

# **EXHIBIT 2**

**SUWA ET AL. PROTEST  
UT BLM 2-08 LEASE SALE**

**The Wilderness Society \* Southern Utah Wilderness Alliance \*  
Center for Native Ecosystems**

December 13, 2007

**By electronic mail ([UT\\_Pr\\_Comments@blm.gov](mailto:UT_Pr_Comments@blm.gov)) and U.S. Mail**

Floyd Johnson, Project Manager  
Bureau of Land Management  
Price Field Office  
25 South 600 West  
Price, Utah 84501

Re: Comments on Supplement to Price Draft RMP/EIS for Non-WSA Lands with  
Wilderness Characteristics

Dear Mr. Johnson:

The following are the comments of The Wilderness Society (TWS), Southern Utah Wilderness Alliance (SUWA) and Center for Native Ecosystems (CNE) on the Supplement to the Price Field Office Draft Resource Management Plan/Environmental Impact Statement (Draft RMP/EIS) for Non-WSA Lands with Wilderness Characteristics. We also incorporate by reference our previous comments on the Draft RMP/EIS and Supplemental Comments on Areas of Environmental Concern (ACECs) as they pertain to protection of lands with wilderness characteristics.

We appreciate the BLM's acknowledgement of the need to consider protection of lands with wilderness characteristics and the damage that off-road vehicles (ORVs) can have to wildlife, habitat and wilderness characteristics, as well as the BLM's commitment to designating routes in this planning process. The Supplement claims that: "In the development of this DRMP/DEIS, wilderness characteristics are considered in a manner commensurate with other resources." Supp., p. 1-2. However, the BLM's approach to this Supplement does not really indicate that wilderness values are being given equal treatment.

The Supplement also provides for designation of all proposed ACECs and Wild and Scenic River segments, and provides for more non-motorized recreation in designated Special Recreation Management Areas (SRMAs). The Supplement does not indicate that the agency is seriously considering protection of the lands with wilderness characteristics or adoption of other special designations, and does not give sufficient weight to the benefits to wildlife and cultural resources from protecting lands with wilderness characteristics and other natural lands.

Further, we remain concerned that neither BLM's preferred alternative nor any of the other management alternatives provide sufficient protection for the ecosystem from the impacts of intrusive activities, especially ORVs and oil and gas development. The deficiencies in the analysis of the impacts from potentially destructive activities has led to corresponding deficiencies in recommendations for protective measures – such as closures of sensitive areas to oil and gas development or ORV use and the imposition of stringent lease stipulations, including best management practices. We have set forth our specific concerns about these issues below.

In addition to these comments, we incorporate by reference the comments submitted by the following experts in their respective fields as follows:

- Professor Michael Wolfe, Professor of Wildlife Ecology and Management at Utah State University, discussing the benefits to wildlife habitat from protecting lands with wilderness characteristics and the inadequacies in the consideration of these benefits in the Supplement and the Draft RMP/EIS
- Colorado Plateau Archaeological Alliance (Jerry Spangler), identifying inadequacies in the inventory, assessment of potential environmental consequences and management of cultural resources in the Supplement and the Draft RMP/EIS; and
- Megan Williams, identifying inadequacies in the air quality analysis in the Supplement and the Draft RMP/EIS. As the BLM revealed for the first time on or about December 29, 2007, that it was actually relying on a new air quality analysis not cited in either the Supplement or the Draft RMP/EIS, the comments of Megan Williams will be submitted to the BLM as soon as possible.

#### **I. The Supplement's analysis of lands with wilderness characteristics is flawed.**

In identifying lands with wilderness characteristics outside of existing Wilderness Study Areas, the Supplement has failed to identify several areas that should be considered for protection and, as a result, has also failed to consider the impacts of other activities on these lands.

