



April 18, 2024

Bureau of Land Management
Via Planning Portal ONLY

Re: DRAFT PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT FOR UTILITY-SCALE SOLAR ENERGY DEVELOPMENT
DOI-BLM-HQ-3000-2023-0001-RMP-EIS

Dear Sirs:

Please accept this correspondence as the input of the above referenced Organizations with regard to the BLM's Draft programmatic Environmental Impact Statement for Utility Scale Solar Energy Development. ("The Proposal"). The Organizations would like to recognize agency efforts in the development of the Proposal, as the scale of analysis and information to be aligned and processed is overwhelming. The Organizations vigorously support development of sustainable resources and have been actively involved in efforts to achieve these goals for decades. However, the Organizations are deeply concerned that the Proposal suffers from many of the same systemic failures of analysis that resulted in the failure of previous efforts seeking to achieve similar goals on a smaller scale. An example of this type of repeated failures in analysis between this effort and previous efforts is the assertion in the Proposal that economic analysis

of possible recreational impacts is a site-specific issue. Another example of similar failures in analysis is the failure of the Proposal to recognize the inherent imbalance of information available on competing characteristics of these areas. While the Proposal does capture some recreational values, it falls well short of analyzing and protecting all recreational values and interests from possible impacts.

When the Proposal is reviewed, the cumulative impact of these analysis failures is immediately apparent. Easily accessible economic analysis raises significant problems for the Proposal's conclusions. These failures create a situation where major sectors of the recreational economy will be more heavily impacted by solar development than sectors that contribute less economic benefit to local communities simply due to the imbalance of factors being reviewed. The possible geographic relationship of these impacts is not addressed. As an example, some states have no utility level solar projects to create any revenue but are relying heavily on recreational revenues, while other states are far more balanced in terms of economic contributions from the two uses. The economic costs of issues, such as transmission lines and other distribution equipment will be hugely different simply due to the levels of infrastructure available.

Some states have already achieved sustainable energy goals for their citizens and essentially the Proposal would ask them to shoulder as disproportionate percentage of the burden on recreational opportunities of other states that have not achieved their renewable energy goals. Clearly the impacts of significant management change in these two situations are VASTLY different and this is not discussed at all. These are factors that Programmatic NEPA are required to address. Beyond simple compliance with NEPA, there are several Executive Orders that require similar analysis which the Proposal asserts it is in compliance with but these failures remain. Simply addressing this type of systemic impact to recreation and recreational economic contributions could be provided and has not been.

The Proposal also fails to recognize that the designations put in place to incorporate and protect recreational access are horribly out of balance with the management resources applied when protecting wildlife and other resources. While modeled habitat for species is easily available for almost every species, there is no corresponding factors to analyze for recreation. Any assertion there is mapped habitat for recreational usage is simply lacking factual basis as recreational

value is highly related to the chosen recreational pursuit and often trail specific. Some factors used in an attempt to reflect recreation, such as the SRMA designations in RMP, fails to recognize that there are RMP that are so out of date that there are no SRMA designations even discussed in the planning area. Often other designations such as ERMA type designations are used in planning. Frequently land managers have chosen to address recreational issues with site specific NEPA when RMP are badly out of dates, Simply due to the comparative speed and efficiency of site specific NEPA when compared to revising an RMP. Site specific NEPA and related designations must be reflected in the recreational values of the Proposal and simply have not been. The result is some values being entirely protected and other values being disproportionately impacted by possible solar development simply due to the amount of data available for analysis.

While many values with far more accurate and extensive data resources are addressed in the Proposal with mandatory protections in site specific planning to occur subsequently, recreation is not provided similar protections. Not only will recreational access be disproportionate impacted but the visitation will decline most significantly in areas used by the highest spending profiles. Without these basic issues being addressed, we are unable to support any alternative provided. We are asking that Alternative 3 is modified to provide additional protections for recreational values to reflect the imbalance of existing tools to analyze recreational values at this scale. and also protect against the massive economic impacts that could result from the failure of the Proposal to accurately address these factors. These values could be protected if “no net loss in recreational opportunities” was required in subsequent site-specific planning as would bring recreational values to a similar level of protection in the Proposal with other values being balanced.

1a. Who we are.

Prior to addressing the specific input of the Organizations on the Proposal, we believe a brief summary of each Organization is needed. The Colorado Off-Highway Vehicle Coalition ("COHVCO") is a grassroots advocacy organization representing the OHV community seeking to represent, assist, educate, and empower all OHV recreationists in the protection and promotion of off-highway motorized recreation throughout Colorado. COHVCO is an

environmental organization that advocates and promotes the responsible use and conservation of our public lands and natural resources to preserve their aesthetic and recreational qualities for future generations. The TPA is an advocacy organization created to be a viable partner to public lands managers, working with the United States Forest Service (USFS) and the Bureau of Land Management (BLM) to preserve the sport of motorized trail riding and multiple-use recreation. The TPA acts as an advocate for the sport and takes the necessary action to ensure that the USFS and BLM allocate a fair and equitable percentage of public lands access to diverse multiple-use trail recreational opportunities. Colorado Snowmobile Association ("CSA") was founded in 1970 to unite winter motorized recreationists across the state to enjoy their passion. CSA has also become the voice of organized snowmobiling seeking to advance, promote and preserve the sport of snowmobiling through work with Federal and state land management agencies and local, state and federal legislators telling the truth about our sport. CORE is a motorized action group dedicated to keeping motorized trails open in Central Colorado and the region. Idaho Recreation Council ("IRC") is comprised of Idahoans from all parts of the state with a wide spectrum of recreational interests and a love for the future of Idaho and a desire to preserve recreation for future generations. The Idaho State Snowmobile Association ("ISSA") is an organization dedicated to preserving, protecting, and promoting snowmobiling in the great state of Idaho. Our members may come from every corner of the state, but they all share one thing in common: their love for snowmobiling. Ride with Respect ("RwR") was founded in 2002 to conserve shared-use trails and their surroundings. RwR has educated visitors and performed over twenty-thousand hours of high-quality trail work on public lands most of which has occurred on BLM lands. Over 750 individuals have contributed money or volunteered time to the organization. Nevada Off Road Association (NVORA) is a non-profit Corporation created for and by offroad riders. NVORA was formed to specifically fill the void between the government managers and the rest of us who actively recreate in the Silver State. NVORA does this by maintaining a consistent, durable, and respected relationship with all stakeholders while facilitating a cooperative environment amongst our community. AMA District 36 ("D36") is a volunteer-based non-profit organization of motorcyclists and

