear, targeted management tools.

Access Fund

Jason Keith

Issue Excerpt Text: BLM must recognize fixed anchors and provide a transparent process for maintenance, replacement, and limited new installation. The Dingell Act specifically provides that nothing in the relevant wilderness provisions prohibits recreational rock climbing activities in the wilderness areas, including the placement, use, and maintenance of fixed anchors, subject to the Wilderness Act and terms and conditions determined necessary by the Secretary. Access Fund's scoping comments asked BLM to consider an appropriate process for authorizing placement and replacement of fixed anchors in the newly designated wilderness areas....

BLM should not leave ordinary fixed-anchor maintenance and replacement to ad hoc uncertainty or require a separate NEPA process for every routine replacement. The final RMPA should create programmatic standards, identify sensitive-resource constraints, and reserve case-by-case review for new anchors in sensitive locations. That approach is consistent with the Dingell Act's express climbing language, the EXPLORE Act's direction to develop national guidance, and Congress's repeated effort to clarify that wilderness climbing and fixed-anchor management require practical, durable, and resource-protective implementation.

BlueRibbon Coalition

Simone Griffin

Issue Excerpt Text: BRC wants to ensure dispersed camping opportunities are retained and not restricted or removed in any capacity. Section 3.4.1.3 of the PRMP states that users "would not be authorized to create new campsites for motorized vehicle dispersed camping or new access between multiple campsites" and that camping would be "Restricted to existing sites and access within 200 feet of designated routes." This represents a significant reduction in dispersed camping opportunities currently available throughout the planning area.

The Dingell Act, Section 1222(d), limits the use of motorized vehicles to designated roads and routes and prohibits construction of new permanent or temporary roads. However, the Act does not authorize BLM to restrict dispersed camping to pre-existing sites only or to limit camping access to a 200-foot corridor from designated routes. These are independent and significant management constraints that go far beyond the Act's text.

Dispersed camping on BLM-managed land has historically been permitted subject to Leave No Trace principles and site-specific resource protection requirements. The PRMP's categorical restriction—prohibiting any new motorized vehicle dispersed campsites regardless of resource impact—does not represent a tailored, site-specific decision based on documented resource conditions.

Summary:

Protestors claim the BLM violated or is inconsistent with the Dingell Act, FLPMA, the Wilderness Act, and the EXPLORE Act in the San Rafael Swell Recreation Area PRMPA/Final EA by failing to provide adequate plan-level recreation management direction for climbing, fixed anchors, and dispersed camping while imposing or allowing restrictions that are not authorized by statute or supported by site-specific findings. They argue the PRMPA/Final EA lacks sufficient management direction to preserve established uses and support recreation access within the San Rafael Swell Recreation Area.

Response:

The Dingell Act identifies the purpose for the establishment of the San Rafael Swell Recreation Area as “to provide for the protection, conservation, and enhancement of the recreational, cultural, natural, scenic, wildlife, ecological, historical, and educational resources of the Recreation Area” (Section 1221(b)). The Dingell Act directs the Secretary of the Interior to administer the San Rafael Swell Recreation area in a manner that “conserves, protects, and enhances the purposes for which the Recreation Area is established; and in accordance with... the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and other applicable laws” (Sections 1222(a)(1) and (2)(B) and (C)). Section 202 of FLPMA requires the Secretary of the Interior to “develop, maintain, and, when appropriate, revise land use plans which provide by tracts or areas for the use of the public lands” (43 U.S.C. 1712(a)). The BLM’s implementing regulations for land use planning identify that “All future resource management authorizations and actions... and subsequent more detailed or specific planning, shall conform to the approved plan” (43 CFR 1610.5-3(a)).

The BLM identifies the purpose and need for the San Rafael Swell Recreation Area PRMPA/Final EA as needing to bring the 2008 PFO Resource Management Plan (RMP) (BLM 2008) into compliance with “the Dingell Act’s purposes and management for the Recreation Area and its release of wilderness study area” by incorporating “goals, objectives, administrative designations, allocations for allowable resource uses, and management direction for the Recreation Area to ensure the protection, conservation, and enhancement of its recreational, cultural, natural, scenic, wildlife, ecological, historical, and educational resources (Dingell Act Section 1221(b))” (PRMPA/Final EA p. 1). The BLM identifies that the decision to be made is “how BLM intends to meet the requirements of the Dingell Act to provide for the protection, conservation, and enhancement of the recreational, cultural, natural, scenic, wildlife, ecological, historical, and educational resources of the Recreation Area” (PRMPA/Final EA p. 3). The PRMPA/Final EA would establish allowable uses and recognizes rock climbing, bouldering, motorized access, dispersed camping, and other established recreation uses in the planning area and analyzes recreation opportunities and experiences in Section 3.4.4 (pp. 29 through 36). Similarly, under Alternative B, the PRMPA/Final EA limits motorized vehicle dispersed camping to established campsites accessed from designated routes and prohibits new user-created campsites or new access between campsites (PRMPA/Final EA Appendix G, p. G-20). Under Alternative B, the BLM identifies that “Implementation-level plans would be developed to carry out goals, objectives, and management direction” (PRMPA/Final EA p. 10).

