



Director (210)  
Attention: Brenda Williams  
1620 L Street N.W., Suite 1075  
Washington D.C. 20036

Date: September 21, 2008

Re: Monticello PRMP/FEIS

This protest is being filed by:

Trails Preservation Alliance (TPA)  
Director, Don Riggle  
PO Box 38093  
Colorado Springs Co 80937  
(719) 338-4106

And

Colorado Off Highway Vehicle Coalition  
Executive Director , Jerry Abboud  
PO Box 620523  
Littleton Colorado 80162

Our interest in filing this protest:

- 1) The TPA is vitally interested in promoting and preserving sustainable motorized trails, primarily singletrack, to satisfy the recreational pursuit called “trailriding” which falls into the classification of “serious leisure,” as described by the endnote (\*) following this protest.
- 2) The loss of low-impact, dispersed trail opportunities as represented in the PRMP will impair access and curtail the development of sustainable, dispersed motor recreation. Concentrated vehicle use is detrimental to our sport and gives the false impression that our effects on the natural environment are always and only negative, when in fact there is no evidence in the research cited by BLM that there are any measurable negative effects of trail-based motor recreation. *It is critical to us that the record be set straight.*
- 3) The C500 is vitally interested in accurate, science-based environmental analyses, to preserve and promote a healthy environment and to support rational planning decisions.
- 4) TPA is vitally concerned that executive branch agencies follow the rule of law.
- 5) The TPA is vitally interested in full disclosure and complete transparency, in the context of federal land planning, as set forth in the CFR, judicial precedents, and the laws enacted by Congress.

Issues Being Protested:

1. We are protesting the unlawful BLM response to our comments. BLM responded to only two out of a total of six comments that we submitted during the comment period.
2. In the two comments that did appear in the PRMP, BLM egregiously misrepresented what we said in our comments. In fact, our comments addressed factual information, issues raised in the PRMP, and proposals directly related to the Decision. There is no chapter or section in the CEQ regulations that authorizes or allows any agency to simply disregard comments that disagree with the BLM proposals and which do reveal omissions and errors that would substantially affect the BLM Decision.
3. We contend that resolving recreational “user conflicts” is not a land-use allocation decision, and is outside BLM authority as set forth in FLPMA. *It is critical to us that the record be set straight.*
4. Relying upon resolving recreational user conflict in land-use allocation decisions, even in part, is outside Congressional intentions for BLM as set forth not only in FLPMA but also in every other law from which BLM authority flows.
5. Resolving “user conflict” represents a self-assigned expansion of BLM authority without public review.
6. We are protesting the Travel Plan.
7. We are protesting All road and route closures, because they are based on faulty research and no factual site-specific information.
8. We are protesting establishment of Grand Gulch SRMA.
9. We are protesting BLM’s failure to follow 40 CFR 1502.24.
10. We are protesting the BLM claim of policy conflicts with NHPA.
11. We are protesting the BLM claim of legal issues unique to OHV recreation.

Parts of Plan Being Protested:

1. BLM Response to Comment.
2. Purpose and Need, “Resolving User Conflicts,” and all language, allocations, and proposed regulations *throughout the PRMP* that flow from that concept.
3. page 1-4, 1.3.1:
4. Page 1-6 section 1.3.1.4: items 1, 2, and 5.
5. Page 1-6, section 1.3.1.3.
6. page 1-7 bullet item 3
7. Bullet item # 1 on page 1.5

8. The establishment of the Grand Gulch SRMA.
9. Page N 24, Wildlife Conflicts.
10. Page 3.87, part 3.11.4.5.2 “OHV Legal Issues.”
11. Appendix N, Travel Plan, in its entirety, its methodology, and the proposed travel plan..

#### THE RESOLUTION WE SEEK:

We seek a higher review **all** of our comments. We seek the appropriate and necessary corrections to the PRMP where we have asked to have true information directly related to the analysis added, and where we have asked to have inaccurate information corrected or deleted.

After making the corrections we ask for, we seek a reconsideration of the proposed decision, where our comments clearly mandate a change in the outcome of the analysis.

#### Concise Statement of Why the Director’s Decision Is Wrong:

***The comments we submitted during the comment period for this plan are attached, and will speak for themselves. Please review our comments, and withdraw this PRMP in order to make the appropriate revisions.***

We contend that BLM’s failure to address *any* of our concerns during the comment period is clear evidence that BLM had already selected the outcomes BLM wanted. Our comments took issue with several of BLM’s proposals, and BLM could not properly and legally address our comments without substantially changing the (previously selected) Decision, and so BLM declined to publish our comments or to respond to them.

We have provided substantial evidence supporting our contention that BLM is using the RMP as an instrument to manufacture Wilderness.

We contend that resolving user conflict is not an RMP decision and is a serious, substantive issue arising in this and other BLM proposed plans. Publishing and lawfully addressing our concern will require a change in the BLM outcome and in the BLM policies set by this RMP, and thus BLM had no choice but to disregard our concerns. This is a serious breach of trust and a serious disregard for the lawful NEPA process as set forth by the CEQ.



We contend that basing any land use allocation decision upon resolving user conflict is arbitrary and capricious. Why? Because “conflict,” as manifested by individual differences of philosophy, values, or cultural attributes, is an ephemeral event. The evidence of a “user conflict” is hearsay, causing every incident of “conflict” to be supported only by hearsay. “User conflict” is neither defined nor quantifiable; and there is never any physical evidence. We strongly contend that, because of the diversity of publics who recreate on public lands and the diversity of the American population, resolving philosophical/cultural/values differences between public lands visitors engaged in different lawful activities could never have been a duty assigned to BLM by Congress.

We contend that the “policy conflict” between BLM and NHPA (in the matter of OHV) was manufactured by the BLM to enable itself to arbitrarily expand its authority over public lands visitors who use “OHV’s” for access and recreation.

After review of our comments, the reason BLM Monticello disregarded them will be obvious.

Thank you for your attention to this matter.

**\* Endnote referenced on page one of this protest, under Our Interest in Filing This Protest**

We are not attempting to deny that there are physical effects upon the natural environment from OHV recreation. We are attempting to help the BLM produce an accurate analysis. We all know there will be some effects. But the purpose of the NEPA is not to find that place where there are no effects. The purpose is to find the balance between the benefits of the human activity and the effects upon the natural environment. NEPA, Section 2 “prevent or eliminate damage to the environment and biosphere and *stimulate the health and welfare of man*”, and Section 101 under Title I, “recognizing the critical importance of restoring and maintaining environmental quality to the overall *welfare and development of man*.”

There is a large body of literature, developed over the last 30 years by sociologists in the leisure/recreation field that describes the emotional and social benefits of what is called “serious leisure.” If you review some of the literature, you will find that:

Recreation research reveals that leisure activities can be rated according to quality, which is defined as an overarching quality-of-life benefit to the participant. Very high quality leisure activities, called “serious leisure” by researchers in the field, require a considerable number of complex factors which, in combination, provide satisfaction, personal growth, and fulfillment to the participant. (Stebbins, R.A. 1982, “Serious Leisure, A Conceptual Statement,” *Pacific Sociological Review*, 25, 251-272).