like-minded enthusiasts who organize and enhance responsible family recreation and exercise environmental conservation for the purpose of promoting today's activities and protecting our sport for the future. AMA District 367 (D37) is a nonprofit organization where we are dedicated with providing our members fun, family oriented events, and protecting the rights of our members to be able to enjoy the sport of motorcycling. District 37 adheres to the highest safety standards and practices and has been involved with protecting the rights of motorcyclists for over 80 years. The Unlimited Off-Road Racing (UORR) league was formed by The Martelli Brothers in 2023 after more than a decade of successful desert off-road race promotion, including The Mint 400, The UTV World Championship and The California 300. The league was formed to promote the sport of desert off-road racing, the off-road industry, and to expand the reach of off-road companies beyond the industry and into the homes of every off-road race fan, globally. Collectively, TPA, NORA, CSA, CORE, IRC, RWR, ISSA, D36, D37, UORR, AMPL and COHVCO will be referred to as "The Organizations" for purposes of these comments.

1(b). Mapping layers were too dark to allow detailed review.

Prior to addressing our concerns around the Proposal in more detail, the Organizations must raise concerns around the mapping that has been provided with the Proposal. While we welcome the GIS based interactive on-line mapping tool, this mapping became VERY difficult to use because of the layers for various values largely obscuring most lands marks once they were turned on. The poor transparency of the layers in relation to landmarks made it very difficult for our members to identify landmarks necessary to identify areas and designations on areas important to them. Even when zoomed in major state highways were often unable to be identified once the layers were turned on.

The Organizations would ask that in the future both interactive GIS type maps and paper pdf type maps be provided to the public for review. In this situation the use of .pdf style static maps would have been acceptable as we are looking at large areas and not fine detail. Without the landmarks the GIS based online resource was almost impossible to use for even landscape level review.

2. How was decision to resolve the need for utility scale solar projects in the manner proposed found to be correct?

As noted above, the Organizations have been involved in the development of landscape scale renewable energy projects previously. Many of our members have been involved in site specific sustainable energy projects, like wind farms, dams and smaller solar fields. For purposes of these comments, the Organizations will focus on landscape level efforts but would also note that many of the issues we have encountered on landscape level efforts align with smaller scale projects as well. ORBA representatives were actively involved with the DRECP since its inception as they were appointed to the DRECP committees by then California Governor Schwarzenegger. In the development of the DRECP, planners experienced several unforeseen foundational issues, mainly that the public was supportive of renewable energy as an abstract concept but then was unable to support many of the foundational cornerstones for the DRECP project. At the policy level of the DRECP, there were higher levels of sensitivity and opposition to some areas and almost none in others. Individually, the public supported solar projects, but just not if these projects would impact their values or desires negatively. For many factors the areas with low levels of individual and systemic opposition were simply outside the scope of analysis for the DRECP effort. In the DRECP and the Proposal decisions sought to place renewable energy in sites that have larger scale opposition. For motorized users the DRECP consistently sought to place large solar fields in areas that were Congressionally protected or provided highly valuable sand dune type recreational experiences simply because recreational values were not accurately addressed in the effort.

Over the almost decade of time spent on the DRECP effort, a consistent policy question plagued the entire effort. Mainly, is the development of large standalone solar fields isolated from communities something the public supports? The DRECP effort never addressed this basic question and the Proposal again fails to recognize this type of social conflict. Over the life of the DRECP consistently became a stronger and stronger negative answer from most of the public. These issues are socially based conflicts that NEPA is mandated to address. This opposition centered generally around two issues. The first socially based issue was most of the public would support solar farms in developed industrial areas or on the roof of their home as they thought that this was a use consistent with the levels of usage in the area already. Public support eroded quickly when these types of projects were situated in more remote areas, where large solar developments were inconsistent with existing usages. We are unable to identify any discussion

of this type of issue in the Proposal, as the Proposal simply starts from this model of developing greater sustainable power infrastructure in areas that were less intensively developed.

Socially based public concern over the development of the stand alone solar farms only increased as the public understanding of the geographic relationship of the impacts and benefits of the project developed. The smaller communities that often were asked to be the site of these large solar farms expanded their opposition to the DRECP when they understood that they would be losing opportunities on public lands in their back yard but the power that was being developed was being shipped to a community that was far away and not losing any recreational opportunities. The failure of the burdens of these projects and benefits to align is highly evident in the Proposal and is a major concern for many of our members.

Could this geographically based social conflicts and imbalance of values be the result of the factors used to identify areas that could be developed for solar farms? Yes. Some states have a long history of legislatively protecting certain resources on public lands without truly understanding the impacts of their efforts, while other states have chosen to provide more flexibility in the management of public lands. This flexibility provides significant benefit to many uses, such as recreation and renewable energy. Many communities that maintained this flexibility did so to provide opportunities for all forms of recreational activity. The values structure developed in the Proposal to identify suitability shifts the burden of these unintended impacts from the areas that failed to recognize the need for flexibility to areas that maintained flexibility. This values structure is going to create immense conflict moving forward as recreational opportunities will be lost locally and benefits will not be provided locally to offset these lost opportunities.

This type of social conflict has been involved in public lands and NEPA for decades and has been historically known as the “not in my back yard” issue or syndrome or urban/rural conflicts. These concept have been evolved and refined for planning purposes. Often in the recreational community it is distinguished between a personally based conflict on the recreation site between two users or a larger discussion of if a particular recreational pursuit should occur at all. Historically this has been reflected as the personal user conflicts or socially based user conflicts. Other interests This type of evolution of analysis has been critical in addressing and or

resolving these types of conflicts in planning efforts. Ignoring this type of conflict simply does not work.

