



June 10, 2024

BLM Monticello Field Office
 ATTN: Monument Planning
 365 North Main
 Monticello, UT 84535

RE: Bears Ears Proposal RMP revision

Dear Sirs:

Please accept this correspondence as the support of the above Organizations for Alternative A of the Proposal as the Alternatives provided are based on factually indefensible assertions and erroneous calculations at such a level to avoid meaningfully review of impacts. The above Organizations are vigorously opposed to Alternatives D and E of the Proposal as we are unable to align these Alternatives with the basic purpose and need of the project or the requirements of the Proclamation designating the area. While the Proclamation repeatedly identifies a wide range of recreational opportunities and other values and factors to be protected in the Monument, these Alternatives consistently fail to recognize these values.

We are unable to reconcile protecting recreational values in an alternative that would designate most of the planning area as an Area of Critical Environmental Concern or see to develop an entirely new planning model, when compared to USFS and BLM planning regulations. The long-term conflict and challenge of attempting to align decisions such as this with traditional BLM management, such as budgeting and efforts like Great American Outdoors Act funding would be immense. Not only does this type of designation fail to meet the purpose and need of the Proclamation, many legal concepts and standards are twisted into new definitions to support the Alternative.

Our opposition to concerns around Alternatives B and C are centered around three issues: First numerous recreational benefits are asserted to be coming out of these Alternatives, but we cannot identify any management decisions that would support these conclusions. Rather all management decisions and guidance provided would make expanding recreation more difficult rather than easier. Rather than identifying Special Recreation Management Area (“SRMA”) type designations where recreational access could be improved and expanded, every management designation would make recreational development more difficult as existing SRMA designations are greatly reduced in size or are simply redesignated to Extensive Recreation Management Areas (“ERMA”) designated areas. The Organizations have never seen this type of management model expand recreational access.

Secondly, these generalized assertions of benefits are made without recognition or analysis of the major or indirect components of the recreational usage asserted to be benefitted. An example of this would be assertions that more camping access is made, but there is no recognition that camping is often driven by motorized access. There is no location where motorized access would be improved making any assertion of improved opportunities like camping difficult to support.

Thirdly, significant portions of analysis simply do not have any factual accuracy, such as the economic analysis and the complete lack of cultural resource inventory information despite

the Proclamation identifying several different cultural values to be protected, such as cultural sites and cultural landscapes. The Proposal introduces entirely new planning concepts, such as a cultural landscape, but fails to provide any definition used in the development of the Proposal or that could be used in any subsequent site-specific planning efforts.

Without basic definitions and analysis on landscape level foundational terms and concepts such as cultural landscape or what a soundscape management plan would require, how can subsequent planning be guided by the RMP. We are unable to find any definitions for these and many other concepts in BLM regulations or existing statutes further compounding the failure of the Proposal on this issue. When our efforts forced us to seek other authorities for a possible definition of a cultural landscape, these definitions simply failed to align in any way with the concepts or analysis in the Proposal. The Proposal not only fails to align with third party definitions of cultural landscapes, and fails to provide any cultural standards at all. Is a cultural site more protected than a cultural landscape? Is there a certain density of cultural sites necessary to have a cultural landscape? Is the entire Monument a cultural landscape? How many cultural sites have been identified already in the planning area? We simply do not know. Almost a decade has passed since the issuance of the Original Proclamation by Obama December 28, 2016 designated the Monument. Despite this amount of time passing, it appears significant foundational work has not been completed. This again is a concern as there is significant foundational work remaining and we have no basis to assume this will be completed in a timely manner.

1. Who we are.

Before addressing the Organizations specific concerns regarding the Proposal, we believe a brief summary of each Organization is needed. The Off-Road Business Association ("ORBA") is a national not-for-profit trade association of motorized off-road related businesses

formed to promote and preserve off-road recreation in an environmentally responsible manner.

One Voice is a non-profit national association committed to promoting the rights of motorized enthusiasts and improving advocacy in keeping public and private lands open for responsible recreation through strong leadership, advocacy, and collaboration. One Voice provides a unified voice for motorized recreation through a national platform that represents the diverse off-highway vehicle (OHV) community.

The United Snowmobile Alliance (“USA”) is a nationally recognized 501 (c)(3) dedicated to the preservation and promotion of environmentally responsible organized snowmobiling and the creation of safe and sustainable snowmobiling in the United States.

United Four-Wheel Drive Association (“U4WD”) is an international organization whose mission is to protect, promote, and provide 4x4 opportunities world-wide.

The Specialty Equipment Market Association (“SEMA”) is a non-profit trade association that represents over 7,000 mostly small businesses around the country that manufacture, distribute, and retail specialty parts and accessories for motor vehicles. The industry employs over 1 million Americans and produces performance, functional, restoration and styling-enhancement products for use on passenger cars, trucks, SUVs, and special interest collector vehicles. SEMA members market products that enable automotive and off-road enthusiasts to personalize the style and upgrade the performance of their motor vehicles, including everything from classic cars to four-wheel drive vehicles to dedicated race cars.

The Colorado Off-Highway Vehicle Coalition (“COHVCO”) is a grassroots advocacy organization of approximately 2,500 members 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 Trail Preservation Alliance (“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.

The Colorado Off-Road Enterprise (“CORE”) is a motorized action group dedicated to keeping motorized trails open in Central Colorado and the region.

The Idaho Recreation Council (“IRC”) is a collaboration of Idaho recreation enthusiasts on the following activities: 4 x 4, Equestrian, Backcountry Aviators, Mountain Biking, Snowmobiles, Motorcycles, Rafts/Jet boats, ATV/UTV’s, RVers, Recreational Miners, and Rock Hounds. The Idaho Recreation Council is comprised of Idahoans from all parts of the state with a wide spectrum of recreation interest and love for the future of Idaho and a desire to preserve recreation for future generations of Idahoans. If you believe access is important to your recreation please consider joining a club in your area.

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.

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. Over 750 individuals have contributed money or volunteered time to the organization. RwR and its contributors have spent several-hundred hours maintaining trails designated for motorized use in the planning area. We have promoted minimum-impact practices including the preservation of cultural sites given their nonrenewable nature and tremendous value to our nation, particularly to indigenous Americans.

Collectively, ORBA, U4Wd, One Voice, SEMA, TPA, CORE, CSA, IRC, NVORA, RwR and COHVCO will be referred to as "The Organizations" for purposes of these comments.

2. The Organizations are forced to support Alternative A as assertions critical to the Proposal are entirely unsupported by facts.

The Organizations are very concerned that the Proposal systemically makes assertions of generalized benefits to recreation but fails to connect these generalized benefits with actual management decisions and standards proposed. Often positions such as "more recreational use" would result from an Alternative when compared to current management are stated but not meaningfully addressed. This is a problem in isolation when addressing NEPA compliance, but this problem is greatly expanded given the recognition of a wide range of recreational uses identified in the Proclamation and that economic contributions from recreation are identified as an important value in the Monument. The open-ended nature of the entirely new management standards for cultural landscapes compounds our concerns on the ability to provide even basic infrastructure to support recreation on the Planning area.

If the Proposal cannot identify general areas to be improved and explain the general nature of the improvement, implementation of these standards will be impossible.

The Proposal fails to address the fact that existing management of recreational opportunities in the planning area has been found effective in protecting resources. Questions such as: “How could existing management be adapted to align with the Proclamation?” are simply never addressed. After reviewing the Proclamation and identifying the numerous recreation opportunities identified, we are unable to identify if these opportunities area are even in an SRMA for protection and development. An example of the Proposal’s systemic use of broad unsupported assertions of benefit to recreation is the summary of recreational access issues made in the Executive Summary of the Proposal which asserts as follows:

“Under Alternative B, the BLM and USDA Forest Service’s management decisions would support more recreational use by allowing for more development of visitor amenities in backcountry and primitive areas. This could increase visitors to BENM, which could increase or decrease economic contributions from recreation depending on the type of visitors and projected expenditures for the visitors.”¹

We are unable to identify any locations where designations associated with the expansion of recreational uses, such as an SRMA designations on BLM managed lands are expanded in the Proposal. What the Organizations do find in every Alternative is a significant expansion of Lands with Wilderness Characteristics designations, or other restrictive new designations like ACEC designations for the entire planning area which would be a barrier to expansion of recreational opportunities rather than an improvement. Every Alternative provided for the review expands the LWC designation by more than twice existing designations, which again causes concerns about the accuracy of these assertions.²

Many of these newly proposed LWC areas are areas were previously found unsuitable for designation or management as an LWC in the 2008 Monticello RMP due to the recreational

¹ See, Proposal at pg. 3-378

² See, Proposal at pg. ES-15.

usages of these areas and various transportation routes in the area.³ Appendix O of the 2008 Monticello RMP specifically identifies 21 different locations that were removed from possible LWC designation due to the high levels of routes and recreation present in the area. Given the uncontested nature of development in the Monument since 2008, any assertion of Wilderness Characteristics improving in the area lacks a factual and legal basis. This new expansion of LWC areas is provided without any substantiation or support from the Proclamation, which only mentions Wilderness three times when it discusses existing Wilderness areas in the Planning area. Again, this type of detailed discussion is not provided, and clearly, this type of an expansion of recreational restrictions in every Alternative of management would be contrary to an assertion of expanding recreational infrastructure. This type of inaccuracy gives the Organizations significant concern regarding any of the Alternatives Proposed.

The lack of support for any assertion of improved recreational access is not limited to just motorized recreation, but appears to involve every recreational activity reviewed in the Proposal. Rather than providing detailed discussions of how the Proposal is expanding recreational access, the Proposal makes the unusual assertion that decisions will increase recreational **conflicts** as follows:

“Alternatives A, B, C, and D would generally allow recreational shooting except in campgrounds or developed recreation sites, rock writing sites, and structural cultural sites (with the inclusion of WSAs and LWC under Alternative D). Alternatives B, C, and D would also prevent recreational shooting where prohibited under SRMAs, RMZs, or MAs. **This management would continue to result in potential conflicts between user groups over recreational shooting.**”⁴

³ See, Monticello FO RMP; Lands with Wilderness Characteristics 2003 Update; Appendix O at pg. O-4

⁴ See, Proposal at pg. ES-26. Emphasis added.