Since Stebbins’ early conceptual statement, the ideas around “serious leisure,” and the associated improvements in quality of life and health, has been extensively explored by the leisure academy, resulting in a large body of literature on the sociology of complex hobbies.

Another apt description of serious leisure activities is “...a social and emotional interactive process which deconstructs the social and historical biographical inequalities of lived experience to create *with-equal other social human bond*” (emphasis added). (Podichak W., 1991).

In reviewing the literature, it becomes quite clear that a number of essential qualities identify serious leisure:

- High levels of emotional commitment,
- complex planning and advance preparation,
- learning new skills,
- self-discipline to practice skills, with the goal of steadily improving performance
- operating within relationships with others (the social reference point),

success in familiar and in unfamiliar social settings,

Bonding experiences, with family members and companions (the *with-equal other social human bond*).

problem-solving, ranging from very simple to highly complex and potentially life-saving,

goal-oriented challenge, and a moderate degree of personal risk,

pro-active interest in physical condition, particularly to overcome a disability,

A sense of accomplishment when the adventure is completed.

Motorcycle trail riding falls directly into the most complex forms of “serious leisure.” Examples of some other forms of serious leisure that are pursued on BLM lands include all types of skiing, mountain bicycling, kayaking, and BASE jumping.

Therefore, there is a compelling case to be made for closely examining the perceived negative impacts, and correcting inaccuracies. There is an also compelling case to be made that the “err on the side of caution” policy, in matters of *speculative* negative impacts, is counterproductive to the BLM purpose and mission of offering quality recreation opportunities on BLM lands (particularly opportunities that are not available in any other setting---such as the Moab FO).

And finally, there is most definitely a case to be made in favor of reasonable trade-offs between the significant social benefits of motorized trail recreation and any measured negative resource impacts that may be noted after monitoring begins.

BLM may wish to deny that these qualities define motor recreation. That is clear evidence that BLM needs recreation specialists who know motor recreation, the same as BLM has recreation specialists for most other recreation activities pursued on BLM lands.



Monticello Field Office RMP Comments  
Bureau of Land Management  
Monticello Field Office  
P.O. Box 7  
Monticello, Utah 84535

January 25 2008

Gentlemen:

I am writing to point out an error in the Purpose and need statement for the DRMP. Please refer to page 1-5 bullet item #1, "Issues of concern:"

*Conflicting BLM policies of providing OHV use and protecting cultural resources as Required by the National Historic Preservation Act (NHPA, Section 106).*

This is incorrect, and there are three areas of discussion that will reveal why it is incorrect.

**ONE.**

Staff has selected one lawful activity out of dozens that occur on BLM lands, and posed that the BLM policy for that activity—and only that activity-- conflicts with the NHPA Section 106. The error should be self-evident; however we will spell it out anyway: Within the context of "policy conflict," the BLM policy toward OHV is not qualitatively or substantially different than the BLM policies toward any other activity that occurs on BLM lands.

Fore example:

It is no different than bullet item 3 Issues of Concern (edited to clarify the point):

*Impacts on cultural resources created by increasing demand for access to public lands due to the conflict between BLM policies allowing access and protecting cultural resources as required by the National Historic Preservation Act*

It is no different than bullet item 9 Issues of Concern (edited to clarify the point):

*Need to revise existing management plans for Butler Wash, Cedar Mesa, and Hovenweep ACECs and limit recreation use that has adverse effects on cultural resources, due to the conflict between BLM policy of providing for a diversity of recreation activities and protecting cultural resources as required by the National Historic Preservation Act*

And, moving into the hypothetical, it is no different than *Impacts on cultural resources due to conflicting BLM policies between providing for livestock grazing and protecting cultural resources as required by the National Historic Preservation Act (NHPA, Section 106)*.

It is no different than *Impact on cultural resources due to conflicts between the BLM policy of providing for a variety of recreation activities and protecting cultural resources as required by the National Historic Preservation Act (NHPA, Section 106)*.

It is no different than *Impact on cultural resources due to the conflict between the BLM policy of providing for mineral extraction and protecting cultural resources as required by the National Historic Preservation Act (NHPA, Section 106)*.

It is no different than *Impact on cultural resources created by the BLM policy of providing for oil and gas development and protecting cultural resources as required by the National Historic Preservation Act (NHPA, Section 106)*.

In other words, to claim that BLM OHV policy is in conflict with the NHPA opens the door to the claim that every policy that BLM develops to guide the regulation of the diversity of activities that occur on BLM lands (in compliance with the FLPMA) conflicts with the NHPA. This is not now and never was the intent of the NHPA.

## **TWO**

There is nothing in NHPA that expressly or implicitly prohibits multiple-use sustained yield management. No language in the NHPA expressly or implicitly regulates OHV in even the slightest way. NHPA sets forth statutory protection for antiquities. It leaves enforcement entirely up to the government agency with jurisdiction. BLM complies with the NHPA by developing policy and regulatory guidance for all the activities on its lands. The purpose of BLM policy is very clear: to keep the activities in compliance with the NHPA. In other words, having a policy that is developed with the above-stated intent, does not create a “policy conflict.”

## **THREE.**

Recall that according to CEQ regulation, we are looking for a “fully informed” analysis. After a thorough review of this draft document, we find the following:

1. The analysis for this DRMP presents no indicators that might reveal a policy conflict. Because BLM has elected to place this concern as one of the key issues in the Purpose and Need for a new RMP, the analysis is expected to provide sufficient evidence to satisfy the “best available information” standard. By doing so, the general guidance provided by the new RMP will accurately allocate resources to resolve the issue. The ID Team can access many types of evidence to



- support the claim that there is a policy conflict: the written records of interagency disagreements, proceedings of the SHPO that document BLM non-cooperation because of BLM policy; and, on-the-ground damage records such as incident reports, law enforcement reports, indictments, convictions, in which the BLM policy has inhibited enforcement of the NHPA. This draft contains many unsupported statements, such as “OHVs can damage sites,” or “OHVs may damage sites,” however, this is supposed to be an analysis, not a monologue, and a thorough reading of the entire draft reveals no negative impacts caused by a policy conflict such as that called out in bullet item # 1 on page 1-5 of the DRMP.
2. In the event of inadvertent damage by any recreation activity including OHV activity, we find ---presented in this draft document ----that a variety of BLM administrative remedies are available to correct the problem. It is the BLM policy which provides these remedies, and in fact this RMP intends to carry those policies even further by adding regulatory authority over recreation activities, including OHV, specifically for the purpose of compliance with the NHPA. This certainly appears to be very powerful evidence that there is no recreation-specific and no OHV-specific “policy conflict.”

### Conclusion

In the absence of any actual documented policy conflict, and with the presence of any number of administrative remedies generated by BLM policy, the issue of BLM OHV policy conflicting with the NHPA is difficult to carry through in the Plan. Because the data provided in this analysis does not support that damage actually occurs over a broad, a modest, or even a small scale, there is nothing that BLM can do within the context of this plan to satisfy that concern in the Purpose and Need. In other words, if any part of the Decision were to propose implementation actions that rely upon bullet item #1 on page 1-5, it would lack any rational connection to the data in the analysis.