Other issues have addressed this, challenges with different names but similar tools. As an example, in the wildlife management area, these types of challenges have been consistently recognized as well. For wildlife management decisions this challenge has been summarized as follows:

“However, although human actions are a pervasive influence on species’ distributions, persistence, and richness (Linnell et al. 2001; McKinney 2008), conservation decisions routinely emphasize only biological and physical factors. Despite repeated calls for better integration of social and ecological approaches (eg Berkes et al. 2000; Ostrom 2009), the practical application of social- science information has been scarce and uneven, with generalizations limited across time and location. This point was emphasized in a recent Intergovernmental Science- Policy Platform on Biodiversity and Ecosystem Services (IPBES) publication, in which it was stated that “the design of governance, institutions and policies rarely takes into account the diverse conceptualization of multiple values of nature and its benefits to people” (IPBES 2018).”¹

When these historical challenges in landscape level management decisions are aligned to the Proposal there are immediate problems as the Proposal fails to recognize that no one wants a large solar farm in their back yard. While small solar panel projects on residential roofs might be ok with most people, solar farms face a large challenge in acceptance. What the Proposal seeks to develop is a plan where the larger communities that cannot have a large solar farm in their back yard for many reasons can justify moving that solar farm to some one else back yard and then seeks to justify this decision through a variety of factors to create credibility. While residents in large communities may simply not have recreational opportunities in there area, or those

¹ See, Manfredo et al; Bringing social values to wildlife conservation decisions: *Frontiers in Ecology and the Environment* Front Ecol Environ 2021; 19(6): 355–362, doi:10.1002/fee.2356 at pg. 355.

opportunities have been protected through various designations, this decision has little impact to their recreational opportunities. Smaller communities often draw residents because of the availability of recreational opportunities and now these are being lost to benefit interests far away from that community. This is by definition socially based conflict and is a VERY real problem for the Proposal. Again, these are social conflicts issues that are required to be addressed in the NEPA process but are omitted from the Proposal.

The second issue that created socially based public concern around the DRECP process was the small percentage of the total power need that could be resolved with implementation of the entirety of the DRECP process. Public support for this general course of management further eroded when the effectiveness of the DRECP effort in providing significant power to meet goals and objectives of the community needs was identified. Many of the participants opposition to possible impacts in areas where large solar farms are inconsistent with generally lower levels of development only grew when they found that these projects would often provide an infinitely small portion of the power needs for the community. Again, the Proposal fails to provide any guidance on even a general range of sustainable power that would result from the full implementation of the Proposal.

The Organizations are unable to find any discussion of how these type of landscape level social conflict issues would be avoided, mitigated or have been resolved in the development of the current Proposal. While the Proposal starts from a position that utility scale solar energy development projects are the correct course forward for the development of solar energy projects, this conclusion has not been reached in previous large scale solar projects we have been involved with. Rather the public seems to support more dispersed renewable energy projects at a much smaller scale than is being reviewed in the Proposal.

3(a) Unintended impacts and restrictions to recreation from imbalances in data scope and quality must be avoided.

The Proposal appears to start with the erroneous position that all factors and values being balanced in the Proposal have equally accurate data with similar levels of development. The Organizations would vigorously object to this starting position as we believe it is entirely incorrect. The Organizations are intimately aware that landscape level plans, such as the

Proposal, that are overly prescriptive or do not properly balance data streams and data quality can create large amounts of unintended social conflicts despite the best of intentions. Accuracy in analysis can resolve social conflicts, and that analysis accuracy often includes addressing imbalances in the quality and scale of data available for the analysis of various factors being analyzed with management protections. Factors with less data or lower quality data often get more protections to try and achieve balance on the ground. Many factors already have these types of standards in the Proposal. Recreation does not despite recreational usage and future recreational value of areas being a value FAR less developed than many of the other values that have landscape level protections. This situation must be analyzed and resolved with management tools and protections to avoid unintended impacts.

While there are many ways that wildlife and conservation values can be mapped and protected, we are not aware of any method for the mapping of comparative recreational values in a similar manner. As an example of the inherent imbalance of data availability is the comparison of possible habitat for species on the Endangered Species Act is some of the most expansively investigated components of the NEPA analysis and federal land management process. Any assertion that recreation or other values can be similarly mapped with similar quality and accuracy as other conservation values completely lacks any factual or legal basis. This imbalance must be addressed in the NEPA process and this has not even been attempted. If it cannot be resolved, protections should be put in place to mitigate impacts.

Given the lack of comparable data development for recreation, the Organizations must immediately question how recreational values have been sufficiently addressed in order to comply with the new data quality requirements in NEPA. These data quality provision of NEPA specifically require high quality data in the NEPA process as follows:

“(D) ensure the professional integrity, including scientific integrity, of the discussion and analysis in an environmental document;

“(E) make use of reliable data and resources in carrying out this Act;

F)consistent with the provisions of this chapter, study, develop, and describe technically and economically feasible alternatives;”²

Given the obvious flaws that result from recreational values relying almost entirely on SRMA designations, compliance with this NEPA requirement really cannot be achieved. This flaw further expands as other values in the lands are reviewed. The Proposal appears to assume that all National Conservation Areas and other special designations are excluding solar energy development. Again we must question this assumption as our experience is each of these special designations is a balance of various values in the area. Many designations only exclude extractive mining or timber or other activity. As an example, the recent proclamation by President Biden regarding the Camp Hale area in Colorado only prohibits oil and gas leasing for 20 years on more than 300,000 acres of the area known as the Thompson Divide.³ It is silent on possible solar development in the area.