We are not aware of any situation where increased recreational conflict has led to increased access. There are always winners and losers in these decisions. Clearly recreational shooting is a component of recreational usage on public lands, making this large-scale closure of opportunities difficult to align with any assertion of improved recreational opportunities. It has been our experience that conflict with recreational shooting and most other recreational uses can be more significant than conflict between other uses. Conflict around shooting starts at an immense level and move up from there. While the Proposal recognizes the increased conflict that will result, again no resources are identified to address this issue. We are aware that recreational shooting opportunities can be developed to address generalized shooting closures on public lands. An example of this type of strategy is exemplified by the efforts of the Arapahoe/Roosevelt NF in northern Colorado in addressing their unmanaged recreational shooting issues on the Forest.⁵ Again, no information or analysis is provided to streamline this type of discussion despite the fact Forests that have adopted this strategy have found the development of shooting facilities in association with landscape level shooting closures highly effective in addressing this issue.

Any assertion of streamlining recreational access is even more problematic when reviewing the USFS managed lands; significant portions of the USFS managed planning area that are open to designated routes would be moved to a closed designation. Building any motorized recreation opportunity in these areas would now require an RMP amendment as part of site-specific planning, making this planning FAR more difficult. Even if a project was building trailheads for hiking or other uses in these areas, this project would be more complex and time consuming after the changes proposed. These designations and facilities for nonmotorized opportunities are useless if the public does not have motorized access to the areas. Building basic infrastructure for even basic access for other uses will be complicated in an area closed to motorized usage. The Organizations submit each of these designations makes any expansion of recreational access in any form more difficult and clearly does not facilitate expansion of recreational opportunities.

⁵ A link to this forest level effort on the Arapahoe/Roosevelt NF is found here : [Forest Service \(usda.gov\)](https://www.usda.gov/land-management/forest-service/)

The ability to factually support an assertion of improved recreational access is limited given the large number of LWC and other restrictive types of designations are reviewed. The Proposal continues these unsupported assertions of improved recreational access from management alternatives as follows:

“Under Alternative B, the BLM and USDA Forest Service’s management decisions would support more recreational use by allowing for more development of visitor amenities in backcountry and primitive areas. This could increase visitors to BENM, especially those who enjoy dispersed camping and recreating in more remote areas. Under Alternative B, there could be an increase in percentage of visitors who stay overnight on BENM (so that they are able to access the more primitive areas), rather than visitors who stay off of BENM. As highlighted in Table 3-119 and Table 3-120, a decrease in the percentage of visitors who stay off-site could result in an overall decrease in recreation-related expenditures, which could result in a reduction in economic contributions. On the other hand, if, under Alternative B, there is an overall increase in the number of total visitors to BENM, then there might be an increase in expenditures and economic contributions. The extent to which this change in recreation visitors and type of visitors would impact overall economic contributions would depend on the number of projected visitors and the change in percentage of visitor segments.”⁶

The accuracy of the above assertions is immediately problematic when SRMA/ERMA designations under Alternative B is compared to existing management for the same area. The lack of factual support would be exemplified by the Indian Creek SRMA, White Canyon SRMA and Beef Basin SRMA designated under current management for the development of recreational opportunities. The problematic nature of the assertion is based on the fact each

⁶ See, Proposal at pg. 3-379

of these existing SRMAs is either entirely removed or downgraded to an ERMA with far less recreational based goals, despite the fact these existing management designations are consistent with the Proclamation. Under the 2008 Monticello RMP, the Indian Creek SRMA is managed for the following general goals and objectives: ⁷

“- Provide outstanding recreational opportunities and visitor experiences while protecting natural and cultural resource values through integrated management between the BLM, NPS, State of Utah, and the Nature Conservancy

-Provide for premier rock climbing experiences, outstanding OHV opportunities, scenic vistas, cultural site interpretation at Newspaper Rock, destination camping areas, and a gateway to Canyonlands National Park.

By the year 2012, manage this SRMA to provide opportunities for visitors to realize personal development and growth, enhanced lifestyle increased local tourism revenue and maintenance of distinct recreation setting character, providing no fewer than 80% of responding visitors and impacted community residents at least a moderate realization of these benefits: (i.e., 3.0 on a probability scale where 1 = not at all, 2 = somewhat, 3 = moderate, 4 = total realization).”

The Indian Creek SRMA also had the following specific goals and objectives: ⁸

“- Camping is prohibited in the Indian Creek riparian corridor from Newspaper Rock to approximately 1 mile downstream of the Dugout Ranch.

- Camp sites will be removed from the Newspaper Rock area and rehabilitated.

⁷ See, 2008 Monticello RMP at pg. 106.

⁸ See, 2008 Monticello RMP at pg. 107

- A picnic area will be constructed adjacent to the Newspaper Rock parking area.
- Camping along the Bridger Jack Mesa Bench is limited to designated sites.
- A new campground called Shay Mountain Vista Campground will be constructed.
- The area is unavailable for private and/or commercial use of woodland products, including on-site collection of dead wood for campfires. Campers must bring in their own wood for campfires.
- Campfires are restricted to fire rings where fire rings are available. In dispersed camping areas, where fire rings are not available, campfires are subject to "Leave No Trace" standards. No campfires are allowed in the Lavender Mesa ACEC.
- Rock-climbing routes in conflict with cultural sites will be closed.
- Camping fees will be charged if deemed necessary to provide needed facilities and services.
- Parking areas will be developed.”

The White Canyon SRMA is managed with the following general goals and objectives under the 2008 Monticello RMP: ⁹

- “- Provide outstanding recreational opportunities and visitor experiences, while protecting natural and cultural resource values through integrated management between the BLM and NPS (including the Glen Canyon National Recreation Area and Natural Bridges National Monument).
- Provide a spectacular canyoneering recreational experience in a popular, world renowned and easily accessible slot canyon; including backcountry hiking and backpacking, remote camping, cultural site visitation and exploration.”

⁹ See, Monticello Field Office 2008 RMP at pg. 109

The Beef Basin SRMA is managed with the following general goals and objectives under the 2008 Monticello RMP:¹⁰

- “- Provide outstanding recreational opportunities and visitor experiences while protecting natural and cultural resource values.
- Provides a popular, remote, backcountry driving experience with primitive camping and cultural site exploration opportunities. Management focus for the SRMA is heritage tourism, traditional cultural values, and scientific research of prehistoric cultural landscapes.
- Provide a semi-primitive recreational experience for visitors to enjoy the world renowned cultural resources and scenic values. Use visitor information and interpretation as a primary tool to protect sensitive resources, discourage vandalism, and encourage visitor appreciation of public lands.”

The Beef Basin SRMA is managed with the following general goals and objectives under the 2008 Monticello RMP: ¹¹

“Beef Basin SRMA (20,302 acres) (Map 9) is managed with the following prescriptions:

- Available for private and/or commercial use of woodland products (including on-site collection of dead wood for campfires).
- Open to disposal of mineral materials under special conditions.
- Available for oil and gas leasing subject to timing limitations.
- Livestock use will continue but may be limited if cultural resources are impacted.

¹⁰ See, Monticello Field Office 2008 RMP at pg. 110

¹¹ See, Monticello Field Office 2008 RMP at pg. 110

- Available for range, wildlife habitat, watershed improvements, vegetation treatments and other surface-disturbing land treatments if consistent with management plan objectives.
- OHV use limited to designated routes.
- A car campground will be developed in Ruin Park for primitive camping.
- Primitive car camping areas will be designated in Middle Park, House Park, and along Beef Basin Loop Road, as well as other areas as necessary to control impacts to cultural resources.
- Until primitive camping areas are designated in this area, dispersed vehicle camping will be allowed in previously disturbed areas within 150 feet of designated routes.
- Campfires are allowed and are restricted to fire rings where fire rings are available. In dispersed camping areas, where fire rings are not available, campfires are subject to "Leave No Trace" standards.
- Dispersed campsites that impact archaeological sites will be closed.
- Cultural site visitation limited to designated trails.
- Groups larger than 20 people total are required to camp in designated areas. Human waste must be packed out.
- Manage as VRM Class III.”

Any assertion in the Proposal that recreational access will improve without these types of designations is problematic as there are no newly designated SRMA areas and several Alternatives almost entirely remove these SRMA designation from the plan or reduce them to EMRA designations with highly generalized requirements. The Proposal position is directly contrary to our experiences and with BLM national guidance on the use of SRMA designations. Many of these existing designations could have been easily updated or amended to come into compliance with the Proclamation. When the proposed changes between existing management and Alternative B are reviewed there can be only one conclusion, which is that SRMA designations for recreational improvement and expansion

have been entirely removed from management moving forward. For this reason alone, we are opposed to Alternative B, as we are unable to understand how recreation will be protected in the Proposal. This is critical as recreational usage of the area is identified as a characteristic of the area to be protected and Alternative B is proposed to be the most advantageous for recreational usage of the area.

The Proposal's SRMA and EMRA designated areas often provide little to no specific guidance about secondary or indirect usages and related activities necessary to achieve the goals. As an example, dispersed camping is consistently accessed with motor vehicles, regardless of whether camping is with a tent or similar infrastructure. Most dispersed campers use a trailer to camp, and this means motor vehicle access must be provided in some manner, as we are sure the planners are aware of, management of dispersed camping has proven to be problematic throughout the region. Previous SRMA designations addressed these indirect factors by providing distances from roads where people could camp, requiring parking and other camping related infrastructure. We are unable to identify any management designation in the SRMA in the Proposal that would allow for the development of even basic infrastructure to support designated dispersed camping like fire rings. Basic guidance on how far dispersed camping would be allowed from roads, kiosk development, trash removal and other things commonly associated with dispersed camping simply are not addressed in the Proposal despite these issues being addressed previously.

The failure to provide this type of guidance is directly in conflict with the Proclamation but will also create immense conflict in the area. This type of conflict is on display in the Moab FO, immediately north of the planning area, where there is a lack of management standards to support the public's desire to recreate on the FO was not provided. As an example, the Moab RMP requires motorized users to park on trails and then access camping areas by foot. Legally parking in this manner to camp immediately creates conflict with other trail users as often parking to camp results in trails being blocked as trails cannot safely allow passing. Trail users have tried to go around parked vehicles to use these dispersed camping sites and

then are told they are off trail and routes are closed due to unacceptable impacts from this type of legal activity. The Organizations vigorously assert that managers of the monument must learn from these failures by providing greater detail in how decisions were made on specific components of standards. Rather than mitigating these issues, the Proposal expands the probability of larger and more intense conflicts as less guidance is given.