### **CORRECTION that would resolve this comment:**

Remove bullet item # one on page 1-5. This will relieve the RMP of the impossible task of resolving a policy conflict that does not exist.

Remove bullet item # two, also. It is repetitive, it adds nothing new to the Purpose and Need, and the supporting analysis indicates that many recreational activities, especially hikers in the Grand Gulch area, are impacting cultural resources.

**Thank you for making these corrections.**



Monticello Field Office RMP Comments  
Bureau of Land Management  
Monticello Field Office  
P.O. Box 7  
Monticello, Utah 84535  
January 25 2008

Gentlemen:

We would like to point out several major omissions in the DRMP. Because the BLM proposes in all action alternatives that all motor vehicles stay on designated routes, the effects of motor vehicle use will be quite different that it has been in past generations. However, upon close reading we find that the entire route designation process is based on an unproven assumption. In fact, this is not only unproven, it is completely unexamined: that the mere presence of a dirt road, occasionally traveled by a motor vehicle or a groups of motor vehicles, will be harmful. By not even examining this assumption, BLM has failed to identify the documented *absence* of negative effects of trail-based motor recreation, and failed to identify the documented negative effects pedestrian travel. This leaves the Comprehensive Trail and Transportation Management Plan (BLM Handbook 1601-1 Appendix D) incomplete and in fact, makes it entirely possible that the proposed actions will have no rational connection to the data.

At this point we must reserve the right to introduce literature and research and route inventory data not provided in this document (post ROD) in the event of a dispute with the ROD's proposed travel network. We want to incorporate by reference the literature that supports our contention that BLM has failed to examine their own underlying assumptions (developed during several generations of a totally different management regime). We have many reasons for reserving this right, and our reasons are tied directly to the following omissions in the document:

One: the "list of References" was not available on the BLM website as of January 31 2008. Thus, little time was left during the legal comment period to follow up on this information. There is a considerable amount of research that can assist BLM in identifying the effects of trail-based motor recreation, but none of it is listed in the "References" chapter.

The literature we would introduce (and which must be used in any analysis for a trail and transportation plan) is extensive. For example, our research follow-ups for our comments on the Moab and the Richfield DRMP's were quite voluminous.

We would rather present our other substantive issues --and suggestions for resolution-- without this highly time-consuming research search, because a lawful response to these other issues would provide the BLM and the motor-recreation community the opportunity for a fuller analysis of trail-based motor recreation. This would make the issue of the

completeness of the literature referenced in this analysis, and whether it was interpreted correctly and applied appropriately, moot.

Two: The BLM policy of separating the citations from the discussion/analysis disables the only timely and accurate way a reviewer of any scientific document can conclude that the assumptions and conclusions of the analysis are actually supported by the “best available information.”

Three: Please refer to page N-23 in the DRMP, under the heading Motorized Routes-Designations: *“Specialists were given a form to complete for each route/resource conflict. These forms were filled out by two Law Enforcement rangers, and a Range specialist. Several resources had too many route conflicts associated with their resource to warrant filling out a form for each route; this included Wildlife and Recreation. These were compiled by the Wildlife Biologist, and Recreation specialists in conjunction with the co-leads for the travel plan.”*

And, continuing on page N-23: *“A record of the discussion and decisions made at each of the meetings were recorded in written minutes (see Administrative Record) and with GIS mapping. The GIS specialist developed data layers (shape files) for all noted conflict areas, and included notes in the closed-route tables by conflict code. These tables can be viewed at the Monticello FO.”*

While this is in compliance with the letter of the law, in practical terms it violates the spirit of NEPA and of the stated intent of the Monticello staff to collaborate with a fully informed public. The reason is, the Monticello Field Office is quite remote, and the comment period closed during winter, making a drive to this very remote town a bit hazardous.

Beyond the fact that BLM has made it monumentally inconvenient for reviewers to see these tables of conflict, the entire methodology described on page N-23 seriously conflicts with a number of clear directives in the BLM Manual.

Page 4: *“Benefits of building collaborative partnerships include improving communication, developing a greater understanding of different perspectives, and finding solutions to issues and problems.”*

Page 7: *“When properly conducted, the lead agency/cooperating agency relationship provides mutual benefits. From the BLM’s perspective the goals of the cooperating agency relationship include:*

Page 11 Part II-A (7) 7. *“Weigh long-term benefits to the public against short-term benefits;”*

Page 15 Appendix C, Part C itemized as #2: *“write explicit recreation management objectives for the specific recreation opportunities to be produced and the outcomes to be attained (activities, experiences, and benefits)”*

Appendix C, Part C itemized as #3. *“Prescribe recreation setting character conditions required to produce recreation opportunities and facilitate the attainment of both recreation experiences and beneficial outcomes, as targeted above (the recreation opportunity spectrum is one of the existing tools for both describing existing setting character and prescribing desired setting character)”*

Glossary, page 1: *“Beneficial outcomes ~ also referenced as “Recreation Benefits”; improved conditions, maintenance of desired conditions, prevention of worse conditions, and the realization of desired experiences.”*

In other words, the P/N for any route (or activity) is supposed to be evaluated according to its benefits, not its conflicts. As the BLM Handbook repeatedly points out, benefits come in many different categories, not the least of which accrues to the recreational visitor. Unfortunately, Monticello staff has the concept exactly backwards: they have no “table of benefits.” They have only a “table of conflicts.”

We would like to remind BLM that the purpose of the NEPA process is to find a balance between the benefits of the human activity and the effects on the natural environment. It appears as though staff wishes to create a situation in which there are no human effects at all. Even worse, staff’s perception of “effects” in matters of motorized recreation is based on an outdated management regime.

Four: staff has not produced any representative monitoring or field data. Staff describes no on-the-ground inventory attempts, as described in BLM Technical Reference 9113-1. Staff has not evaluated any individual route. Staff freely reports that they completely disagree with San Juan County’s contention that there are many activities associated with these roads that they had not noticed before driving the roads. And, perhaps one of the biggest omissions, an inventory of routes that are not accessibly by full-sized vehicle is completely absent from the proposed Plan.

Five: Yet another BLM omission that will have a profound effect on BLM understanding of the P/N of any route: the absence from the list of preparers of a recreation specialist who could contribute meaningful information about the “P/N” of a motorized recreational route.