##### **A. The criteria used in the Supplement are overly restrictive.**

The Supplement identifies lands with wilderness characteristics as “including naturalness and outstanding opportunities for solitude or primitive recreation, and are greater than 5,000 acres or adjacent to WSAs.” Supplement, p. 3-2. However, BLM's guidance does not require the simultaneous presence of all of these wilderness characteristics or specify any minimum acreage in order to justify management to protect them.

Instruction Memoranda (IMs) Nos. 2003-274 and 2003-275, which formalize BLM's policies concerning wilderness study and consideration of wilderness characteristics, contemplate that BLM can continue to inventory for and protect land “with wilderness characteristics,” and define wilderness characteristics as naturalness, providing opportunities for solitude or providing opportunities for primitive or unconfined recreation. The IMs further provide for management that emphasizes “the protection of **some or all of the wilderness characteristics** as a priority,” even if this means prioritizing wilderness over other multiple uses. *See*, IM 2003-275 – Change 1 (emphasis added). In describing options for managing lands to protect wilderness characteristics, BLM's guidance provides for making a “decision to protect or preserve certain lands in their natural condition, if appropriate, **or provide outstanding opportunities for solitude, or primitive and unconfined types of recreation.**” IM 2003-275 – Change 1, Attachment 1 (emphasis added).

This guidance does not limit its application to lands suitable for designation of Wilderness Study Areas (WSAs).<sup>1</sup> For instance, the guidance does not include a requirement for the lands at issue to generally comprise 5000-acre parcels or a requirement that the lands have all of the potential wilderness characteristics in order to merit protection. Further, the guidance specifically contemplates management to protect “some or all” of the wilderness characteristics and to manage for one specific characteristic; so, for instance, the guidance would support managing an area to protect its naturalness as a priority over other multiple uses.

The guidance issued by BLM’s Arizona State Office serves to elaborate upon this guidance by providing for identification of lands with wilderness characteristics and development of management prescriptions to protect and enhance these values (*See* IM No. AZ-2005-007). The Proposed Resource Management Plan (RMP) for the Arizona Strip, which applies the Arizona guidance, includes land use allocations for lands with wilderness characteristics in every alternative and sets out protective management prescriptions (Table 2.10, available on-line at: [http://www.blm.gov/az/lup/strip/docs/FEIS/CHAPTER\\_2.pdf](http://www.blm.gov/az/lup/strip/docs/FEIS/CHAPTER_2.pdf) p, 2-131). The Arizona Strip Proposed RMP also includes a detailed discussion of how BLM identified and assessed wilderness characteristics, including on lands proposed for protection by the Arizona Wilderness Coalition, and the need for protective management (Appendix 3.D, available on-line at: [http://www.blm.gov/az/lup/strip/docs/FEIS/CHAPTER\\_2.pdf](http://www.blm.gov/az/lup/strip/docs/FEIS/CHAPTER_2.pdf)). This process is consistent with BLM’s obligation under the Federal Land Policy and Management Act (FLPMA) to inventory for the many values of the public lands and consider ways to protect them (i.e., not all uses are appropriate in all places) in a resource management plan. 43 U.S.C. §§ 1711, 1712. In addition, it is consistent with the applicable BLM guidance discussed above. The process for inventory and protection of wilderness characteristics as set out in Appendix 3.D of the Arizona Proposed RMP also acknowledges that an area can be protected for some or all of the wilderness characteristics identified in IM Nos. 2003-274 and 2002-275, providing for protection of an area if it contains two of the three wilderness characteristics (“Naturalness, Solitude, or Primitive/Unconfined Recreation”). **However, based on the language of the guidance discussed above, it is appropriate for BLM to evaluate lands for and consider protection of areas with one, two, or three of these characteristics.**

***Recommendations:*** The criteria for evaluating whether lands with wilderness characteristics are suitable for management to maintain those values should be revised to clarify that: (1) they can be managed to maintain one, two or all three of the wilderness characteristics identified in BLM’s guidance and (2) it is not necessary for the total area to be 5,000 acres, because the standard for managing to maintain some or all wilderness characteristics is more flexible regarding size of areas (as opposed to the current interpretation in the Supplement). The evaluation conducted by the BLM should also be reviewed and revised to increase the acreage that will be managed to maintain wilderness characteristics based on these corrected standards.

