July 22, 2024

BLM Price Field Office,
125 South 600 West
Price, UT 84501
Via Portal Only

Re: San Rafael Swell Travel Management Plan

Dear Sirs:

Please accept this correspondence as the request of the above Organizations for development of a meaningful manner to engage with the public regarding a single vision for the future management of this area. Unfortunately, managers are not providing a single cohesive planning effort for the entirety of the Swell area that might be legally sufficient, such as those created by an EIS. Rather the public has been provided a series of Environmental Assessments that are at best questionably relevant, poorly reconciled and even more poorly supported with detailed analysis or recognition of the complexity of current planning in the area. Planners appear to want to push resolution of the many challenges in the area to the public in commenting rather than providing a range of alternatives to the public for comment under an EIS. Any assertion that the remnants of the Price RMP in the Swell area, the newly designated Recreation Area, more than 400k acres of new Wilderness can provide a cohesive vision for the management of the area is immediately undermined by the further legal issues around the Price FO efforts and that the Recreation Area plan is only in scoping.

This lack of cohesive vision reopens many of the planning failures that resulted in the settlement agreement the Proposal asserts to satisfy. BLM has already asserted to the 10th Circuit that they could undertake meaningful planning in all the areas within the Settlement Agreement. We would assert they have been unable to achieve this goal. Without this cohesive vision for the area, how can any argument be made that travel plan is minimized impacts in alignment with the requirements of EO 11644. Such an assertion simply cannot be made as the RMP standards do not exist. As an example, the Dingell Act mandated that all areas identified in the §603 inventory not designated as Wilderness must be managed for multiple use. The existing Price FO RMP does not have provisions to address this situation, making

RMP compliance on this issue impossible. While this request is technically outside the scope of the Proposal, The Organizations believe development of a travel plan must start from a position of a solid vision of management goals and objectives now and into the reasonably foreseeable future. That simply has not been provided.

With regard to the current TMP Proposal (hereinafter referred to the "Settlement TMP" or Proposal), the Organizations must voice their support for 2008 current management in the Area and concern that 2008 current management is not reflected in Alternative A of the Proposal as is mandated by the Settlement Agreement in this matter. Rather Alternative A is an updated interpretation of 2008 management where the most restrictive interpretation of any ambiguity is taken. Under the Settlement Agreement, what is presented as Alternative A cannot exist as there was no Congressionally designated Wilderness in the planning area in 2008. Many routes were reflected in the 2008 baseline map that are not included in the Alternative A map in 2024. Some trails such as the ebike network at the north end of the planning unit are never mentioned in the RMP at all. These routes are critical to any analysis seeking to create a new travel plan in 2024 for many reasons. The Organizations vigorously assert that Alternative A must at least start from a single point in time but has rather incorporated closures and other projects when it was suitable. The EA fails to provide even a range of alternatives on the many ambiguities in the existing RMP. Alternative A must be the baseline and only reflect the 2008 TMP effort with all its ambiguities and problems and this baseline is critical.

The motorized community vigorously objects to Alternative B of the Proposal as this entirely fails to provide any meaningful multiple use opportunities for recreation. While Alternative D of the Proposal is might be closest to something we can support as it asserts to close only 52 miles (2%) of routes, this Alternative fails to address that existing RMP/TMP decisions that were challenged already closed more than 730 miles (25%+/-) in the planning area. While a 2% closure may appear appealing, it is 27% closure rates from historical usage. Our concerns with the management baseline expand further as the management baseline fails to address the Congressionally mandated changes in the planning area, that heavily impacted public access to many areas. These were large changes; they warrant meaningful analysis in the Alternatives which simply has not been provided.

Our support for current management is also driven by a foundational failure in the Proposal, mainly that the cumulative impacts of the various planning efforts within the area are not meaningfully addressed. The Organizations cannot overlook the fact that the Swell Recreation Area RMP is under development. This causes concerns on how these planning efforts will be aligned and conflicts between decisions be resolved. If there is a change in the Swell Recreation Area RMP that is inconsistent with the Settlement TMP, how would that be resolved? Is the existing 2008 Price FO RMP even a viable planning document? We are now facing many challenges that were never addressed in the 2008 Price FO RMP. The designation of 400,00 plus of Wilderness and more than 200,000 acres more where road development is capped creates problems on issues of how sufficient recreational opportunities will be provided in the area? This limitation in the Swell Recreation Area makes an accurate version of Alternative A critically important. The Price FO RMP identified many areas for expansion of recreational opportunities that are now closed to most recreational opportunities. Where can these areas be replaced? This type of balance and analysis is critical given the numerous Statutory and Executive Orders mandating these analysis processes in

planning. We are unable to find any analysis that even arguably satisfies this requirement currently or in the situation of multiple planning efforts moving at the same time in the same planning area.

The Organizations have been involved in discussions around access to these areas for more than a decade, both in the development of travel and resources management plans. In addition to the planning efforts, our involvement has continued on behalf of recreation interests in litigation, stretching from the Settlement in *SUWA v. U.S. DOI*, Case No. 2:12-cv-257 DAK (D. Utah). to bringing successful jurisdictional challenges in *SUWA v. Babbitt*, 2000 U.S. Dist. LEXIS 22170 (D. Utah 2000), *rev'd*, 301 F.3d 1217 (10th Cir. 2002), *rev'd and remanded*, *Norton v. SUWA*, 542 U.S. 55 (2004). We remain committed to this presence in the ongoing management of Utah BLM lands. Many of our local partners have intervened in defense with the BLM when legal challenges were brought that has resulted from the Settlement now being implemented and have continued to be involved with planning/travel efforts throughout the region. We have worked hard to support these efforts in many ways. We are intimately familiar with the difficulties that the BLM has encountered in the management of this area and region more generally. This makes successful management decisions critical to allowing access to the Planning area which is one of the few remaining multiple use areas in the region. Moving forward with the successful path that has been developed for this area is the only way forward in the Organization's opinion but unfortunately that path has not been provided in the Proposal. While the routes and opportunities at issue in the Proposal are world class, the analysis of the Proposal falls well short of aligning with that value.

1. Who we are.

Prior to addressing the specific concerns of the Organizations regarding the Proposal, we believe a brief summary of each Organization is needed. The Off-Road Business Association ("ORBA") is a national not-for-profit trade association of motorized off-road related businesses formed to promote and preserve off-road recreation in an environmentally responsible manner. One Voice is a non-profit national association committed to promoting the rights of motorized enthusiasts and improving advocacy in keeping public and private lands open for responsible recreation through strong leadership, advocacy, and collaboration. One Voice provides a unified voice for motorized recreation through a national platform that represents the diverse off-highway vehicle (OHV) community. The United Snowmobile Alliance ("USA") is dedicated to the preservation and promotion of environmentally responsible organized snowmobiling and the creation of safe and sustainable snowmobiling in the United States. United Four-Wheel Drive Association ("U4WD") is an international organization whose mission is to protect, promote, and provide 4x4 opportunities world-wide. The Specialty Equipment Market Association(SEMA) is a trade association that represents over 7,000 specialty-automotive businesses across the US, including companies that produce and sell parts and accessories for motor vehicles that are modified for off-road use. The industry provides appearance, performance, comfort, convenience and technology products for passenger and recreational vehicles. SEMA puts on leading trade shows such as the SEMA Show in Las Vegas, Nevada, and Performance Racing Industry (PRI) Trade Show in Indianapolis, Indiana. For purposes of this correspondence SEMA, ORBA, One Voice, U4WD and USA will be referred to as "The Organizations". While we are aware it is unusual for a snowmobile group to comment on a planning effort without snowmobile opportunities, this is an area of global significance to the recreational community and an overwhelming percentage of the international snowmobile community participate in motorized recreation in the summer. These opportunities are nationally recognized opportunities and draw users from all over the world regardless of their primary recreational passion.

1b. Preliminary thoughts on the Proposal.

The Organizations vigorously assert that there is a compelling need for a coherent plan and coordinated planning process for this area. This simply has not been provided. What has been provided is a confusing often conflicting effort that has two management efforts in the same area occurring at the same time and often interchanging terms. Not only is this process confusing, many of the failures in the underlying 2008 RMP/TMP process are simply never addressed.

2. Scoping was confusing as to what areas were being discussed. Should clearly identify zones accurately with names that are unrelated to designations. Management areas should be called zone 1 zone 2 zone 3. Even basic decision making such as this has been avoided.

History is complex and overlapping which only compounds the need for consistency in analysis on issues such as what is the proper planning effort to raise concerns in. A brief summary of the planning history of this area is as follows:

Date	Management Action/Document	Outline
2008	RMP/TMP released	Significant problems with analysis throughout – many times refers to a 2003 TMP that was partially completed
2017	Litigation settlement on TMP	Settlement signed specifically requiring a new TMP for the Area
2019	Dingell Act passage	Requires RMP on Swell Recreation Area created and new Wilderness and 603 released areas
2021 Feb/Mar	Scoping begins on 2017 Settlement	Signs of confusion of the public start to appear
2021 October	Scoping begins on 2019 Dingell Act	Scoping is largely the scope of geographic lands involved as map reflects lands impacted by Dingell Act and those adjacent
2023 October	2023 Dingell Act Scoping report released	Report outlines what can only be significant confusion of the public regarding the various planning efforts.
2024 June	EA released on Settlement Agreement	Appears to encompass all lands within the settlement including Dingell Act areas.
Undated	Scoping report on 2021 Settlement effort released	While appears significant as it spans more than 3685 pages this document has only 3 pages of analysis and merely reproduces public comment received – This is a reading room not a report - Confusion of public at this point was IMMENSE – rather than addressing confusion on scope of efforts, planners open scoping on Dingell Act without addressing previous scoping

The frustration from this entire process is immediate as the Organizations and our members consistently hear from BLM about the need for substantive comments on proposals from users' groups. Here problems

are immediately apparent from scoping on the ability of the public to provide substantive comments and rather than resolving this confusion planning efforts with tools that are available to the BLM, these tools have largely ignored this confusion and on many occasions made confusion much worse.

Many issues present in the 2008 RMP/TMP remain unresolved and in many cases are worse now than ever before. The Organizations are frustrated that confusion of issues and planning efforts should have been immediately identifiable with a basic review of public scoping from the 2021 effort on the Settlement. Our frustration from this failure stems from the fact that in the 3 ensuing years from this scoping, BLM has done nothing to resolve this conflict, such as utilizing the specific provisions of the Settlement to address unforeseen issues that arise from its implementation. The Organizations would vigorously assert that the passage of the Dingell act would be such an unforeseen issue. The passage of the Dingell Act made resolution of the underlying failures in the RMP/TMP only that much more important in the planning area, regardless of the name sought to be applied.

2(a) Why an EA instead of an EIS?

Prior to addressing the numerous challenges created by the Proposals failure to recognize the RMP silence on many issues critical to the TMP, the failure of the Proposal to address the numerous other planning efforts that are occurring concurrently with this effort in the planning area must be addressed. Currently the Swell Rec Area RMP and the Settlement TMP are proposed to be separate, which is problematic on the ground and overlooks the significant changes that have been mandated as a result of Congressional actions in the TMP outside the Swell Rec Area. The BLM proposes to create an RMP for the recreation area created by the Dingell Act, which alters the management of almost 50% of the FO footprint and then manage the remaining portion of the FO under the 2008 RMP. These changes clearly alter significant portions of the assumptions and conclusions that were reached in the 2008 Price FO RMP. This situation is simply never addressed in the Proposal, and after reviewing the Proposal, the public could easily conclude that the recreation area planning effort is not occurring, as it is never mentioned in the Proposal. This creates immense problems for the Proposal.

The project and its more than 2 decades of history of the failures in BLM attempting to manage this area clearly warrant an EIS level of analysis to resolve issues the Dingell Act created within the Swell Recreation Area and to address the management changes that the Dingell Act created outside the Swell Recreation Area as well. This only compounds the many issues and ambiguities in the 2008 Price FO RMP outside the Swell Recreation Area. Rather than structuring the basic NEPA analysis as an EIS with an RMP amendment to attempt to resolve these all issues with some level of consistency, the Proposal moves forward with several EA's for the planning area. This EA fails to address the fact there are multiple efforts being undertaken and largely avoids any discussion of many foundational issues around the TMP or the possibility that an RMP amendment must be undertaken to resolve the challenges in the area. This history is problematic enough and sometimes compounds failures of the BLM management that have spanned more than 50 years that the Dingell Act actually resolved.

2(b) Many Offices were challenged on the minimization criteria within similar timeframes and many have resolved these challenges and moved on.

The Organizations are aware that many planning offices across the country received legal challenges on the sufficiency of their minimization efforts from many of the same plaintiffs that challenged the Price FO RMP/TMP. Our Organizations and partners have intervened in defense of these claims, in the same manner our groups intervened in the legal challenges to the Price FO efforts. As an example, the Pike/San Isabel NF received the same type of legal challenge from same plaintiffs at almost same time and a settlement was reached in this challenge in November 2015. This is where the planning efforts between these offices take profoundly different paths as the PSI immediately moved forward with an EIS not an EA and embraced development of an accurate and complete Alternative A. The PSI efforts presented their own complexities as most travel planning on the PSI had been done with site specific efforts as their RMP was issued in 1984. Much of the documentation for these EA had been lost simply due to the passage of time which compounded the challenges presented by an RMP that was at best comically out of date. A final decision was issued by the PSI on November 2020.[1] While there are of course challenges to this decision, it has been completed.

The Organizations do not contest that the PSI effort is a far less complex management situation as there was no intervening Congressional actions involving WSA releases, WSA designation as Wilderness and Congressionally designated Recreation Areas in the PSI effort. Despite the far more complex management situation presented, the Price FO has chosen to slowly move forward with a series of EA, that are only entering scoping after other offices have completed their obligations under similar settlement terms. This is simply a problem on many levels.

3(a) NEPA requirements for the planning situation now being faced in this area.

The challenges facing the planning area and the Proposal are significant, multifaceted and cannot be overlooked, especially since they have been the basis of a 10th Circuit Court action already almost a decade old.[2] Rather than meaningfully addressing these challenges as was recognized as necessary by the Circuit Court and providing a Range of Alternatives when there is ambiguity in current planning the Proposal draws horribly arbitrary divisions in planning. Rather than recognizing the ambiguity and addressing it with a decision at the proper level of planning and then providing a range of alternatives, absolutely no analysis is provided regarding how these decisions were made is provided in the EA. These decisions will create conflict and present an inaccurate summary of the efforts by the agency and Congress to minimize impacts in this area. The Proposal moves forward with a model that expands these conflicts by attempting to address each effort in isolation and fails to address the basic requirements of NEPA and other planning documents to resolve situations like this.