BLM had the opportunity to learn more about the P/N of a route. They could have used the information provided to them by a cooperating agency (San Juan County). But the evidence presented in this DRMP reveals that that BLM instead chose to cling to its ignorance by disregarding San Juan County’s observations:

From page N-15 of the DRMP: “*San Juan County asserted that "all roads go somewhere and serve a purpose. Otherwise, they would not be there". From a BLM standpoint, this statement in itself is insufficient evidence for P/N, and can be construed as being inconsistent with Washington Office guidance.*” (Emphasis added). Yet San Juan County said much more than that: From page N-15: “*They (San Juan County) further stated that as they drove the various routes in the county, they "became aware of the many activities occurring along the roads, and realized that only a portion of the purpose and need activities was captured." San Juan County notes that after working with the BLM ID Team, they concluded that the additional collected data would be useful not "only in your [BLM] planning efforts but the overall management of your field office", and provided BLM with the data. They also noted that they made no claim that their data represents all the activities occurring, but only a small portion.*”

Besides cutting itself off from any relevant outside input about the routes, BLM appears to be disregarding direction provided on page 7 of H-1601-1:

*“When properly conducted, the lead agency/cooperating agency relationship provides mutual benefits. From the BLM’s perspective the goals of the cooperating agency relationship include:*

- *Gaining early and consistent involvement of key governmental partners;*
- *incorporating local knowledge of economic, social, and political conditions;*
- *addressing intergovernmental issues;*
- *avoiding duplication of effort;*
- *enhancing the local credibility of the review process; and*
- *building relationships of trust and collaboration for long-term mutual gain.*

*a. Criteria for cooperating agency status. The CEQ defines cooperating agency in regulations implementing NEPA, particularly at 40 CFR 1501.6 and 1508.5. CEQ regulations specify that a Federal agency, state agency, local government, or Tribal government may qualify as a cooperating agency because of “. . . jurisdiction by law or special expertise.”*

*1) Jurisdiction by law means “. . . agency authority to approve, veto, or finance all or part of the proposal.” (40 CFR 1508.15)*

*2) Special expertise means “. . . statutory responsibility, agency mission, or related program experience.” (40 CFR 1508.26) “(Emphasis added)*

San Juan County unquestionably qualifies in this instance, as it is tasked with maintaining many of the B and C roads, is likely comprised of long-time employees who know the roads, and by BLM’s own statements in this document, San Juan County employees drove and reported on a very large amount of the mileage discussed in the Travel Plan. BLM never claims or even implies that BLM staff did so. Thus, San Juan County is clearly not only a “cooperating agency,” but also it is a key agency in the matter of determining the P/N of any given road or trail.

Six: In the Purpose and Need statement for this analysis and RMP, (Chapter 1, section 1.1.1 “Purpose”) BLM states that *“The purpose of the DEIS is to disclose and assess the direct, indirect, and cumulative impact of reasonably foreseeable future actions resulting from the management decisions in each alternative as required by the National Environmental Policy Act (NEPA), its implementing regulations, and other applicable law.”*

This analysis fails to disclose that once those roads are closed, the impact of the absence of those roads will be a larger “roadless” area---regardless of any other stated intention (perhaps an “unintended consequence” but a consequence nonetheless). The Monticello Field Office will become more roadless, and this will be an expansion of the Wilderness Preservation System. In this way the BLM continues to inch toward a total abrogation of Congressional authority.

The analysis fails to disclose or even speculate on what the people who use those roads will do when the roads are closed. The fact is, roads do not simply appear in the landscape. Someone made the road for a reason. What will those road users do when the road is closed? Build a new road? Travel cross country? Find another road? In the harsh desert environment of the “PA” (see page 3-2), roads provide opportunity and roads save lives. The analysis fails to disclose any data related to those benefits.

So, we again repeat: in the event of a dispute over trail designation either in the RMP process or in the actual designations for the RMP, we reserve the right to introduce data (particularly route inventory data) *and* peer-reviewed literature, *and* the results of past motorized route field-monitoring, in order to present a fuller understanding of the effects of trail-based motor recreation and to develop an accurate and rational Trail and Travel network.

Now, to our concerns about the proposed plan: From page N-3, the total amount of road mileage that will be most affected by the evaluation process described on page N-23, is 2,229 miles. We say this because the “C” roads are not under BLM control and the P/N for the B roads is easy for the BLM to understand, hence the commitment to maintenance. However, they are poor recreation routes. It is the “D” roads and the “trails” that we are most concerned with, and it appears that BLM plans a pretty extensive loss of access for people who prefer or who are dependant upon motor vehicle access to primitive and remote areas.

This is borne out by a close examination of the proposed Alternative C Travel Plan. A specific example: Road D0244 is an inventoried route in the WSA. So is D0246. There is also an unnamed “way,” comprised of GIS Feature ID’s (FID) of 8644, 8136, 7753, 7619, and 7753. Yet the proposed plan will exclude all the unnamed route segments. What will this do? It will eliminate an obvious benefit, as the unnamed segments create a side loop that follows a precipitous rim overlooking a dry canyon named Fish Creek. Travelers on this route can view the spectacular canyons and a natural arch. Without the

loop, no one would see the arch. In fact, where staff would have this road end, a visitor would not even be at the Fish Creek canyon rim.

As it presently exists, Road D0244 with the unnamed loop provides the benefit of a beautiful recreational trip.

As proposed, without the unnamed loop, Road D0244 is a dead end, with no apparent P/N at all.

Yes, this is in a WSA. We don't have to remind you that the law allows vehicle use on existing roads and ways, and the Handbook allows wide individual FO discretion in the matter of existing routes in WSA's. Plus, we will refer you to page 3-85 of this DRMP, which reports that the annual visitorship to the entire FO is only 55,000 VUD's, and that is assuming that campers can be counted as a discrete group. In a landbase of *one million seven hundred thousand* acres, the number of motorized trips on this unnamed segment is literally miniscule---probably not even one hundred per year. It is very difficult to claim that users of this road can create sufficient conflict with *anything*, or to cause even the remotest indications of impairment, to justify the government resources required to close it.

The decision to abandon these unnamed "ways," or any inventoried route, or any un-inventoried routes, is clearly the result of the methodology used by Monticello staff: they have no "table of benefits." They have only a "table of conflicts."

A close examination of the proposed plan compared to the existing known routes reveals that this random fragmentation is done to hundreds of routes. On page N-3 BLM reports that it proposes to close 960 miles of routes, and the largest proportion of these closures will occur in the D road category (we want to note here that the Table on page N-3 is very unclear. Is it a coincidence that each category of road loses 320 miles? Or is it a disingenuous way to report massive closures? Or is it actually possible that the Monticello FO intends to close only 320 miles of roads?).

Because the inventory is not complete, it is a mistake to close any D roads. D roads are the roads that access routes with the highest recreational benefit, but which BLM is not aware of.

#### Corrections that will resolve this comment:

1. Separate the Travel Plan from the RMP. Do not attempt to do more than designate areas as open, limited, and closed.
2. Do not close any existing routes in WSA's.
3. Do not create any non-motorized SRMA's.



4. Initiate a Comprehensive Trail and Travel Management Plan by following the steps outlined in BLM Handbook H 1601-1.
5. Replace the Travel Plan chapter in this DRMP with the instructions for initiating a deferred Travel Plan. Include the clear statement that the Comb Wash and the Indian Creek closure orders will be specifically addressed in the deferred Plan, and thus resolve that dispute via full public participation and an analysis that uses complete, accurate data.
6. Prior to any route designations, and to ensure a fully-informed CTTM Plan, conduct a complete route inventory of the FO using the methods described in BLM Technical Reference # 9113-1, Road and Trail Inventories.
7. In the event of a dispute over trail designation either in the RMP process or in the Travel Plan development for the RMP, we reserve the right to introduce data (particularly route inventory data) *and* peer-reviewed literature, *and* the results of past motorized route field-monitoring, in order to present a fuller understanding of the effects of trail-based motor recreation *and* to develop an accurate and rational Trail and Travel network.