The BLM has appropriately conducted land use planning that is consistent with the purposes of the San Rafael Swell Recreation Area as identified by the Dingell Act. Accordingly, this protest issue is denied.

FLPMA: Unnecessary and Undue Degradation***Southern Utah Wilderness Alliance (SUWA)***

Neal Clark

Issue Excerpt Text: FLPMA states that “[i]n managing the public lands the Secretary shall, by regulation or otherwise, take any action necessary to prevent unnecessary and undue degradation of the lands.” 43 U.S.C. § 1732(b). Here, by expanding the scope of the planning area beyond those lands directly affected by Dingell Act designations, BLM has used the PRMPA/EA effort to rollback conservation management for hundreds of thousands of acres of public lands, resulting in future harm to these landscapes. This is both unnecessary and undue. As discussed above and herein, the following PRMPA/EA decisions will result in future impacts to public lands that would not be authorized under current 2008 Price RMP management directives.

Southern Utah Wilderness Alliance (SUWA)***Neal Clark***

Issue Excerpt Text: Removes the existing San Rafael Swell SRMA and three step-down RMZs—Buckhorn/Wedge (26,496 acres), Sinbad/Swaseys Cabin/Sids Mountain (121,736 acres), and Temple Mountain (73,297 acres). The PRMPA/EA replaces the San Rafael Swell SRMA and three RMZs with four Extensive Recreation Management Areas (ERMAs)—the Cedar Mountain, Molen Reef, Mussentuchit, and San Rafael Reef ERMA. Unlike SRMAs, where recreation values and objectives are the management focus, ERMAs offer less protection and are instead generalized areas intended to integrate recreation alongside other, often conflicting, multiple-use resources like grazing and leasing. See PRMPA/EA at App. G, G-17 (stating that “ERMAs would be designated to minimize recreation effects on other resources, provide protection to resources, and ensure a balance between protecting targeted recreation activities and settings with other resource values”). Unlike the proposed ERMAs, the three existing 15 RMZs in the San Rafael Swell SRMA were designated to “focus on sustaining natural resources while meeting social and economic needs” and were “established to facilitate the provision of recreation amenities.” 2008 Price RMP at 110. The RMZs include common-sense management requirements to protect resources, including requiring visitors to provide their own fuelwood; prohibiting the gathering of wood (live or dead); requiring fire pans to contain fire and ash; limiting vehicle camping to developed and designated sites; and requiring portable toilets where toilet facilities are unavailable. Id.

Conversely, the proposed ERMAs would remove these management prescriptions: dispersed camping is allowed anywhere unless otherwise restricted and can occur at any “established campsite” within 200 feet of a designated route; fire rings can be constructed but must be disassembled after use, unless they were already in existence, in which case they can be left (a truly nonsensical provision); fuelwood can be collected from dead and downed trees; and there is no requirement to pack out human waste. PRMPA/EA at App. G, G-17. All told, the proposed ERMAs roll back even the most basic, common-sense requirements for the protection of natural resources and human health, actions that will result in unnecessary and undue degradation of public lands.