Our concerns around the failure to analyze changes such as moving from an SMRA to an ERMA type designation extend far beyond types of recreation allowed at sites. SRMA designations are a priority funding area for funding provided under the Land and Water Conservation Fund Program (LWCF). As LWCF was fully funded with the passage of the Great American Outdoors Act in 2018, significant reductions in SRMA acreage could greatly impact funding available for management. While National Monuments are also a priority funding under the LWCF program as well, a monument with a larger number of SRMA simply will be more competitive for this program. Given the collapsing land management budgets we have faced for decades, the Organizations must wonder why every effort would not be made to align planning efforts with funding criteria to allow this limited funding to be directed to priority areas.

The Organizations vigorously assert that recreation in all forms is protected by the Proclamation and has additionally required analysis in other Biden Executive Orders such as 14008 and 14057. Guidance on recreation management provided in the Proposal is woefully inadequate and, in many situations, existing SRMA type designations, with decent goals and objectives for management of the area, are simply removed entirely or reduced to ERMA designations with any reason provided. At no point does the Proposal attempt to replace or expand these resources that are being removed. Naked assertions of improved opportunities are not a replacement for management with deliverable standards and definable goals nor are they sufficient for NEPA compliance. This must be corrected simply to comply with the Proclamation and other Executive Orders requiring similar analysis for all management actions taken.

3. 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 simply are not referenced in the Proposal despite these Executive Orders being issued by the same president within months of the Proclamation requiring the planning effort.

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 Executive Orders as they mirror many of the sentiments raised in the Proclamation. 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.”¹²

¹² See, President Joe Biden, Executive Order 14008; 86 Fed Reg 7619 At pg. 7626 (2021)

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.”¹³

§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.”¹⁴

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 address similar Executive Orders is not limited to a failure to address compliance with EO 14008. EO 14057 issued by President Biden on December 13, 2021 are made. The immediate concern over the failure to address Executive Order 14057 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

¹³ See, EO 14008 at pg. 7627.

¹⁴ See, EO 14008 at pg. 7628

to a more sustainable economy for American workers; strengthen America's communities;"¹⁵

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"¹⁶

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. Cultural/historic resource analysis has not been performed.

The Proposal is tasked with creating a plan balancing many values after the Proclamation including wildlife, water, cultural and historical resources, scenic values and recreational values. Some multiple uses are of higher priority when the balancing of uses occurs and others are limited or removed under the Proclamation. Of the multiple uses generally available on public lands, the only general classes of values removed from analysis by the Proclamation is oil and gas exploration and drilling. Even those values that are reduced or limited, such as grazing, are still provided detailed analysis. While some values are addressed in significant detail in the analysis, foundational information necessary to address critical values, such as cultural resources are not provided at all. This is despite the Proclamation identifying multiple classes of cultural resources, including cultural sites and cultural landscapes. While we are familiar with the management of cultural sites, we have

¹⁵ See, President Joseph Biden; Executive Order 14057; 86 Fed Reg. 70935(2021).

¹⁶ See, EO 14057 at pg. 70938.

never addressed cultural landscape management and are unable to locate any regulations on this type of management.

The complete omission of analysis of cultural resources is directly contrary to the Proclamation specifically requirements of maximum public involvement in the Process to develop the Plan. This maximum public involvement requirement is specifically stated as follows:

“The Secretaries shall provide for maximum public involvement in the development of that plan, including consultation with federally recognized Tribes and State and local governments. In the development and implementation of the management plan, the Secretaries shall maximize opportunities, pursuant to applicable legal authorities, for shared resources, operational efficiency, and cooperation.”¹⁷

This additional specific requirement of maximum public involvement in planning becomes immensely problematic as basic information required for NEPA, the Antiquities Act or APA is not provided at legally sufficient levels. Even without the Proclamation, the Antiquities Act requires many values permitted in the planning area to be analyzed in the legally required manner. These requirements are expanded with the maximum public engagement requirements of the Proclamation and not reduced or removed. Rather than maximizing public engagement on these designations, the Proposal provides no information at all despite the standards being entirely new to planning requirements.

An example of a priority usage of the area that is not addressed in the analysis is cultural/historic values and this creates an immense problem for the Proposal. We do not contest the BEC held meetings on a wide range of issues, the activities of a partner are not sufficient for NEPA or APA compliance. The Proposal recognizes this fact as the BEC created its own alternative to the Proposal. The BEC is not a substitute for NEPA and also does not

¹⁷ See, Biden Proclamation at pg. 57332

improve engagement for those that were not able to attend or participate in the meetings held by the BEC.

The Antiquities Act of 1906 (54 U.S.C. §§320301-320303) authorizes the President to proclaim national monuments on federal lands that contain a wide range of historic landmarks, historic and prehistoric structures, or other objects of historical or scientific interests and other values. At no point does the Antiquities Act allow planners to avoid NEPA compliance in identifying other values and their relationships to uses in the Monument. The Proposal's omission of cultural resources analysis has been catastrophically destructive to use of other values identified in the Proclamation, such as recreational values. NEPA requires analysis on how the competing values are balanced and this has simply not occurred with management of cultural resources in relation to other values identified in the Proclamation. Providing an alternative that has little chance of adoption in NEPA from a partner group is not a replacement for meaningful public engagement as this alternative is only one of five alternatives provided.

The Organizations are intimately familiar with the management of cultural/historic values on public lands, and as a result we will clarify we are not asking for any site-specific information that would be protected based on the value of the site as a cultural resource. We are aware that significant information could still be provided without site specific information. We have participated in planning that: 1. Merely mapped Low/medium/high cultural values; 2. Other efforts have outlined what is cultural information already publicly available; 3. Some plans have provided information on areas already inventoried; and 4. Other plans outline what locations have been found suitable for listing on the National Register of Historic places, what locations were applied to protection and found suitable, what areas have not been inventoried at all. We are unable to locate any information such as cultural information we have seen previously and are forced to conclude that all sites and possible sites were valued above all other opportunities and protected.

Even with this type of maximum protection assumption for cultural sites, we are unable to theorize what protections would be for cultural landscapes. NEPA requires this information and decision-making process to be analyzed. Prior to addressing the complete lack of compliance with NEPA requirements, APA compliance must be addressed as the Proclamation sought to create a new rule under the Antiquities Act to implement that authority, the Proposal is insufficient to satisfy administrative Procedure Act requirements. Courts have consistently applied the following standards for rulemaking by agencies:

“Procedure, not substance, is what most distinguishes our government from others. In the not-so-distant past, a government agency in the Soviet Union could impose controls on the production of commodities without bothering to involve the public in the decision making process. By contrast, a government agency in the United States must usually give notice to, and accept comments from, the public before undertaking to place manacles on the invisible hand. 5 U.S.C. § 553”¹⁸

Given there is not even an attempt to reference regulations on a cultural landscape in the Proposal, the Organizations would vigorously assert this management is exactly the invisible hand of government that the 9th Circuit has taken such a dim view of in their decisions. The requirement of rulemaking and public notice and comment for this type of action is not mitigated by the engagement of a third party or informal process. This strawman situation is clearly struck down by the 9th Circuit as follows:

“We thus conclude that the Secretary’s rulemaking fails to satisfy the APA’s requirements because he has not demonstrated good cause for failing to give sufficient notice in the *Federal Register* of the weekly NO AC meeting and failing to allow the public to comment by means other than personal participation at the NO AC meeting....Thus, if the harmless error rule were to look solely to result, an agency could always claim that it would have

¹⁸ See, *Riverbend Farms, Inc. v. Madigan*, 958 F.2d 1479 (9th Cir. 1992)

adopted the same rule even if it had complied with the APA procedures. To avoid gutting the APA's procedural requirements, harmless error analysis in administrative rulemaking must therefore focus on the process as well as the result. We have held that the failure to provide notice and comment is harmless only where the agency's mistake "clearly had no bearing on the procedure used or the substance of decision reached"¹⁹

Even if the BEC is claimed to have created this cultural landscape management standard, this does not resolve the public notice and engagement requirements under the APA or NEPA. The immensely problematic nature of this failure to comply with APA requirements is compounded by the fact that the Proclamation clearly and specifically requires "maximum public involvement," we are unable to participate in any planning as basic planning terms are simply not defined.

While a "cultural site" is defined in the Proposal a "cultural landscape" is not defined in the Proposal, which creates immense problems when NEPA sufficiency is addressed. The need for a single definition as a starting point of analysis for a cultural landscape is critical as many different organizations have created definitions for this, and often, these are significantly different. We are aware that UNESCO, The European Landscape Convention Treaty, the National Park Service, and the City of San Diego all have separate and distinct definitions they apply. There is extensive scholarly discussion on the proper definition of a landscape even is.²⁰

Most definitions have varying factors and values to be protected and some classes of cultural landscapes have high levels of human activity across the entirety of the landscape. Without defining a cultural landscape, we are unable to define its value in comparison to other values identified as important in the Proclamation for NEPA. Other basic questions such as: "Is a cultural site more important than a cultural landscape?" "What uses might be consistent with a cultural landscape but not a cultural site?" "Is the Proposal managing

¹⁹ See, Riverbend Farms Pg 1487

²⁰ As an example: [Cultural Landscape - Geography - Oxford Bibliographies](#)

cultural landscapes under a single standard or multiple categories” simply cannot be addressed.

These questions are not academic but critical to the foundation of the planning effort. The need for a basic definition of a cultural landscape as a starting point in the NEPA planning process is directly evidenced by the fact a cultural landscape, as defined by UNESCO, encompasses wide-ranging uses of the landscape. The UNESCO definition specifically identifies these categories as follows:

“CULTURAL LANDSCAPES. Definition

6. Cultural landscapes are cultural properties and represent the "combined works of nature and of man" designated in Article 1 of the Convention. They are illustrative of the evolution of human society and settlement over time, under the influence of the physical constraints and/or opportunities presented by their natural environment and of successive social, economic and cultural forces, both external and internal.

7. They should be selected on the basis both of their outstanding universal value and of their representativity in terms of a clearly defined geo-cultural region and also for their capacity to illustrate the essential and distinct cultural elements of such regions.