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<sup>1</sup> The referenced IMs were issued after the April 2003 settlement agreement between Secretary of the Interior Norton and the State of Utah, in which BLM abdicated its authority to designate any additional WSAs. While we maintain that this agreement is invalid and will ultimately be overturned in pending litigation, the BLM’s current policy means that standards used to evaluate suitability of lands as WSAs are not currently being utilized.

B. The Supplement should include all of the wilderness-quality lands outside WSAs included in America's Redrock Wilderness Act.

In the Supplement, the BLM identifies 937,440 acres of lands with wilderness characteristics. *See, e.g.,* Supplement, p. 3-3. However, this underestimates the actual acreage of lands with wilderness characteristics in the Price Field Office. In the Draft RMP/EIS, BLM identified approximately 955,000 acres of lands with wilderness characteristics. *See, Draft RMP, p. 3-39.* However, the inventory submitted by the Utah Wilderness Coalition (UWC) and SUWA identifies more than 980,000 acres of wilderness-quality lands outside existing WSAs, which are also included in America's Redrock Wilderness Act (introduced in the 110<sup>th</sup> Congress as H.R. 1919, S. 1170). These lands were inventoried in accordance with the more stringent standards of the Wilderness Act and the Wilderness Inventory Handbook, which has been reiterated by their inclusion in the America's Redrock Wilderness Act. All of the lands identified by the UWC and SUWA met these criteria and, as a result, certainly meet those that should be applied in the Price RMP.

Recommendation: The acreage of non-WSA lands with wilderness characteristics should be revised to include all of the lands outside WSAs included in the America's Red Rock Wilderness Act.

C. The Supplement's application of criteria for identifying lands with wilderness characteristics is inaccurate.

Both the *1999 Utah Wilderness Inventory (Revised 2002)* and the recent 2007 Wilderness Characteristics Reviews (WCR) conducted by the Price Field Office are positive steps by the BLM to update and identify wilderness quality lands pursuant to section 201 of FLPMA. This is especially important because of the well-documented shortcomings of the original late 1970s BLM inventory that resulted in the creation of the FLPMA Section 603 WSAs. Vast tracks of BLM lands were more often arbitrarily omitted due to various reasons not in accordance with the guidance based on FLPMA, which resulted in these lands not receiving the warranted WSA designations. These shortcomings made it impossible for the BLM to fully account for the extent of the wilderness resource.

The BLM's conclusion in the Supplement that many of the areas identified are not in a natural condition, do not have outstanding opportunities for solitude, and do not have outstanding opportunities for primitive or unconfined recreation cannot be supported and indicates fundamental flaws in the review and assessment (or lack thereof) of the submissions by the UWC and SUWA.

With regards to the BLM's wilderness character identification, SUWA and others continue to maintain that many wilderness quality lands have yet to be appropriately identified as possessing wilderness characteristics within the Supplement. This is due to the BLM's failure to address SUWA's previous comments submitted for the Draft RMP/EIS. While BLM assessed all remaining UWC areas outside the 1999 Utah Wilderness Inventory (Revised 2002), the agency failed to utilize SUWA's supplemental and new information concerning many overlooked

wilderness character areas. These areas are all contiguous to previously identified Wilderness Inventory Areas (WIAs). These areas include, the Cedar Mountain, Devils Canyon, Labyrinth Canyon, Mexican Mountain, Muddy Creek – Crack Canyon, Mussentuchit Badlands, Price River, San Rafael Reef, Sids Mountain, Upper Muddy Creek, and Wild Horse Mesa WIAs. SUWA and others maintain that in each area the current extent of identified wilderness character falls short of reality (i.e. the lands that continue to have a natural appearance and are not significantly impacted by man's activity). BLM should have utilized this new information in the production of the Supplement to fully account for and to provide the public with an accurate assessment of the wilderness resources within the Price Field Office. For these areas, we reference the comments SUWA supplied to the BLM.