Southern Utah Wilderness Alliance (SUWA)***Neal Clark***

Issue Excerpt Text: Removes 97,278 acres of Natural Areas. Under the 2008 RMP, 97,278 acres of the planning area are managed as “Natural Areas,” which are BLM-identified “lands with wilderness characteristics managed for the protection of wilderness characteristics as a priority over other multiple uses.” UT-IM-2016-027, Att. 2—BLM-Utah Additional Guidance for Manual 6340, 2-1 (Sept. 2016). 84,534 acres of Natural Areas are now within designated wilderness, leaving 12,744 acres of Natural Areas that will be removed from wilderness management under Alternative B. PRMPA/EA at 27. Of the 12,744 acres of Natural Area that will be removed from priority wilderness management, 7,906 acres are within the Recreation Area, 3,872 acres are within the proposed Cedar Mountain ERMA, 64 acres in the proposed San Rafael Reef ERMA, and it appears 902 acres fall outside of any designation. Id. The 2008 Price RMP manages Natural Areas as VRM Class II, ROW avoidance areas, closed to the disposal of mineral materials, excluded from the collection of woodland products, and limited or closed to oil and gas leasing, among other restrictions. PRMPA/EA at App. G, G-4. The proposed ERMAs, by comparison, are managed as VRM Class III. Id. at G-17. It appears all proposed ERMAs outside of the Recreation Area are open to oil and gas leasing and mineral development, with only the San Rafael Reef ERMA being subject to oil and gas surface use constraints. Id. at G-19. As BLM acknowledges, “[t]he PRMPA/EA removes five BLM natural areas that were non-wilderness study area lands managed for their wilderness characteristics. With this removal, BLM would not manage non-wilderness lands for their wilderness characteristics anywhere in the planning area.” PRMPA/EA at App. F, F-5. All told, the removal of Natural Areas in any location aside from designated wilderness is clearly intended to allow new development and

associated impacts. BLM's decision to manage these wilderness quality areas to a lesser standard is unsupported by the record and will result in unnecessary and undue degradation of these lands.

Summary:

Protestors contend that the BLM violated FLPMA's mandate to prevent unnecessary and undue degradation in the San Rafael Swell Recreation Area PRMPA/Final EA by expanding the planning effort beyond lands directly affected by the Dingell Act and using that broader scope to roll back existing protective management. They argue that replacing the San Rafael Swell Special Recreation Management Area (SRMA)/Recreation Management Zone (RMZ) framework with less-protective ERMAs and removing Natural Area management for non-wilderness lands would weaken safeguards for recreation resources, wilderness characteristics, scenic values, and other public-land resources, which would allow increased development and resource impacts that are avoidable, unnecessary, and unsupported by the record.

Response:

Section 302(b) of FLPMA requires that "in managing the public lands the Secretary [of the Interior] shall, by regulation or otherwise, take any action necessary to prevent unnecessary or undue degradation of the lands."

The PRMPA/Final EA specifically analyzes effects on lands with wilderness characteristics and BLM natural areas, recreation, special designations, visual resources, cultural resources, special status plants, and wildlife in Chapter 3 (pp. 12 through 56). The analysis recognizes that activities such as right-of-way (ROW) development, mineral development, off-highway vehicle (OHV) use, recreation, and surface disturbance may result in adverse effects on resources, but it also identifies management constraints and protective measures under the alternatives, including Dingell Act withdrawals, ROW avoidance and exclusion areas, Visual Resource Management (VRM) classes, no-surface-occupancy requirements, camping limitations, and monitoring (PRMPA/Final EA pp. 21 through 23, 26 through 28, 32 through 35, 39 through 43, and 45 through 56). For lands with wilderness characteristics and BLM natural areas, Chapter 3 states that Alternative B would remove BLM natural area designations but that most of those lands would continue to be protected through wilderness, Recreation Area, or ERMA management, while the Recreation Area and released Wilderness Study Area lands would retain management prescriptions such as VRM Class II, ROW avoidance, OHV-limited management, and closure to oil and gas leasing where applicable (PRMPA/Final EA pp. 26 through 28). For recreation, Chapter 3 states that Alternative B would establish ERMAs, apply monitoring in high-use or sensitive areas, restrict new user-created motorized dispersed campsites and new access between campsites, provide facilities only where appropriate and at the minimum necessary for resource protection, and thereby better balance growing recreation demand with protection of resources than less-structured management (PRMPA/Final EA pp. 33 through 36). For ACECs and special designations, Chapter 3 states that Alternative B would retain ACECs only where relevant and important values require special management not already provided by wilderness or Recreation Area designations and would add or retain targeted protections such as camping buffers near rock art, mineral closures, utility corridor exclusions, and other focused management to protect those values (PRMPA/Final EA pp. 40 through 43). For special status plants, visual resources, and wildlife, Chapter 3 states that Alternative B includes measures that reduce the potential for resource degradation, including no-surface-occupancy requirements in the San Rafael Reef ERMA, restrictions on dispersed campsite creation, monitoring provisions in ERMAs, VRM Class II management for the Recreation Area and San Rafael Reef ERMA, limits on new ROWs in the Recreation Area unless they support Recreation Area purposes or public safety, and other protections that reduce risks from development, recreation, and habitat disturbance (PRMPA/Final EA pp. 46 through 56).