Again, these are factors that must be addressed in the Proposal as many designations only exclude certain activities and solar farms may be within the scope of allowed activities in the special designation. This type of balancing of values in the management of these areas is and protection of various characteristics of the area is required to address the comparatively low quality data available to address the two competing values for these areas. Not only is recognition and resolution of this imbalance of the comparative scope and quality of information required under NEPA, this type of balance must also be struck as often recreational access is improved with collaborative efforts in energy development and recreational access. This is exemplified by the fact there are many RMP that have no SRMA even designated but these areas have been repeatedly been included in landscape level species planning, such as has occurred for Sage Grouse and other species.

The similarity of DRECP process and methodology used to develop the Proposal cannot be overlooked as DRECP started with identification of every conservation type designation and

² See, 43 USC 4332

³ See, A Proclamation on Establishment of the Camp Hale-Continental Divide National Monument; a full copy of this proclamation is available here: [A Proclamation on Establishment of the Camp Hale-Continental Divide National Monument | The White House](#)

failed to meaningfully address recreational issues. For purposes of these comments, we are only addressing recreation and conservation values in relation to sustainable energy in isolation despite the fact there are dozens of competing uses for these areas. At no point did the DRECP even attempt to address the complete imbalance in the scope and quality of existing analysis of the two competing values. This imbalance in the scope and detail of resources to address values to be protected placed recreational advocates and interests in an inferior negotiating position from the beginning of the DRECP process.

The failure of the DRECP model to address this imbalance of resources available for management decisions also forces energy development into areas that tend to be more heavily used by large numbers of recreational users. Often areas that are suitable for energy development are areas with the largest amount of management flexibility. This management flexibility makes these areas more suitable for more intense recreational activity. As an example, the Proposal excludes Wilderness Study Areas from areas that are suitable for energy development. We will not address the fact that many areas may have been inventoried for WSA suitability and found unsuitable since the inventory but that issue is not addressed in the Proposal. Simply accepting that WSA's do allow these exclusions of solar, these designations also preclude development of recreational infrastructure to support opportunities such as camp grounds, developed trail heads, open OHV areas, shooting ranges for example. As the site specific planning moves forward with this erroneous assumption, this will result in solar projects and recreational infrastructure projects to be in **more** conflict than any other value that is attempted to be balanced in the Proposal. Conservation values simply will not come into conflict with solar developments simply due to the decisions made in the landscape effort.

Our years of involvement with the DRECP development made us aware of other problems that can result when facts being analyzed are simply out of balance in both the scope and quality of information available for analysis. In the DRECP development often alternatives sought to include new recreational prohibitions without explanation, such as the exclusion of all motorized usage around NTSA routes. While this standard was included in the final version of the DRECP, the Supreme Court struck down the landscape scale exclusion of multiple uses around routes

designated under the National Trail System Act in their *Cowpasture*⁴ decision of 2019. While this issue was addressed it still highlights what can happen when recreational access and issues are not meaningfully addressed. While we do not see any indication of this particular issue in the Proposal, we believe this is an example of an unintended impact that must be avoided.

3b. Unintended impacts will result simply from poor data or badly out of date management plans.

The Organizations are concerned that the Proposal primarily appears to rely on SRMA specific designations to address important recreational areas. While there are many designations discussed to protect wildlife or conservation values, such as designated habitat. Proposed wildlife habitat, NRA designations and WSA/WCA designations, the only tool available to address intensive recreational usage of areas is the SRMA. The need to address possible RMP designations such as this is an example of the structural imbalance in the resources that are available to compare recreational opportunities and other values. The Wilderness Act mandates a complete inventory of all public lands for possible designation with every major federal action. There is simply no comparative process for recreation and many other values even available for review. This imbalance again warrants inclusion of recreational standards that protect recreational opportunities from unintended impacts from solar development. Again these types of protections have not been provided for recreation but have been provided for many other uses that have far more information to analyze.

The Proposal does provide one analysis tool to reflect recreational values, which is the SRMA designation. The Organizations assert this tool is wholly insufficient to use to address recreational values of lands. It has been our experience that the SRMA designations are almost exclusively created in newer RMP plans, generally 15 years or less in age. This is a major change from earlier RMP and MFP efforts, where this type of designation would have been used on a VERY limited basis and many older RMP designated no SRMA at all. If SRMA areas were designated they are exceptionally small in size and commonly fail to relate to current conditions or desires on the ground simply due to the passage of time. As an example, in the State of Idaho

⁴ See, *USFS v. Cowpasture River Preservation Society*, 590 U.S. ____ (2020)

12 of 21 RMP are more than 30 years old and in Utah 8 of 21 RMP are more than 30 years old. If SRMA are designated at all, they are horribly small and fail to reflect current conditions on the ground in the area.

BLM Field Offices with badly out of date RMP often address recreational access, and many other issues, with site specific NEPA or other management tools rather than an SRMA type designation. Some older plans have captured important recreational opportunities through the use of ERMA type designations rather than SRMA designations simply because the plan is horribly out of date. These ERMA are functionally SRMA on the ground and the difference is in name only. This has often been done on the recommendation of State or National BLM offices who lack the resources to undertake an update of RMP. Numerous Field Offices have undertaken large scale travel planning or site-specific efforts around recreational access such as Recreational Access Management Plans and other tools. The Organizations vigorously assert that these planning tools must be addressed in the Proposal and again these other decision making processes simply are never mentioned.

The Organizations believe that incorporation of the variety of site-specific tools that have been developed to provide management structure in areas with RMP that are simply horribly out of date must be provided for in the Proposal. Asking the recreational community to accept closures in an area that was recently identified as a priority recreational area in site specific planning will only create immense conflict between interests. While inclusion of these other management decisions would resolve a limited number of possible impacts from poorly based management decisions, it does not resolve our concerns as many of these planning efforts have been found to be entirely insufficient to protect recreational access.

3(c) Important values of these areas are often not consistently addressed.