The Proposal suffers from foundational failures in analysis in the Settlement TMP process that stem from failures in the RMP and drove the Settlement Agreement originally. These foundational 2008 RMP/TMP failures were challenged by numerous parties in the various litigation underlying this matter. While we intervened in defense of claims against the BLM, we had concerns with the 2008 TMP as well. In the

[1] A copy of any of the documents on this effort are available upon request.
[2] A copy of this decision is attached as Exhibit 1 of these comments.

development of the Proposal, it appears that entirely different planning standards are interchanged without recognition that these are two entirely separate planning standards and requirements. These failures do not resolve concerns around underlying sufficiency to decisions but rather highlights them. As an example of this interchanging of management standards would be reflected in the management of open areas the RMP specifically identifies for future management actions. BLM admits the 2008 RMP erroneously published maps with no routes in these areas in the Proposal. We would agree that this mapping error occurred and should be fixed and would like to retain the option of future planning in these areas. This is simply not provided under any alternative. BLM appears to assert that their compliance with EO 11644 is somehow achieved compliance for NEPA purposes. There is no such presumption we are aware of and presumptions such as this are what caused the original settlement agreement to be reached.

The Organizations must recognize the unusual path that the Office has chosen for NEPA compliance. Many other offices have faced similar legal challenges around their compliance with the minimization criteria and almost exclusively have moved into an EIS. Often these Offices have moved forward with an EIS in management situations that are far less complex than those facing the planning area. This decision largely aligns with the NEPA statutes that clearly and specifically requires an EIS be prepared in the following situations:

> (2) all agencies of the Federal Government shall--
> **(A)** utilize a systematic, interdisciplinary approach which will ensure the integrated use of the natural and social sciences and the environmental design arts in planning and in decision making which may have an impact on man's environment;
> **(B)** identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by subchapter II of this chapter, which will ensure that presently unquantified environmental amenities and values may be given appropriate consideration in decision making along with economic and technical considerations;
> **(C)** consistent with the provisions of this chapter and except where compliance would be inconsistent with other statutory requirements, include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on--
> **(i)** reasonably foreseeable environmental effects of the proposed agency action;
> **(ii)** any reasonably foreseeable adverse environmental effects which cannot be avoided should the proposal be implemented;
> **(iii)** a reasonable range of alternatives to the proposed agency action, including an analysis of any negative environmental impacts of not implementing the proposed agency action in the case of a no action alternative, that are technically and economically feasible, and meet the purpose and need of the proposal;
> **(iv)** the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and
> **(v)** any irreversible and irretrievable commitments of Federal resources which would be involved in the proposed agency action should it be implemented.[3]

[3] See, 42 USC 4332(2)

The Organizations submit this entire planning effort fails to achieve these goals at any level. Rather than utilize a systematic, interdisciplinary approach which will ensure the integrated use of the natural and social sciences and the environmental design arts in planning and in decision making which may have an impact on man's environment the public has been provided multiple over lapping planning efforts spanning decades. The lack of a systemic approach is further compounded by the Proposal failing to address why decisions were only partially implemented, decisions are altered or changed in the current management outline.

CEQ regulations specifically addresses the need update or amend existing NEPA analysis as follows:

> (d) *Supplemental environmental impact statements.* Agencies:
> (1) Shall prepare supplements to either draft or final environmental impact statements if a major Federal action is incomplete or ongoing, and:
>
> (i) The agency makes substantial changes to the proposed action that are relevant to environmental concerns; or
> (ii) There are substantial new circumstances or information about the significance of adverse effects that bear on the analysis.
> (2) May also prepare supplements when the agency determines that the purposes of the Act will be furthered by doing so.
> (3) Shall prepare, publish, and file a supplement to an environmental impact statement (exclusive of scoping (§ 1502.4 of this subchapter)) as a draft and final environmental impact statement, as is appropriate to the stage of the environmental impact statement involved, unless the Council approves alternative arrangements (§ 1506.11 of this subchapter).[4]

While there is ambiguity in these statutes and CEQ requirements, the failure of the BLM to provide any analysis on how this ambiguity was resolved and how the determination that multiple overlapping EAs could achieve the goals and objectives of the settlement agreement is problematic. Rather than addressing these issues they are avoided and the Organizations are concerned that these decisions have directly impaired public comment and engagement on issues critical to the long-term success of the management of the area. The Organizations are further concerned that ultimately this EA will be another in the long string of failed management efforts in the planning area.

3(b) Council on Environmental Quality 40 questions provide detailed guidance on the appropriate manner of supplementing an EIS.

The problematic starting position of the Proposal and its desire to resolve all the issues facing implantation of the EIS the planning area with just an EA is immediate when the guidance of the Council on Environmental Quality provided in the NEPA 40 Questions guidance is reviewed. The CEQ 40 questions guidance specifies and EIS as follows:

> 32. Supplements to Old EISs. Under what circumstances do old EISs have to be supplemented before taking action on a proposal? A. As a rule of thumb, if the proposal

[4] 40 CFR 1502.9

> has not yet been implemented, or if the EIS concerns an ongoing program, EISs that are more than 5 years old should be carefully reexamined to determine if the criteria in Section 1502.9 compel preparation of an EIS supplement. If an agency has made a substantial change in a proposed action that is relevant to environmental concerns, or if there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts, a supplemental EIS must be prepared for an old EIS so that the agency has the best possible information to make any necessary substantive changes in its decisions regarding the proposal.

The problematic nature of the Proposal assertions that an EA can be used to resolve the major challenges that have arisen from the 2008 EIS is immediately apparent when the Regulations are reviewed. The decision is further drawn into question given the decisions of other planning offices that have faced similar challenges in a less complex management environment. It would have to be an exceptionally detailed EA to satisfy these challenges and the EA provided is far from exceptionally detailed. These failures cause the EA to fall short of and sufficiency of an EA.

The Council on Environmental Quality has also explicitly addressed situations where there have been significant changes in proposals and objectives of polices and legislation impacting the analysis area. Again, the CEQ regulations clearly and directly require changes to be addressed in a systemic defensible manner as follows:

> 23a. **Conflicts of Federal Proposal With Land Use Plans, Policies or Controls.** How should an agency handle potential **conflicts** between a proposal and the objectives of Federal, state or local land use plans, policies and controls for the area concerned? See Sec. 1502.16(c).
>
> A. The agency should first inquire of other agencies whether there are any potential conflicts. If there would be immediate conflicts, or if conflicts could arise in the future when the plans are finished (see Question 23(b) below), the EIS must acknowledge and describe the extent of those conflicts. If there are any possibilities of resolving the conflicts, these should be explained as well. The EIS should also evaluate the seriousness of the impact of the proposal on the land use plans and policies, and whether, or how much, the proposal will impair the effectiveness of land use control mechanisms for the area. Comments from officials of the affected area should be solicited early and should be carefully acknowledged and answered in the EIS.

Again, the Organizations are not asserting it is impossible to resolve issues such as this with an EA, however it would have to be an exceptionally detailed EA. That has not been provided and forces us to question why the guidance of the CEQ 40 Questions on the appropriate level of analysis was not followed in this situation.

3(c) NEPA regulations mandate an EIS to resolve issues such as those facing the management areas.

The planning efforts for the area have taken an unusual path of development given the many recent plan revisions, court settlements and Congressional actions that have mandated significant changes to much of this portion of the Price FO. The complexity of the situation is made even greater as a result of the Price

FO failure to implement many of the changes required and failure to move forward with site specific planning for other areas as was promised in the RMP.

In many areas, recreational access was permanently lost or heavily restricted by Congressional action in areas that were identified for expansion of recreational opportunities in the RMP. The challenges presented by this situation alone are immense. These are significant changes to current management that must be resolved and addressed to comply with NEPA, BLM regulations and relevant court cases. This simply has not occurred in the Proposal or any related planning effort as the Proposal simply picks different particular points in time to address changes rather than addressing all changes at a single time. Certainly the necessity of an EIS cannot be avoided simply through the manipulation of the planning process to allow a decision that related actions are unrelated. This is improper and allows RMP provisions to be violated as exemplified by the closure of areas that were restricted to existing routes only and identified for future site-specific planning. The failure to address these basic changes in a systemic and rational manner will result in immense new user conflicts in the planning area. After review of the Proposal, we are unable to locate any portion of the Proposal that outlines challenges such as user conflicts or how they could be impacted by the various Congressional efforts impacting the planning area or how the Proposal seeks to reduce these conflicts.

Again, the Proposal avoidance of questions such as those we have raised already is contrary to the NEPA regulations addressing the proper scope of a NEPA action. NEPA regulations clearly define the scope of any planning effort as follows:

> *"Scope* consists of the range of actions, alternatives, and impacts to be considered in an environmental impact statement. The scope of an individual statement may depend on its relationships to other statements (§§ 1502.20 and 1508.28). To determine the scope of environmental impact statements, agencies shall consider 3 types of actions, 3 types of alternatives, and 3 types of impacts. They include:
> (a) Actions (other than unconnected single actions) which may be:
> (1) Connected actions, which means that they are closely related and therefore should be discussed in the same impact statement. Actions are connected if they:
> (i) Automatically trigger other actions which may require environmental impact statements.
> (ii) Cannot or will not proceed unless other actions are taken previously or simultaneously.
> (iii) Are interdependent parts of a larger action and depend on the larger action for their justification.
> (2) Cumulative actions, which when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same impact statement.
> (3) Similar actions, which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography. An agency may wish to analyze these actions in the same impact statement. It should do so when the best way

> to assess adequately the combined impacts of similar actions or reasonable alternatives to such actions is to treat them in a single impact statement."[5]

If the Planners were able to achieve a plan that allows a much narrower scope that is provided for in the regulations, the Proposal must address how planners have reached decisions and determined several EA can achieve the alignment of decisions within the scope of an EA this must be addressed. If there are safeguards that are being put in place to avoid conflicts between these decisions and how issues such as the possible need for an RMP update have been resolved with the process. None of this information has been provided and the immense problems that will result cannot be overlooked. Many of these decisions are critical to the success of the many related efforts being developed.

4. The Proposed scope of analysis conflicts with BLM travel planning regulations.

As addressed previously, the Organizations have concerns regarding the positioning of this effort for successful NEPA compliance. Unfortunately, NEPA compliance is not the only standard that the Proposal fails to satisfy. The profound conflict that results with BLM travel planning regulations is evidenced when the relationship of the goals and objectives of a TMP and the current effort are compared. These goals and objectives are specifically outlined as follows:

> "The TTM process seeks to identify and understand the use of existing transportation features (roads, primitive roads and trails), incorporate the existing and future needs for transportation, access and recreational opportunities, and use an interdisciplinary planning process to develop appropriate travel networks and recreational opportunities that reflect the environmental concerns and legal requirements of a Resource Management Plan (RMP) process.
>
> The goal of the TTM process is to create travel networks that are logical and sustainable, as well as meet the increasingly diverse transportation, access and recreational needs of the public. The process moves from broad scale interdisciplinary planning achieved in a RMP, to more specific Activity or Area Plans, and further to specific implementation and maintenance actions for roads, primitive roads, trails, and other access and recreation related needs."[6]

While viewing the settlement agreement in isolation might be perceived as an easy path forward, we must question that decision. The Organizations must make it clear that we are not asserting the Settlement Agreement should have foreseen the passage of the Dingell Act and the dramatic differences and revisions for the planning area that would result from its passage. The Organizations must question why the settlement agreement was not updated subsequent to the passage of the Dingell Act as this is a significant change in conditions for the planning that was unforeseen. What the public has been provided is an EA that fails to meaningfully address challenges and gaps in the RMP. This is unacceptable as the goals of the TMP process cannot be achieved without a single vision and starting point of discussion and planning.

[5] See, 40 CFR 1508.25a1

[6] See, BLM Travel Management regulations at 8342-1 (I)(A)

5. Relevant court decisions have consistently struck down attempts at structuring EA to avoid an EIS

As noted in these comments, the Proposal faces immense challenges in establishing the basic legal sufficiency of the scale and scope of the management model that has been adopted for the effort. The Organizations vigorously assert that the decision to move forward with several EA rather than an EIS for the area has allowed basic issues to remain unresolved. Questions around the applicability of the RMP to the management situation being faced are not addressed. What is the proper starting point for the planning effort are again not addressed as these are multiple EA rather than a coordinated EIS. Courts reviewing these requirements have strictly applied these statutory and regulatory requirements for NEPA as evidenced by the Supreme Court decisions, which clearly state as follows:

> "Section 102(2)(C) requires that an impact statement contain, in essence, a detailed statement of the expected adverse environmental consequences of an action, the resource commitments involved in it, and the alternatives to it."[7]

The conflicts with this standard are again immediate for the Proposal. Resources have been committed to developing a defensible TMP for the planning area for decades. There can be no argument that the possible commitments of resources have already begun as the Recreation Area plan scoping effort has already begun. As the RMP for the Swell Recreation Area is mandated by federal law, recompletion of this effort will be achieved. There are many questions of how the relationships between the settlement and intervening legislative action can be resolved. Rather than developing and resolving this situation in a coordinated and systemic manner under an EIS, planners have chosen to adopt several smaller EAs for a piecemeal analysis of issues in isolation to each other. No discussion has been provided regarding how these decisions were developed. This chosen path of issue resolution and plan development will create more conflicts than it resolves.

The model adopted for development of the settlement TMP where satisfaction of the settlement requirements and complying with various legislative requirements is achieved in this piecemeal manner has been consistently stuck down in planning efforts far less complex. When Courts have addressed the alignment of only two planning efforts on a single area, the Courts have consistently held as follows:

> Characterizing any piecemeal development of a project as "insignificant" merits close scrutiny to prevent the policies of NEPA from being nibbled away by multiple increments, no one of which may in and of itself be important enough to compel preparation of a full EIS. (See*, e.g., Named Individual Members of San Antonio Conservation Soc'y v. Texas Highway Dep't* (5th Cir. 1971) 446 F.2d 1013.)[8]

There can be no argument that the nibbling of major projects with a series of smaller analysis prohibited by the Courts is exactly what is occurring with the Proposal and the numerous other factors that are involved in the management of the project area. With this clear concern from the courts on this model of NEPA compliance, Courts have refined the mandate of the *Kleppe* Supreme Court decision to more clearly define the definition of when an EA is sufficient and when an EIS is mandated.