Section 1.3 of the San Rafael Swell Recreation Area PRMPA/Final EA, *Planning Area and Decision Area* (pp. 2 through 3), distinguishes between the broader planning area and the decision area, and the BLM explains that the PRMPA/Final EA applies only to lands and interests under BLM jurisdiction. The BLM considered a larger or smaller planning area as explained in San Rafael Swell Recreation Area PRMPA/Final EA Section 2.2, *Alternatives Considered but Eliminated from Detailed Analysis* (p. 8). This alternative was dismissed because larger or smaller boundaries would not appropriately include areas affected by the Dingell Act designations and, therefore, would not meet the purpose and need of the San Rafael Swell Recreation Area PRMPA/Final EA as stated in Section 1.2 (pp. 1 through 2).

The San Rafael Swell Recreation Area PRMPA/Final EA considers effects on resources and uses within the planning area and does not identify any unnecessary or undue degradation of the lands under Section 302(b) of FLPMA. Accordingly, this protest issue is denied.

FLPMA: ACECs

Southern Utah Wilderness Alliance (SUWA)

Neal Clark

Issue Excerpt Text: FLPMA requires that BLM “give priority to the designation and protection of [ACECs]” in the development and revision of RMPs. 43 U.S.C. § 1712(c)(3). FLPMA defines ACECs as “areas within the public lands where special management attention is required . . . to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards.” 43 U.S.C. § 1702(a). Contrary to FLPMA’s mandate, the PRMPA/EA not only fails to prioritize ACECs, but in fact is being used to deprioritize them by reducing, removing and/or otherwise modifying them to eliminate existing protections. Specifically, BLM’s preferred Alternative B “would result in 156,353 acres being removed from ACEC designation,” while keeping only 4,917 acres of currently designated and protected ACECs. PRMPA/EA at 41. BLM justifies this determination by stating that “[t]he acres being removed from ACEC designation either do not contain the relevant and important values that were originally identified or are adequately protected under other designations . . . making additional ACEC management unnecessary.” *Id.* The 4,917 acres that remain as ACECs “have been right-sized to encompass the existing relevant and important values.” *Id.*

BLM fails to prioritize the protection of ACECs and to support its determination that “[t]he acres being removed from ACEC designation either do not contain the relevant and important values that were originally identified or are adequately protected under other designations.”

Summary:

A protestor claims the BLM violated FLPMA in the San Rafael Swell Recreation Area PRMPA/Final EA by removing, reducing, or modifying ACEC designations and protections instead of giving priority to the designation and protection of ACECs throughout the planning areas. The protestor argues that the BLM has not justified its determination that the removed ACEC acreage either lacks relevant and important values or is otherwise adequately protected.

Response:

FLPMA requires the BLM, in developing and revising land use plans, to give priority to the designation and protection of ACECs (43 U.S.C. 1712(c)(3)). FLPMA defines an ACEC as an area within the public lands where special management attention is required to protect and prevent

irreparable damage to important historic, cultural, or scenic values; fish and wildlife resources or other natural systems or processes; or to protect life and safety from natural hazards (43 U.S.C. 1702(a)). The BLM's planning regulations require the BLM to identify and consider areas having potential for ACEC designation throughout the planning process (43 CFR 1610.7-2).

The BLM evaluated ACEC designations as part of the San Rafael Swell Recreation Area PRMPA/Final EA because the purpose and need for the amendment includes determining whether management provided by the Recreation Area designation is adequate to protect relevant and important ACEC values where ACECs overlap Dingell Act designations and Wilderness Study Area releases, and whether ACECs within the planning area but not overlapped by those designations have correct boundaries and appropriate special management based on the latest available information (PRMPA/Final EA pp. 1 and 2). The PRMPA/Final EA carried forward the issue of how modification or removal of ACEC designations under the proposed alternatives would affect relevant and important ACEC values and the need for special management, and Section 3.4.5 (pp. 37 through 43) documents the BLM's analysis of those effects under each alternative.

The BLM analyzed a range of ACEC designations across the alternatives: approximately 161,270 acres of ACECs under Alternative A, approximately 4,917 acres under Alternative B, and no ACECs under Alternative C (San Rafael Swell Recreation Area PRMPA/Final EA pp. 10 through 11 and Appendix G, pp. G-7 through G-16). Under Alternatives B and C, the BLM evaluated ACEC values throughout the planning area and retained, adjusted, or removed ACECs based on whether relevant and important values continued to require special management attention (PRMPA/Final EA p. 10 through 11 and 41 through 46, and Appendix G, p. G-7). PRMPA/Final EA Appendix G explains that the ACEC decisions under Alternatives B and C adjust ACEC boundaries to reflect the Dingell Act's designation of wilderness and the Recreation Area (p. G-7). The acreage removed from ACEC designation under these alternatives either does not contain the relevant and important values originally identified or is adequately protected under other designations, such as designated wilderness or the Recreation Area, making additional ACEC management unnecessary (PRMPA/Final EA p. 41 through 43).