The possibly of unintended impacts to recreational values resulting from recreational values not being accurately reflected in the Proposal are compounded when the comparative weight of protections provided for other management decisions and values is compared to recreational protections. The Proposal often appears to fail to consistently address all multiple use values it is asserting to protect in its analysis. This causes concern that the analysis and protection of

all multiple use values has not occurred in the Proposal. Frequently the Proposal only addresses ecological values in its analysis as the following provision clearly states:

“• An alternative design feature, a state-implemented conservation measure, or plan-level protection is determined to provide equal or better protection for ecological resources.”⁵

There are numerous other locations in the Proposal where similar imbalances in values are identified. This imbalance in value is not limited to the analysis of factors and competing landscape values in the Proposal. It is unfortunately carried through the process into the protections that are specified for various uses as the Proposal only provides specific protections and guidance on ecological values that could be impacted. An example of the elevation of conservation values above all other multiple uses is evidenced by the highly specific standards for the possible designation of areas of possible ecological value as follows:

“In addition to the design features, the following mitigation measures may be useful in avoiding, minimizing, and/or mitigating some impacts on vegetation (and other ecological) resources:

- Project developers shall, to the maximum extent practicable, site projects close to energy load centers, urban areas, and major transportation infrastructure to minimize large-scale impacts and fragmentation of open spaces.
- Project developers shall, to the maximum extent practicable, site projects on previously disturbed lands, brownfields, retired agricultural lands, and other disturbed areas instead of undisturbed, natural habitats to avoid and minimize impacts on remote, undisturbed lands.
- To the maximum extent practicable, project developers should avoid state-identified priority or critical habitats.”⁶

The above example of elevation of some values above others occurs far too frequently in the Proposal. Similar protections for other values are simply never provided in the Proposal, which

⁵ See, Proposal Volume 2 Appendix b at pg. B-2.

⁶ See, Proposal at pg. 5-40.

is a massive concern given the failures in the development of the Proposal to accurately capture high quality data for recreation. The failure to provide balanced standards for values and the clear standard to push solar development to “other disturbed areas” will create nothing but immense conflict with all forms of recreation. Visitation and recreation on BLM generally occurs on areas that are already disturbed. This needs to be corrected and all values should be protected equally. Too often the Proposal reverts to a position that ecological resources being specifically addressed and other values, such as recreation are not addressed.

3(d). Open OHV areas have value and can be HIGHLY sought after but are not addressed in the Proposal.

The Proposal failure to develop high quality data and a balanced model of for solar and recreation on public lands creates a situation where recreation will compete with a large solar power project. This conflict will be intensified as numerous recreational opportunities generally not being reflected at all. An example of a highly valued recreational opportunity that is not reflected in the values system of the Proposal is the recreational opportunity provided in Open OHV areas. Often these opportunities are occurring in areas that have not been subjected to planning or if they are identified in management plans they are identified with an ERMA designation rather than an SRMA designation simply due to the large size of these areas. Often open areas are large sand dune type riding opportunities, but may also be smaller areas such as those provided for rock crawling or trials motorcycle type riding.

Under the management model for siting of these large solar project, opportunities associated with open OHV areas are provided little or no value to the users of these areas. The comparative low value placed on these opportunities is completely in conflict with the value users place on these areas. Often these are some of the most sought after opportunities given their highly unique experiences provided and the development of other lands that previously provide similar opportunities. Further reductions in these opportunities will again only create conflict between interests and values in these lands and opportunities. This type of conflict must be avoided and could be minimized with a no net loss standard for recreational values in subsequent site specific NEPA being put in place.

4(a) Executive Orders issued by President Biden specifically requiring economic analysis of agency actions and expansion of recreational opportunities have not been addressed in the Proposal.

Our concerns around the systemic failure to address recreational values for landscapes is further compounded when the various protections and analysis required by several Executive Orders from President Biden are reviewed. The Organizations would note that EOs 14008 and 14057 has been referenced numerous times in the Proposal without meaningful discussion of what these EOs actually require. Rather than the Proposal accurately addressing this EO, compliance with the EO is simply stated to have occurred with exceptionally generalized references.

The Proposal provides no meaningful discussion of how compliance with various standards in Eos was determined and this is in stark contrast to the analysis required for these Eos. Executive Order # 14008 issued by President Biden on January 27, 2021 would be an example of an EO that is partially summarized in the Proposal followed by a cursory assertion of compliance with the EO in the Proposal. Most commonly this EO is identified as the source of the “30 by 30” concept but it entails FAR more than just that standard as this Order is 27 pages long. A full review and analysis of the various components of EO 14008 is critical to bringing balance to public lands and the Proposal is critical as there are three times recreational access and economic benefits of recreation are identified for improvement is specified in EO 14008.

§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.”

While EO 14008 spans more than 27 pages of specific requirements, the Proposal asserts 14008 can be summarized as follows:

“It is also consistent with and responds to E.O. 14008, *Tackling the Climate Crisis at Home and Abroad* (86 FR 7619) issued in February 2021, which states that it is the policy of the United States:

“to organize and deploy the full capacity of its agencies to combat the climate crisis to implement a Government-wide approach that reduces climate pollution in every sector of the economy; increases resilience to the impacts of climate change; protects public health; conserves our lands, waters, and biodiversity; delivers environmental justice; and spurs well-paying union jobs and economic

growth, especially through innovation, commercialization, and deployment of clean energy technologies and infrastructure.”⁷

Any assertion of alignment of this summary with the actual requirements of EO 14008 would be inaccurate factually and legally, despite this assertion being made 9 different times in the Proposal. Our position is the Proposal violates the mandate of 14008 to address recreational access and economic benefits of recreation to local communities. This must be corrected and addressed in the Proposal with required analysis and protections for recreational access.

The Proposals’ complete failure to accurately reflect the scope of the mandate of various Executive Orders issues is not limited to just the assertion of compliance with EO 14008. Throughout the Proposal, repeated highly generalized assertions of compliance with EO 14057 issued by President Biden on December 13, 2021 are made. These unsupported assertions are represented by the following example:

“In addition, this effort addresses E.O. 14057, *Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability* (86 FR 70935), issued in December 2021, which directs the federal government to lead by example to achieve a carbon pollution-free electricity sector by 2035 and net-zero emissions economy-wide no later than 2050.”⁸

The immediate conflict of this assertion is again apparent when EO 14057 is actually reviewed. EO 14057 starts with this general statement of purpose:

“In responding to this crisis, we have a once-in-a-generation economic opportunity to create and sustain jobs, including well-paying union jobs; support a just transition to a more sustainable economy for American workers; strengthen America’s communities;”⁹

⁷ See, Proposal at pg. ES-3.