Thank you for your attention to this matter.

Sincerely,





Monticello Field Office RMP Comments  
Bureau of Land Management  
Monticello Field Office  
P.O. Box 7  
Monticello, Utah 84535

January 25 2008

Gentlemen:

We would like to point out an error in the Purpose and Need Statement. We will also provide the revision that will correct this error.

Please refer to page 1-6, section 1.3.1.3.

The following statement:

*“Pursuant to the FLPMA and the Land Use Planning Handbook (BLM 2005a), the BLM may not establish new WSAs, but may consider managing non-WSA lands with wilderness characteristics through land-use planning, and has the option to manage such lands in a way that would protect or preserve some or all of those characteristics.”*

Is not correct. The FLPMA neither implies nor expressly states that BLM may use the land-use planning process to consider managing “lands with Wilderness characteristics” in ways that “protect those characteristics.”

FLPMA does state very clearly that BLM is authorized to limit, manage and regulate activities for the harmonious use and preservation of land productivity, scenic values, and social benefits accrued from the activities occurring. That is not the same, nor is it even remotely similar, to the withdrawal of any whole activity from an area because the BLM is managing that area to preserve “wilderness characteristics,” as this DRMP explicitly states it intends to do: on page 1-6 *“This may include protecting certain lands in their natural condition and providing outstanding opportunities for solitude and primitive and unconfined types of recreation.”* The language in italics is taken directly from the definition of Wilderness in the Wilderness Act of 1964, Section 2 part (c) (2).

Further, the intentions revealed on page 1-6 (of the DRMP) are carried forward on page 2-6 (of the DRMP): *“There would not be specific prescriptions for wilderness characteristics under Alternatives A, B, C, and D. However, some of these areas would receive indirect beneficial protections from other resource prescriptions such as NSO, closed to leasing, VRM Class I and limited or closed to OHV use.”* Unless the data supporting the resource prescriptions for those lands has a clear and rational connection to withdrawing the lands, it will be very hard for BLM to deny that those “other



prescriptions” are actually intended to manufacture Wilderness characteristics on lands that do not presently qualify as Wilderness.

Section 103 of FLPMA defines “withdrawals,” that is, the removal of a complete activity from an area, as justifiable in order to maintain “other public values.” Section 204 provides statutory guidance for such withdrawals. However, withdrawals for the purpose of expanding the Wilderness Preservation System are specifically addressed in separate and discrete legislation, regulation, and judicial decisions. It is unlawful for the BLM to extend that discrete authority to itself---directly or indirectly--- under the color of RMP planning, as the present Monticello DRMP proposes to do.

Therefore, we want you to correct Chapter one. Please revise 1.3.1.3. To read as follows:

“The BLM is not authorized to establish new WSAs, nor may it withdraw any tract of land from entry, in order to directly or indirectly reserve those lands for the purpose of protecting what may be called wilderness characteristics.”

This correction will obviously cause “downstream” revisions in this draft RMP, for example the statement on Page 2-6, quoted above, would have to be removed. Many corrections will be needed in the Alternatives and especially in the preferred Alternative. We would gladly assist in this task, however, time is short and we have a number of other subjects to cover, so we must leave it to the DRMP review team to make those changes and revise the preferred Alternative, to ensure that this RMP is completed in full compliance with the FLPMA.

Thank you for your attention to this matter.

Sincerely,

Monticello Field Office RMP Comments  
Bureau of Land Management  
Monticello Field Office  
P.O. Box 7  
Monticello, Utah 84535

January 25 2008

Gentlemen:

We want to point out an error in the Purpose and Need on the DRMP. Please refer to page 1-4, 1.3.1:

*“The RMP revision process provides the BLM, its cooperators, and the public the opportunity to resolve resource-management conflicts or concerns...”*

And page 1-6 section 1.3.1.4: *“...and resource and user conflicts are becoming more Common, more intense, and more difficult to manage. Recreation resource issues to be addressed in the planning process include these:*

Bullet item 1: *The need to manage OHVs by developing a travel plan with maps showing motorized (single-track vehicles, ATVs, jeeps, etc.) and nonmotorized (equestrian, hiking, biking) travel trail systems to identify recreation opportunities, prevent conflicts among recreation users,*

Bullet item 2: *“...and minimize conflicts with other resource values and uses;”*

Bullet item 5: *“Visitor management is needed not only to maintain desired Environments and facilities but also to resolve conflicts among users and minimize impacts to other resources...”*

And on page 1-7 bullet items 3: *The need to minimize impacts of increasing backcountry recreation use on other resource values and reduce tension among recreation users.”*

Conspicuous by its absence in the Purpose and Need statement or anywhere else in this analysis is any definition of “conflict.” Leaving this out enables the BLM to declare that management action is necessary in even the most specious situations. Item six in italics on page 3 of this comment is a perfect example. Any actual conflict between OHV users and river runners is patently impossible: the river runners are on the water and at put-ins and take-outs; the OHV users are on land, using the roads and trails and generally inland trailheads. The two types of users are rarely together in the same time and place. Physical contact never occurs. And nowhere in this analysis—not once in any chapter--

is it ever reported or even alleged that any type of property damage occurs, for example the river runners setting the OHV's on fire or those OHV riders are sinking the boats.

Irrefutable evidence that no such conflict occurs is found on Page 3-80 of the DRMP. Table 3-20 reports the results of Issues that San Juan River users perceive as problems, and "OHV" does not appear in this table.

The only remaining explanation of what this conflict might be is that some sort of emotional distress occurs when people of differing philosophical outlooks become aware of each other's presence. Table 3-20 reports irrefutable evidence that no such conflict occurs.

We absolutely cannot allow the government to expand its regulatory authority into this realm, when a) there is no rational connection between creating new regulation and the existing situation on-the-ground and b) the expansion of government regulation in an administrative process which is designed expressly for the government to give itself more authority over the individual citizen is completely inappropriate, and it is especially inappropriate when the proposed regulation is in support of or criminalizes any activity based on individual differences of cultural, philosophical, and personal values.

And in fact, a review of the FLPMA reveals that the BLM is not authorized to regulate based on emotional distress, philosophy, culture, or value systems. To ensure that the Monticello staff is clear about this mistake in the Purpose and Need, we will cite the statutory authority set forth by Congress for the BLM's decision-making, and we will cite the regulatory guidance BLM has set for itself:

Please refer to the BLM H-1601-1 page 11: "Decisions in land use plans guide future land management actions and subsequent site-specific implementation decisions. These land use plan decisions establish goals and objectives for resource management (desired outcomes) and the measures needed to achieve these goals and objectives (management actions and allowable uses).