The San Rafael Swell Recreation Area PRMPA/Final EA complied with FLPMA's requirement to give priority to ACEC designation and protection by adjusting ACECs to only retain areas where the record showed relevant and important values were present that required special management to protect and prevent irreparable damage to those values. Accordingly, this protest issue is denied.

NEPA: Public Participation

Access Fund

Jason Keith

Issue Excerpt Text: BLM's decision to move directly from scoping to a proposed RMPA/EA and protest period, without providing public review of the EA-level analysis, alternatives, maps, FONSI, and proposed management direction, is inconsistent with NEPA's public-involvement and informed decision-making purposes and with BLM's obligation to provide meaningful public participation in the preparation of RMP amendments; in this context, relying on protest as the only post scoping public process was arbitrary.

Summary:

A protestor claims the BLM violated NEPA and land-use planning public-participation requirements for the San Rafael Swell Recreation Area PRMPA/Final EA by moving directly from scoping to the PRMPA/Final EA and protest period.

Response:

FLPMA requires the BLM to incorporate public involvement in land use planning (FLPMA 202(a)). The BLM's land use planning regulations require opportunities for meaningful public participation during the RMP amendment process in conformance with the requirements of NEPA (43 CFR 1610.2(a)). NEPA does not require public involvement when a bureau prepares an EA (DOI NEPA Handbook, Appendix 1.1). The BLM planning regulations only require RMP amendments supported by EAs to provide public notice and opportunity for participation at scoping for the proposed planning criteria, and at protest (43 CFR 1610.2(f)(1)(2), 43 CFR 1610.5-2(a)(1)).

San Rafael Swell Recreation Area PRMPA/Final EA Appendix D, *Public Involvement, Consultation, and Coordination*, presents a comprehensive record of public participation conducted throughout the RMP amendment planning and development process. The BLM conducted pre-scoping public outreach when the Dingell Act was signed, including seven open houses (PRMPA/Final EA Appendix D, p. D-1). The formal scoping period for the San Rafael Swell Recreation Area Resource Management Plan Amendment (RMPA) was initiated with publication of the Notice of Intent in the *Federal Register* on October 28, 2021 (PRMPA/Final EA Appendix D, p. D-1). The BLM hosted additional public meetings on November 17 and 18, 2021, related to the RMPA where it accepted public comments, including the request to extend the scoping period. The scoping period was extended until January 7, 2022, encompassing 71 days total (PRMPA/Final EA Appendix D, p. D-1).

The BLM has complied with NEPA and FLPMA requirements related to opportunities for meaningful public participation for the San Rafael Swell Recreation Area RMPA. Accordingly, this protest issue is denied.

NEPA: Range of Alternatives***Southern Utah Wilderness Alliance (SUWA)******Neal Clark***

Issue Excerpt Text: Although BLM states that the purpose and need of the PRMPA/EA is “to incorporate goals, objectives, administrative designations, allocations for allowable resource uses, and management direction for the Recreation Area,” it goes on to narrowly define the scope of its analysis to what it deems planning-level (or what it calls “RMP-level”) decisions. PRMPA/EA at 8. As discussed above, this interpretation of the Dingell Act is inconsistent with the Act and therefore not subject to discretion. Moreover, the determination is arbitrary and represents a self-imposed limitation (not recognized in the Dingell Act) that allowed BLM to dismiss out of hand any alternative it deemed to be an implementation-level decision. This included an alternative for a smaller planning area that encompassed only those lands directly affected by the Dingell Act (i.e., designated wilderness and the Recreation Area), and an alternative that would have resulted in a comprehensive management plan for the Recreation Area as explicitly required by the legislation.

Southern Utah Wilderness Alliance (SUWA)***Neal Clark***

Issue Excerpt Text: BLM dismissed an alternative for a smaller planning area that would have focused the analysis on the lands where existing management was directly impacted by the Dingell Act—designated wilderness and the Recreation Area. This alternative, which represents a smaller planning area than brought forward by BLM, was summarily dismissed in the PRMPA/EA. In doing so, BLM states:

During scoping, the public requested . . . a smaller planning area to focus on the Recreation Area. No specific boundaries were provided. BLM considered the requests but found that . . . the smaller planning area excluded areas that were affected by the Dingell Act designations. Therefore, BLM

dismissed the larger or smaller planning area alternatives because they would not meet the purpose and need or be consistent with the planning criteria as described in Sections 1.2 and 1.5.