[7] See, *Kleppe v. Sierra Club*, 427 U.S. 390, 96 S. Ct. 2718 (1976)

[8] *See, Alpine Lakes Protection v. Schlapfer*, 518 F.2d 1089 (9th Cir. 1975)

> "Section 102(2)(C) of NEPA requires an EIS for "major Federal actions significantly affecting the quality of the human environment." 42 U.S.C. § 4332(2)(C) (1982). While it is true that administrative agencies must be given considerable discretion in defining the scope of environmental impact statements, see Kleppe v. Sierra Club, 427 U.S. 390, 412-415, 96 S.Ct. 2718, 2731-2733, 49 L.Ed.2d 576 (1976), there are situations in which an agency is required to consider several related actions in a single EIS, see id. at 409-410, 96 S.Ct. at 2729-2730. Not to require this would permit dividing a project into multiple "actions," each of which individually has an insignificant environmental impact, but which collectively have a substantial impact." [9]

The *Thomas* Court laid out six questions for roads that courts will look at to identify when an EA is needed and when an EIS is needed. These factors review issues such as the purpose and need; the sufficiency of current management, the cost/benefit analysis of separate EA to a single EIS; When these factors are addressed there can be only one conclusion, the Proposal and planning challenges must be addressed with an EIS. This resolution also requires an RMP update or amendment to resolve many other questions.

6(a)(1). Alternative A must reflect current management prior to the 2008 TMP and not a partially updated version of 2008 TMP provided under the guise of Alternative A.

The Organizations concerns around Alternative A of the Proposal are immediate and profound as the Settlement Agreement clearly requires an entirely new TMP for the planning area. This was the heart of the legal challenge originally raised by the Petitioners and specified by the Settlement Agreement.[10] Paragraph 13 of the Settlement Agreement paragraph specifically mandates that new TMP will be created as follows:

> "13. **New Travel Management Plans subject to this Settlement Agreement.** BLM will issue a ***new TMP*** for each of the following travel management areas ("TMA") within the Richfield, Vernal, Price, Moab, and Kanab Field Offices according to the deadlines set forth below, which will start to run on the effective date of this Settlement Agreement established in Paragraph 37. Each TMP will be considered issued upon the date the authorized officer signs the decision document approving the TMP."

It is significant to note the settlement agreement says NEW TMP not updated TMP or something similar. The efforts to develop the Settlement TMP has to be management prior to 2008, which would be the 2003 TMP as this is the ONLY TMP that has been signed by the authorized officer and not withdrawn. As result this planning effort must start with the TMP in place in 2007 immediately before the 2008 TMP was finalized as Alternative A of the Proposal. What has been provided in the Proposal as Alternative A is not this map but something else as it appears planners immediately confused an update of an approved TMP with an entirely new TMP. In this updated Alternative A, many decisions have been made without public input and engagement on issues critical to the TMP baseline. Under NEPA the 2008 baseline for

[9] See, *Thomas v Pederson* 753 f2d 758; 758

[10] For your convenience a copy of this settlement agreement is attached as Exhibit "2" to these comments.

management was 2003 TMP not the 2008 RMP/TMP that has been subjected to an updating process without public input in any manner. That updating process would occur in violation of NEPA.

The improper updating of the 2003 TMP decision under the guise of Alternative A violates other provisions of the Settlement Agreement. The issuance of an entirely new TMP is further mandated in the Settlement Agreement which specifically provides that none of the various claims against the TMP can be recognized as follows:

> "3. This Settlement Agreement is for the purpose of settling the above-captioned litigation. Nothing in this Settlement Agreement shall be deemed as precedent in this or any other proceeding or shall constitute an admission or concession by any party as to the validity of any fact or legal position concerning the claims or defenses in this or any other proceeding."

Many of the decisions made in the updating of Alternative A would result in the concession of many claims of parties, including those of the Organizations, which was specifically prohibited in the Settlement. Questions such as the OHV-7 area management, various admitted mapping errors and other concerns outlined in these comments are important and we will make no concessions on their resolution. The Organizations had concerns in the final plan and they have been in no way resolved. NEPA requires a full analysis of these areas and a range of alternatives for resolution of management challenges in these areas. We are seeking that in this effort admit has not been provided.

The provisions of the Settlement Agreement allowing the 2008 TMP to be applied while the Settlement TMP is developed also do not support updating Alternative A outside the NEPA process in the manner that has occurred. The Settlement Agreement clearly defines the scope of this application as it provides that the existing TMP may remain in effect but it does not alter the baseline for creation of the new TMP as follows:

> "The TMPs for the Richfield, Vernal, Price, Moab, and Kanab Field Offices that are in effect as of the effective date of this Settlement Agreement will remain in effect until BLM issues new TMPs for the TMAs identified in paragraph 13;"

The Organizations vigorously assert that the current version of Alternative A directly and materially violates Paragraph 3 of the Settlement Agreement. The Organizations had many concerns on mapping errors, incorrect boundaries and other issues with the TMP that the BLM asserted would be corrected as some of these failures were clearly recognized in the RMP. It is unclear if these corrections ever occurred and Alternative A does not reflect what the TMP was supposed to be based on. As a result, the current version of Alternative A of the Proposal represents an interpretation of many issues that would directly prejudice our interests. Alternative A would constitute a concession of many claims of our Organizations on the application of standards and other management decisions that was specifically preserved in the Settlement for our interests. We cannot accept this concession.

6(a)(2). The proposed application of the Settlement Agreement would result in the Settlement being illegal and void as a matter of public policy.

When the limited number of parties to the agreement are compared to the immense number of parties that have interests in the planning area and how Alternative A questions were resolved in the updated version provided even more foundational problems are immediate. The application of any portion of the Settlement Agreement in a manner that allows Alternative A to evolve or change from the decisions in place prior to the 2008 RMP/TMP would be in direct violation of public policy that NEPA has sought to advance. These interests that are not signors to the Settlement Agreement would be prejudiced by their inability to raise concerns about the update process. This type of decision making would violate the very tenants of NEPA, the Administrative Procedures Act and dozens of other statutes.

Courts have consistently concluded that any agreement between parties that collude to violate the law is immediately null and void as a matter of public policy. Courts have recognized this basic principle as follows:

> "While there is no unanimity of opinion as to the reason for this rule, the authorities are in accord with its results. The reasons given by Courts differ depending upon the particular view taken as to whether an illegal contract is void or simply unenforceable. If an illegal contract is regarded as being void, then there is nothing to enforce after the invalidating statute is repealed…… Other authorities hold that an illegal contract is not void but is imply unenforceable. Starting with this proposition that "no polluted hand shall touch the pure fountains of justice" (Collins v Blantern (1767) 95 Eng. Rep 850, 852) they reason that the repeal of the statute does not cleanse the stain from those hands"[11]

Any interpretation of the Settlement Agreement in a manner that would result in it being struck down as contrary to public policy would be vigorously opposed to by the Organizations as we are also signors of this Agreement. With the challenges facing this planning effort, any allegation of polluted hands touching the pure fountains of justice in the Settlement process must be avoided at all costs.

6(b)(1). The Proposal violates the Settlement Agreement signed by the Parties.

Alternative A of the Proposal also presents an interpretation of many legal issues and claims that was found deficient for other reasons and some of these were specifically recognized in the District Corut decision in this issue that drove the Settlement. While we would assert that minimization was completed and poorly documented this does not alter the fact that current management cannot be based on a TMP that was found legally insufficient by the District Court of Utah. This is problematic from a legal perspective given the previous findings of the District Court but violates the requirements of the Settlement Agreement.

The failure to address the relationship of existing RMP decisions and how they relate to management decisions in the Settlement TMP process on issues such as minimization is explicitly and directly recognized in the 2017 Settlement Agreement as follows:

[11] *See*, Interinsurance Exchange Auto Club of Southern California v. Ohio Casualty Insurance; 23 Cal Rprt 592, 594, 373 P.2d 640, 642 (1962)

> "WHEREAS, on November 4, 2013, the district court issued a merits ruling that was partially adverse to Federal Defendants. The court found that "[i]n designating 4,277 miles of routes in this case, BLM did not discuss the minimization criteria in the ROD, RMP, or any other travel planning documents," and "therefore, there [was] no evidence in the ROD that the minimization criteria was applied or applied correctly."[12]

With regard to minimization criteria and how compliance was thought to be achieved, NEPA requires this process to be transparent. Rather than a transparent process with public engagement, the Proposal does not address minimization in its analysis at all. This silence is deeply problematic. The comparison of the silence of the Proposal on minimization could not be more complete when compared to other efforts we are aware such as the PSI. In the PSI EIS minimization analysis was addressed with dozens of pages of specific discussions and then addressing this issue in the detailed discussion of alternatives. We would like to be able to resolve management of these areas at some point in the future and avoiding analysis of issues that have already been insufficiently analyzed is not a step towards final resolution of management of these areas. Again, issues like these make us request a single EIS for the area rather than the series of uncoordinated EAs we have been provided with.

While the Court specifically struck down the TMP for its failure to comply with the minimization criteria based on claims of SUWA, the Settlement Agreement protects all parties existing claims and concerns around the sufficiency of management documents for the various areas involved in the litigation as follows:

> "3. This Settlement Agreement is for the purpose of settling the above-captioned litigation. Nothing in this Settlement Agreement shall be deemed as precedent in this or any other proceeding or shall constitute an admission or concession by any party as to the validity of any fact or legal position concerning the claims or defenses in this or any other proceeding. Nothing in this Settlement Agreement shall be construed to be an admission or shall constitute evidence that the commitments made by BLM in this Settlement Agreement are necessary to satisfy any requirement under any applicable law."[13]

While our concerns are outside the minimization criteria, there can be no legally sufficient argument that the current treatment of numerous decisions, such as OH-7/ open area/existing routes designations and WSA management and other factors, exhibits the same failure to support TMP decisions with RMP decisions and standards as was previously identified as a failure by the Courts.

The Settlement Agreement provided the BLM time to resolve failures in the 2008 RMP/TMP and this requirement was confirmed by the 10th Circuit. Rather than resolving these challenges the BLM has simply chosen to try and avoid analysis of these failures, which is immensely problematic. Given this previous Court findings on the legal insufficiency in decision making around the 2008 RMP, we must question why the same failures are thought to be sufficient in this effort. Not only is this process a violation of the Settlement it is also a violation of various NEPA regulations as well. The only way for the Proposal to

[12] *See,* 2017 Settlement Agreement at pg. 2.
[13] *See*, 2017 Settlement Agreement §a(3) pg. 4.

preserve all claims and avoid concessions of claims is to start the planning effort with the 2003 TMP that was in place before the 2008 TMP was finalized.

6(b)(2) The Settlement Agreement specifically protects the ability to open or add new routes in the Settlement TMP.

With the intervening Congressional actions of the Dingell act in the planning area, the Organizations must question basic assumptions for multiple use recreation in the planning area. These changes alter the management of more than 600,000 acres in a planning area of 1.1 million acres and we must ask how public access has been found to support demand after these Congressional Actions. The failure of the Proposal to meaningfully address the full scope of alternatives allowed in the Settlement Agreement for resolving management uncertainty and using a full range of options for management of the area directly conflicts with the Settlement Agreement previously reached in these matters. The Settlement Agreement identifies the scope of BLM authority in planning as follows:

> "However, subject to valid existing rights, nothing herein restricts BLM's discretion to revise or amend the 2008 TMPs, to impose limitations or closures, as provided by 43 C.F.R. §§ 8341.2 and 8364.1, to open, close, modify, or add new routes, or otherwise consider or institute temporary management prescriptions in accordance with applicable law and regulations."[14]

None of the Alternatives provide for the creation of a single mile of routes in the planning area. Rather than complying with the specific terms of the Settlement agreement and various NEPA regulations, the Proposal appears to embrace the same management failures on many issues despite claims around these decisions being specifically protected in the Settlement Agreement. Could trails be built in areas released from areas previously classified as WSA? Yes. Were some WSA areas have terrible management histories and have tried to be removed as ISA before WSA designations were even thought about? Yes. Are closures in these areas to routes that the BLM recognized existence and high levels of usage on for more than 50 years? Yes. Could recognition of the previous failures and confusion of the open/existing/designated routes issue have been resolved by merely carrying existing routes forward? Yes. For reasons that are never discussed these types of questions are resolved with the closure of all routes in these areas under alleged current management. This is simply unacceptable.

6(c) The Proposal fails to address planning deficiencies recognized in an existing Order from the 10th Circuit Court in underlying litigation.

The Proposal's failure to resolve issues underlying the RMP and TMP creation is only made more egregious given the State of Utah appeal in underlying litigation that appears to be partially driving this planning effort. The State of Utah's appeal to the 10th Circuit in 2018 raised concerns around the ability of BLM to resolve all various concerns under the terms and conditions in the Settlement Agreement. The State was concerned that the Settlement Agreement addressed several RMPs, spanned large portions of the state and addressed many different issues. Given the current situation in planning, this appeal appears to have raised valid concerns that simply could not be addressed by the Court.

[14] See, 2017 Settlement Agreement at pg. 7.

While this Appeal was dismissed as not ripe for adjudication, it must be recognized that the 10th Circuit recognized the concerns around the State of Utah appeal and ruled that BLM has the authority to resolve the various issues involved matters within the scope of the Settlement Agreement. A copy of this decision is attached as Exhibit "2" to these comments. Many of the underlying matters specifically raised concerns around issues such as NEPA sufficiency and analysis failures that are again coming to the front in this Proposal The failure of the BLM to resolve problems with problems in these efforts already recognized by the 10th Circuit should be concerning. Rather than resolving these concerns in the Proposal, BLM has simply chosen to ignore them.

6(d). The Settlement Agreement specifically addresses intervening circumstances and how they should be resolved which has been addressed in the EA.

