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October 26th, 2024

Bureau of Land Management  
Richfield Field Office  
150 East 900 North  
Richfield, UT 84701

RE: Henry Mountains and Fremont Gorge TMP (DOI-BLM-UT-C020-2018-0006-EA)

Dear BLM Planning Team:

Please accept this correspondence from the above organizations as our official comments regarding the Draft Environmental Assessment (DEA) of the Henry Mountains and Fremont Gorge (HMFG) Travel Management Plan (TMP).

### 1. Background of Our Organizations

In our comments, the "Organizations" will refer to the following four groups:

**Colorado Off Road Enterprise (CORE)** is a motorized action group based out of Buena Vista Colorado whose mission is to keep trails open for all users to enjoy. CORE achieves this through trail adoptions, trail maintenance projects, education, stewardship, outreach, and collaborative efforts.

**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.

**Ride with Respect (RwR)** was founded in 2002 to conserve shared-use trails and their surroundings. Since then, over 750 individuals have contributed money or volunteered time to the organization. Primarily in the Moab Field Office, RwR has educated visitors and performed over twenty-thousand hours of high-quality trail work on public lands.

**The Trails 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 necessary action to ensure that the USFS and BLM allocate a fair and equitable percentage of public lands to diverse multiple-use recreation opportunities.

## **2. Introduction**

The DEA doesn't resolve any of the concerns that the Organizations raised in our June 10th letter, so we have enclosed it to incorporate as part of our October 26th comments, thus we ask the BLM to respond to all comments from both letters. Both letters follow the same section headings (1 through 6), so please review each section from the June 10th letter followed by reading the same section from our October 26th comments.

The June 10th letter stressed that the HMFG planning area is huge, with thousands of miles of valuable routes that should be fully assessed to develop a satisfactory TMP. The Organizations now add that motorized recreation has increased here in the past couple decades, and that the extensive route network is increasingly important as places like Moab and even the San Rafael Swell become crowded.

## **3. The route inventory must be completed in order to reach a sound decision.**

The Organizations' June 10th letter outlined the critical nature of a thorough route inventory, and provided six examples of existing routes missing from the inventory, explaining why less-established routes are often the most valuable ones for OHV recreation, and pointing out that the 2017 settlement doesn't require Class III cultural surveys for routes to be merely included in the inventory or an action alternative. The Organizations now add that, when it comes to designating a route open, the 2017 settlement deadline could be further extended so there's time to survey additional routes for designation, as extensions are permitted to ensure that travel planning is done properly. When it comes to HMFG, the 2017 settlement's clear purpose was to survey the designated routes, not to prevent consideration of existing routes merely because of the survey requirement.

Nothing in the 2017 settlement relieves the BLM of its duty to develop a thorough route inventory. The 2008 RMP on Page A9-1 states:

"The RFO is aware that the current inventory of roads and trails being used for the route designation process is not 100 percent correct or complete."

"BLM will collaborate with affected and interested parties in evaluating the designated route network for suitability for active OHV management and envisioning potential changes in the existing system or adding new trails that would help meet current and future demands."

"The Approved RMP completes the initial route designation component of the Travel Management Plan and implementation process. These routes would be the initial basis for signing and enforcement."

Indeed the route inventory wasn't "100 percent correct or complete," nor 90% or 80% complete, especially in the HMFG planning area. While the BLM has added 146 miles to the inventory, hundreds of miles of existing routes remain excluded, despite the passage of sixteen years. And it's no wonder why, as the BLM hasn't come close to following through on the RMP's pledge to "collaborate with affected and interested parties in... adding new trails that would help meet current and future demands." Thus the

BLM hasn't progressed from the RMP's "initial route designation component of the Travel Management Plan and implementation process," and thus the BLM wisely hasn't implemented the current TMP by and large because the BLM doesn't have a complete TMP because it never completed its route inventory.