Please refer to Section 202(c) of FLPMA (43 U.S.C. 1712) for guidance in developing land use plans:

1. Use and observe the principles of multiple use and sustained yield;
2. Use a systematic interdisciplinary approach to integrate physical, biological, economic, and other sciences;
3. Give priority to designating and protecting areas of critical environmental concern (ACECs);
4. Rely, to the extent available, on an inventory of public lands, their resources, and other values;
5. Consider present and potential uses of public lands;

6. Consider the relative scarcity of the values involved and the availability of alternative means and sites for realizing those values;
7. Weigh long-term benefits to the public against short-term benefits;
8. Provide for compliance with applicable Tribal, Federal, and state pollution control laws, standards, and implementation plans; and
9. to the extent consistent with the laws governing the administration of public lands, coordinate the land use inventory, planning, and management activities of public lands with land use planning and management programs of other Federal departments/agencies and state/local governments, as well as the policies of approved Tribal and state land resource management programs. The BLM must, to the extent practical, assure that consideration is given to that Tribal, state, and local plans that are germane in the development of land use plans for public lands. Land use plans must be consistent with state and local plans to the maximum extent consistent with Federal law.”

And back to the BLM H 1601: page 11 “Where there are competing resource uses and values in the same area, Section 103(c) of FLPMA (43 U.S.C. 1702(c)) requires that the BLM manage the public lands and their various resource values so that they are utilized in the combination that will best meet multiple use and sustained yield mandates”

And page 12, BLM H-1601-1, the types of LUP decisions are categorized in two ways: “Desired Outcomes,” and “Goals and Objectives.”

In other words, the RMP is not and never has been the instrument which resolves conflicts and relieves tensions. BLM has no authority to “resolve” values or philosophical differences between lawful public lands visitors. The word “tension” and the phrases “prevent user conflicts” and “resolve user conflicts” do not appear in the language of FLPMA nor do they appear in BLM Planning Handbook 1601. As the ID Team can read for them above, Section 103 (c) very clearly directs the agency to revert to the “combination that will best meet multiple use and sustained yield mandate.”

We will further point out that Section 103 (c) mandates an “a combination of balanced and *diverse* resource uses...” (Emphasis added).

In case this is still not clear, we will spell it out again: An identifiable resource conflict, for example riparian damage caused by grazing, is one which FLPMA assigns the BLM to resolve. “Values” conflicts, such as a person utilizing BLM lands who believes passionately those motorcycles should be prohibited on BLM lands, is angry and offended by the sight of tire tracks on the trail. This individual’s belief system is not an issue the BLM is authorized to regulate, influence, support or dispute under any authority. The BLM’s responsibility is clearly spelled out by FLPMA, and it is not by accident or coincidence that any type of regulation in the realm of values, philosophies,

or cultural differences between different people engaged in lawful activities on BLM land is not within that clearly spelled out authority.

In this Purpose and Need statement, this error is repeated in every resource discipline:

*“...Resolving the impact of surface disturbances from mineral exploration and development on other resources and uses (particularly cultural and visual resources, wildlife, and recreation) while remaining in compliance with federal energy policies”*

*“...increasing conflict that pits other land uses (such as recreation activities, livestock grazing, woodcutting, and energy exploration and development) against the protection and preservation of cultural resources...”*

*“...Identifying areas which require mineral withdrawal to resolve conflicts between resource development and special protection for cultural and water resources, wildlife habitat, unique geologic formations, or high scenic value...”*

*“...The need to resolve conflicts over OHV use and identify recreation opportunities, prevent conflicts among recreation users, and minimize adverse impacts to sensitive resources (cultural and riparian resources, wildlife and their habitat, etc.)”*

*The need to resolve conflicts among groups, such as nonmotorized and motorized users, river runners and OHV users, and commercial and private users, and regulate OHV use and camping..”*

Corrections that will satisfy this comment:

1. We want the Purpose and Need to set forth an attainable goal for the RMP which is in compliance with FLPMA and with BLM Handbook 1601, i.e. to “guide future land management actions and subsequent site-specific implementation decisions. These land use plan decisions establish goals and objectives for resource management (desired outcomes) and the measures needed to achieve these goals and objectives (management actions and allowable uses).”
2. We want you to review the entire Purpose and Need statement, and remove each and every reference to “resolving conflict.”
3. If BLM chooses to discuss any issue that refers to “conflict” in this analysis or in any proposed land or resource allocation action, we want a definition of what “conflict” is that is in accordance with the FLPMA, and we want objective standards set, by which any public land visitor can guide his or her actions. Culture, philosophy and personal values are not appropriate subject areas for this definition.

4. We want you to review the entire document in order that “resolving values differences” between lawful public land visitors are removed as a justification for any land allocation decisions. For example, the entire section in Chapter 3 3.11.4.3 User conflicts is based on the “issue of concern” set forth way back in the Purpose and Need that BLM is supposed to resolve user conflicts and “values conflicts.” Yet we will say it again: whether or not a recreationist believes that his recreation is the highest form of use, or whether a cattleman believes his is the best use, is not a land allocation decision. There is nothing that BLM can do about people’s individual attitudes—again, see 3.11.4.3. What does the BLM intend to do about a “conflict” between rock climbers and cattle grazing, when the analysis does not even tell us what that conflict is? Thus, where the discussion in the DRMP delves into detail about attitudes and the “tensions” over the multiple use concept (again, not supported by the data provided in the analysis) we want these discussions removed.
  
5. We want the proposed action to be revised as necessary; that is, resource conflicts are identifiable and can be prioritized, but values conflicts are a matter of personal philosophy and culture. The BLM is not authorized to regulate any activity based on philosophy, culture, or personal values.

We would be happy to do this for you, however the DRMP is quite voluminous and time is short. So, you will have to do it yourselves.

Thank you for your attention to this matter.



Monticello Field Office RMP Comments  
Bureau of Land Management  
Monticello Field Office  
P.O. Box 7  
Monticello, Utah 84535

January 25 2008

Gentlemen:

I would like to point out to the ID Team that according to the maps and the proposed land use allocations in the DRMP, the Monticello FO appears to be doing what is known in the trade as “manufacturing Wilderness.” In the Purpose and need and in the discussion of non-Wilderness Areas with Wilderness characteristics, staff claims that even though these areas are inventoried and named, no special considerations will be given to them, however, other management prescriptions may provide protection. Our analysis of the proposed land allocation for the area between US Hwy 163, Comb Wash Road, Hwy 95, State Hwy 276 and the National Park Service boundary south of Grand Gulch ISA Complex and extending west all the way to Highway 276, reveals that non-motorized land allocations and a combination of other proposed set-asides and withdrawals have just by chance provided an entire block of land of 375,000 acres whose proposed activity and land use restrictions are suspiciously similar to Wilderness Study Areas and Wilderness.

The evidence:

The proposed Grand Gulch SRMA, whose boundaries are named above, which proposes WSA style management (almost entirely non-motorized) and a Wilderness-like permit system for non motorized overnight entry,.