⁸ See, Proposal at pg. ES 3.

⁹ 70935

EO 14057 has repeated and specific requirements to address economic contributions and impacts from agency actions as follows:

“c) reform agency policies and funding programs that are maladaptive to climate change and increase the vulnerability of communities, natural or built systems, economic sectors, and natural resources to climate impacts, or related risks; and”¹⁰

EO 14057 specifically addresses the need for incorporation of economic contribution in agency actions to create or improve sustainability of both the agency actions and management decisions. Again, the Organizations are unable to identify any attempt to outline how these requirements were complied with in the development of the Proposal as there is no discussion of how the asserted compliance was determined.

4(b). Accurate analysis of economic impacts from planning is an exceptionally complex task to be addressed in every phases of planning.

To ensure economic contributions of public lands to local communities and western states are meaningfully addressed, relevant federal statutes and BLM planning documents implementing these statutes, explicitly require economics to be addressed in **every** stage of the planning process. The BLM handbook specifically requires planners to document economic methods in two stages before the release of draft alternatives. The Organizations believe these mandates simply has not been complied with in the development of the Proposal and will result in long term increases in user conflicts and degradation of assets and economic contributions.

The basic mandate to include documented economic analysis early in the interdisciplinary team process for public lands planning is provided by the Federal Lands Planning and Management Act ("FLPMA). FLPMA specifies the various criteria that must be incorporated at specific times in the development of a land use plan as follows:

“(c) In the development and revision of land use plans, the Secretary shall–

¹⁰ 70938

(2) use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and other sciences;...”¹¹

The basic mandate of FLPMA regarding the critical need for documented economic analysis is more specifically and extensively addressed in Appendix D of the BLM's Land Use Planning Handbook. Appendix D of the BLM handbook governing planning and NEPA opens as follows:

"A. The Planning Process

To be effective, social scientific data and methods should be integrated into the entire planning process, from preparing the pre-plan to implementation and monitoring. The main social science activities for the various planning steps are outlined in Table D-1.

Table D-1.—*Social science activities in land use planning*

Planning steps

Steps 1 & 2—Identify Issues and Develop Planning Criteria

Step 3—Inventory Data

Steps 4—Analyze Management Situation

Step 5—Formulate Alternatives

Step 6—Estimate Effects of Alternatives

Social science activities

- Identify publics and strategies to reach them
- Identify social and economic issues
- Identify social and economic planning criteria
- Identify inventory methods
- Collect necessary social and economic data
- Conduct social and economic assessment, including existing conditions and trends and the impacts of continuing current management
- Document assessment methods in an appendix or technical supplement
- Identify social and economic opportunities and constraints to help formulate alternatives
- Identify analysis methods
- Analyze the social and economic effects of the alternatives

¹¹ See, 43 U.S.C. §1712

Steps 7 & 8—Identify Preferred Alternative and Finalize Plan

Step 9—Monitor and Evaluate

- Document impact analysis methods in an appendix or technical supplement
- Assess mitigation opportunities to enhance alternatives' positive effects and minimize their negative effects
- Identify potential social and economic factors to help select the preferred alternative
- Track social and economic indicators"¹²

The Organizations must note that economic concerns are the only factor that is addressed in every step of the planning process laid out in the BLM planning handbook. Documentation of economic forecasts and analysis methodology are required in two separate stages before release of draft alternatives. While the critical nature of economic contributions in the planning process is specifically identified, these mandates were simply not followed or even addressed in the creation of the Proposal.

4(c) NEPA requires a balance of uses and addressing of cumulative impacts.

In addition to the Organizations concerns around compliance with the previously referenced Executive Orders the Proposal is simply asserting to be in compliance with, the Proposal compliance with NEPA requirements is problematic as well. The Proposal fails to meaningfully address economic impacts and contributions from the Proposal with a detailed statement of high quality information, which is required for NEPA compliance. NEPA requires a detailed statement of why a decision or alternative was chosen over other alternatives. The detailed statement is required on a wide range of topics, some of which often conflict. One of NEPA's fundamental goals is to:

¹² See, BLM LUP Handbook H-1601-1 at Appendix D pg. 2.

“promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man.”¹³

As more completely addressed later in these comments, the Organizations have serious concerns that the welfare of man, more specifically the economic welfare of man, has not been properly addressed in the Proposal. NEPA further requires that cumulative impacts be taken into account as follows:

“Cumulative impacts can result from individually minor but collectively significant actions.”¹⁴

The Organizations believe these cumulative impacts can take many forms, including not only addressing cumulative impacts to the environment but also addressing the cumulative impacts of the decisions made on a site specific basis as part of the landscape level planning process. The Organizations also believe cumulative impacts of exclusions in the analysis of specific factors must also be properly addressed.

The Organizations believe a brief summary of the standards that are applied by Courts reviewing agency NEPA analysis is relevant to this discussion as the courts have consistently directly applied the NEP regulations to EIS review. Relevant court rulings have concluded:

*"an EIS serves two functions. First, it ensures that agencies take a hard look at the environmental effects of proposed projects. Second, it ensures that relevant information regarding proposed projects is available to members of the public so that they may play a role in the decision making process. Robertson, 490 U.S. at 349, 109 S.Ct. at 1845. For an EIS to serve these functions, it is essential that the EIS not be based on misleading economic assumptions."*¹⁵

The Court then discussed the significance of economic analysis in planning as follows:

¹³ See, 42 U.S.C. §4321

¹⁴ See, 40 CFR §1508.7

¹⁵ Hughes River Watershed Conservancy v. Glickman; (4th Circ 1996) 81 f3d 437 at pg. 442; 42 ERC 1594, 26 Env'tl. L. Rep 21276