The 2008 TMP is based on a grossly incomplete route inventory yet, in the subsequent sixteen years, the BLM has not invited the public to submit route data during any formal comment period, and the DEA refuses to add such routes to its inventory. A route inventory should've been completed during RMP scoping in 2003, and the fact that it's still not done over twenty years later is unacceptable. The Organizations' June 10th letter provided a half-dozen examples of missing routes, and half of them (specifically #3, #4, and #5) were within ten miles of Hanksville that's far easier for inventory workers to reach than the rest of the planning area, which speaks to the extent of missing routes. Those three routes near Hanksville provide key connectivity, yet they've never been added to the BLM's inventory, which again speaks to the extent of missing routes.

Of these hundreds of miles of missing routes, the vast majority of them have been continuously used for decades, and they should not be closed as if they never existed. Prior to 2008, the HMFG planning area was open to cross-country travel, with the exception of WSAs that were either limited to existing routes or closed. Such routes should be left open unless route-specific analysis demonstrates a need for closure.

**4. At least one alternative must propose to open many of the currently-inventoried routes in order to provide an adequate range of alternatives.**

The Organizations' June 10th letter stressed that many inventoried routes are excluded from every preliminary alternative despite having great recreational value and having resource impacts that are low or can be greatly mitigated, and the letter provided three examples. The DEA continues to exclude from every draft alternative these three routes and many others, and it doesn't update the route reports or provide any clear reason why such routes would be excluded from the scope of analysis, thus it's completely unresponsive to the Organizations' June 10th letter. The 2017 settlement requires the BLM to invite public input on its scoping report / preliminary route reports / preliminary alternatives for the purpose of meaningfully considering such input. The Organizations' June 10th letter detailed comments on these three routes among others, yet the BLM's new draft route reports and alternatives are identical to its preliminary ones, so there's simply no indication our comments were meaningfully considered.

Regarding all of the alternatives, sound planning must clearly articulate the rationale for each proposed decision. The information set forth in the DEA, including the route reports (however voluminous they may be), is NEPA deficient when it comes to explaining the basis or rationale for the various proposed route closures in the range of alternatives. The information amounts to little more than route-by-route conclusions as to what will be closed, with little to no underlying data, and no analysis and application of data or other criteria to explain any of the proposed route closures. The NEPA deficiencies here include (a) failure to take a hard look at the routes and the conditions in support of or against closure, (b) a failure of transparency, (c) failure to inform the public, and (d) arbitrary and capricious governmental decision making.

**5. When developing TMP alternatives, the 2017 settlement does NOT require an alternative to close routes in lands with wilderness characteristics, only in natural areas and WSAs.**

The Organizations' June 10th letter explained why the draft alternatives should not propose to close any routes outside of natural areas (NAs) or WSAs for the purpose of minimizing impacts to wilderness characteristics (WC). Unfortunately now the draft Alternative B continues to close virtually every route within lands with wilderness characteristics (LWCs) other than those that form cherry-stems or other boundaries of LWCs, which is inconsistent with the 2008 RMP and 2017 settlement.

**6. When making the TMP final decision, impacts to wilderness characteristics should not be minimized outside of areas that the RMP directs to manage for wilderness characteristics.**

The Organizations' June 10th letter stressed that, outside of WSAs and natural areas (where the BLM chose to manage for WC), the BLM should not restrict recreation for the purpose of minimizing impacts to WC, nor should it manufacture other purposes. Unfortunately now the DEA does exactly that in all of its action alternatives by disproportionately closing routes in LWCs that are not NAs. While the targeting of LWC routes for closure is wholesale in Alternative B, it exists in Alternative C, and is even clear in Alternative D. To varying degrees, all of the action alternatives would essentially manage the LWCs as NAs without going through the required process of amending the 2008 RMP, which is inconsistent with the 2008 RMP and 2017 settlement.

The DEA in Section 3.4.10 "Affected Environment" on Page 92 states:

"Similarly, the 2017 Settlement Agreement stipulates that "For purposes of minimizing damage to public lands with BLM-inventoried wilderness characteristics, the BLM will consider the potential damage to any constituent element of wilderness characteristics, including naturalness, outstanding opportunities for solitude, and outstanding opportunities for primitive and unconfined recreation, for each alternative route network.""