This proposed Grand Gulch SRMA will include the non-WSA areas named Fish and Owl Creeks (24,649 acres), Grand Gulch (55237 acres), Road Canyon (11,318 acres), Valley of the Gods (13,667 acres), and Lime Creek, (5,556 acres). This would expand the Wilderness Preservation System by approximately 110,400 acres, with no Congressional approval and completely outside the congressionally approved inventory system.

The nomination of Valley of the Gods as an ACEC, and creating its boundaries in such a way as to combine two non-WSA’s called Valley of the Gods and Lime Creek, and all lands between the two and directly adjacent to the existing Road Canyon WSA, adding a total of 22,863 more acres. Interestingly enough, the Valley of the Gods is comprised of almost nothing but rock and barrens. It is hard to think up any special management strategy that would make the slightest difference to the health of this area.



The withdrawal from mineral, oil & gas entry of 37,225 acres called the “Grand Gulch NHD,” the largest withdrawal proposed in this Plan.

The closure and/or omission from the maps of the roads west of Comb Wash Road.

The proposed “Grand Gulch” SRMA connects four existing WSA’s called Grand Gulch ISA complex (107,133 acres), Road Canyon (54,316 acres), Fish Creek Canyon (49,311 acres), and Mule Canyon (5,977 acres).

The inclusion in this SRMA of all the lands which lie between the above named set-asides even though none of those lands have any special designations whatsoever.

Because BLM has not provided any mileage for the roads marked for closure on the maps, it is impossible to calculate the miles of primitive backcountry access that will be lost by this proposed SRMA. However, it appears that about 40% of the mileage within the proposed SRMA boundaries will be lost: the routes that extend east and west from the “cherrystem” corridor of State Road 261; the routes on the west side of Grand Gulch ISA; the routes between 276 and the GG ISA in the non-WSA area named Grand Gulch; the routes into the Fish and Owl Creek areas, and the routes into the Road Canyon area from Comb Wash. Add to that the fact that many miles of road and trail are simply not shown on (erased from) the Alternative C Transportation map and the Monticello Inventory. We will assume, based on our past experience with the BLM that BLM will claim that these roads do not exist.

The data supplied on page 3-85, reporting Field Office-wide VUD’s. The number for people engaging in nonmechanized and nonmotorized activities but including all camping is about 36,700 for 2005. Obviously, the number for the area proposed for the Grand Gulch SRMA is considerable less. This can be expected to drop, as a strong indicator in table 3.21 is the drop in nonmotorized “events.” That is, fewer groups, commercial or private, are engaging in strictly nonmotorized recreation trips. The concept set forth for the purpose of the SRMA is intensive use and high visitor numbers. Even if 40 percent of the visitorship to the Monticello FO goes to this area. It only amounts to about 18,000 VUD’s.

The proposal to further reduce access by the implementation of a permit system.

And finally, staff’s apparent disregard for BLM Handbook 1601-1, Appendix C page 16: Recognition of singularly dominant activity-based recreation demand of and by itself (e.g., heavy off-highway vehicle use, river rafting, etc.), however great, generally constitutes insufficient rationale for the identification of an

SRMA and the subsequent expenditure of major recreation program investments in facilities and/or visitor assistance. This does not mean that the expenditure of substantial custodial funding is unwarranted when circumstances require it, but such expenditures should be geared to take care of the land and its associated recreation-tourism use and not to provide structured recreation opportunities which characterize SRMAs. (Emphasis added). When this guidance is considered in combination with the low VUD's for this Field Office (page 3-85, a total of some 36,700 nonmotorized, nonmechanized VUD's in 2005) it makes the "construction" of an SRMA for primarily nonmotorized recreation seem eminently unnecessary.

All of this adds up to one contiguous block of acreage amounting to 375,000 acres, which staff wishes to now designate for land-use restrictions quite similar to Wilderness—that is, the perception that a mere 21,000 VUD's is too many people is certainly more suited to Wilderness than multiple-use management.

This appears to neatly circumvent the Congressional limit on the withdrawal of an entire activity from an area over 100,000 acres: the mineral withdrawal is strategically located with sizable "buffer" acreage between the withdrawal and the boundaries of the WSA and the main access from Hwy 276 and 95. The motorized access is removed in piecemeal sections of the "SRMA" not presently in WSA management and piecemeal sections of "non-WSA lands with WSA characteristics, and each of these withdrawals is well under 100,000 acres, but the piecemeal withdrawals added together amount to approximately 110,000 acres.

We certainly can only guess that this is intentional. However, all of the problems that the DRMP cites as reasons to create this large block of Wilderness-style management area are already regulated: disposal of human waste, destruction of cultural resources, vandalism, trampling and vegetation loss from camping, and littering. The Field Office currently has a permit system in place that limits hiker access; the creation of an SRMA would not in and of itself change or enhance that. Claims of high visitor numbers and intensive use are difficult to find credible, when the total numbers for the entire FO are so low.

The DRMP associates none of the problems in the Grand Gulch/Cedar Mesa, Fish Creek, Road Canyon and Valley of the Gods areas with OHV activities and in fact documents that it is hikers and climbers causing the losses. However it is important to note that the proposed route designation rule for motorized access will resolve other, separate concerns that unmanaged OHV use may cause resource damage, as well as give BLM the authority to remove or relocate OHV use on a site-specific basis where this may be needed.

The Field Office can prioritize law enforcement and cooperators' assistance without the SRMA (as the FO presently does, as described on page 3-82, 83 and elsewhere,

describing volunteer efforts of groups, foundations, adjacent landowners, and individuals).

What the proposed SRMA does do is provide a significant body of circumstantial evidence suggesting that the Monticello FO is abrogating the Congressional authority to set aside lands from entire activities normally allowed on BLM lands.

We realize that BLM policy is to manage recreation via the SRMA concept, however in this case it may not be appropriate. In other words, the single reason for creating the SRMA lies in BLM policy, and not in any unresolvable resource concern. Other than thoughtless adherence to the policy, there is no rational connection between making such a huge nonmotorized SRMA and the resolution of the problems therein. This further strengthens the charge that this large set-aside is truly intended to add to the Wilderness Preservation System, and creating a huge nonmotorized SRMA under the color of RMP planning is the tool of choice in this case.

Staff may sincerely believe that this size and type of SRMA is needed here. However, we want to emphasize that in the case of the Grand Gulch SRMA, the appearance of an illegal BLM-generated set-aside is conspicuous.

Therefore, the correction to the RMP that would resolve this comment would be to change the proposal in the following ways. All of these corrections are within the scope of Alternative C.

1. Abandon the Grand Gulch SRMA.
2. Keep all existing routes in the WSA's open to motor travel, in accordance with the IMP for WSA's.
3. Leave all existing roads and trails in all areas outside the WSA's open to motorized travel until a complete route inventory is finished.
4. Conduct the route inventory according to BLM Technical Manual 9113-1.
5. Develop the Comprehensive Transportation and Travel Management Plan according to BLM Planning Manual 1601.
6. Conduct route and site-specific NEPA analyses for route designation, providing for all administrative remedies as set forth in BLM Planning Handbook 1601-1.
7. Designate motorized routes according to site specific requirements, including standard motor recreation and travel management techniques.
8. Because we are under a very short deadline, we want you to review all of the SRMA designations FO-wide. We are asking you to do this because the purpose of SRMAs is to manage high visitor numbers and intensive use, and that does not appear to be the case in the Monticello FO. In fact, it could be that only the river activity areas and the developed camping near and in the riparian zones need to become SRMA's. Because we realize that once an SRMA is created, the FO must develop a plan for it, and the Monticello FO is small and under funded, it seems



prudent to reduce the number of SRMA plans that must be written, and not increase them.