8. The term "cultural landscape" embraces a diversity of manifestations of the interaction between humankind and its natural environment.

9. Cultural landscapes often reflect specific techniques of sustainable land-use, considering the characteristics and limits of the natural environment they are established in, and a specific spiritual relation to nature. Protection of cultural landscapes can contribute to modern techniques of sustainable land-use and can maintain or enhance natural values in the landscape. The continued existence of traditional forms of land-use supports biological diversity in many regions of the world. The protection of traditional cultural landscapes is therefore helpful in maintaining biological diversity. Definition and Categories

10. Cultural landscapes fall into three main categories, namely:

(i) The most easily identifiable is the clearly defined landscape designed and created intentionally by man. This embraces garden and parkland landscapes constructed for aesthetic reasons which are often (but not always) associated with religious or other monumental buildings and ensembles.

(ii) The second category is the organically evolved landscape. This results from an initial social, economic, administrative, and/or religious imperative and has developed its present form by association with and in response to its natural environment. Such landscapes reflect that process of evolution in their form and component features. They fall into two sub-categories: - a relict (or fossil) landscape is one in which an evolutionary process came to an end at some time in the past, either abruptly or over a period. Its significant distinguishing features are, however, still visible in material form. - a continuing landscape is one which retains an active social role in contemporary society closely associated with the traditional way of life, and in which the evolutionary process is still in progress. At the same time it exhibits significant material evidence of its evolution over time.

(iii) The final category is the associative cultural landscape. The inscription of such landscapes on the World Heritage List is justifiable by virtue of the powerful religious, artistic or cultural associations of the natural element rather than material cultural evidence, which may be insignificant or even absent.”²¹

Given the diversity of the above definition, the Organizations will again assert the need for a single starting point for NEPA analysis. This definition is not provided in BLM regulations, the Proclamation or the Proposal. Clearly if the three categories of designation are being applied in the Proposal, there are areas where expanding recreational access would be entirely

²¹ [World Heritage Centre - Cultural Landscapes \(unesco.org\)](http://unesco.org) Operational Guidelines for the Implementation of the World Heritage Convention pg. 85. [Operational Guidelines for the Implementation of the World Heritage Convention \(unesco.org\)](http://unesco.org)

consistent with the definition of a cultural landscape that is created by man. If the Proposal seeks to apply all three subcategories of the definition, then each subcategory should be mapped and identified along with permitted uses and levels of protection for each subcategory. This simply has not happened, and as a result, this portion of the Proposal falls well short of the maximum public engagement required under the Proclamation or needed to satisfy NEPA.

5. The Proposal's range of alternatives is legally insufficient as a result of inadequate analysis of many issues.

The Proposal's lack of integration of impacts of changes in management between expected current recreational usage and resources provided to users of the Planning area after implementation has directly impacted the very limited range of alternatives provided in the Proposal. This range of alternatives is even more unacceptable as recreation and economics being identified as priority issues in the Proclamation. Even the most development intensive alternative provided in the Proposal fails to provide any meaningful guidance for the developing and utilizing recreational opportunities in the planning area.

The failure to tie proposed changes in the Alternatives of the Proposal to the impacts desired outcomes after implementation has resulted in a Plan being provided for public comment that has many viable options for management not being explored. The Organizations believe these analysis flaws have resulted in a range of Alternatives being presented that simply bear no rational relationship to the planned usage or benefits that are currently accruing to the local communities from the recreational usage of the BENM or possible impacts to these communities from these changes.

Providing an accurate and reasonable range of alternatives to the public as part of the NEPA process is a critical component of the NEPA process. The rational decision-making process of NEPA is compromised when agencies consider only a limited range of alternatives to their

proposed projects.²² When reviewing range of Alternatives provided in a NEPA analysis, the Court's conclusions have consistently been summarized as:

"The alternative section is 'the heart of the environmental impact statement,' 40 C.F.R. 1502.14; hence, '[t]he existence of a viable but unexamined alternative renders an environmental impact statement inadequate.'" ²³

When determining if an EIS has provided a satisfactory range of alternatives, Courts have held the proper standard of comparison is to compare to the purpose and intent of the EIS to the range of Alternatives provided. The Courts have consistently held:

"[E]nsure that federal agencies have sufficiently detailed information to decide whether to proceed with an action in light of potential environmental consequences, and [to] provide the public with information on the environmental impact of a proposed action and encourage public participation in the development of that information." ²⁴

Given the numerous critical terms such as a cultural landscape are not defined, the horribly inaccurate economic analysis and failure to provide any information on issues such as soundscape planning and ACEC designation clearly alternatives have been overlooked in the creation of the Proposal. The Organizations believe that these failures have caused a range of alternatives to be presented that is simply legally insufficient. As an example of the failure to provide a range of alternatives, Alternative D makes the entire monument an Area of Critical Environmental Concern. This would directly conflict with the Proclamation as many other uses are recognized in the Proclamation outside protection of natural resources.

²² James Allen; *Does not provide a range of alternatives to satisfy NEPA.....NEPA Alternatives Analysis: The Evolving Exclusion of Remote and Speculative Alternatives*; 2005 25 J. Land Resources & Envtl. L. 287.

²³ See, *Citizens for a Better Henderson v. Hodel*, 768 F. 2d 1051, 1057 (9th Cir. 1985).

²⁴ See, *Kunzman*, 817 F. 2d at 492; see also *Citizens for a Better Henderson*, 768 F. 2d at 1056.

Alternative E provides an alternative that in no way aligns with BLM or federal public lands management requirements.

The remaining alternatives are artificially limited in scope, as exemplified by the requirement to develop a soundscape management plan for the management area despite this not being required in the Proclamation. Rather the Proclamation mentions solitude in specific locations, not entire planning area.²⁵ The need for a soundscape plan on every Alternative is further evidence of the predetermined range of alternatives provided, there is simply no data provided to identify the need for this type of plan. It clearly is not required in the Proclamation. The failure of the Proposal to provide a legally sufficient Range of Alternatives is further evidenced by USFS lands management under every Alternative provides for OHV closures to move from 46k acres closed to motorized to 177k for all Alternatives.

As addressed in greater detail in other portions of these comments, the failure of the Proposal to align assertions made with existing standards of management is problematic to the range of Alternatives. The evaluations of the effectiveness of the current management standards make these existing management standards even more relevant. Despite these conclusions existing management simply is not addressed in the Proclamation. Many recreational designations and existing decisions could be slightly amended and updated to comply with the Proclamation. The effectiveness of OHV management in protecting cultural and other resources was clearly and directly stated in 2015 Monticello RMP Evaluation found OHV management effective to protect resources. This 2015 evaluation clearly stated this as follows: ²⁶

²⁵ See, Biden Proclamation at pg. 57325.

²⁶ See, DOI, Bureau of Land Management; Monticello Field Office; RMP Evaluation September 2015 at pg. b-18

Question	Response	Action
Does the RMP identify all public lands as; open, limited, or closed to OHV use?	Yes	No Change
Are the OHV designations still meeting resource objectives?	Yes	No Change
Does the RMP outline travel prescriptions under each designation?	Yes	No Change
Have implementation level travel plans been completed? If not, does the RMP provide a mechanism to complete an implementation plan? Explain.	Yes	No Change
Is the plan consistent with updated TTM policy/manual?	Yes	No Change
Monitoring	The monitoring specified in Appendix H is adequate and requires no changes.	No Change

These types of conclusions regarding the effectiveness of current management provide the basis for an Alternative of the Proposal that merely refines current management to align with the Proclamation. Current management could simply remove oil and gas standards and move forward with implementation. This Alternative is even more viable if these management standards were updated and reviewed. Again, this simply has not happened, and rather than address this issue, current management is simply ignored. The Organizations would like to understand how existing management has moved from success to such failure as to warrant no further discussion at all in such a short time period. We would like to avoid these failures in the future in other locations.

6(a). Economic analysis is identified as an important characteristic for management in the Proclamation.

As previously addressed, maximum public comment are required for development of the Plan. Economic contributions from recreation and other uses are also clearly identified as an important characteristic of the planning area in the Proclamation as follows:

“While not objects of historic and scientific interest designated for protection, the proclamation also describes other resources in the area, historic grazing, and world class outdoor recreation opportunities—including rock climbing, hunting, hiking, backpacking, canyoneering, whitewater rafting, mountain biking, and horseback riding—that support a booming travel and tourism sector that is a source of economic opportunity for local communities.”²⁷

²⁷ Monument Proclamation at pg. 57322

Given this clarity of the importance of economic contributions by the Proclamation as more important than other values in the area, it would be reasonable to expect a highly detailed and accurate analysis of this issue would be provided. This type of analysis would be critical in developing maximum public input on the Plan. Despite these clear requirements, the Proposal fails to accurately address economic contributions of recreation. This failure is more egregious as reasonably accurate economic contribution information being developed in other planning efforts within the Monument being conducted at the same time.

In addition to these specific requirements in the Proclamation, economic impacts is a factor that also required to be addressed in the NEPA process. Despite this legal requirement of NEPA analysis being of heightened importance for the Proclamation, the Proposal falls woefully short of a legally sufficient legal analysis of this issue and well short of the analysis of an issue identified as an important sector of the planning area community. Until large scale violations of the Proclamation and NEPA requirements can be resolved, the Organizations are unable to support any of the proposed Alternatives.

Economic contribution calculations are often complex and involve a balance of numerous factors that directly impact the spending habits of those sought to be studied, and often involve far more analysis and discussion than planning for other issues. The basic complexity of any economic determinations and the size of the calculations to be made are summarized by the Western Governors Association's recreational economic contributions study as follows:

"How is "economic impact" calculated? Many people might think of a consumer buying equipment – a tent, fishing pole, ATV, bicycle, boat, snowboard or rifle. However, the impact is much more complex than the manufacture and sale of gear and vehicles. Gas stations, restaurants, hotels, river guides and ski resorts benefit from outdoor recreation. In total,

equipment and travel expenditures represent billions in direct sales that create jobs, income, tax revenues and other economic benefits."²⁸

The complexity of the calculations undertaken for economic impact calculations is immediately evidenced by the sheer number of pages required in most economic impact reports, as the explanation of the analysis process used to arrive at any final figure of any economic contribution analysis is often as valuable as the total economic contribution that is reached. Given the complexity of the process, we must question how the decision was made not to review the economic analysis contributions found in the Analysis with other planning efforts going on in the planning area at the same time. This failure has allowed catastrophically inaccurate information to be provided to the public in the Proposal despite the numerous provisions mandating high quality information this issue.