In addition, BLM's recent WCR arbitrarily excludes or fails to identify many natural and wilderness character quality lands contiguous to the Manti-La Sal National Forest. These BLM wilderness quality lands are part of a larger roadless and wilderness character landscape and are not physically separated by a significant impact. The BLM states that it relies on "established BLM practice with wilderness inventories" when requiring that lands under the jurisdiction of the Forest Service or some other agency be endorsed for wilderness designation in order for adjacent BLM lands to meet the wilderness character and size requirement in combination with the Forest Service, or some other agency, lands. The April 2003 settlement agreement (Utah Settlement) between then Secretary of the Interior Norton and the State of Utah rescinded the BLM's Manual Handbook, Wilderness Inventory and Study Procedures (H-6310-1), as per the terms of "Rescission of National Level Policy Guidance on Wilderness Review and Land Use Planning (IM 2003-195)." Therefore, this BLM wilderness inventory policy, the most recent "established wilderness inventories," and established BLM practice regarding wilderness inventories have also been rescinded. Thus, BLM's current guidance must rely exclusively on the Wilderness Act and the Federal Lands Policy and Management Act (FLPMA).

Neither of these acts contain any provision or guidance directing that non-BLM lands adjacent to BLM lands need to be "administratively endorsed for wilderness" in order for the BLM lands to be aggregated for the determination of wilderness characteristics. Thus, the BLM has acted improperly in excluding lands with wilderness characteristics because it refuses to aggregate those lands with all wilderness quality lands managed by other agencies, not just those lands endorsed for wilderness designation. In fact, each guiding document is explicitly silent on the issue of whether agency boundaries affect the potential for wilderness designation or for the identifications of wilderness character. Section 2(c)(3) of the Wilderness Act states that an area meets the size definition, by having "at least five thousand acres of land or is of sufficient size to make practicable its preservation and use in an unimpaired condition." Further, FLMPA directs the BLM to inventory its landscape for wilderness character. Section 603(c) mandates that the BLM inventory "those roadless areas of five thousand acres or more and roadless islands of the public lands, identified during the inventory required by section 201(a) of this Act as having wilderness characteristics described in the Wilderness Act of September 3, 1964."

Below we provide, or discuss areas for which we have already provided, significant new information concerning lands that retain wilderness values and characteristics not yet identified by the BLM. This new information contains site-specific comments regarding the existence of wilderness characteristics outside the current WSAs, WIAs, and recent WCRs.

be addressed prior to the final RMP, failure to do so constitutes incomplete documentation of this BLM resource.

### **Wildcat Knolls Wilderness Character Unit**

BLM fails to identify the entire extent of the BLM lands that comprise the Wildcat Knolls wilderness character unit. BLM correctly determined that a small portion of the lands managed by the Price FO retain a wilderness character, but this is only due to the stand-alone acreage of the area itself and within the Richfield FO. Then, BLM relies strictly on the Forest Service to be managing their portion of this roadless and wilderness character unit as Wilderness or as endorsed wilderness. Some of the As a result, BLM does not account for the full range of lands retaining wilderness character. We've requested documentation of BLM's policy that guides BLM's decisions in these situations, but Utah State Office personal stated that there is no specific BLM policy. Therefore, the exclusion of this natural area, adjoining and contiguous with the larger Forest Service Rare II area is not justified. It's not the future management of these lands at issue it's the identification of a wilderness resource. The Wilderness Act (c)(3) states that an area meets the size definition, by having "...at least five thousand acres of land or is sufficient size to make practicable its preservation and use in an unimpaired condition." Further, BLM's guidance of the Federal Lands Policy and Management Act (FLMPA) directed the BLM to inventory its landscape for wilderness character. Section 603(c) to inventory "...those roadless areas of five thousand acres or more and roadless islands of the public lands, identified during the inventory required by section 201(a) of this Act as having wilderness characteristics described in the Wilderness Act of September 3, 1964..." Nowhere does each of these current guiding policies state that a political boundary separates federal agency lands or that one agency must have made a formal recommendation for wilderness designation. SUWA did supply the Price BLM with supplemental and new information for the Mahogany Point wilderness character unit previously, this information remains valid and BLM will need to correctly identify the area as retaining a wilderness character for all RMP planning purposes.