Thank you for your attention to this matter.

Sincerely,



Monticello Field Office RMP Comments  
Bureau of Land Management  
Monticello Field Office  
P.O. Box 7  
Monticello, Utah 84535

January 25 2008

Gentlemen:

We would like you to delete the entire 3.11.4.5.2 section. It contributes nothing to the discussion of land use allocations. It confuses the reader into believing that OHV has specific, complex, and intractable legal issues that other activities do not. In fact, nothing listed below is unique or intractable, and certainly none of it is unusually complex for a professional recreation manager.

None of the issues cited are germane to land use allocations. They may be germane to site-specific actions, after the ROD is completed for this RMP. Furthermore, several of the statements mislead, and at least one is entirely false.

Refer to page 3-87, 3.11.4.5.2 OHV Legal Issues:

*“There are numerous OHV-associated legal issues, which include: illegal explosive blasting used to open OHV trails into a WSA; the uncompleted designation of roads and trails within the FO area; the updating of travel maps; and San Juan County blading of OHV routes on BLM administered public lands without BLM concurrence. There is OHV-cultural resources conflicts, expectations to provide services to the OHV community, legal questioning of the Indian Creek and Comb Wash emergency closures, and a private OHV user group that is producing OHV maps that the BLM cannot authorize and that the Canyonlands Natural History Association will not sell.”*

The first item listed has nothing to do with RMP planning. It is a law enforcement issue and nothing that this RMP sets forth for land use guidance will affect the fact that it happened. In fact, if the responsible parties were identified and the violation adjudicated, then the present land use allocation and the present regulations were completely effective. If the incident was never adjudicated it is false to introduce it as an “OHV legal issue;” because a) there was obviously insufficient evidence to make any accusations at all and b) basic law enforcement training teaches that the worst mistake a natural resources investigating officer can make is to speculate upon the intentions of the violator based on nothing but a blown-up rock. The fact that some kind of OHV was involved is not in and of itself a clue; on the road systems on BLM lands, everyone needs an OHV. But, the bottom line on this incident is that the reporting of it in this DRMP does not contribute anything new to the evaluation or discussion of land use allocations, and it will not be affected by, nor will it affect, land-use allocation decisions for this RMP. It is simply one



illegal act out of many different illegal acts that are committed in a variety of geographic, administrative, and social settings on BLM lands.

The uncompleted designation of roads and trails in the FO is a BLM prioritization issue. It is not the presence of the vehicle use that causes the unfinished designation, nor is it the obvious desire of a large segment of the FO visitors to recreate using OHV's that has caused the uncompleted designation process. FLPMA states that each managing unit must keep as complete an inventory of the resources under its jurisdiction as possible, so it is the BLM which has created the "legal issue" by virtue of the fact that BLM does not wish to make conducting a complete inventory a priority.

The same is true of the out of date maps. The Monticello FO has elected to make other activities a higher priority, thus no maps are available to the vehicle-using public. The mere presence of a vehicle-using public does not make the absence of a BLM map a legal issue for the purposes of this RMP analysis. It may be a problem for the purposes of site-specific law enforcement, but even then it would only be so if the vehicles were required by the publication of a Federal Register notice that they must stay on the routes shown on the map. This is not presently the case under the existing RMP.

The San Juan County blading of routes without BLM concurrence has nothing to do with "OHV." It has to do with San Juan County's desire to keep the roads open and passable. "Blading" a route clearly indicates that these are roads, and not OHV specific routes such as singletrack or ATV two-track. The DRMP writers appear to want the reader to believe that it is an OHV problem when in fact it appears to be a dispute between the FO and the County over access. This information belongs in the Coordination and Consultation chapter, in the discussion of cooperating (or not) agencies.

The statement that "There are OHV-cultural resources conflicts," is not supported by any data in this analysis. The information that is present in the analysis that cites specific cultural resource problems identifies non-motorized users impacting cultural sites (page 3-85). The Cedar Mesa is an excellent example. Cedar Mesa illustrates that the people who are interested in archeological sites, and who may be inclined to remove artifacts, will access the site in any way available. Cedar Mesa has almost completely eliminated OHV access to these areas yet the protection of the cultural resources is still considered an issue of concern. If the RMP intends to arrive at an accurate assessment of how to protect these sites, the FO staff must learn from this example that it is people who are interested in archeology who remove the artifacts. People who like OHV's like OHV's. These are two discrete groups. Many people whose primary recreation activity is archeology will use OHV's to access the sites, but people whose primary recreation activity is riding OHV's usually are not even aware of the presence of cultural sites, and if there is actual damage from OHV use it is inadvertent (as is stated in this very analysis). The proposed rule that will restrict all vehicle travel to designated routes will resolve this issue.



“...expectations to provide services to the OHV community,” is a curious item to place under “OHV Legal Issues.” FO staff apparently perceives that it is not legal to provide the same level of service to the OHV community that the camping, hiking, biking and boating community expects and receives from BLM. Since this is an incorrect belief, that is, the OHV community is entitled to the same level of service as any other visitors; this cannot be considered a “legal issue” in even the remotest sense.

Legal questioning of the Indian Creek and Comb Wash emergency closures: Emergency closures remain in effect for the time period specified by the closure order or until the next planning effort, such as this RMP and the CTTP that should be completed within 5 years of the RMP. Thus, the calling out of these disputes belongs in the analysis for the affected resource disciplines, and resolution of those questions will occur in that part of the planning process. It serves no constructive purpose to frame this as some kind of intractable legal issue.

The fact that a private group is producing and distributing maps is not a “legal issue.” Private groups anywhere in the country can print and distribute anything they wish. BLM could authorize a privately produced map if BLM wished to treat the OHV group as a cooperator, the same as the non-OHV cooperators listed earlier in this chapter. The OHV group producing the maps is interested in the FO recreation resource and in helping OHV visitors have an enjoyable visit. Because the BLM has chosen to let their inventory and maps slip out of date, and not chosen to replace the maps or update the inventory, not only is the production of a private map not a legal issue, it is a lost opportunity for BLM to develop a cooperating partner who could help complete an inventory and produce “approved” maps. It is also curious to that the narrative in 3.11.4.5.2 does not reveal the reason the Canyonlands Natural History Association will not sell the private map, and the BLM does not reveal why the Canyonlands Natural History Association is supposed to be the group that sells it or how it is that the Natural History Association is authorized to approve it (or not, as evidenced by their refusal to sell it).

Correction that will resolve this comment:

Delete the entire section numbered 3.11.5.2 on page 3-87.

Thank you for your attention to this matter.

Sincerely,