The ambiguity of the analysis on many issues is not required under the Settlement Agreement. The ability to resolve the challenges resulting from the 2017 Settlement Agreement and the 2019 passage of the Dingell Act and its associated impacts on the requirements for planning area is addressed in the Settlement Agreement. The Settlement Agreement specifically outlines how issues that would include unavoidable legal impediments or prohibitions must be addressed under the Agreement as follows:

> "39. **Deadline limitations.** BLM is not obligated to meet any of the deadlines identified herein if it is prevented from doing so due to an event beyond the reasonable control of BLM that prevents BLM from fulfilling any obligation required by this Settlement Agreement despite the exercise of due diligence. Such events may include, but are not limited to……. as well as all unavoidable legal impediments or prohibitions….. In the case of such an event, BLM shall be relieved of those specific obligations directly precluded by the event, as well as those other obligations whose performance is precluded by the inability to perform, or delay in performing, the directly precluded obligations, and only for the duration of such event, as provided herein. Where BLM cannot comply with any deadlines identified herein due to such an event, it shall provide notice to the parties and, should the deadlines be one of those over which the district court has continuing jurisdiction, shall also notify the district court. Such notice shall include a new estimated date by which BLM will comply with the deadline and a description, to the extent then known by BLM, of the steps taken or proposed to be taken to prevent or minimize the event's interference with BLM's performance of any affected obligations under this Settlement Agreement. BLM will provide status reports to the parties at regular intervals not to exceed 90-days notifying the parties and the district court, if applicable, of BLM's efforts to address and resolve the event. If any party disputes BLM's claim that it cannot comply with any of the deadlines identified herein due to an event, or the adequacy of BLM's efforts to address and resolve such event, such party shall proceed in the manner specified in paragraph 40."[15]

The Settlement Agreement also exclusively provides the ability to request this resolution to the BLM. The Organizations must ask why the BLM has not sought to revise and clarify the Settlement Agreement to

[15] See, 2017 Settlement Agreement pg. 37 para 39

address the Dingell Act requirements as these are clearly the type of challenges that would normally be classified as unavoidable legal prohibitions or impediments. Moving areas from open OHV designations with goals of development to Congressionally designated Wilderness would generally be sufficient to support triggering these provisions. This type of alignment would also allow planners to comply with the mandates of NEPA.

Given the specific nature of both the Dingell Act and the Settlement, the Organizations would vigorously assert that how and why this decision was made must be included in a detailed statement of high-quality information on why a planning decision was made. This is a basic NEPA requirement and clearly would satisfy as an alternative for analysis. This resolution would avoid many of the timing issues that now are deeply problematic with the Proposal as there is a TMP occurring at the same time as an RMP development for the recreation area. This clearly provides immense challenges and the possibly of decisions that directly contradict each other due to the separate planning efforts. Not only would this be the recommended course of action under the settlement, but the resulting clarity would also be hugely helpful in developing a plan for the area that was consistent, understandable to the public, allow the public to meaningfully engage with the process and be a decision that could be implemented rather than ties up in court for decades.

6(e) Amendments to the Settlement Agreement would resolve conflicts with added clarity.

The challenges to public engagement around this planning process and associated processes are profound as no reconciliation of the mandated changes from Congressional action and the existing 2008 Price FO RMP are provided. This preliminary step is critical given the profound impact that these Congressional Actions had on the RMP as more than 410,000 acres have been designated as Wilderness, another 217,000 acres were designated as the Swell Recreation area. Understanding the current baseline of management in these areas will be critical to minimization efforts and also to the development of the RMP for the Swell Recreation Area as the Swell Recreation Area is proposed to be limited to existing routes identified after planning.

Generally, the balancing of usages within a Field Office and related traits such as solitude and motorized usage areas are issues for the Resource Management Plan("RMP"), not the travel planning process. Travel plans are used as a tool to apply existing RMP goals and objectives and are not the basis for significant landscape level changes that would conflict with the RMP. BLM planning regulations specifically state this relationship as follows:

> "The BLM must incorporate TTM into the development of all new and revised RMPs to address access needs with regard to resource management and resource use goals and objectives. Generally, an RMP only includes land use planning decisions for TTM; the development of implementation-level TTM decisions concurrently with the development of the RMP is not a viable planning approach (see section 3.6 for details on exceptions)."[16]

The Price Field Office RMP was finalized in 2008 and is highly relevant to the discussion as the RMP was outside the scope of the settlement agreement in the litigation. This is unlike many of the other Field Offices where RMP from the 1980s are still relied on for management and at best questionably relevant

[16] *See* DOI; Bureau of Land Management; BLM Manual 1626: TRAVEL AND TRANSPORTATION MANAGEMENT; 9-27-2016 at pg. 3-1

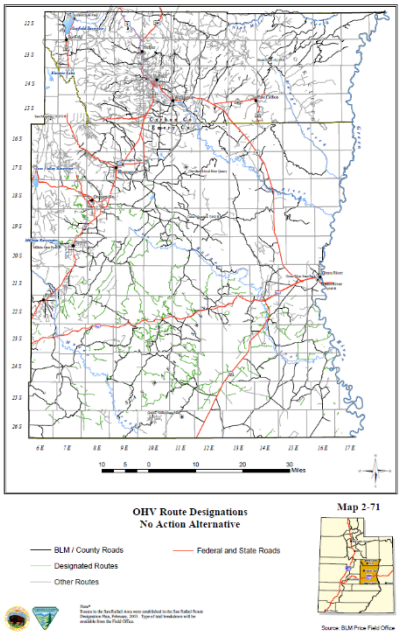
simply due to the passage of time. The Organizations vigorously assert that the motorized opportunities on the FO may appear out of balance with other resources such as 410k of new Wilderness and more than 210 acres of Swell Recreation Area that is largely closed to OHV access.

Decisions such as allowing motorized usages in WSA/WCA/ISA areas released for multiple uses are decisions for the resource management plan, not the travel plan process. The RMP goes into reasonable detail regarding why decisions were made to allow motorized usage in WSA and WCA areas, and the Organizations submit this reasoning still remains valid at this time. Many areas have historically had higher levels of usage that has eroded over time. These could be areas where access could be expanded to address the lost opportunities in other areas. We would ask for the opportunity to address these possible uses of these areas and that has not been provided.

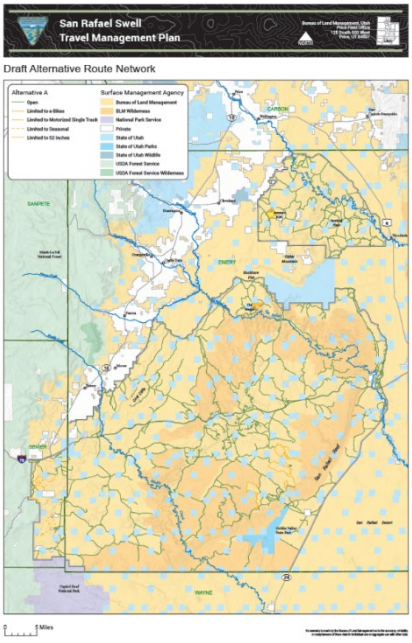
7(a) The 2008 current management vs 2024 current management maps are profoundly different and these differences are critical to the planning process.

An accurate understanding of current management of this area is critical to addressing any TMP and providing detailed discussions of how minimization is achieved. This accurate baseline is only more critical given the Congressional designations that have occurred in this area since 2008. The value of this baseline is further increased as the Settlement Agreement explicitly provides for the baseline for the development of the 2024 TMP has to be the 2008 baseline. There is no 2008 TMP to be relied on given the foundational flaws in the TMP effort identified by the Courts and in the Settlement.

While establishing the baseline map for the area should be a point of conflict, the map provided as Alternative A of the Proposal does not align with the 2008 Baseline map. Even the 2008 baseline map is problematic as there are numerous open areas that have not been closed but are not reflected on this map. The 2008 baseline map should largely reflect the 2003 TMP decision which is reflected as follows:



When the 2008 TMP baseline map is compared to the Proposed Settlement TMP baseline map the difference between these maps could not be more profound. The 2024 current management map provides as follows:



The factual impossibilities and challenges presented by the map are immediate and will significantly impact any expansion of opportunities and also calculations of the minimization that occurs. Most of the Wilderness areas on this map did not exist in 2008 so we must ask why they would be on a map of current management in 2008. After reviewing this map, the public could assert that no routes were closed in the designation of these Wilderness areas. Again, the Settlement TMP baseline is simply factually and legally incorrect.

While we do not contest that the Dingell Act Wilderness areas closed routes subsequent to the 2008 TMP, accurate identification of the routes closed will be critical to understanding and satisfying user needs. Our proposed resolution of this situation presented from the subsequent Congressional designations would be a two-step process. Step One. Start with the 2008 baseline map and do not reflect any Wilderness areas as this is current management prior to the 2008 TMP. We would support the inclusion of these new Congressionally designated Wilderness areas under every Alternative as clearly we are not asking to ride in a Wilderness area. Step Two. In conjunction with these boundaries being reflected in every Alternative, closed routes from these Congressional designations must also be reflected. Recreational opportunities allowed under the 2008 RMP and those now available must also be reflected in another series of maps. The need to accurately understand the impacts of Congressional actions that protected access and also closed access will be critical in developing an RMP that can be legally defended. With failures in the Proposal such as this we are off to a weak start.

The benefits of the above process will extend beyond recreational opportunities as the minimization criteria require all changes in management be addressed, not just those that are undertaken by the federal land managers. Asserting that Congressional changes in land management must be excluded from the minimization analysis would be legally problematic at best. Not only does this improve recreational opportunities for all this also improves the BLM chances of success in defending this decision from the inevitable legal challenges that will be posed to any decision. This type of information is critical to the effective engagement of the public in supplemental comment periods that must be provided after accurate and complete information is provided.

7(b) The Organizations preserve our concerns around the 2008 RMP/TMP planning process as these concerns have directly impacted the baseline map.

As noted in these comments previously, the Organizations have profound concerns around the sufficiency of landscape level management decisions made in the RMP/TMP process to date.[17] As previously commented on and basis of years of discussion prior to the current planning effort in areas such as OHV-7 existing/designated/ WSA issues like Link Flats. While we are discussing these areas in some detail in these comments, this input should not be assumed to be the entirety of our concerns in the area. Our ability to meaningfully comment on our concerns is immensely impacted by the fact that the Proposal does not provide basic information on areas that planners have already admitted have failures in planning. This would be critical in assisting us in the development of concerns for these areas or the range of alternatives for the management of these areas. Concerns over the current management situation not being reflected in Alternative A are compounded when the scope of mapping errors is addressed in the RMP and related documents. One situation was outlined in the response to public comment as follows:

> "Response: While the Chimney Rock/Summerville/Humbug Trail system was included in Alternative map 2-54 of the DEIS it was inadvertently left out of the preferred alternative map 2-56. The Proposed RMP/Final EIS has been changed to reflect this and now includes the Chimney Rock/Summerville/Humbug Trail system in all appropriate alternatives."[18]

In order to meaningfully comment on this issue, basic information must be provided, such as the exact location of these trail networks and if Alternative A reflects resolution of these concerns. We are concerned that Alternative A may not reflect this type of management resolution but rather simply assumes that these commitments were honored and are now resolved. We would oppose that assumption and assert that given the management history these commitments were never analyzed and are not reflected in Alternative A of the Proposal.

While the above response to comments in the RMP/TMP Rod outline specific trail networks this document A second mapping failure of a far more generalized nature is also quickly identified as follows in the FEIS:

> Response: The ROS inventory was updated and corrected as a result of public comment and meetings with cooperators (Carbon and Emery Counties). There were errors in the mapping and these have been remedied. The text of the document has also been revised to remove the term, "High Use Zone," and replace it with the more correct, "Recreation Management Zone." SRMA goals are defined in the proposed RMP and in fact, activity plans exist for all SRMAs with the exception of the San Rafael[19]

While the FEIS asserts these problems would be resolved in the final RMP, we have to question if that was actually done. We have concerns given the almost immediate legal challenges that resulted. If these decisions were made, what was that process used to the correct maps in Alternative A of this effort. These

[17] A copy of these comments are attached to these comments as Exhibit "3".
[18] See, 2008 Price FO RMP FEIS at pg. 5- 168
[19] See, 2008 Price FO RMP FEIS at pg. 5-168

are commitments made in the RMP/TMP process that must be addressed to provide any level of NEPA sufficiency.

7(c) How was the opportunity for future planning in the OHV-7 areas promised in the RMP lost?

The systemic failures of the NEPA analysis process are again highlighted with the treatment of the areas previously identified for future management efforts. While the 2008 RMP specifically and directly provided for these opportunities, even under Alternative A of the Proposal, those opportunities have been lost. They are then also lost in every Alternative provided in the Proposal. This creates immediate conflict with the Proposal assertions that they are applying the 2008 RMP directly. This is simply impossible. This management change for these areas also is created in violation of NEPA requirements, as NEPA requires that if planning opportunities such as this are removed planner must describe how these decisions were made. These is simply no discussion of how this change in current management was determined to be necessary or how the underlying problems for these areas was addressed.

As noted previously conformance with the RMP is problematic for areas released from WSA but this is not the only failure of the Proposal to achieve consistency with management decisions. The complete inability of the Proposal to align with existing RMP requirements is again highlighted with the OHV-7 issue. This issue addresses open areas that were incorrectly reflected in the 2008 RMP. While the RMP/TMP asserts a desire to move to an entirely designated route model but with assertions such as those made in the OHV-7 provisions we again must question how that was achieved in the planning area. Again, the ability to comply with NEPA requirements has been made impossible as the Office admits that the NEPA planning for these areas has never occurred and the mapping that was provided to the public was not accurate and did not reflect the management decisions that were made. It is relevant to review the Proposal assertion that it complies with the RMP as follows:

> **"1.5 CONFORMANCE WITH BLM LAND USE PLANS**
> The action alternatives described in this document are in conformance with applicable management direction, including the 2008 Price RMP and 2008 Richfield RMP, which provide overarching management decisions, goals, and guidance for this travel planning effort. RMP decisions and goals to which this project conforms are listed in Table 1-2."[20]

The immediate conflict between the various assertions that Alternative A is made of conformity with the 2008 RMP and assertions that the failure of maps to reflect the entire management decision should result in trail loss. A map is only a part of the management decision making process and does not reflect the whole NEPA process. NEPA requirements extend FAR beyond merely making a map of areas. While that may be the absolute minimum required for a TMP, drawing a map in isolation is insufficient to satisfy NEPA. While the Proposal claims to be in conformity with the 2008 RMP, the Proposal also asserts there are several areas that were not identified for future management decisions subsequent to the RMP, which is outlined in table 1-2 of the Proposal as follows:[21]

[20] *See,* Proposal at pg. 5
[21] *See*, Proposal at pg. 5.

OHV-7 (pg. 114)	Areas that were open to cross country OHV use in the San Rafael RMP (1991) have been changed to limited to designated routes. However, due to planning oversight, routes in these areas were not displayed on the route maps in the Draft RMP/EIS and therefore the public was unable to comment on these potential decisions. For this reason, the Proposed RMP does not designate any routes in these areas. Future activity-level planning will consider route designations.	The BLM considers route network alternatives in the former San Rafael RMP open areas located within the TMA.

Any assertion of conformity with the RMP must start with resolving how this question was answered in the planning process for these areas. Where are these areas that were not displayed due to an oversight in management? why would we believe simply considering routes in these areas is sufficient to resolve the issue. Are these areas that were managed under the existing routes standards? How was the decision made to move these areas from an existing route to closed standard? We simply do not know and accept the naked assertion of compliance with the RMP. This type of assumptions and assertions in any NEPA document is simply a violation of any NEPA requirements.