"Misleading economic assumptions can defeat the first function of an EIS by impairing the agency's consideration of the adverse environmental effects of a proposed project. See, *South La. Env'tl. Council, Inc. v. Sand*, 629 F.2d 1005, 1011-12 (5th Cir.1980). NEPA requires agencies to balance a project's economic benefits against its adverse environmental effects. *Calvert Cliffs' Coordinating Comm. v. United States Atomic Energy Comm'n*, 449 F.2d 1109, 1113 (D.C.Cir.1971). The use of inflated economic benefits in this balancing process may result in approval of a project that otherwise would not have been approved because of its adverse environmental effects. Similarly, misleading economic assumptions can also defeat the second function of an EIS by skewing the public's evaluation of a project."¹⁶

The Court in the Hughes River decision invalidated an EIS based on an error in economic contribution calculations of approximately 32%.¹⁷ Given the significant conflict that has already been identified and failures of analysis in addressing these conflicts, the 32% threshold of error in calculations could easily be exceeded in this proposal, despite the numerous assertions of impacts such as this being addressed.

The Organizations were able to identify numerous existing federal analysis, including some from the BLM itself, that would cause significant concerns for unintended impacts to existing revenue streams that could result from the current modeling of areas for solar suitability. This conflict could not be more evident than the model reliance on the SRMA designation as the largest tool for recreational protection, especially as many RMP are horribly out of date and simply have no SRMA designated in the planning areas. While this creates the appearance that these areas might be highly suitable for solar development, we would assert these areas are badly in need of an RMP update and not solar development.

¹⁶ See, Hughes River Supra note 24 at pg .

¹⁷ See, Hughes River, Supra note 24 at pg

4(d). Economics are poorly analyzed and possible landscape level impacts are not addressed.

As noted previously in these comments, the Proposal repeatedly generally asserts its overall compliance with various Executive Orders. The Organizations were HIGHLY frustrated that the economic analysis provided with the Proposal was facially insufficient as it only covers a few paragraphs in its analysis of possible impacts to recreation. The only economic analysis provided for possible recreational issues in the Proposal simply asserts that impacts would be highly localized in nature as follows:

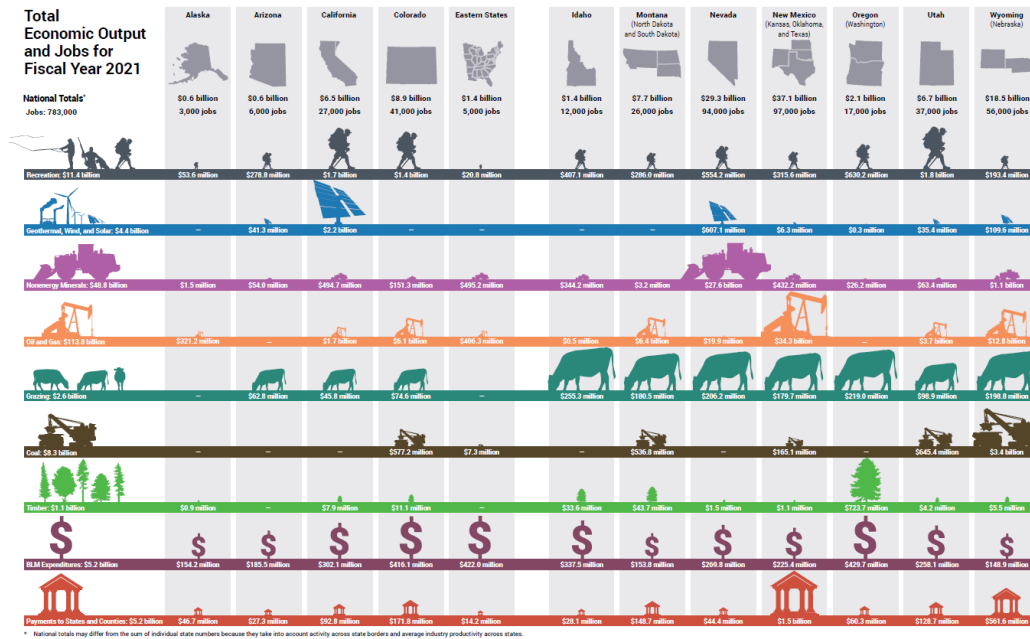
“5.15.1.4 Recreation

Concerns exist that solar energy development may affect recreation in the vicinity of solar energy facilities. Estimating these impacts is problematic, however, because it is not clear how individual solar energy facilities in each state would affect recreational visitation and visitor spending, and nonmarket values (the value of recreational resources for potential or future visits; Springer and Daue 2020). While it is clear that some land in each state would be no longer accessible for recreation, the majority of popular wilderness locations, and other BLM-administered lands such as WSAs (wilderness study areas), SRMAs, LWCs, ACECs, and National Monuments and National Conservation Areas (see Section 5.16.1.1) would be precluded from solar energy development. It is also possible that solar energy developments in each state would be visible from popular recreation locations, possibly reducing visitation and consequently affecting the economy of each state.”¹⁸

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 Proposals faces on this issue. With even a cursory review of existing economic analysis the failure of the analysis in the Proposal and model of solar suitability provided these issues are

¹⁸ See, Proposal at pg. 5-168

immediately evident. Existing BLM documentation and analysis clearly identifies that some states already have significant economic benefits from solar energy development as follows:



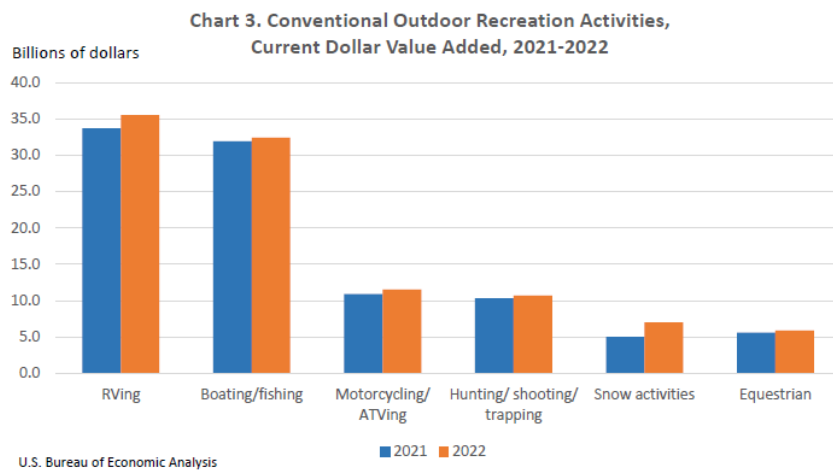
Many states have almost zero solar revenue but huge amounts of recreational revenues¹⁹ Simply recognizing this situation would have been highly valuable for the public as clearly expanding solar energy projects into areas where impacts are already existing would be a highly relevant option in some states. In other states, any solar development would be an entirely new project and face higher levels of possible conflicts. It is concerning that most states analyzed have ZERO solar energy projects in place currently but already have HUGE economic benefits from recreation. 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 asserts to be in compliance with. This level of dismissive economic analysis falls well short of the requirements of economic analysis for NEPA compliance. This simply must be remedied.

4(e). Weaknesses in the proposal modeling compound the possibility of unintended economic impacts of the Proposal.

¹⁹ See, [The BLM: A Sound Investment for America 2022](#)

As the Organizations have addressed previously, we are concerned the current modeling of recreation and energy suitability will result in disproportional impacts to recreation when compared to other uses. These impacts will be more severe on developed or multiple use recreational areas, simply due to the fact that 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 protections.

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:²⁰



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

²⁰ 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 \(BEA\)](#)

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.

5. Recreation should be provided project specific protections similar to other protections provided and to avoid impacts.

As the Organizations have noted, we have serious concerns around the scope of analysis for recreational activity in the Proposal. Unlike wildlife and ESA species issues, recreational usage simply does not translate well to mapping of habitat for species. There are simply too many components and values that are highly localized in recreation to be effectively addressed with large scale mapping. The Organizations believe the Proposal must address this issue by mandating in the required steps for a development of a site-specific project that there is No net loss in recreational opportunities as a result of the project. Basically, we are asking for mandatory protection of recreational access as part of solar project development. This protection must be developed as part of the solar project when it is developed and not merely generally addressed as some point in the future. This request is based on our decades of experience with projects which has identified the fact there is a galaxy of difference between site specific requirements that “should require resolution of the issue at an unspecified point in the future” when compared to site specific requirements that “must protect and preserve recreational access when the project is developed”.

The preservation of all recreational access is important as recreational values encompass a hugely diverse number of factors and criteria which are often highly site specific. While a solar project might only block one trail, if this trail is the only access point or the easiest access point to a much larger recreation area the impact of the loss of this trail can extend FAR beyond the value of the trail in isolation. The diversity of values for recreation is also difficult to summarize or define. A parking lot in an open OHV area can be hugely valuable, even if it does not have a kiosk or vault toilet. These are resources that must be protected and are also often excluded in areas that are already prohibiting solar development. These facilities may not be able to simply be relocated to another area easily.

This type of recreational protection would align recreational values with other values that have been protected in this manner for decades. As an example, any project must undergo a survey and inventory for cultural resources and a section 7 consultation for ESA purposes. This requirement merely brings recreational access to a similar level of protection as has been provided for other values on public lands for decades.

While this standard may seem onerous, it has not been a large burden on projects at this scale as often the resources for achieving these goals are already in the project area. It is not a major issue to have a bulldozer or grader create a new parking lot in the area as these pieces of equipment are commonly found on job sites such as this. While project requirements such as this can be easily completed when the equipment is in the area, once the equipment has left the area it is expensive and difficult to have it return.

6. Conclusion.

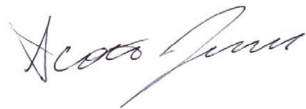
The Organizations would like to recognize agency efforts in the development of the Proposal, as the scale of analysis and information to be aligned and processed is overwhelming. The Organizations vigorously support development of sustainable resources and have been actively involved in efforts to achieve these goals for decades. However, the Organizations are deeply concerned that the Proposal suffers from many of the same systemic failures of analysis that resulted in the failure of previous efforts seeking to achieve similar goals on a smaller scale. An example of this type of repeated failures in analysis between this effort and previous efforts is the assertion in the Proposal that economic analysis of possible recreational impacts is a site-specific issue. Another example of similar failures in analysis is the failure of the Proposal to recognize the inherent imbalance of information available on competing characteristics of these areas. While the Proposal does capture some recreational values, it falls well short of analyzing and protecting all recreational values and interests from possible impacts.

While many values with far more accurate and extensive data resources are addressed in the Proposal with mandatory protections in site specific planning to occur subsequently, recreation is not provided similar protections. Not only will recreational access be disproportionate impacted but the visitation will decline most significantly in areas used by the highest spending profiles. Without these basic issues being addressed, we are unable to support any alternative

provided. We are asking that Alternative 3 is modified to provide additional protections for recreational values to reflect the imbalance of existing tools to analyze recreational values at this scale. and also protect against the massive economic impacts that could result from the failure of the Proposal to accurately address these factors. These values could be protected if “no net loss in recreational opportunities” was required in subsequent site-specific planning as would bring recreational values to a similar level of protection in the Proposal with other values being balanced.

The Organizations and our partners remain committed to providing high quality recreational resources on federal public lands while protecting resources and would welcome discussions on how to further these goals and objectives with new tools and resources. If you have questions, please feel free to contact Scott Jones, Esq. (518-281-5810 / scott.jones46@yahoo.com), Chad Hixon (719-221-8329 / chad@coloradotpa.org), or Clif Koontz (435-259-8334 / clif@ridewithrespect.org).

Respectfully Submitted,



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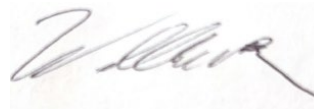
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