6(b) Proper integration of economic information in the planning process is an ongoing issue in federal planning.

The proper integration of accurate economic information is often a weakness of the public land planning process in the Western United States, which has resulted in the creation of many other longer-term problems when decisions reflecting an imbalanced multiple uses are implemented. The Organizations submit that the failure of many planning efforts to accurately address economic impacts and contributions was a concern addressed by the Proclamation in the planning area. The Western Governors Association released its *Get Out West* report in conjunction with its economic impact study of recreation on public lands in the Western United States which specifically identified that proper valuation is a significant management concern as follows:

²⁸ See Western Governors Association report; *A snapshot of the Economic Impact of Outdoor Recreation*; prepared by Southwick and Associates; July 2012 at pg. 1.

"Several managers stated that one of the biggest challenges they face is “the undervaluation of outdoor recreation” relative to other land uses.”²⁹

The *Get Out West* report from the Western Governors' Association also highlighted how critical proper valuation of recreation is to the development of good management plans based on multiple use principals. The *Get Out West* report specifically found:

"Good planning not only results in better recreation opportunities, it also helps address and avoid major management challenges – such as limited funding, changing recreation types, user conflicts, and degradation of the assets. Managers with the most successfully managed recreation assets emphasized that they planned early and often. They assessed their opportunities and constraints, prioritized their assets, and defined visions.”³⁰

The Organizations believe our concerns regarding the Proposal and those expressed in the Western Governor's *Get Out West* report virtually mirror each other. This concern must be addressed prior to finalizing the Proposal in order to avoid increases to many other management issues that were sought to be minimized with the creation. There can simply be no factual argument made that recreation has not been significantly undervalued in the Proposal and this has directed the range of alternatives provided for multiple use recreation in the planning area.

6(c) Accurate analysis of economic impacts from planning is an exceptionally complex task to be addressed in every phase of planning.

As noted in the Western Governors' *Get Out West* report, public lands are a major economic driver for many Western communities that are often completely surrounded by large tracts

²⁹ See, Western Governors Association; *Get out West Report; Managing the Regions Recreational Assets*; June 2012 at pg.. 3.

³⁰ See, *Get Out West Report* at pg. 5.

of public lands. Usage of these public lands takes a variety of forms, but the largest user of public lands throughout the West is the recreational user. To ensure economic contributions of public lands to local communities and western states, 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 requires planners to document economic methods in two stages before the releasing draft alternatives. The Organizations believe these mandates simply have 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, all of which are identified as priority concerns in the Proclamation.

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–

(2) use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and other sciences;...”³¹

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 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

³¹ 43 U.S.C. §1712

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*

<u>Planning steps</u>	<u>Social science activities</u>
Steps 1 & 2—Identify Issues and Develop Planning Criteria	<ul style="list-style-type: none"> ▪ Identify publics and strategies to reach them ▪ Identify social and economic issues ▪ Identify social and economic planning criteria
Step 3—Inventory Data	<ul style="list-style-type: none"> ▪ Identify inventory methods ▪ Collect necessary social and economic data
Steps 4—Analyze Management Situation	<ul style="list-style-type: none"> ▪ 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
Step 5—Formulate Alternatives	<ul style="list-style-type: none"> ▪ Identify social and economic opportunities and constraints to help formulate alternatives
Step 6—Estimate Effects of Alternatives	<ul style="list-style-type: none"> ▪ Identify analysis methods ▪ Analyze the social and economic effects of the alternatives

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"³²

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 is required in two separate stages before release of draft alternatives. The required documentation of these concerns is exactly the information the Organizations seek to review but cannot review in the Proposal as required as the information provided is simply comically inaccurate. 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.

6(d)(1) The Proposal developed and relied on per-party spending assumptions that are shockingly low or entirely misleading.

As the Organizations have noted in previous sections of these comments, we have concerns about the accuracy of the social surplus component of the economic analysis provided in the Proposal. The Organizations must question why this type of information was provided or sought out when the conclusions of the basic economic analysis are simply lacking factual

³² See, BLM LUP Handbook H-1601-1 at Appendix D pg. 2. Emphasis added.

basis in any manner. As noted the Proclamation clearly states economic contributions are an important planning factor and makes no mention at all regarding concepts such as surplus economic values not captured in various uses. The concepts of “economic contributions” and “surplus economic value” are two entirely separate concept for economic analysis with very little overlap.

Under the INPLAN model of economic analysis, and economic contribution is defined as follows:

“special modeling techniques are required in these cases to ensure that the results accurately reflect the addition/loss of just the projected/current level of Output of the industry of interest plus the indirect and induced effects in other industries. This is the purpose of what we at IMPLAN term Contribution Analysis. The basic idea is to disallow indirect or induced purchases from the industry of interest in such a way that does not affect the indirect and induced effects on other industries.”³³

Surplus economic values are defined as follows:

Economic surplus, also known as total welfare or the sum of consumer and producer surplus, is an important concept in economics that represents the total benefits that traders (consumers and producers) receive from participating in a market. It is defined by the difference between what consumers are willing to pay for a good or service (their maximum price) versus the actual market price, combined with the difference between the market price and the price at which producers are willing to supply the product (their minimum selling price).³⁴

While surplus value may be conceptually interesting, it by definition, cannot be an economic contribution. Rather it is the difference between what is paid and what might be paid. The

³³ [Economic Impact, Economic Contribution, and Export Base – IMPLAN - Support](#)

³⁴ [Economic Surplus Definition & Examples - Quickonomics](#)

Organizations would note that the Proclamation directly recognizes the importance of economic contributions to local communities but at no point raises the need to address possible surplus values in commodities on the planning area.

Many of the categories provided simply do not appear on the planning area with any intensity at all, such as downhill skiing. We are aware the NRA adjacent to the planning area provides significant motorized boating opportunities but we question how relevant this usage is for the planning area analysis. Again, why would these categories even be addressed as the Proclamation speaks to contributions to communities from activities on the Monument, not activities next to the monument that would be outside the scope of planning.

When the generalized review of recreation spending profiles provided by the Proposal is reviewed, several categories of information are provided that are so completely inaccurate as to render the analysis without merit at all. While information that is largely academic in nature is provided along with information on uses not occurring on the planning area, many of the basic contributions recreational activity on the monument is simply not accurately addressed. A brief review of the accuracy of basic calculations and assumptions critical to understanding the economic contribution of outdoor recreation provides conclusions that cannot be defended factually or legally and are verging on simply impossible to achieve. The Proposal provides the following table outlining the conclusions that were used for the calculations of economic contributions for recreation:³⁵

Table 3-113. Spending Profile per Party per Day by Visit Type (2021 dollars)

Type of Expenditure	Nonlocal Day Trip	Local Day Trip	Overnight Staying in BENM (camping)	Overnight Staying Off BENM (camping)	Overnight Staying Off BENM (lodging)
Motel	\$0.00	\$0.00	\$0.00	\$0.00	\$129.50
Camping fees	\$0.00	\$0.00	\$12.67	\$34.14	\$1.33
Restaurants and bars	\$14.22	\$7.26	\$8.73	\$15.52	\$53.86
Groceries and takeout food	\$6.21	\$6.47	\$11.73	\$14.10	\$12.37
Gas and oil	\$18.33	\$10.96	\$17.06	\$35.67	\$27.55
Local transportation	\$3.83	\$1.11	\$4.38	\$4.94	\$15.74
Admission and fees	\$11.08	\$6.03	\$5.73	\$12.01	\$15.56
Souvenirs and other expenses	\$13.28	\$5.58	\$10.61	\$14.66	\$19.16

³⁵ See, Proposal at pg. 3-373

Our concerns on the accuracy of the economic analysis expands when the actual spending estimates used for calculations of economic contributions for recreational usages are reviewed. Many of these estimates are so low that we must question the factual accuracy of these estimates. An example of the failure to provide an accurate analysis of resources critical to all forms of travel for recreation would be estimated fuel costs for various trips. Given the size of the planning area and the intense climate present throughout, bicycle and other means of travel to access recreational opportunities are so small it can be disregarded. Before addressing the inaccuracies in these fuel cost assumptions provided in the Proposal, it is necessary to identify what a gallon of fuel costs in the Planning area. The average cost of a gallon of fuel per American Automobile Association fuel calculator in the planning area is as follows:³⁶

Emery County	\$3.88
Grand County	\$3.93
Wayne County	\$4.12
<u>San Juan County</u>	<u>\$3.88</u>
Average cost per gallon	\$3.95

Application of this average fuel price to the Proposal leads to conclusions that are simply impossible to achieve. The Proposal asserts that average local day trip spends \$10.96 per trip for a group of 2.8 people. This means the average day trip is estimated to consume 2.77 gallons of fuel at current fuel prices. Given the size of the planning area and size of the group this estimated average is optimistic at best and probably inaccurate. When compared with USFS data used on the Manti/LaSal NF 2023 RMP revision the conflict is immediate as the Manti/LaSal estimated this cost at \$15.87 for low spending profile forests in 2017.³⁷

³⁶ See, [AAA Gas Prices](#) Accessed 5/23/24

³⁷ See, White, Eric M. 2017. *Spending patterns of outdoor recreation visitors to national forests*. Gen. Tech. Rep. PNW-GTR-961. Portland, OR: U.S. Department of Agriculture, Forest Service, Pacific Northwest Research Station. 70 p. Pg 13. A complete copy of this work is attached as Exhibit “1” to these comments.

This is a foundational failure of analysis that cannot be resolved, especially when the American Automobile Association estimated fuel costs were, on average, more than a \$1 less per gallon in 2017 than currently.³⁸ This means the Manti/ LaSal estimated average fuel consumption to be more than twice what is used in the Proposal even though these efforts assert to be calculating the same resources and values.