The immediate contraction of the OHV -7 areas and other assertions could not be more complete, as again the Proposal fails to resolve the OHV-7 area issues as it merely asserts:

> "The TMP does not alter the area designations made in the 2008 Price RMP. The entirety of the TMA acreage remains limited to designated routes." [22]

While the BLM may have wanted to move the entire area to designated/existing routes for management, we must question how that could happen since the BLM openly admits that supporting documentation for these areas was never provided. That by definition is insufficient to comply with NEPA. The problematic nature of this assertion is expanded in other provisions of the Proposal where the FEIS repeatedly asserted that open areas are possible in the FO as follows:

> "During activity level planning or as resource conditions warrant, route designations may be changed. Open areas will be considered on a case-by-case basis under the Recreation and Public Purposes Act (R&PP) for previously disturbed areas near communities. Several trail systems are being established for OHV use."[23]

The application of the most restrictive interpretation of the 2008 RMP ambiguities such as these continues in Alternative A of the Proposal as there were routes and areas that were merely identified for future planning and management but permitted to continue under an existing route standard for TMP purposes. This is a completely valid step in the TMP process as we are aware that FO consistently apply the existing routes standard as a step towards designated routes. Rather than address this ambiguity in the management process around Alternative A the Proposal simply assumes all these existing routes were closed as follows:

[22] *See,* Proposal at pg. 5
[23] *See*, 2008 Price FO RMP FEIS at pg. 5-168

> "Since 2008, incomplete implementation of the 2008 route designations and confusing RMP decisions (2008 Price RMP's Map R-18 includes "other" routes which are undesignated3 (not specified as OHV-Open or OHV-Limited or OHV-Closed) and 2008 Price RMP's OHV-7 defers route designations within approximately 5% of the TMA to future activity-level planning) have resulted in a challenging management situation involving user conflicts, resource impacts, user confusion, and public safety challenges. To address these issues, the BLM began inventorying routes in 2011."[24]

Our opposition to this assumption could not be more complete as the process outlined for these areas specifically applies the BLM travel planning regulations for situations such as these. The erroneous nature of these assumptions in Alternative A is immediate and complete as the incremental management decision making for areas such as those identified above is the recommended course of management for areas in the BLM TMP regulations. Those regulations specifically outline this process as follows:

> **B. Determine Concurrent or Deferred TTM Planning**
> The planning unit TTM action plan and planning schedule should indicate which areas, if any, of the LUP planning unit are to have implementation level TTM planning completed concurrently with the land use planning process and which areas, if any, are to be deferred until after the LUP process has been completed. Possible reasons for not completing the final network might be size or complexity of the area, controversy, incomplete data, or other constraints.
> If sufficient travel and transportation information is available for a smaller area or sub-unit within the planning area, such as a TMA, consider completing the TTM planning as part of the RMP and deferring the remainder of the RMP planning area to an implementation level travel management plan(s).
> The TTM planning can be prioritized to focus on areas that are most heavily used, or areas that have existing social conflicts, resource concerns, or a defined need for route definition or development for administrative, public access or other needs first. These areas may require consideration of new route development and/or existing route relocation in addition to route decommissioning.
> In some cases, the need for TTM is in the development of a functional and sustainable transportation system that meets current and future needs. In other cases, TTM is necessary to restore areas with a proliferation of user-created routes. These areas may place greater reliance on evaluating existing routes and decommissioning undesirable routes in the TTM process. [25]

The BLM TMP regulations further mandate the management process regarding how the changes in management from open areas to existing routes to designated routes is developed, applied and the benefits and challenges of this management process as follows:

> "Area designations limiting motorized use to existing roads, primitive roads and trails can only be made on an interim basis as a preliminary step leading to the selection of a designated network of roads, primitive roads and trails. This interim designation may only

[24] *See*, Proposal at pg. 1.
[25] BLM TMP handbook pg. 10

> be used when the development of a designated road, primitive road and trail network for all, or a sub-unit, of the planning area is deferred until after the RMP is completed. The RMP must clearly identify the process leading from the interim area designation of "limited to existing roads, primitive roads and trails" to the development of a designated network of roads, primitive roads and trails. The RMP should state that the area designation will change from "limited to existing roads, primitive roads, and trails" to "limited to designated roads, primitive roads, and trails" upon the completion of a travel management plan. Even though 'use on existing roads' appears within the definition of 'limited area' in 43 CFR 8340.0-5(g), it has been determined that, due to the specific mention of 'areas and trails' in 43 CFR 8342.1(a)-(d), individual routes must be evaluated to determine whether they can be managed in accordance with the designation criteria; regardless of whether use is to be limited to 'existing' routes. This leaves little practical distinction in the evaluation process between 'designated' and 'existing' routes. A 'designated' route system provides more long-term management flexibility in terms of being able to add, delete or relocate routes in the transportation system."[26]

The BLM travel management regulations continue to identify the proper application of the existing routes standard in the management system for chapters of the regulations. These are entirely too large to address in these comments, and as a result the Organizations will simply refer to this issue as the existing trails designation management model. The failure to identify a single point in time for management only compounds this failure as the most restrictive interpretation of WSA's currently is applied but the most restrictive interpretation of the 2008 RMP is also applied in the development of Alt A.

While the Organizations are aware that there have been numerous intervening actions since the 2008 RMP, this does not alter the fact that these routes under the existing routes standard are properly designated for future management. The fact that the BLM never undertook this management does not alter the legal and valid management designation that was placed on these routes in the TMP. The settlement agreement reached does not address the RMP, only the TMP. Where are these routes in Alternative A and how was the decision made that all these routes were closed rather than designated for future management. Issues such as this are why a range of Alternatives is critically necessary for the NEPA process and is direct evidence of the complete failure of the Proposal to comply with NEPA.

7(d). Other management ambiguities such as routes in WSA are resolved with closures without analysis or recognizing previous NEPA failures.

The future management of WSA areas released by the Dingell Act is unfortunately not the only example of issues the Proposal simply avoids discussion of and seeks to apply the most restrictive alternative for management of these areas under the guise of current management. Rather than utilizing the opportunity to address deficiencies in the existing analysis provided by the Settlement Agreement, BLM has chosen to ignore these issues entirely. Bad NEPA analysis cannot fix previous bad NEPA analysis of issues, it only compounds the problems created by previous NEPA insufficiency. The conflict of these positions is immediate as The most restrictive interpretation of the management situation as alternative A continues from page 1 of the EA which inaccurately summarizes the Alternative A position as follows:

[26] *See*, BLM TMP handbook at pg. 13.

> "Throughout this EA those routes that were undesignated in the 2008 Price RMP will be included with the OHV- Closed routes in Alternative A."[27]

This clearly directly conflicts with the information provided as Alternative A reflects not only routes closed in the 2008 RMP but also removes any routes closed in subsequent Congressional action from any analysis. There were routes in the 410,000 acres of Wilderness that were lost and those are entirely removed from the Alternative A map. Clearly these are lost opportunities that should be addressed in the TMP but the public is not provided any information regarding how this decision was made, where these routes are located or how many miles of routes are currently managed under the existing route standard.

While the 2008 RMP/TMP have been permitted to be applied on the ground under the settlement agreement, the Settlement agreement also preserved all challenges to the RMP/TMP previously made. Issues such as this were challenged by the motorized community and BLM addressed these concerns in the Settlement Agreement by asserting that NEPA compliance would be provided. NEPA has not been provided despite this recognition in the Settlement Agreement and creation of another TMP for the area.

8(a). Planners must provide an accurate and consistent view of current management and simply have not.

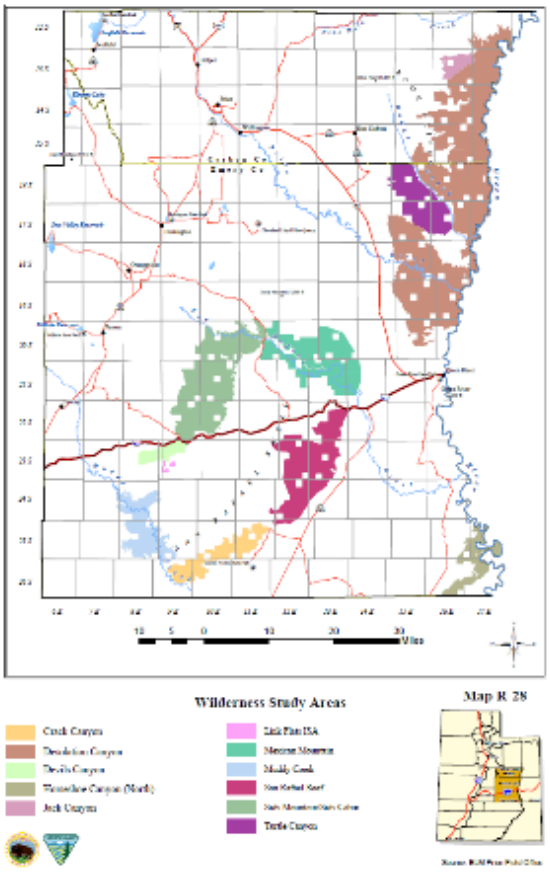
The Proposal fails to meaningfully address the impacts of management changes when compared to the management baseline in a rather muddled and confusing partial summary of the current situation. Rather than choosing a single year to base management baselines on the Proposal often analysis chooses different points in time to address what is current management. Different timeframes are used for different issues and often only partially reflected in the current management. This failure to identify a single point in time is immensely problematic as information is simply not consistently conveyed and this prohibits meaningful public engagement. The problems that result in any planning analysis from the failure to identify a single point for management are immense and are compounded by the fact that in certain portions of the Proposal, current management is attempted to be reflected but the concurrent development of an entirely new RMP for most of the planning are under the Dingell Act is never mentioned. At no point is there any attempt to outline the changes from the RMP that resulted from the designation of large Wilderness areas in portions of the planning area that were managed for multiple use expansion previously.

As previously noted, there are extensive provisions of the Settlement Agreement that could have been relied on for the development of a cleaner and neater starting point for public engagement on the planning area. However, the variable starting point of analysis used throughout the Proposal extends far beyond the scope of the Settlement and alignment with the Dingell Act. As an example, several times the Proposal states there are no Wilderness Study Areas in the TMA as follows:

> "There are no Wilderness Study Areas located within the TMA. The nearest Wilderness Study Areas to the TMA are as follows:"[28]

[27] *See*, Proposal at pg. 1.
[28] See, Proposal at pg. 17.

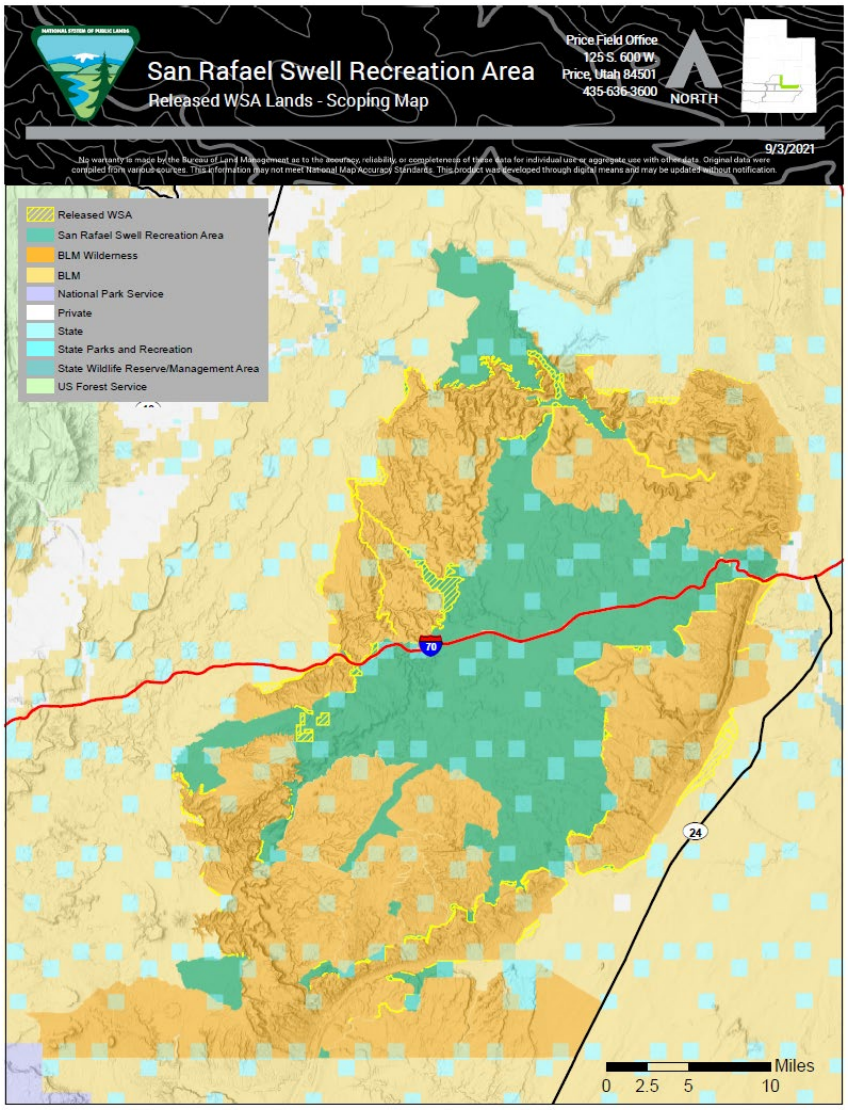
While this is technically correct currently, it was not accurate when the 2008 RMP/TMP was finalized. If we are applying the RMP, there were five WSAs in the planning area, covering more than 200,000 acres which is reflected in the WSA Map provided with the plan as follows:



The 2008 RMP specifically provided motorized access to several of these WSA that were subsequently designated as Wilderness by Congress in 2019. This designation resulted in more than 410,000 acres of Wilderness in the planning area. The failure to accurately address the baseline is clear when more than 200,00 acres of Wilderness was created outside existing WSA. Many of these areas had OHV opportunities on them that were immediately lost. How was this impact addressed? Are areas outside the recreation area being developed to provide opportunities?