**Recommendations:** The BLM must correct its evaluations of the wilderness character units as identified in detail above. In addition, the BLM should acknowledge that additional information may be submitted that has the potential to require the correction of other evaluations of these units.

### **D. The Supplement should address acquisition of lands within WSAs and non-WSA lands with wilderness characteristics.**

The Draft RMP/EIS and the Supplement state that in terms of land acquisition, the BLM would prioritize the exchange of Utah state trust lands. Draft RMP/EIS, p. 2-89; Supplement, p. 2-19. However, the BLM has not prioritized areas or values that will be best supported by acquisition and has also limited the methods discussed to exchange.

**Recommendations:** The BLM should specifically prioritize the acquisition of Utah state trust lands located in areas with wilderness characteristics, both WSAs and non-WSAs. In addition, the BLM should also consider the purchase of Utah state trust lands, not just exchanges. There are various funding sources at the BLM's disposal for such land acquisitions. Furthermore, as administrative land exchanges or purchases are time intensive, the BLM should establish a

process to ensure that such land acquisitions take place, particularly in wilderness characteristic areas where the BLM has determined that it will manage lands as ACECs or under other protective designations that would be at odds with the mission of the Utah School and Institutional Trust Lands Administration, which is primarily to derive maximum economic benefit from state trust lands.

## **II. The Supplement does not comply with NEPA.**

The National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 *et seq.*, imposes requirements on the manner in which the BLM analyzes protection of and impacts on lands with wilderness characteristics in an EIS. The Supplement does not comply with these obligations.

### **A. The Supplement does not accurately assess the benefits from protecting lands with wilderness characteristics.**

NEPA dictates that the BLM take a “hard look” at the environmental consequences of a proposed action and the requisite environmental analysis “must be appropriate to the action in question.” Metcalf v. Daley, 214 F.3d 1135, 1151 (9<sup>th</sup> Cir. 2000); Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 348 (1989). In order to take the “hard look” required by NEPA, BLM is required to assess impacts and effects that include: “ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, **whether direct, indirect, or cumulative.**” 40 C.F.R. § 1508.8. (emphasis added). The NEPA regulations define “cumulative impact” as:

the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

40 C.F.R. § 1508.7. Further, the impacts to be considered include both the detrimental and beneficial effects that could result from a proposed action. 40 C.F.R. § 1508.8. In assessing Alternative E in the Supplement, the BLM does not fully consider the benefits of protecting these lands for their wilderness characteristics, as required by NEPA.

In discussing the cumulative impacts of Alternative E, the Supplement acknowledges the general benefits of maintaining the naturalness of wilderness characteristics, as well as designating ACECs, SRMAs and Wild & Scenic River segments, stating that Alternative E will:

- “improve bank stability, riparian conditions, and water quality” due to maintaining natural flows in streams (Supplement, p. 4-2)
- “reduce vegetation damage, soil crust damage, erosion, inadvertent loss of or damage to cultural resources, wildlife habitat loss and fragmentation, and impacts to water resource” by limiting surface disturbance from grazing, dispersed recreation, vegetation treatments, and oil and gas development (Supplement, p. 4-3)
- maintain or improve the viewshed quality (Supplement, p. 4-3)