The immensely problematic nature of the assertions of the Proposal's economic assumptions on this issue exponentially compounds when fuel costs of nonlocal travel are reviewed. The Proposal asserts that nonlocal day trips only spend \$7.36 additional in fuel as calculated below:

Nonlocal day trip	\$18.33
<u>Local day trip</u>	<u>\$10.96</u>
Additional fuel costs	+\$7.36

This additional \$7.36 in fuel costs translates to an additional 1.86 gallons of fuel to travel to the planning area from a nonlocal point of origin. For purposes of this calculation, we are applying the industry standard of a trip of more than 50 miles one way is a nonlocal trip.³⁹ This amount of fuel is totally insufficient to transport a group of 2.8 people 50 miles in each direction. You might be able to transport a single person on a motorcycle, which remains the most fuel-efficient vehicle on the roads, 50 miles each direction with 1.86 gallons of fuel, but even this is probably going to be unsuccessful. Moving 2.8 people with these assumptions is impossible as multiple motorcycles are needed. This is a problem. The assumption that no fuel will be used once reaching the Monument is equally problematic.

The immensely problematic nature of much of the analysis continues when fuel costs for camping overnight are reviewed. For reasons that defy logic, the Proposal asserts that non-

³⁸ [AAA Gas Prices](#)

³⁹ See, White, Eric M. 2017 supra note 36.

local campers actually use less fuel than those simply day-tripping in the planning area. This conclusion is calculated as follows:

Nonlocal day	\$18.33
<u>Overnight camping BENM</u>	<u>\$17.06</u>
Change in estimated fuel costs	\$ -1.27

The immediate problem here is the assertion that **fuel costs go down** \$1.27 for this trip, which lacks any factual merit given that these visitors are now carrying camping supplies, such as a tow behind camper, tents, sleeping bags and basic food for three people rather than merely supporting a day trip. This is a large amount of supplies and fuel costs will increase rather than decrease. Any assertion of fuel economy improving when towing a camper entirely lacks factual basis and simply will not be discussed further. The Proposal asserts that these increased amount of supplies will reduce the needed amount of fuel for the trip to 1.54 gallons of fuel. Again, this assertion lacks any factual basis at all.

The lack of factual basis that appears systemic in the Proposal is not limited to estimates of fuel costs and usages. The Proposal asserts that a local day trip recreational user will cost \$7.26 per trip to use restaurants and bars per day. The immediate problem with this estimate is the public is unable to buy a fast food cheeseburger type meal for one person for this amount. The problematic nature of the asserted amount explodes when this estimate is allocated to a group of 2.8 people. Expanding this to include three meals per day being purchased in this category of meal this would mean that each meal for 2.8 persons for \$2.42 total. This is completely without basis as you cannot buy three bottles of water for \$2.42 as the Proposal estimate concludes that each person can obtain a meal for \$.81. Again, this is so inaccurate that it will not be discussed further.

The erroneous economic assumptions continue in the Proposal as it asserts that an average lodging cost for a group of 3 is \$129.50 per day. Again, we struggle to find any lodging single lodging for this price, and finding multiple rooms for an average of this cost is simply impossible. The Organizations are not stating this amount is impossible to achieve from an

exceptionally frugal group of travelers. We are asserting that an average of \$129 per trip is not factually supportable. This problematic level of these lodging estimates amounts is further exemplified by a comparison of the spending amounts the federal government will reimburse to employees traveling in the area. Currently the federal reimbursement for nightly lodging is \$210 per night.⁴⁰ The fact these estimates are almost 50% lower than federal per diem rates for lodging is immensely problematic.

Assertions of a group of 3 staying in motels can eat three meals at restaurants in the planning area for an average amount of \$53.86 per day is difficult to accept. Estimates of food costs for campers are equally inaccurate as campers on the monument are estimated to spend between \$8.73 on a restaurant experience and \$11.73 for a group of 2.8 people on groceries. The conclusion reached is you can feed 2.8 people three meals a day in the planning area for a total of \$20.46 simply cannot be defended regardless of where they are staying. Campers staying off the Monument are estimated to spend \$15.52 in restaurants and \$14.10 on groceries to feed 2.8 people three meals per day. This total is only slightly better as it asserts the total raises to \$29.62, which is still a shockingly low estimate to feed three meals to 2.8 people. The immensely problematic nature of these conclusions that the *average* recreational user can eat for these amounts of money in the planning area cannot be overstated. As this is an average, this calculation asserts that a significant portion of these groups are able to eat for less than these amounts. Again, the immediate conflict with calculations from the Manti/Lasal NF estimates cannot be overlooked as their estimates are 2-3x more for food despite occurring in 2017.

The astonishingly low nature of these estimates are immediate when compared to guidance from various travel organizations and other researchers. In Moab tourism guides estimated food to cost \$37 per day per person.⁴¹ For a group of 3 people this would equate to \$111 per day on average for food. Per diem for meals for federal employees traveling in the area is \$69

⁴⁰ [2024 Moab, Utah Federal Per Diem Rates \(federalpay.org\)](https://www.federalpay.org/2024-moab-utah-federal-per-diem-rates)

⁴¹ As an example of these estimates: [Moab Travel Cost - Average Price of a Vacation to Moab: Food & Meal Budget, Daily & Weekly Expenses | BudgetYourTrip.com](https://www.budgetyourtrip.com/moab-travel-cost-average-price-of-a-vacation-to-moab-food-meal-budget-daily-weekly-expenses)

per day per person.⁴² This means 3 employees traveling on per diem in the area would spend \$207 per day for meals. Simply comparing per diem for federal employees to the estimated costs in the Proposal results in the conclusion that the per diem estimate is almost 7 times more than the average group can feed themselves for in the planning area. The Organizations are intimately aware of the inability of most federal employees to travel in the area and stay within their per diem amount as we host many trainings and events for federal employees annually. Again, these numbers and experiences cannot be reconciled with the estimates in the Proposal.

The Proposal's failure to provide economic calculations that are factually possible to achieve the desired recreational outcomes must be addressed. With a budget based on the amount of funds provided, the general public would simply never be able to achieve their desired recreational opportunities. Failures such as this are problematic for NEPA compliance and even more problematic for an activity that was a priority for analysis in the Proclamation. There simply cannot be an accurate assertion that recreational values have been properly balanced in the analysis when these values have been so completely undervalued.

6(d)(2) Economic estimates used in planning directly conflict with agency research used for USFS planning in the Monument.

As previously noted in these comments, economic contributions from recreation are identified as an important factor to be addressed in subsequent planning in the Proclamation. Many of these activity-based estimates used in the Proclamation are so low they render it impossible for the average visitor to achieve their desired opportunity with funds at the level asserted to be average. In isolation, this is a major concern. When the planning efforts that have occurred on the monument at the same time as the Proposal are reviewed the conflicts in conclusions become unresolvable.

The Proclamation specifically requires that the USFS and BLM collaborate in the development of the Plan as follows:

⁴² See, [2024 Moab, Utah Federal is Per Diem Rates \(federalpay.org\)](https://www.federalpay.org/)

“For purposes of protecting and restoring the objects identified above and in Proclamation 9558, the Secretaries shall jointly prepare and maintain a new management plan for the entire monument and shall promulgate such regulations for its management as they deem appropriate.”⁴³

Given this specific requirement in the Proclamation, alignment of spending profiles and other factors analyzed in the economic analysis would be required to comply with the Proclamation. Discrepancies between the calculations and conclusions of the two agencies would also have to be addressed. Given the geographic overlap of the two planning efforts, collaboration of the two agencies and consistency of conclusions is critical to the planning for the Monument as a whole, as the Manti/LaSal NF also makes approximately 22% of the Monument Planning area. The need for alignment of basic conclusions for the planning area is driven by the fact that Manti/LaSal NF has been undergoing an RMP update over the same basic timeframe as the planning has occurred on the BENM, making the conclusion and process highly relevant to the Proposal. As the Organizations have also been involved in the Manti/LaSal NF RMP revision, we are aware that the spending amounts and profiles used in the Manti/LaSal plan are reasonable in their conclusions. The 2023 Manti/LaSal RMP revision outlines the basis for their calculations as follows:

“Recreation: Total annual recreation visits were obtained from the National Visitor Use Monitoring (NVUM) program (Forest Service 2016). For this analysis, an estimated 295,000 annual recreational visits were assumed. The distribution of visitor type (local or nonlocal visitor) and use type (for example, wildlife-related visits) from the most recent round of monitoring are used to estimate visitor spending. Average visitor expenditures by type were obtained from the Forest Service’s NVUM program (see White 2017 for methodology and descriptions).”⁴⁴

⁴³ See, Proclamation at pg. 57332.

⁴⁴ See, USDA Forest Service; Manti/LaSal RMP revision EIS; Appendix G Socio-Economic Methodologies F.6-57 (Aug 2023).

The conflict between the economic conclusions in the Proposal and the economic contributions of recreation in the Manti/Lasal are immense in nature and hugely problematic to the accuracy of the conclusions in the Proposal. As previously discussed, the spending profiles in the Proposal are simply so low as to lack factual basis. It is also highly relevant that each Proposal has been developed over the same timeframe, on the same landscapes and the USFS is managing about 22% of the Monument. The USFS NVUM used by the Manti/LaSal planning team research reflected in the White 2017 research provides a detailed breakdown of various spending profiles based on the USFS NVUM research program as follows: ⁴⁵

Table 6—High spending profiles by trip-type segment and spending category, dollars per party per trip^a

Spending categories	Nonlocal			Local			Nonprimary	All visits ^b
	Day	OVN-NF	OVN	Day	OVN-NF	OVN		
	<i>Dollars</i>							
Motel	0	81.33	293.91	0	5.09	135.07	214.72	81.98
Camping	0	38.35	14.10	0	32.13	10.49	15.80	8.99
Restaurant	23.57	60.73	176.20	5.24	6.53	101.32	139.68	57.05
Groceries	7.86	67.71	83.26	4.48	80.21	46.32	65.85	33.79
Gas and oil	30.05	83.68	98.65	11.27	40.89	53.17	80.72	43.34
Other transportation	0.64	1.44	7.80	0.15	0	2.17	5.26	2.15
Entry fees	5.40	8.70	18.99	1.52	2.08	8.16	8.71	5.93
Recreation and entertainment	3.13	16.63	52.47	1.32	1.30	12.50	29.19	13.97
Sporting goods	2.42	13.57	17.96	1.67	12.56	1.16	10.23	6.62
Souvenirs and other expenses	3.54	16.10	44.75	0.72	0.70	14.41	39.95	14.68
Total	76.59	388.26	808.09	26.38	181.38	384.77	610.10	268.51
Sample size (unweighted)	278	517	745	1,628	157	32	1,050	4,407
Standard deviation of total	80	496	814	47	186	565	796	n/a

OVN = overnight, NF = national forest, n/a = not applicable.