Even after the Dingell Act was passed, issues with WSA remained and are partially addressed in the Proposal. The Proposal cannot apply the 2008 RMP to WSA areas that were released by Congress for multiple use. These types of decisions around uses in these areas should be Congress release these areas at some point in the future was specifically avoided in the RMP. Significant areas of planning area are in this category as reflected in the scoping maps for the RMP development for Swell Recreation Act.[29]

[29] A copy of this map is available here: San Rafael Swell Recreation Area Released WSA Lands Scoping Map (blm.gov)



By operation of law, these areas can no longer be managed for their Wilderness characteristics as Congress specifically released these areas back for multiple uses. This is an issue that again appears to have been left to future management in the RMP, which identifies this as follows:

> **"WSA-7**
> Should any WSA, in whole or in part, be released from wilderness consideration, such released lands will be managed in accordance with the goals, objectives, and management prescriptions established in this RMP, unless otherwise specified by Congress in its releasing legislation. The BLM will examine proposals in the released areas on a case-by-case basis but will defer all actions that are inconsistent with RMP goals, objectives, and prescriptions until it completes a land use plan amendment."[30]

[30] See, RMP at pg. 129

Per the Dingell Act areas previously managed under the §603 inventory for WSA standards are specifically released for non-wilderness uses as follows:

> **"SEC. 1234. RELEASE.**
> (a) FINDING.—Congress finds that, for the purposes of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)), the approximately 17,420 acres of public land administered by the Bureau of Land Management in the County that has not been designated as wilderness by section 1231(a)has been adequately studied for wilderness designation.
> (b) RELEASE.—The public land described in subsection (a)— (1) is no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)); and
> (2) shall be managed in accordance with—
> (A) applicable law; and
> (B) any applicable land management plan adopted under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712)."[31]

The release of these WSA areas is significant given the no buffer requirements of these released areas are specifically identified in the Dingell Act as follows:

> "(e) ADJACENT MANAGEMENT.—
> (1) IN GENERAL.—Congress does not intend for the designation of the wilderness areas to create protective perimeters or buffer zones around the wilderness areas.
> (2) NONWILDERNESS ACTIVITIES.—The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness area shall not preclude the conduct of those activities or uses outside the boundary of the wilderness area."[32]

This provision of the Dingell Act does not appear to have been addressed in the Proposal, despite it being hugely relevant to the future management of the WSA areas that were released. While the Dingell Act is addressed, its application is highly arbitrary in the Proposal. Clearly resolving the future management of the released WSA areas would require an RMP amendment for areas outside the Recreation Area. While the Proposal provides highly limited summary of the WSA release issue, the Proposal provides no analysis of other changes to what is asserted to be RMP management from the Dingell Act, such as a summary of how many acres of multiple use were lost in the Dingell Act. How many of these WSA areas were never suitable for designation as Wilderness after the preliminary inventory of these areas in the 1970s and 1980s. We don't know but clearly a range of Alternatives for these areas should be provided. This has not been provided.

We are not aware of any scoping for such an RMP Amendment to have even begun for these areas outside the Recreation Area. While the RMP for the recreation area is under development, this effort is only in scoping and has not even provided a range of alternatives for possible discussion. This type of an issue highlights why an RMP must be developed prior to the TMP being attempted. This issue simply is not

[31] *See,* Public Law 116-9 §1234
[32] *See*, Public Law 116-9 §1232

discussed and clearly the most restrictive interpretation of these developments has been provided to the public under the guise of current management.

8(b) RMP specifically allowed motorized usage in WSA.

The Organizations concerns about the accuracy of Alternative A are again supported by the decision in the Objection resolution decision issued on the RMP/TMP. This clearly is stated in the decision as follows:

> "Where routes would remain available for motorized use within WSAs, continue such use on a conditional basis. Use of the existing authorized routes in the WSA ("ways" when located within WSAs) could continue as long as the use of these routes does not impair wilderness suitability, as provided by the Interim Management Policy (IMP) (BLM 1995). If the Congress designates the area as wilderness, the routes may be closed, unless otherwise specified by Congress. In the interim, if use and/or non-compliance are found through monitoring efforts to impair the area's suitability for wilderness designation, the BLM would take further action to limit use of the routes or close them. The continued use of these routes, therefore, is based on user compliance and non-impairment of wilderness values."[33]

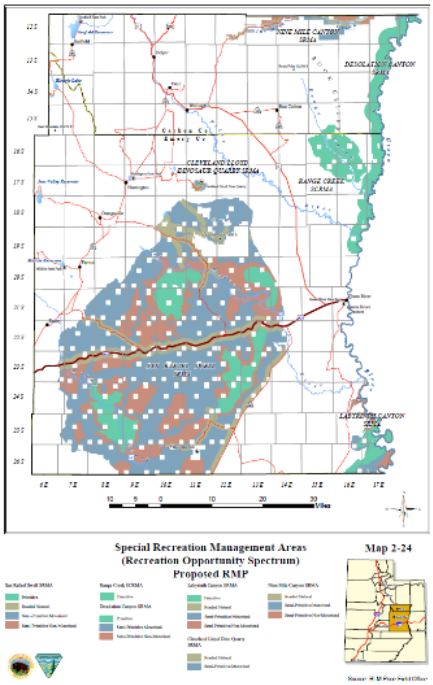
Again, we must note that the RMP/TMP is problematic for many reasons. These reasons were specifically identified in repeated decisions ranging from the objection decision to decisions of the 10th Circuit. Despite the decades of recognition many of these problems remain unresolved.

8(c) How does the Proposal implement the goals and objectives of San Rafeal Swell SRMA in the RMP.

The Proposal further resolves other open management issues by simply not addressing them on larger recreation issues in the areas that will be critical to the development of the TMP. Our request for analysis of how existing expansion areas provided for the RMP would be balanced or replaced after the Dingell Act designations. The 2008 RMP identifies large tracts of lands that can no longer be managed to achieve their recreational goals and objectives.

Under the 2008 RMP the Swell SRMA was entirely overlapping the planning area, which is reflected in the following map of the SRMA. The SRMA was then subdivided into smaller Recreation Management Zones with specific management goals and objectives. Many of the specific goals and objectives were yet to be defined and implementation was to be addressed at some point in the future. This SRMA and RMZ areas were outlined in the following map:

[33] *See*, RMP Director Objection resolution to 2008 RMP/TMP pg. 85 See also pgs. 87,88



Under the 2008 RMP, the Swell SRMA designations outlined the following goals and objectives:

> A San Rafael SRMA activity plan would be completed within 5 years. The San Rafael SRMA activity plan would include special rules for—
> • Fire—Limited fuel-wood gathering would be allowed in specified areas, and ground fires would be allowed.
> • Vehicle camping—In the high-use areas, vehicle camping would be allowed only in developed and designated sites. Vehicle camping outside the high-use areas would be allowed in developed, previously impacted, or resistant/resilient sites, except where critical resources exist. Backcountry camping would be allowed throughout the SRMA.[34]

Given this commitment to future planning that has not occurred, compliance with the RMP cannot be achieved with merely a TMP as these management efforts for site specific issues have not occurred. The Organizations simply cannot comment on possible resolution of these issues as some of these challenges might be able to be resolved in a Wilderness areas, some might be able to be resolved in the Swell Recreation Area created by Congress and others may have to be satisfied with the remnants of the Price FO left outside the Swell Recreation area.

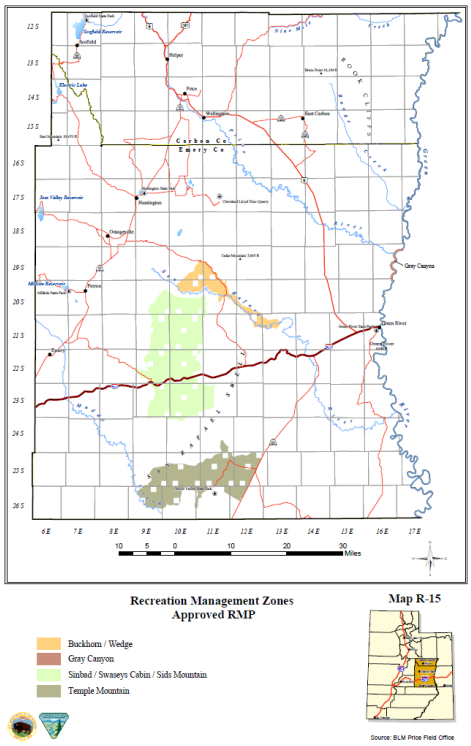
The RMP further identified high use zones in the San Rafael Swell SRMA which were provided to created further clarity around usage of these areas. 2008 RMP outlines goals for the recreation zone areas as follows:

> Recreation management would focus on sustaining natural resources while meeting social and economic needs. Three high-use recreation areas in the San Rafael Swell SRMA (Map 2-25) would be established to facilitate the provision of recreation amenities. The following areas would be BLM operated and maintained high use areas:

[34] *See*, 2008 RMP at pg. 2-76

Temple Mountain/Little Wild Horse/Behind the Reef
- Buckhorn/The Wedge/ Mexican Mountain
- Head of Sinbad/Swasey Cabin/Sid's Mountain and the trail system [35]

These High Use/recreation areas were designated with the following boundaries in the RMP:



The RMP specifically identifies the goals and objectives of these RMZ areas as follows:

RMZs in the San Rafael Swell SRMA:
REC-49
Recreation management will focus on sustaining natural resources while meeting social and economic needs. RMZs (Map R-15) will be established to facilitate the provision of recreation amenities. The following areas will be BLM-operated and -maintained RMZs:
 Temple Mountain, Little Wild Horse, Behind the Reef
 Buckhorn, The Wedge, Mexican Mountain
 Head of Sinbad, Swaseys Cabin, Sids Mountain, and the trail system.
REC-50
At sites accessed by motor vehicles, visitors will be required to provide their own fuel-wood (Map R-15).
REC-51
Gathering wood from standing trees, live or dead, will be prohibited.
REC-52

[35] *See*, 2008 RMP at pg. 2-77-78

> At sites accessed by motor vehicles, campers without a BLM-provided fire grill will be required to use a fire pan to contain the fires, ash, and charcoal.
> **REC-53**
> Vehicle camping will be allowed only in developed and designated sites.
> **REC-54**
> Portable toilets will be required at designated campsites that do not have toilet facilities.
> **REC-55**
> The BLM will retain overall management of RMZs to provide maximum development of recreation opportunities with minimal commercial concessionaire involvement. [36]

Again, the Proposal fails to address any of these issues in a substantive manner and avoids any challenges that might need future planning such "maximum recreational opportunities". While some of these goals are not impacted by management changes, such as mandating portable toilets many of these, such as vehicle camping would be profoundly impacted by these management changes. Vehicle camping is not even addressed in the Proposal. Could campers park within 100ft of the road to vehicle camp? We simply don't know as this is not addressed. While the RMP highlights the need for economic sustainability with the development of these areas, the Proposal simply brushes this concern off as follows:

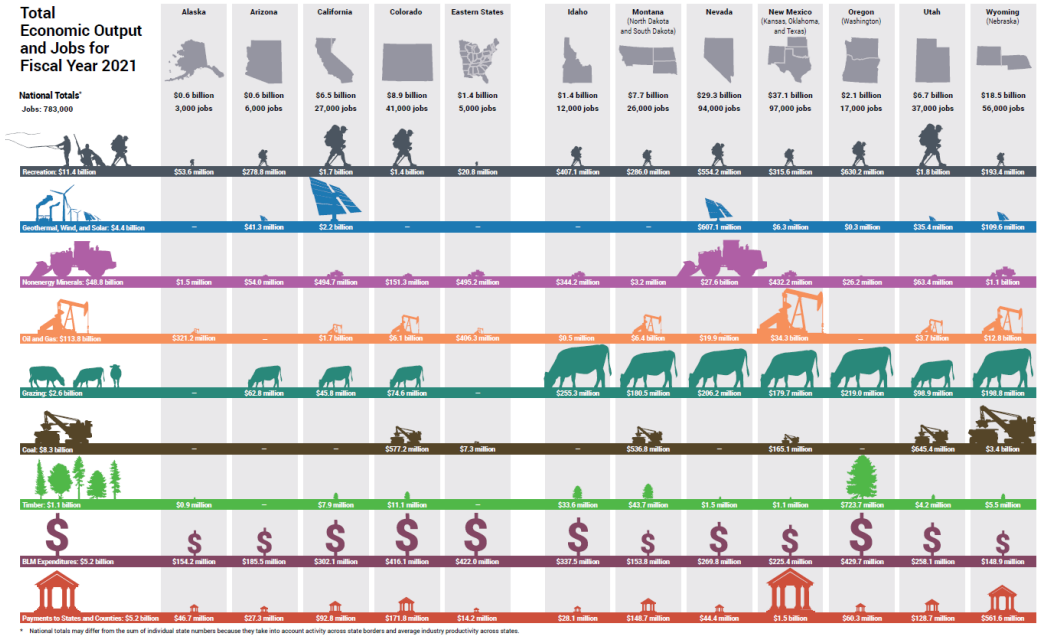
> "The analysis area is Carbon and Emery counties because those are the counties most affected by recreation in the TMA. The temporal scope of analysis is 20 years (see Section 3.1.1). Any impacts to the socioeconomics of the planning area (Carbon and Emery counties) would come from changes in recreation visitation to the TMA and resultant changes in expenditures by visitors to the TMA. ***As discussed in the recreation analysis in Section 3.3.4, PFO expects little if any change in recreation visitation from the various alternatives.*** Nonetheless, it is useful to describe the current contribution of visitation to the TMA to the economy of the planning area. Additionally, we can compare that impact to the overall impact of both recreation spending on BLM lands in the PFO and the overall impact of recreation and tourism to these two counties.[37]

The Organizations would assert that the Proposal entirely avoids application of the RMP requirements. Conflict with RMP and Proposal are foundationally evidenced when the RMP requirements and the Proposal analysis are compared on the SRMA and RMZ requirements. RMP speaks to meeting social and economic needs or what would now be identified as sustainability. This would entail sustainability over some period of time. Given the planning document, we would assume this sustainability would be the life of the plan. While economic sustainability of the region is highlighted as a goal of the SRMA and RMZ this concern is simply avoided. The Proposal provides information on the anticipated economic analysis identified above and then follows with a summary of basic data provided in the IMPLAN process. Data is not analysis.

The Organizations would object to this rather dismissive analysis of economics around possible impacts to recreation from the standards in the Proposal, as there are clear challenges that the

[36] *See*, PFO ROD at pg. 110.
[37] *See*, Proposal at pg. 126.