Id. at 8. BLM fails to explain its position that a “smaller planning area” alternative focused specifically on lands directly impacted by Dingell Act designations would exclude areas that were “affected by the Dingell Act designations” or how such an alternative “would not meet the purpose and need or be consistent with the planning criteria” Id. To the contrary, such an alternative would have clearly met the stated purpose and need of the PRMPA/EA, whereas expanding the project area beyond those lands directly impacted by the Dingell Act—as BLM did here—has no support or rational basis in the record. To this end, BLM doesn’t provide any explanation as to why existing management decisions for lands outside of designated wilderness and the Recreation Area would be affected by Dingell Act designations, most notably lands within the San Rafael Swell Special Recreation Management Area (SRMA) that are outside of the Recreation Area and designated wilderness.

Southern Utah Wilderness Alliance (SUWA)

Neal Clark

Issue Excerpt Text: BLM arbitrarily includes the entire 937,250-acre San Rafael Swell SRMA in the planning area, which also encompasses numerous Areas of Critical Environmental Concern (ACECs). In doing so, BLM states:

Most of the targeted outcomes for the San Rafael Swell SRMA, as identified in the 2008 PFO RMP Appendix R-9, are now within and managed in accordance with the Dingell Act’s Recreation Areas and the 13 wilderness designations, which potentially conflicts with, or renders obsolete, the 2008 PFO RMP’s San Rafael Swell SRMA and [Recreation Management Zone (RMZ)] designations and any associated objectives, management actions, and allowable uses.

PRMPA/EA at 9 (emphasis added). BLM makes no effort to identify which of the long list of targeted outcomes for the San Rafael Swell SRMA, or subset RMZs, it believes are now wholly within designated wilderness and the Recreation Area.

More importantly, BLM’s assertion that “most of the targeted outcomes for the San Rafael Swell SRMA” are now within wilderness or the Recreation Area ignores the fact that of the 937,250-acre SRMA, 318,700 acres—or 34 percent of the SRMA—fall outside of the Recreation Area or designated wilderness.³ BLM also makes no effort to explain why, in its view, the Dingell Act designations “potentially conflict[] with, or render[] obsolete,” the 2008 Price RMP management directives or why it could not consider an alternative that removed the nearly 319,000 acres of land in the San Rafael Swell SRMA that were not directly impacted by the Dingell Act from the PRMPA/EA project area. Id. Not only is BLM’s decision to not consider a smaller project area alternative unsupported by the record, it also represents agency-created cover that allows it to use the PRMPA/EA as the means to reduce or remove existing, protective management decisions for lands outside of designated wilderness and the Recreation Area—outcomes that were never contemplated by the Dingell Act.

Southern Utah Wilderness Alliance (SUWA)

Neal Clark

Issue Excerpt Text: BLM also states that the smaller planning area alternative was not considered, in part, because “[n]o specific boundaries were provided.” This requires context. No specific boundaries were provided because BLM never identified the planning area boundary to the public as part of its scoping process. As stated in SUWA’s comments, “it’s unclear what the San Rafael Swell planning area boundary actually is, as it’s not delineated on the accompanying maps.” SUWA at 15. “More information is needed to determine exactly what the planning area boundary is and what additional RMP amendments may be needed.” Id. BLM cannot hide information from the public and then use

the lack of publicly available information as an excuse to discredit the public's good-faith suggestions.

Southern Utah Wilderness Alliance (SUWA)

Neal Clark

Issue Excerpt Text: Without question, the Dingell Act changed land management status for the Recreation Area and designated wilderness, but any management plan developed for the Recreation Area would necessarily have included an amendment to the 2008 Price RMP in areas where existing management conflicted with Dingell Act directives. As discussed above, this is both precedent for similar planning processes on BLM lands in Utah and is acknowledged by BLM in its explanation for why it did not consider RMP amendments for designated wilderness areas—which the agency characterizes as implementation-level—as part of the PRMPA/EA. See PRMPA/EA at 9 (stating that wilderness management plans “can be prepared with an option to amend an RMP as necessary”); see also *supra* I.a and I.b. Herein lies the entire issue—BLM routinely completes comprehensive management plans in conjunction with RMP amendments necessary to incorporate those plans into existing RMPs. Here, BLM's insistence that it had to prepare an RMP amendment, while dismissing any alternatives it considered implementation level, is contrary to the Dingell Act, well outside of standard agency practice, and violates NEPA's requirement to analyze a reasonable range of alternatives.