^a Outliers are excluded and exposure weight are applied in estimating spending averages. All figures expressed in 2014 dollars. These averages exclude visitors who claimed their primary activity was downhill skiing/snowboarding. When completing analyses involving skiers/snowboarders, refer to subsequent tables.

^b The all-visit averages are computed as a weighted average of the columns using the national trip segment shares for nondownhill skiing/non-snowboarding as weights.

Table 7—Low spending profiles by trip-type segment and spending category, dollars per party per trip^a

Spending categories	Nonlocal			Local			Nonprimary	All visits ^b
	Day	OVN-NF	OVN	Day	OVN-NF	OVN		
	<i>Dollars</i>							
Motel	0	20.00	110.55	0	4.53	35.53	79.58	29.73
Camping	0	20.75	16.13	0	24.63	17.95	9.34	6.44
Restaurant	11.63	18.98	70.20	5.70	7.17	26.40	65.23	26.02
Groceries	9.38	45.20	44.39	6.98	64.93	52.49	36.22	22.78
Gas and oil	27.52	49.10	60.94	15.87	41.57	47.32	49.40	32.56
Other transportation	0.10	0.75	1.63	0.06	0.06	1.05	2.06	0.68
Entry fees	3.72	8.09	5.60	3.11	5.79	3.42	6.61	4.60
Recreation and entertainment	2.80	4.50	9.93	0.73	2.17	0.45	15.76	5.08
Sporting goods	2.54	7.82	9.02	3.75	10.98	10.23	5.75	5.31
Souvenirs and other expenses	0.91	4.04	9.77	0.39	0.90	10.69	13.27	4.30
Total	58.61	179.24	338.18	36.59	162.73	205.53	283.22	137.30
Sample size (unweighted)	966	1,291	538	4,309	654	112	1,077	8,947
Standard deviation of total	63	262	359	50	168	206	412	n/a

^a Outliers are excluded and exposure weights are applied in estimating spending averages. All figures expressed in 2014 dollars. These averages exclude visitors who claimed their primary activity was downhill skiing/snowboarding. When completing analyses involving skiers/snowboarders, refer to subsequent tables. OVN = overnight, NF = national forest, n/a = not applicable.

^b The all-visit averages are computed as a weighted average of the columns using the national trip segment shares for nondownhill skiing/non-snowboarding as weights.

The Organizations would be remiss if the immediate conflict between these profiles was not highlighted. The cumulative impacts of so many specific recreational usage types being poorly estimated is calculations that are off more than 50%. The chart below represents a brief summary of the immense conflict between these works in their estimates of

⁴⁵ See, White, Eric M. 2017. Supra note 36

recreational spending profiles. Even when the low spending estimates of the USFS NVUM research is compared to the Proposal estimates, the differences are unresolvable.

	<u>Off forest nonlocal Total per day</u>	<u>Fuel Overnight</u>	<u>Food- Rest Overnight</u>
Proposal (2023)	\$275.04	\$27.55	\$53.86
White (low) (2017)	\$338.08	\$60.94	\$70.20
+/- Proposal to White	\$ -62.68	\$-33.39	\$- 16.34
Proposal % of error	-22.78%	-121.19%	-30.33%

When the cost estimates of the Proposal are compared to the high spending forests and areas identified in the USFS NVUM research summarized in the White 2017 work, the conflict becomes exponentially worse between the two economic analyses. These comparisons are below:

	<u>Off forest nonlocal Total per day</u>	<u>Fuel Overnight</u>	<u>Food- Rest Overnight</u>
Proposal (2023)	\$275.04	\$27.55	\$53.86
White (high) (2017)	\$808.09	\$98.65	\$176.20
+/- Proposal to White	\$-533.05	\$-71.10	\$-122.34
Proposal % of error	-193.8%	-258.07%	-227.14%

With conflicts such as this between efforts occurring at the same time and allegedly being coordinated by planners, the Organizations must ask: How did these types of issues occur? Answering this question in isolation is problematic factually and will immediately conflict with the Proclamation.

The Organizations ability to support any of the economic conclusions of the Proposal is even more shaken as the research of White et al, created as part of the NVUM process, is 7 years old at this point. Given this passage of time inflationary adjustments to the spending

profiles must be made. Since the works of White were completed in 2017, the Bureau of Labor Statistics estimates that inflation has increased price levels in 2023 by 29% on average.⁴⁶ This adjustment of the White research only compounds the failure of the Proposal as follows:

	<u>Off forest nonlocal Total per day</u>	<u>Fuel Overnight</u>	<u>Food- Rest Overnight</u>
Proposal (2023)	\$275.04	\$27.55	\$53.86
White (low) (2017)			
Inflation adjusted +29%	<u>\$436.04</u>	<u>\$78.61</u>	<u>\$90.56</u>
+/- Proposal to White	\$ -62.68	\$- 51.06	\$- 36.69
Proposal % of error	-58.54%	- 185.33%	-68.13%

The Organizations vigorously assert that when the most accurate categories of economic analysis calculations in the Proposal are 60% below estimates that are used by the USFS in the planning area this is an immense problem. Errors such as this are why the Organizations are forced to support Alternative A of the Proposal.

6(e) The Proposal spending profiles cannot be aligned with the conclusions of partner research adjacent to the planning area.

The immense conflict of the economic profiles used for calculation of economic contributions from recreation are again highlighted when compared to research created by the USFS, BLM and state managers. The Colorado Off-Highway Vehicle Coalition has partnered for decades with the USFS, BLM and Colorado Parks and Wildlife to provide high quality economic data for motorized recreation in the state of Colorado. COHVCO recently updated this research and released a detailed analysis of these conclusions and process for use in planning. A copy of this work is attached as Exhibit “2” to these comments. While the Proposal and the COHVCO research assert to be using many of the same tools, such as the

⁴⁶ [CPI Inflation Calculator \(bls.gov\)](https://www.bls.gov/calculator/)

INPLAN database the conclusions simply cannot be reconciled. The alignment of the COHVCO research and the NVUM data that has resulted from decades of research and is outlined in the works of White also cannot be overlooked.

6(f) Estimates of consumer surplus values in the Proposal are of questionable value.

The Organizations commend planners for attempting to tackle the social component of economic analysis in spending profiles across user groups. The Organizations agree that the value of simply knowing these opportunities are available is an important component of planning. While the consumer surplus of particular groups is interesting, the Organizations would be remiss if we did not point out the fact that certain user groups assert their recreational opportunities are priceless in nature and other user groups appear to be able to quantify their values much more accurately. The Organizations also would note that this calculation is not required under the Proclamation but an accurate calculation of economic contributions from recreation are required.

The Organizations have extensive experiences with the difference between an asserted social economic value and the desire to actually convert this surplus economic social value into a monetary value and an economic contribution that can be used for management and maintenance of the resource. With the eroding budgets of USFS and BLM federally for basic operations, our members have started to be engaged by various states and other interests on how to replicate the OHV registration program that has become highly effective in Utah and other states. The desire has been to create similar programs for hiking, biking, camping and other uses. To date the motorized recreational community continues to be the only non-consumptive user group of public lands that have adopted the pay to play model. Many other user groups have been openly hostile to the concept of monetizing this type of surplus economic value for the benefit of public lands.

This makes our members question any asserted surplus value from opportunities on public lands, especially since the surplus value is asserted to be many times more than any registration or permit would cost annually. Through these efforts we have found that other interests who assert the highest consumer surplus in their opportunity are also the least

willing to pay anything. The Proposal asserts that there is an average consumer surplus of value estimated to be \$77.04 per person.⁴⁷ Our concern with this estimate is the fact that if the excess value was anywhere near this assertion in terms of dollars our requests for a 20 or \$30 annual registration to support these opportunities should be an easy sell. To date we have not seen any interest in any level of support despite some highly detailed meetings. This causes us concern about the value of these efforts and calculations. While the calculation of this surplus economic value may be an interesting academic effort, these surpluses cannot hire staff, empty trash, grade roads or support basic operations in adjacent counties. Again, we must question why this would be included as it is not required in the Proclamation, and it has been our experience that these estimates are not able to be converted into an actual economic contribution.

7(a). Soundscape planning is outside the scope of the Proclamation and entirely undefined in the Proposal.

Before addressing the concerns and challenges around developing a soundscape management plan required under every Alternative, the Organizations believe it is necessary to state that this requirement is largely a novel concept and clearly not worthy of inclusion in every Alternative. At no point does the Proclamation require the development of a Soundscape Plan and the Proclamation fails to mention sound or concepts such as quiet or silence. Rather the Proclamation speaks to the solitude available in particular locations. Levels of sound are one of many planning requirements required to be addressed in existing planning for the Proclamation, and as a result we must question why a soundscape plan would thought to be necessary. It should be largely redundant to existing planning, as without a definition of what is required we again must ask how this requirement was thought to be analyzed sufficiently for NEPA purposes.

While the Proposal requires a Soundscape Plan at some unspecified time in the future, the Proposal is entirely silent on a definition of what a soundscape plan is, what factors would be addressed, and how would they be measured and managed. This is highly relevant as we

⁴⁷ See, Proposal at pg. 3-365

are unable to identify a soundscape plan currently effectively in place in the United States. We are aware of sound management efforts around airports and other activities in highly developed areas, but these are in no way similar to the Monument. In an even more troubling development, we are unable to identify any regulations, under the USFS 2012 Planning Rule or recent BLM Planning efforts that could guide the development of this type of a plan. Would the Plan attempt to apply an existing model? How would the plan address protected usages that make sound? These are basic questions that absolutely no guidance is provided regarding.