Proposals faces on this issue. Existing BLM documentation and analysis clearly identifies that some states already have significant economic benefits from solar energy development as follows:



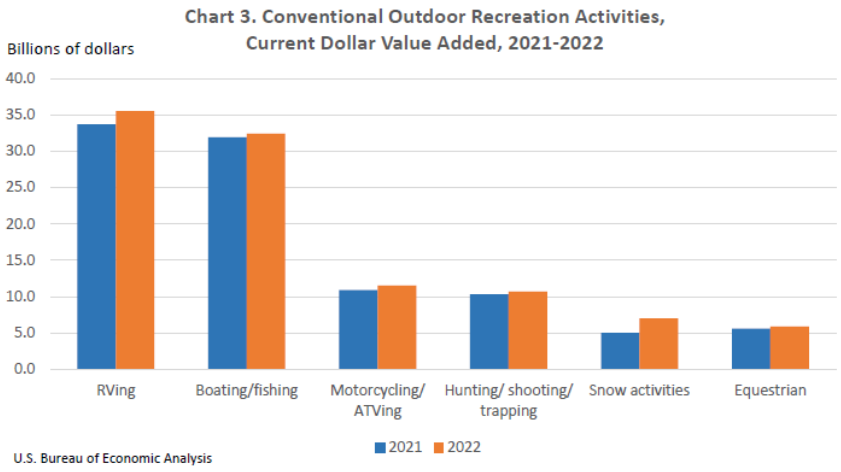
This analysis clearly identifies that Utah is heavily reliant on recreational opportunities on BLM for huge amounts of recreational revenues [38] Simply recognizing this situation would have been highly valuable for the public and resolving maximizing recreational development to support local economies. Failing to recognize this existing data in the Proposal is disappointing at best. Clearly this level of analysis is insufficient to comply with the specific mandate of EO 14008 or EO 14057, which the Proposal simply never mentions. This level of dismissive economic analysis falls well short of the requirements of economic analysis for NEPA compliance. This simply must be remedied.

The Organizations are concerned that the current modeling of recreation and planning requirements will result in disproportional impacts to multiple use recreation when compared to other uses. These impacts will be more severe on developed or multiple use recreational areas, simply since the usage of these areas has been clearly identified by the Department of Commerce as the largest economic drivers of economic contributions. Areas that are available for multiple use recreation are used much more frequently by users who spend significantly more money than those that choose to pursue recreational opportunities in areas with higher levels of protection.

The Department of Commerce's Bureau of Economic Analysis provided the following representation of the comparative spending of several sectors within the recreational economy. The BEA analysis of 2022-2023 for outdoor recreational uses provides the following breakdown of the highest value contributors for recreation as follows:[39]

[38] See, The BLM: A Sound Investment for America 2022

[39] *See*, Dept of Commerce; Bureau of Economic Analysis; Outdoor Recreation Satellite Account, U.S. and States, 2022; New Statistics for 2022; Updates for 2017–2021; No 17, 2023 at pg. 5. A full copy of this report is available here: Outdoor Recreation Satellite Account, U.S. and States, 2022 | U.S. Bureau of Economic Analysis (BEA)

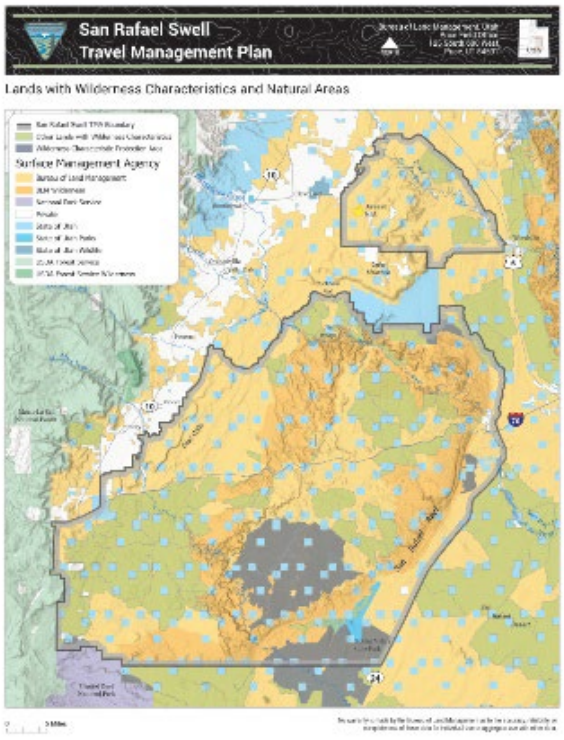


The Organizations submit that every one of these activities would be able to be pursued in most of the areas identified as suitable for large scale solar development and would also be prohibited under most of the designations that also prohibit solar development. The immense conflict that immediately results from this situation warrants meaningful analysis of the comparative alternatives and exploration of tools or standards that could mitigate these possible impacts. This is not only legally necessary but would bring recreational protections into alignment with the many protections of other uses that are already provided in the Proposal.

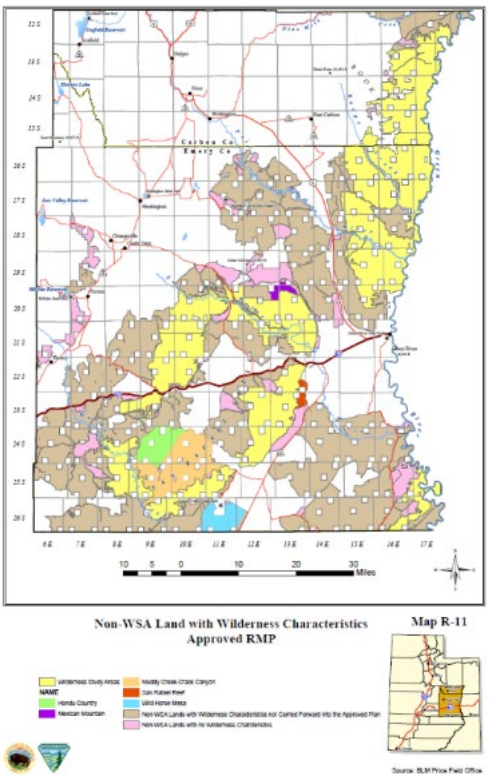
Again, the Proposal fails to address basic questions such as how was this assumption made? What timeframe was identified to determine the assumption was correct? This is basic information and analysis required for any NEPA effort. These requirements are only compounded in areas that are targeted for maximum development to create economic sustainability. Again, we must question how these goals and objectives for all recreational usage will be addressed as these goals largely conflict with the requirements of the Dingell Act designation of much of these areas as Wilderness or Swell Recreation Area with a capped road and trail network. A developed campground without roads to the campsites will be of little value if there are no roads to access the campsites. The difference economically between a tent campsite and a pull through style campsite that can accommodate a multi-million dollar RV could not be more stark and complete.

9(a). Why would a map with new lands with wilderness characteristics be included in a TMP?

While many of the foundational problems with the RMP/TMP remain unresolved despite assertions of the BLM in the Settlement and to various Courts, the Proposal appears to address issues entirely outside the scope of the Settlement as well. The Proposal exemplifies this as it includes a map of LWC that fails to represent any portion of the existing RMP or any version of the Settlement Agreement. What is even more troubling is this inventory addresses areas outside the areas designated by the Dingell Act and includes large portions of the areas identified as now having Wilderness Character despite the fact that these were not managed for wilderness character in the existing RMP. Large portions of the areas identified as having Wilderness character were specifically identified as not have wilderness character in the 2008 RMP. The Organizations must ask what this map is attempting to reflect and why is it here as most of these new wilderness character areas are outside the Swell Recreation area as well. This map is reflected as follows:



The RMP, which to our understanding is not being amended with the Proposal, provided the following map of areas that were managed for Wilderness Character. This map also shows large areas not managed for wilderness character and areas that entirely lacked Wilderness character in the site-specific analysis that was provided in the 2008 RMP. The 2008 RMP inventory and decision map is identified as follows:



The immensely problematic nature of the map begins with asking why would such a map be thought necessary when so much of the underlying analysis is insufficient on its face? When compared to existing designations and changes from the Dingell Act, almost all the areas identified as Natural Areas on this new map were designated by Congress as Wilderness Areas, such as Middle Horse Mesa, Wild Horse Mesa, Reds Canyon and Little Ocean Draw Wilderness areas. This step alone makes a separate designation of Wilderness Character Protection Area entirely irrelevant to any management decision. This type of concept is never mentioned in the RMP and would immediately create problems with the no buffer standard and other releases provided in the Dingell Act. This is simply another example of the faulty management analysis that has previously been exemplified by the Link Flats ISA/WSA area that was released as it was included in FLPMA §603 for nonwilderness multiple use in the Dingell Act.

9(b). Assumptions that WSA were closed to motorized compounds BLM failures in management spanning more than 75 years.

The Proposal immediate assumption that all WSA were closed to motorized usage at some point in the past is simply not accurate as the RMP specifically allowed motorized usages in limited amounts. This is a problem in isolation. The impacts of the Proposal assumption that WSA have been closed to motorized can also compound existing failures of BLM management and inventory of these areas previously. The long history of BLM errors and failures in the management of these areas can be immensely problematic as evidenced by the history of the Link Flat WSA/ISA outlined in the supplemental WSA inventory provided by the BLM:

> "In sum, the status of Link Flats as a bona fide Natural Area is questionable. First, the Flats were never properly studied nor designated as a Natural Area; second, the original rationale for designation appears flawed; third, the legal description as published in the Federal Register appears to be in error; and fourth, there is a discrepancy between the actual area of Link Flats and the area described." [40]

The completely failed history of the Link Flat area for possible further management is discussed in great detail in the history of designation of the area, which provides as follows:

> "Previous Designation: Link Flats was identified as a potential Research Natural Area in 1964 to protect a reported ungrazed association of plants. Although discussed for several years as a potential Natural area, it apparently was never formally designated. However, Link Flats did appear on an official listing of Natural Areas. On October 29, 1968 it was segregated from entry or location under the general mining laws, and surface use and occupancy under the mineral leasing laws by official notice in the Federal Register (which referenced it as "Link Flats Natural Area"). The next year the District Manager informed the State Director that the area did in fact have a history of grazing use and recommended the Natural Area listing be discontinued because Link Flats did not qualify. This recommendation was never implemented.

[40] *See*, BLM 1991 WSA Inventory at pg. 1027-28. A full copy of this inventory report is attached as Exhibit "4" to these comments for your convenience.

> It is not clear what the exact extent of the Natural Area was intended to be. The total acreage mentioned for the Natural Area in 1964 was 960 acres of vacant public lands and 350 acres of State lands. Sections 28 through 32, T23S, R9E, SLM, but the exact area was unspecified. The only legal description published for the Natural Area was in the 1968 segregation notice in the Federal Register:
> T23S, R9E,
> Sec. 29, Sl/2 NE1/4, SEl/4, El/2 SWl/4;
> Sec. 30, SEl/4 NWl/4, El/2 SWl/4;
> Sec. 31, Wl/2 NWl/4, Sl/2 NEl/4, Sl/2;
> 792 acres
> There appears to be some error in this legal description. The acreage noted totals 912 acres, not 792 acres as stated. The Wl/2 NWl/4, Section 31 is not part of the Flats, but rather contains a steep bluff; the El/2 of the NWl/4 is totally on the Flats but is not included in the legal description. When comparing the legal description with the physiographic boundaries of the Flats, about 180 acres of the described area is not on the Flats and about 220 acres of the Flats on BLM lands is not included in the legal description. There is no mention of any area in Section 28 as there was in the 1964 notation of the area." [41]

These failures could directly impact motorized access to the Link Flat area as significant motorized usage on a small parcel that is separated from other areas designated as specifically noted in the 1991 inventory as follows:

> "Naturalness: The ISA contains approximately 4 miles or roads (one of which bisects the ISA), 1 mile of travelled way, 2 miles of visible wheel tracks (probably associated with claim assessment work), and a stock reservoir. The ISA has lost its natural character."[42]

It should be noted that the Link Flat WSA/ISA was recommended not to be designated Wilderness in the 1991 WSA inventory. We would submit that this recommendation was a factually and legally sounds recommendation in 1991. Congress actually followed through with this recommendation in the Dingell Act and released this area back to multiple uses. The Organizations would submit that rather than continuing the failed and erroneous management of this area outlined in the BLM inventory, the Proposal should actually correct the error in the BLM records that has spanned almost 75 years that has been provided with the Congressional release. Alternative A must recognize the routes in this area as currently open and then recognize the erroneous decision making was also corrected by Congress when they released the area from possible future designations and allow these routes to remain open.

9(c). Link Flats is an area that was managed pursuant to §603 inventory and was released under Dingell Act

The Organizations address the Link Flats ISA/WSA area in detail as this is an example of how the failure to accurately address management designations more than 20 years ago has snowballed over time. This effort has caused trails to be closed and these were concerns raised in the original legal challenge by many

[41] See, BLM 1991 WSA Inventory at pg. 1027
[42] See, BLM 1991 Inventory at pg. 1026

parties. Given the confusion of so many planning efforts, the Organizations must question where the correct planning effort is to address issues such as these.

Contrary to most assertions in the Proposal changes to Link Flats managed were NEVER required by Congress. FLPMA 603(c) specifically provides for the protection of existing uses of these areas. Management of these areas is specifically identified as follows:

> "(c) During the period of review of such areas and until Congress has determined otherwise, the Secretary shall continue to manage such lands according to his authority under this Act and other applicable law in a manner so as not to impair the suitability of such areas for preservation as wilderness, subject, however, to the continuation of existing mining and grazing uses and mineral leasing in the manner and degree in which the same was being conducted on October 21, 1976: *Provided*, That, in managing the public lands the Secretary shall by regulation or otherwise take any action required to prevent unnecessary or undue degradation of the lands and their resources or to afford environmental protection. Unless previously withdrawn from appropriation under the mining laws, such lands shall continue to be subject to such appropriation during the period of review unless withdrawn by the Secretary under the procedures of section 204 of this Act for reasons other than preservation of their wilderness character. Once an area has been designated for preservation as wilderness, the provisions of the Wilderness Act [16 U.S.C. 1131 et seq.] which apply to national forest wilderness areas shall apply with respect to the administration and use of such designated area, including mineral surveys required by section 4(d) (2) of the Wilderness Act, [16 U.S.C. 1133(d)(2)] and mineral development, access, exchange of lands, and ingress and egress for mining claimants and occupants.[43]

Link Flats ISA was included in the §603 inventory finally approved by BLM in 1991. A copy of that site specific analysis from the 1991 report is attached as Exhibit "4"to these comments. One passing reference to Link Flats in 2008 RMP/TMP no analysis is provided as to why management would have changed in the TMP/RMP. Given this failure of the management process, we must ask how the public was expected to engage in this process. The Dingell Act specifically released all areas identified in §603 not designated as Wilderness for non-wilderness multiple use. We would like to understand how trails were lost in this area given the decades of what BLM has specifically identified as questionable management decisions for the area spanning 75 years. We must also ask how it was thought to be proper as establishing a credible legal baseline for existing routes at the time these areas were designated must occur prior to addressing how they should be managed in the future.