Summary:

Protestors claim the BLM violated NEPA by failing to analyze a reasonable range of alternatives and by unlawfully narrowing the San Rafael Swell Recreation Area PRMPA/Final EA to only planning-level decisions, which led the BLM to dismiss alternatives addressing implementation-level management and a smaller planning area focused on lands directly affected by the Dingell Act. They argue the BLM's refusal to consider a comprehensive management plan alternative, its inclusion of the entire San Rafael Swell SRMA and lands outside the Recreation Area or designated wilderness, and its reliance on unclear planning boundaries were arbitrary, inconsistent with the Dingell Act and standard BLM practice, and improperly enabled reductions in existing protective management for lands not directly affected by the Dingell Act.

Response:

NEPA requires agencies to evaluate a reasonable range of alternatives that are technically and economically feasible and meet the purpose and need for the proposed action (42 U.S.C. 4332(C)(iii); 42 U.S.C. 4332(F)). NEPA directs agencies to ensure that environmental documents include “a reasonable range of alternatives...that are technically and economically feasible” (42 U.S.C. 4332(C)(iii)) and to “study, develop, and describe” such alternatives (42 U.S.C. 4332(F)). Consistent with this statutory framework, the DOI NEPA Handbook defines reasonable alternatives as those that are technically and economically feasible, meet the purpose and need for the proposed action, are within the bureau's jurisdiction, and, where applicable, meet the goals of the applicant (DOI NEPA Handbook, Section 6.1(v)).

As described in Section 1.2 of the San Rafael Swell Recreation Area PRMPA/Final EA (pp. 1 and 2), the purpose and need of the PRMPA/Final EA is to update land use plan-level allocations and management direction in the 2008 PFO RMP (BLM 2008) to bring it into conformance with the Dingell Act and to provide integrated management for lands under BLM jurisdiction affected by those designations. As the BLM states in Section 1.3.2 of the San Rafael Swell Recreation Area PRMPA/Final EA (p. 3), a comprehensive management plan for the Recreation Area is an implementation-level decision and therefore not included in the PRMPA/Final EA.

The BLM developed a reasonable range of alternatives that meet the purpose and need of the San Rafael Swell Recreation Area PRMPA/Final EA as stated in Section 1.2 (pp. 1 and 2) and that address resource issues identified during the scoping period. The San Rafael Swell Recreation Area PRMPA/Final EA analyzed three alternatives, which are summarized in Chapter 2 (PRMPA/Final EA pp. 7 through 11) and described in detail in Appendix G. The alternatives analyzed in the PRMPA/Final EA vary in: (1) degrees of protection for each resource and use; (2) approaches to management for each resource and use; (3) mixes of allowable, conditional, and prohibited uses in various geographic areas; and (4) levels and methods for restoration (PRMPA/Final EA Appendix G).

Planning boundaries, the planning area, and the decision area are clearly defined in Section 1.3 of the San Rafael Swell Recreation Area PRMPA/Final EA (pp. 2 and 3). Section 1.3 clarifies that the decisions in the PRMPA/Final EA will only apply to the decision area, which are the lands under BLM jurisdiction (p. 2). The BLM also considered a larger or smaller planning area as explained in San Rafael Swell Recreation Area PRMPA/Final EA Section 2.2, *Alternatives Considered but Eliminated from Detailed Analysis* (p. 8). This alternative was dismissed because larger or smaller boundaries would not appropriately include areas affected by the Dingell Act designations and, therefore, would not meet the purpose and need of the San Rafael Swell Recreation Area PRMPA/Final EA as stated in Section 1.2 (pp. 1 and 2).

The BLM complied with the requirements of NEPA and the DOI NEPA procedures in considering and analyzing a reasonable range of alternatives in the San Rafael Swell Recreation Area PRMPA/Final EA. Accordingly, this protest issue is denied.

NEPA Impacts Analysis: Wildlife

Southern Utah Wilderness Alliance (SUWA)

Neal Clark

Issue Excerpt Text: NEPA imposes “‘action-forcing procedures’ that requires agencies take a ‘hard look’ at environmental consequences, . . . and that provide for broad dissemination of relevant environmental information.” *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350 (1989) (citations omitted). Here, BLM failed to take a hard look at potential impacts to ESA listed threatened or endangered species, despite its own undisclosed Biological Assessment (BA) that indicates the PRMPA/EA may adversely affect those species. ...