Where the 2017 Settlement Agreement refers to minimizing damage to public lands with BLM-inventoried wilderness characteristics, it refers to minimizing damage to those public lands, not minimizing damage to the WC themselves. Furthermore the 2017 settlement refers to considering the potential damage to any constituent element of WC, it directs the BLM to consider such damage, but it doesn't direct the BLM to minimize such damage. If the 2017 settlement were to direct the BLM to minimize impacts to WC, it probably wouldn't have been approved by the court, which cautioned against creating de facto wilderness in its 2018 dismissal of Utah's appeal.

The Organizations urge the BLM to comply with the RMP decision to not manage for WC outside of NAs and WSAs particularly in light of recent Supreme Court rulings. This year even more reasons have emerged for the BLM to avoid promoting WC in the HMFG planning area, specifically recent Supreme Court decisions such as *Loper Bright Enterprises v. Raimondo*, June 28, 2024 that reaffirmed the judicial review of an agency's legal interpretation. The draft TMP in Section 3.3.2.1 "Affected Environment" on Page 34 asserts "Distinct from any planning decisions, under 43 CFR §8342.1 the BLM has the obligation to minimize impacts to resources, including wilderness character, when designating OHV routes." The BLM should be cognizant of the extent to which such agency guidance is actually grounded in legislation. When clear authorization is lacking, administrative actions are now more likely to be ruled a bypass of requirements such as the Section 603 release and Section 202 multiple-use mandate of FLPMA. The argument that the BLM is merely conducting minimization pursuant to the 2017 Settlement Agreement could be unavailing if that exercise is wholly or partially beholden to administratively-created special

designations that wind up no longer holding under the glaring Congressional authority of the Section 603 release and Section 202 multiple-use mandate of FLPMA.

## **7. The recreation and socioeconomic analyses fail to recognize major negative impacts of every alternative.**

The DEA claims few negative impacts to motorized recreation or local economies by claiming that motorized use levels would not be significantly different, which is absurd. First of all, due to the gross incompleteness of the 2008 route inventory, TMP, and its implementation, motorized use has continuously occurred on hundreds of miles of routes that continue to be missing from the inventory and aren't accounted for anywhere in the DEA. These missing routes tend to be primitive and prized by OHV riders. Thus actually implementing Alternative A—let alone the action alternatives—would greatly reduce the quantity and quality of opportunities for motorized trail enthusiasts.

To prove the BLM's claim that motorized recreation and local economies would be unharmed by every alternative's closure of these hundreds of miles of missing routes plus hundreds of miles of inventoried routes, the DEA cites Leaver 2024, which is a high-level summary of tourism in Utah. The Leaver 2024 report doesn't even attempt to address the question of how motorized access affects visitation, thus the BLM's claim is completely unsubstantiated.

Not only would implementing any of the DEA alternatives reduce the enjoyment of current OHV riders, it would reduce the potential for growth in this prominent form of recreation, as the quantity and quality of motorized routes determines the carrying capacity of this planning area. The network of existing routes is important now, and even more so in future as places like Moab and the San Rafael Swell become crowded. The communities of Hanksville and Ticaboo are increasingly depending on OHV visitation, and such recreational opportunities improve the quality of life for residents, which could draw new residents so long as the BLM leaves the vast majority of existing routes open.

Another way that the DEA greatly underestimates socioeconomic impacts is by estimating \$34.38 per visitor day of economic output (see Table 43 on Page 123). Motorized recreationists often spend that amount on fuel alone, particularly in this remote planning area. Suffice it to say that analyzing socioeconomic impacts is needed, along with a more realistic analysis of impacts to motorized recreation.

## **8. Conclusion**

The Organizations do not expect the BLM to permit cross-country travel outside of small open areas, nor do we necessarily expect every existing route to remain open. Nevertheless we expect travel plans to be developed upon a foundation of thorough route inventory, explanation of any negative impacts to natural or social resources, and accounting of the impacts to motorized recreation and local economies. It's worth getting these things right given the incredible trails in this incredible landscape.

Sincerely,



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