The Organizations are intimately familiar with the fact that many activities already have sound management standards in place through other agencies for the production of vehicles. Various agencies have developed sound standards for the workplace, such as OSHA, FAA, FHWA, SAE and FIA. We must ask how these will be integrated into this plan? How would conflicts between standards be resolved? Each of these existing managers has detailed processes for the measurement of sound, but often these are different processes addressing different issues and concerns. This is exemplified by the differences between SAE 1287, which tests sound levels of a stationary vehicle, and SAE J2567, which measures sound of a passing vehicle. The Organizations are intimately familiar with the highly technical nature of the management of sound, as it has been our experience that sound is one of the first issues raised in OHV management by those who are simply opposed to the use of OHVs in any manner. Sound can be heavily impacted by issues like topography, weather, humidity and many other natural factors. Simply having a standardized tool for the measurement of sound would be a basic need for NEPA compliance. This has not been provided or even discussed.

One of the foundational challenges we have encountered in the development of a soundscape type analysis is the perception of sound by the recipient and how it is classified. While sound is merely a transfer of energy across a medium, there is a huge difference in how sound is perceived. Classification of the energy once received by the ear is highly subjective and difficult to consistently classify. Sound that is enjoyable to the recipient of the energy is known as music. Even defining what is and is not music has proven difficult as

there are different types of music. If the type of music is enjoyable the sound remains music, if it is not enjoyable to the recipient it immediately becomes noise and should be regulated.

The need for a single definition of a soundscape plan is again highlighted by the Proclamation as the need for national regulations on this issue are immediate when various questions foundational to a soundscape plan are addressed. While there are workplace standards and standards for private lands under certain circumstances, we are not aware of any standards for public lands. NPS has limited standards but the planning area is not a National Park and is not managed by the NPS. Rather President Biden's Proclamation clearly identifies the role of the NPS as follows:

“The Secretaries, through the USFS and BLM, shall consult with other Federal land management agencies or agency components in the local area, including the National Park Service, in developing the management plan.”⁴⁸

We are able to identify national parks that have attempted to develop soundscape plans but none of these have been completed. Most research and efforts we have found have identified more problems with the concept than success.

We are very concerned that without national standards and guidelines for this type of plan, this effort would result in immense conflict between uses, at best would be hugely subjective in nature, and would be problematic to defend in any legal action.⁴⁹ Legally management plans that have attempted to manage sound on public areas have a low percentage of surviving legal challenges given the large number of protected Constitutional rights that can be impacted. We are unable to identify any portion of the Proposal that addresses how basic constitutionality of a soundscape plan would be achieved as one of the primary challenges to soundscape efforts has been Constitutionally protected frees speech of the public. Rather than avoiding the systemic failures that have plagued this effort,

⁴⁸ See, Biden proclamation at pg. 57332

⁴⁹ See, *Ward v. Rock Against Racism*, 491 U.S. 781 (1989); See *Also*; *Montgomery v. State*; 69 S3d 1023(2011); See *Also*; *People v Arguello*; 765 NE2d 98 (2002).

this requirement seems to embrace the desire to continue to plan based on inaccurate or non-existent requirements, such as the cultural landscape concept.

7(b) Soundscape planning exhibits the same lack of accurate analysis exhibited throughout the Proposal and sets a VERY poor precedent.

The Proposal also creates expectations for sound levels that are functionally impossible to achieve in any manner. The Organizations have participated in professional sound testing as part of planning efforts in remote areas that are outside the scope of human created sounds, and this reporting simply does not align with any asserted planning or goals outlined in the Proposal.⁵⁰ The horribly insufficient nature of information currently available on sound in the planning area is represented by the following map on sound levels in the area:⁵¹

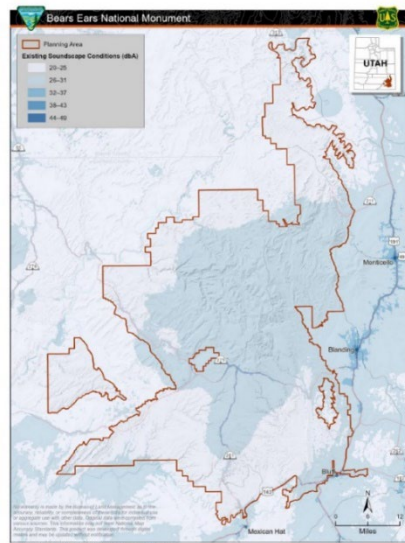


Figure 3-34. Existing soundscape conditions.

The problematic failure of this information is again immediately apparent, as major state highways are often estimated to have similar sound levels when compared to remote areas far removed from anything on the planning area. While we do not contest that often these state highways may see limited amounts of usage, we also must recognize that the Federal

⁵⁰ A copy of an example sound report from a planning effort is attached as Exhibit "3".

⁵¹ See, Proposal Figure 3-34

Highways Administration estimates highway traffic at 70 to 80 dB.⁵² This level of sound cannot be aligned with the Proposal assertion that state highways are averaging 40 dB. The inability of the soundscape inventory to align with existing decisions is again highlighted by the fact that the corridors around these routes do not align in any way with the ROS designations around these routes. ROS designations are required to address sound levels as one of the characteristics. While these tools may not overlap completely, there should be a strong correlation with these designations and there clearly is not.

The Organizations concerns around the basic accuracy of the inventory expand as the most common level of sound asserted to be found on the Planning area is 32-37dB. This is immediately problematic as light rainfall is commonly estimated to be 40 dB.⁵³ When this is compared to the map above, the assertion that most of the area is quieter than a lightly falling rain becomes problematic. Without a good understanding of the current conditions, the Organizations must question the quality of analysis supporting the assertion for a sound plan for the area. Again, this soundscape management plan is asserted to be needed under every Alternative provided to the public, but given the poor quality of data available, any meaningful analysis of possible impacts to satisfy NEPA is simply impossible.

The Organizations are very concerned that the Proposal moves well outside the scope of the Proclamation on the issue of sound management. We are unable to identify any portion of the Proclamation where this type of effort is required or even addressed. While this planning effort is not required under the Proclamation, the Proposal immediately identifies that sound is OHV, drone and aircraft based.⁵⁴ How were these impacts identified and measured? Simply identifying the proper standards for measurement of sound has been a difficult undertaking in any planning effort. The Proposal simply omits this step and makes the conclusions noted above. This is an obvious concern and sound from many uses will exceed the levels the Proposal seeks to allow. Clearly, there are other sources of sound that would

⁵² [Living With Noise | FHWA \(dot.gov\)](#)

⁵³ [Decibel Level of Common Sounds: Comparison Chart + Calculator \(May 2024\) \(soundproof.expert\)](#)

⁵⁴ See, Proposal at pg. ES19

need to be addressed, and often, sound simply does not translate to the solitude identified for certain sites in the Proclamation.

We are unable to identify any portion of the Proclamation that requires or hints at this type of requirement as the Proclamation only makes passing references to solitude available in several locations. Low levels of sound and solitude are two very different requirements. A large group of people can reduce their sound production to levels identified in the Proposal. That same large group of people will never achieve solitude as the mere proximity of other people prohibits solitude. Clearly, there is a significant difference between solitude and sound, and these requirements are already addressed with tools such as the ROS designations and Wilderness designations created by Congress that the Proposal already provides for. The Organizations are also concerned that neither of the planning documents currently in force for the area have any requirement for this type of soundscape plan. As a result, we must question the requirement for a soundscape plan in every Alternative, as we are unable to identify any requirement of this nature.

7(c) Unintended impacts from soundscape plan will be significant given the lack of basic data in the Proposal on this issue.

The Organizations are immediately concerned about the possibility of low-quality data being used in the development of a sound scape plan, as there is immense conflict between the assumptions used in the analysis of existing sound and the ROS. This is immediately apparent when the ROS maps around state highways are compared to the levels of sound found around these state highways. The ROS corridors are much wider than the sound level corridors and this causes immediate concern as Department of Transportation has well developed science on the activity of sound around highways.

The Organizations are also concerned that any attempt to manage the monument under a soundscape type plan could have massive unintended impacts. How would the soundscape plan allow for overflights of firefighting planes? Given the proliferation of wildfires in size and number across the planning area, this type of a question would be foundational. How would the plan deal with activities off public lands, such as municipal fireworks display on

holidays? The Organizations are unable to identify any analysis of these types of basic issues before the soundscape management plan was included in every Alternative of the Proposal.

8. Conclusion.

The Organizations are forced to support Alternative A of the Proposal and vigorously oppose each of the other Alternatives. These Alternatives often do not meet the purpose and need of the effort and often directly conflict with the Proclamation, such as a designation that would result in the entire monument being an area of critical environmental concern. Our concerns with the Proposal extend far beyond mere purpose and need concerns, as the Proposal requires many new planning standards to be applied but lacks even basic definitions of these new planning designations. While the Proclamation addresses cultural sites and cultural landscapes, we are unable to find any portion of the analysis that defines what a cultural landscape is or how this type of designation would be managed differently than a cultural site. Not only does the Proposal fail to define basic terms critical to the Proposal, the cultural inventory provided is simply nonexistent despite cultural values being a management priority in the Proclamation.

The need for extensive development of accurate information on management priorities extends far beyond cultural resources as the economic analysis provided with the Proposal simply cannot be rationally defended. Often estimates are hundreds of percentage points lower than any estimates from credible sources. Often estimates provided are 7 times less than per diem amounts for that activity that are provided to federal employees traveling in the planning areas. These conclusions cannot be legally or factually defended despite economic contributions of recreation being specifically identified as an important factor for management planning in the proclamation.

The Proclamation failures of analysis extend into designations such as SRMA and ERMA designations. While the Proposal makes broad assertions of improved recreational access to the Monument as a result of the Proposal, when any attempt to reconcile current designations with proposed designations. Existing SRMA designations that have been found effective at protecting values identified in the Proclamation are simply entirely removed or

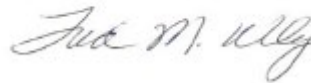
significantly reduced in size and recreational benefits and deliverables are simply removed. This type of management structure cannot be aligned with improved recreational access.

The Organizations would welcome discussions on development of an Alternative that complied with the Proclamation and provided high quality recreational opportunities and protected other values as well. This type of alternative could be developed largely based on existing management. If you have questions, please feel free to contact Scott Jones, Esq. (518-281-5810 / scott.jones46@yahoo.com) or Fred Wiley (661-805-1393/ fwiley@orba.biz).

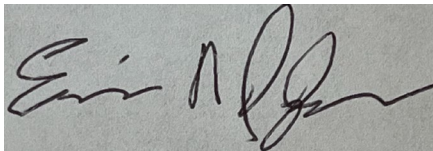
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