Regarding ESA-listed wildlife species, the PRMPA/EA states, “[t]he planning area contains habitat suitable for four federally listed and two proposed threatened wildlife species,” PRMPA/EA at 53. Although BLM states there are four federally listed species in the project area, the PRMPA/EA only identifies three—Mexican spotted owl, Southwestern willow flycatcher, and Yellow-billed cuckoo. ...

Aside from describing generalized impacts from disturbance and development, and listing acreages of habitat under each alternative, see *id.* at App. C, C-23 to C11 26, the PRMPA/EA fails to take a necessary hard look at impacts to individual ESA-listed species.

Southern Utah Wilderness Alliance (SUWA)

Neal Clark

Issue Excerpt Text: Notably, it appears that BLM has developed a BA as part of the PRMPA/EA process that considers effects on listed species and habitat, yet it has never released that information to the public for analysis or comment...

Importantly, based on these statements, BLM has concluded that the PRMPA/EA “may affect, likely to adversely affect” listed species, as it determined that formal consultation with USFWS is required. Additionally, although BLM has just initiated formal consultation with USFWS and has yet to receive a BiOp, it has an unsupported Finding of No Significant Impact ready to go for approval.

Not only has BLM failed to take the hard look at potential impacts to listed species as required by NEPA, it fails to explain how an RMP amendment to incorporate new Dingell Act conservation designations could result in a situation where listed species may not only be affected by BLM's preferred alternative, but are likely to be adversely affected by BLM's decision. When considering that those adverse impacts are the direct result of an alternative that allows for more permissive land use authorizations than currently exist in areas outside of the Recreation Area and designated wilderness, it calls into question the underlying intent in moving forward with a project area that encompasses more than those lands directly impacted by the Dingell Act's conservation designations.

Summary:

Protestors claim the BLM violated NEPA in the San Rafael Swell Recreation Area PRMPA/Final EA by failing to take the required hard look at impacts on Endangered Species Act (ESA)-listed threatened and endangered wildlife species, withholding or omitting its BA and related analysis from public review, and relying on an unsupported Finding of No Significant Impact despite a "may affect, likely to adversely affect" determination requiring formal U.S. Fish and Wildlife Service (USFWS) consultation. They argue the PRMPA/Final EA fails to identify and analyze all affected listed species and habitat, disclose the basis for adverse-effect conclusions, or explain how the RMPA, particularly more permissive land uses outside Dingell Act conservation designations, could lawfully proceed without completed consultation and public review.

Response:

Courts have determined that NEPA requires the BLM to take a "hard look" at the environmental impacts of a proposed action and ensure that environmental information available to decision-makers and the public is of high quality (42 U.S.C. 4332(2)(C)). As described in Section 1.5 of the DOI NEPA Handbook, the BLM is required to analyze the reasonably foreseeable effects of the proposed action and any alternatives (DOI NEPA Handbook Section 1.5(b)(1)(iii)) and specifically to analyze any environmental effects that may be significant (DOI NEPA Handbook Section 1.5(c)(1)).

Potential impacts on wildlife under each alternative are analyzed in San Rafael Swell Recreation Area PRMPA/Final EA Section 3.4.8, *Wildlife* (pp. 52 through 56). This section of the PRMPA/Final EA analyses how management alternatives would affect non-special status wildlife species, BLM sensitive wildlife species, and all federally listed and candidate species in the planning area (pp. 52 through 56). As articulated in PRMPA/Final EA Appendix D, within the *Endangered Species Act* subsection (p. D-7), the BLM developed a BA for this undertaking that analyzes the ESA-listed threatened and endangered species and their critical habitats. Formal consultation with USFWS in compliance with Section 7 of the ESA will be conducted and the BLM will not issue a Decision Record until USFWS issues its Biological Opinion (PRMPA/Final EA Appendix D, p. D-7).

The BLM complied with NEPA's requirement to analyze the potential environmental impacts on wildlife, including ESA-listed threatened and endangered wildlife species, in the San Rafael Swell Recreation Area PRMPA/Final EA. Accordingly, this protest issue is denied.

References

Bureau of Land Management (BLM). 2008. *Price Field Office Record of Decision and Approved Resource Management Plan*. Department of the Interior, Bureau of Land Management. October. BLM-UT-PL-09-005-1610. <https://eplanning.blm.gov/Project-Home/?id=6324cb97-a7f2-f011-8407-001dd80db62a>.