10. Minimal impacts of recreation when compared to statutory changes since RMP.

The Organizations are very concerned that even the limited information provided around the Proposal entirely lacks context but reflects a generally successful management situation. The site-specific route inventory only notes 66 points of concern over a four-year period on more than 875 miles of routes. This

[43] See, 43 USC 1782(c)

is a minimal management concern and simply does not justify any closures to existing routes. For many of these reports we must question the nature of the damage report as the use appears highly isolated for many areas, such as a single set of tracks accessing an area. We doubt this has consistently occurred over 4 years.

Often the limited route inventory provides limited and overly conclusory determinations around what is a legal usage and what is damage. Almost every location reference wilderness character as an issue impacted but fails to address why only sites in Wilderness managed areas were inventoried. Critical information about these areas is not provided such as if these WCA areas or WSA areas. Again, issues such as interim Wilderness Study Area management are not addressed, despite these requirements being highly relevant to any analysis as these guidelines do not prohibit any impact, they prohibit impacts that go beyond usage at the time the area was inventoried and impair the areas possible designation as Wilderness by Congress. There are many facets to this decision that should be addressed if these site-specific reports are sought to be the basis of management decisions.

These reports further include management issues that are entirely outside the scope of the travel management process. As an example, the Proposal inventory identifies damage is often asserted from ranchers maintaining fences (we have to assume under a permit and outside travel management). By definition this activity is managed under the terms of a specific permit not the travel management process. We are aware some permits require the use of horses or foot for maintenance. We are unable to address an issue such as this as permitted activities are outside the scope of this effort. Given this situation, we must ask why route closures for public recreational usage would be relied on to address this issue. If there are problems with a permitees the permit must be the first place for management. Closing recreational access will not fix this as permitees are aware they are not bound by travel management decisions. Closures of public access will create immense amounts off conflict between the managers and the public.

Many of these site-specific reports also mention the public accessing dispersed camp sites. While these conclusions are made, there is no mention if this damage is in violation of the RMP, which provides almost no guidance on camping regulations for areas outside SRMA designated areas. Even within the SRMA areas we must question if these standards would be in conflict with the unresolved planning requirements for these areas. We find it difficult to justify an assertion of a fire ring being damage in an area where fire rings were permitted or targeted for development. This type of assertion only becomes more problematic in areas previously identified for maximum development for economic sustainability. These goals and objectives, regardless of their level of implementation, would be highly relevant to this effort.

Managers accept no responsibility for their failure to provide basic information. Several references in the inventory identify damage based on the public overshooting corners or missing turns. This is immediately identified to be damage without excluding possible legal reasons to continue on the route or asking if the route was properly marked. These types of conflicts are exacerbated by the failure to address routes managed as existing routes designations in the RMP. Are these routes that were managed as an existing route with the expectation of future management efforts and never closed? This type of information would be highly relevant to discussions such as this.

11. User Conflict is created between the public and managers in their attempt to resolve possible conflict between uses.

The second reason we are compelled to address conflict is our experiences with travel management on a national level as it has been our experience that often areas can be successfully managed for decades with minimal to non-existent user conflicts. When there is the mention of travel planning being updated immediately there are certain interests that start claiming conflicts are escalating and the only management tool that can reduce conflict is through closure. Often these user conflicts are asserted to be occurring at large levels between that user group and others despite the group using a planning area at only very limited scales or limited times of the year. The Organizations are always hesitant to even address user conflicts with management decisions and processes in this situation.

The Organizations believe that analysis of how best available science supports the management decisions and direction any proposal constitutes a critical part of the planning process, especially when addressing perceived user conflicts. This analysis will allow the public to understand the basis of alleged user conflicts and why travel management has been chosen to remedy the concern. Relevant social science has clearly found this analysis to be a critical tool in determining the proper methodology for managing and truly resolving user conflicts.

When socially based user conflict is properly addressed in the Proposal, the need for travel management closures will be significantly reduced. Researchers have specifically identified that properly determining the basis for or type of user conflict is critical to determining the proper method for managing this conflict. Scientific analysis defines the division of conflicts as follows:

> "For interpersonal conflict to occur, the physical presence or behavior of an individual or a group of recreationists must interfere with the goals of another individual or group….Social values conflict, on the other hand, can occur between groups who do not share the same norms (Ruddell&Gramann, 1994) and/or values (Saremba& Gill, 1991), independent of the physical presence or actual contact between the groups……When the conflict stems from interpersonal conflict, zoning incompatible users into different locations of the resource is an effective strategy. When the source of conflict is differences in values, however, zoning is not likely to be very effective. In the Mt. Evans study (Vaske et al., 1995), for example, physically separating hunters from nonhunters did not resolve the conflict in social values expressed by the nonhunting group. Just knowing that people hunt in the area resulted in the perception of conflict. For these types of situations, efforts designed to educate and inform the different visiting publics about the reasons underlying management actions may be more effective in reducing conflict." [44]

Other researchers have distinguished types of user conflicts based on a goals interference distinction, described as follows:

> "The travel management planning process did not directly assess the prevalence of on-site conflict between non-motorized groups accessing and using the yurts and adjacent motorized users…. The common definition of recreation conflict for an individual assumes

[44] *See*, Carothers, P., Vaske, J. J., & Donnelly, M. P. (2001). *Social values versus interpersonal conflict among hikers and mountain biker;* Journal of *Leisure* Sciences, 23(1) at pg. 58.

> that people recreate in order to achieve certain goals, and defines conflict as "goal interference attributed to another's behavior" (Jacob & Schreyer, 1980, p. 369). Therefore, conflict as goal interference is not an objective state, but is an individual's appraisal of past and future social contacts that influences either direct or indirect conflict. It is important to note that the absence of recreational goal attainment alone is insufficient to denote the presence of conflict. The perceived source of this goal interference must be identified as other individuals."[45]

It is significant to note that Mr. Norling's study, cited above, was specifically created to determine why winter travel management closures had not resolved user conflicts for winter users of a group of yurts on the Wasatch-Cache National Forest. As noted in Mr. Norling's study, the travel management decisions addressing in the areas surrounding the yurts failed to distinguish why the conflict was occurring and this failure prevented the land managers from effectively resolving the conflict.

The Organizations believe that understanding why the travel management plan was unable to resolve socially based user conflicts on the Wasatch-Cache National Forest is critical in the Price FO planning area. Properly understanding the issue to be resolved will ensure that the same errors that occurred on the Wasatch-Cache are not implemented again on the Paunsaugunt planning area to address problems they simply cannot resolve. The Organizations believe that the Price FO must learn from this failure and move forward with effective management rather than fall victim to the same mistakes again.

12. Executive Orders requiring an expansion of recreational opportunities issued by President Biden must be accurately addressed in the Proposal.

Our concerns around the numerous actions by Congress have directly targeted landscape level planning requirements that are not accurately summarized or entirely overlooked in the Proposal, are addressed previously. These concerns extend to various Executive Orders, several of which have been issued and refined by numerous administrations. While some Executive Orders may have been in place for more than 50 years, and as a result might be more easily excused for not being analyzed, many Executive Orders issued by President Biden are mentioned but in a woefully inaccurate manner. The recent issuance of Executive Order # 14008 by President Biden on January 27, 2021 would be an example of a decision that is partially and woefully inaccurately summarized in the Proposal. According to the Proposal EO14008 requires the following:

> "Executive Order 14008: Tackling the Climate Crisis at Home and Abroad calls for quick action to build resilience against the impacts of climate change, bolster adaptation, and increase resilience across all operations, programs, assets, and mission responsibilities with a focus on the most pressing climate vulnerabilities. Section 211 of Executive Order 14008, calls on Federal agencies to develop a Climate Action Plan."[46]

The Organizations do not contest that a climate action plan is a portion of this EO, but the EO spans more than 27 pages and addresses a wide range of other topics that must also be addressed as part of this effort. These other factors simply are ignored in the Proposal, as exemplified by the fact that EO14008

[45] *See*, Norling et al; *Conflict attributed to snowmobiles in a sample of backcountry, non-motorized yurt users in the Wasatch –Cache National Forest*; Utah State University; 2009 at pg. 3.
[46] *See,* Proposal at pg. 19587

specifically addresses the requirement of expanding recreational access and economic benefits FIVE DIFFERENT TIMES in the EO. §214 of EO 14008 clearly mandates improved recreational access to public lands through management as follows:

> "It is the policy of my Administration to put a new generation of Americans to work conserving our public lands and waters. The Federal Government must protect America's natural treasures, increase reforestation, ***improve access to recreation***, and increase resilience to wildfires and storms, while creating well-paying union jobs for more Americans, including more opportunities for women and people of color in occupations where they are underrepresented."

The clear and concise mandate of the EO to improve recreational access to public lands is again repeated in §215 of the EO as follows:

> "The initiative shall aim to conserve and restore public lands and waters, bolster community resilience, increase reforestation, increase carbon sequestration in the agricultural sector, protect biodiversity***, improve access to recreation***, and address the changing climate."

§217 of EO 14008 also clearly requires improvement of economic contributions from recreation on public lands as follows:

> "Plugging leaks in oil and gas wells and reclaiming abandoned mine land can create well-paying union jobs in coal, oil, and gas communities while restoring natural assets, ***revitalizing recreation economies***, and curbing methane emissions."

There is significant concern raised around the 30 by 30 concept and climate plans that are memorialized in EO 14008 in the Proposal. While the EO does not define what "protected" means, the EO also provided clear and extensive guidance on other values to be balanced with. From our perspective the fact that large tracts of land are Congressionally designated or managed pursuant to Executive Order far exceeds any goals for the EO. While there is overlap between these categories that precludes simply adding these classifications together, this also does not alter the fact the planning area has achieved these goals of 30% of acreages being protected.

Unfortunately, this is not the only time that new Executive Orders issued by President Biden are not accurately summarized in the Proposal. EO 14072 is also referenced numerous times in the Proposal and again the Proposal fails to reflect the scope and intent of this Order, and again this EO specifically recognizes and protects recreational usages as follows:

> **"Section 1**. *Policy*. Strengthening America's forests, which are home to cherished expanses of mature and old-growth forests on Federal lands, is critical to the health, prosperity, and resilience of our communities….We go to these special places to hike, camp, hunt, fish, and engage in recreation that revitalizes our souls and connects us to history and nature. Many local economies thrive because of these outdoor and forest management activities, including in the sustainable forest product sector."[47]

[47] *See*, EO 14072 at §1

EO 14072 specifically addresses recreational issues and opportunities as a factor to be addressed in the planning process as follows:

> **"Sec. 2**. *Restoring and Conserving the Nation's Forests, Including Mature and Old-Growth Forests*. My Administration will manage forests on Federal lands, which include many mature and old-growth forests, to promote their continued health and resilience; retain and enhance carbon storage; conserve biodiversity; mitigate the risk of wildfires; enhance climate resilience; enable subsistence and cultural uses; provide outdoor recreational opportunities; and promote sustainable local economic development…."[48]

EO 14072 continues to recognize the need to protect recreational access and related economic benefits as follows:

> "(d) The Secretaries, in coordination with the heads of other agencies as appropriate, shall within 1 year of the date of this order: (iii) develop, in coordination with the Secretary of Commerce, with State, local, Tribal, and territorial governments, and with the private sector, nonprofit organizations, labor unions, and the scientific community, recommendations for community-led local and regional economic development opportunities to create and sustain jobs in the sustainable forest product sector, including innovative materials, and in outdoor recreation, while supporting healthy, sustainably managed forests in timber communities."[49]

After a review of the Proposal, The Organizations are not able to identify any portion of the Proposal that might comply with the requirements of EO 14072 or EO 14008. The public should not be required to review every document referenced in a Proposal of this scale to ensure that the provisions of the regulations or Executive Orders are at least accurately summarized. This is disappointing to say the least.

13. Buckhorn/Wedge designations of ebike only trails

The specialized Turbo, the first commercially viable ebike in north America was not introduced until 2012. Sales remained slow for almost another decade in North America. This is problematic as the Proposal asserts this area was restricted to Ebike only usage prior to 2008. While we don't oppose creation of any trail we are vigorously opposed to the closure or restriction of access to any trail for the benefit of any user group without public engagement. Any assertion is decision is moving the 2008 Price RMP forward in alternative A is deeply problematic as the RMP entirely fails to mention ebikes.

14. Conclusion.

Unfortunately, managers are not providing a single cohesive planning effort for the entirety of the Swell area that might be legally sufficient, such as those created by an EIS. The motorized community vigorously objects to Alternative B of the Proposal as this entirely fails to provide any meaningful multiple use opportunities for recreation. While Alternative D of the Proposal is might be closest to something we can support as it asserts to close only 52 miles (2%) of routes, this Alternative fails to address that existing RMP/TMP decisions that were challenged already closed more than 730 miles (25%+/-) in the planning

[48] *See,* EO 14072 at §2

[49] *See*, Exec Order 14072; Vol. 87, No. 81 Federal Register 24852 (2022)

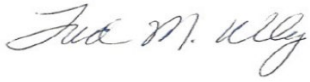
area. While a 2% closure may appear appealing, it is 27% closure rates from historical usage. Our concerns with the management baseline expand further as the management baseline fails to address the Congressionally mandated changes in the planning area, that heavily impacted public access to many areas. These were large changes; they warrant meaningful analysis in the Alternatives which simply has not been provided.

The Proposal further fails to resolve many of the underlying failures in planning and analysis that resulted in the Original Settlement Agreement. These failures are exemplified by the extensive number of critically specific standards and decisions that are attempted to be resolved in this Proposal without the scrutiny of the NEPA process despite the settlement agreement in this matter specifically requiring this type of analysis.

The Organizations would welcome discussion with managers on how to provide sustainable high quality recreational opportunities in the planning areas. We would also welcome a discussion regarding a strategy to develop meaningful plans for the area and resolve the issues underlying the numerous problems presented in these comments. The idea of further litigation in this matter, which will probably be successful simply does not appeal to us. At some point we would welcome resolution of planning issues in the area so we can move into implementation of recreational opportunities in conformity with the Proposal. If you have questions, please feel free to contact Scott Jones, Esq. (518-281-5810 / scott.jones46@yahoo.com) or Fred Wiley (661-805-1393/ fwiley@orba.biz).

Respectfully Submitted,

Scott Jones, Esq.
USA- Vice Chaiman



Fred Wiley
ORBA President and CEO

Marcus Trusty
Chairman- One Voice

Steve Egbert
Chairman -United 4 Wheel Drive

Eric D. Snyder
Senior Director, Federal Government Affairs
Specialty Equipment Market Assoc.