



July 10, 2013

The Honorable Rob Bishop
United States House of Representatives
Fred.Ferguson@mail.house.gov

RE: Eastern Utah Public Lands Legislation

Dear Representative Bishop,

Thank you for the opportunity to participate in the development of a comprehensive lands bill for Eastern Utah.

A true collaborative solution exists when all stakeholders benefit and compromise. In our current system of public land management, Wilderness is the designation which most prioritizes preservation to the exclusion of all other uses. Multiple-use advocates and affected communities are willing to accept this restrictive one-dimensional management approach when Wilderness designation comes as a result of true compromise by preservationists and is accompanied by their long-term recognition of, and commitment to, a corresponding benefit to multiple-use interests. Today, this means explicit legislative acknowledgment and authorization of specified uses in identified areas. In most instances, this will mean no more than ratification of long-existing uses.

An example of a step toward such an approach is seen in the Draft Emery County Public Land Management Act. Based on this example, and related themes, we offer a more detailed response to your letter dated June 3, 2013. It is our hope that you find that our suggestions have merit and warrant more detailed discussions. We would welcome the opportunity to participate in the process initiated by your letter.

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I. INTRODUCTION

In the past half-century, each decade has brought further restrictions on vehicle access and recreation on lands managed by the Bureau of Land Management (BLM) in Utah. While some of these restrictions were necessary and appropriate, we've reached a tipping point. In Utah, most of the BLM Resource Management Plans (RMPs) and travel decisions cut road and trail access roughly in half while greatly expanding areas providing an exclusive non-motorized experience.

Despite these restrictions, preservation advocates seek to close half of the remaining half of the motorized routes. For an example we note the Greater Canyonlands petition released on March 18th, 2011, by the Southern Utah Wilderness Alliance. In addition, these same groups are seeking even more closures via federal lawsuit (*Southern Utah Wilderness Alliance, et al., v. Burke*, No. 2:12cv257 DAK), which at present is focused on the Richfield Field Office but will eventually proceed to challenge the RMPs & travel plans for five (5) other Utah Field Offices.

In response, the natural urge is to submit a counter-proposal that would open all the routes which were closed by the RMPs. However, to do so we believe would run contrary to the spirit of collaboration and not achieve a workable outcome. Therefore, our proposal is based on the current management, which at least attempts to balance appropriate protection of natural resources with sustainable recreation, including mountain bike and motorized recreation.

II. REGULATORY SECURITY

The term regulatory security describes a situation where the management of public lands is known by state and local governments as well as affected industries and recreationists, for the reasonably foreseeable future. That situation does not exist today. For a variety of reasons, public lands management is in constant flux, and management actions are inconsistent or uncertain across state, district and even field office levels.

Under the current model, Congress acts with restraint, imposing only generalized guidance which much be applied in any area and on individual sites through agency analysis and discretion. These analyses, and associated regulations, have become one-way gates that largely constrain active management of our public lands and provide fodder for environmentalist lawsuits, which seem to be designed to stop any active management simply through embroiling the agency in a war of procedural attrition.

It is time for Congress to consider new paradigms of public land management. There are places, and uniquely so in Utah, where agency analysis has been performed and where Congress can appropriately take its role in outlining future management direction. The underlying objective should be to cut through the regulatory morass and at least attempt to provide some level of regulatory security and long-term certainty allowing for active management of our public lands.

A. Management paradigms that may provide regulatory security:

No Net Loss - Minimum Transportation System

In line with the theme of regulatory security, where possible legislation should seek to codify the existing travel plan so it serves as a minimum travel system. This approach makes particular sense for Utah BLM lands, where the agency, coordinating agencies, affected entities and the public have

recently invested millions of dollars revamping RMPs and travel designations. These decisions can and should form a long-term management foundation. Where appropriate, recreational trails and areas, both motorized and non-motorized, could later be added consistent with NEPA and other applicable laws.

We do not wish to preclude federal land managers from temporarily closing or restricting public access to a designated route for purposes of resource protection or public safety. Provided, however, that if the closure becomes permanent, or the length of the temporary closure impairs established access and use normally provided by the designated route, the land managing agency shall establish alternate access, equivalent to that provided by the designated route.

“Codification” of existing BLM Management Plans

Where there is a consensus among local stakeholders that BLM's new management plans are appropriate, the legislation can and should “codify” the current management as a baseline. Additional uses could be authorized via planning and NEPA. Elimination of current uses should not be allowed. Legislation may also include specific direction to immediately process all pending rights of ways and other infrastructure needs.

State Park

Some lands may be better managed as a State Park(s).

State Management “Pilot Project”

Similar to the Sand Flats area near Moab, some of these lands may benefit from state management.

Trust or other community partnership

Another concept that has been proposed as a way to provide regulatory certainty is forming a collaborative trust for managing one or all of BLM programs.

Specific Management Direction

Congress often passes legislation giving federal agencies specific management direction for a specific resource. Specific management needs should be 'legislated in' to the federal land manager's plans.

III. LAND DESIGNATIONS

It is important that land designations be used in a coherent fashion that fits within and carries out the comprehensive management vision, as opposed to a patchwork of individual compromises achieved at disjointed times through varying participants.

A. Wilderness Study Area (WSA)

WSAs have long presented management and political challenges. The June 3, 2013, letter signed by members of the Utah U.S. House Delegation requests:

Submissions that include lands outside and beyond Wilderness Study Areas (WSA), the draft Emery County Public Land Management Act, or other county-backed land plans must include a thorough and complete written justification explaining why the area is worthy of additional consideration. Lands recommended to be released from their WSA status should also include a thorough and complete written justification as to why the lands should be returned to multiple-use management. Finally, lands proposed for alternative designations or actions must include a thorough and complete written justification as to why the alternative designation or action should be considered.

We do not propose the release of any WSAs. This does not mean that we are opposed to or would not support the release of WSAs in different circumstances. It simply reflects our evolving belief that "WSA release" is an unsatisfactory outcome in light of the manner in which at least some federal land managers have responded to the release of WSAs¹. Therefore, a meaningful solution for WSAs, including any release, must include language that addresses, and where necessary prescribes, specific uses, including mountain bike and motorized recreation.

Regarding the subject of "hard release."

Few public lands issues have been as controversial as the current BLM policy that mandates a never-ending, ongoing, inventory and planning process for wilderness characteristics. We understand of course that no Congress can bind the hands of a future Congress. However, the legislation should ensure that these lands no longer be subject to future wilderness inventory or study under Section 202 of the Federal Land Policy and Management Act of 1976. Legislation should clearly and unambiguously mandate that lands which are not designated for wilderness shall be released from further wilderness study and shall be exempt from planning actions made pursuant to BLM's Land Use Planning Handbook Appendix K (Wilderness characteristics inventory).

B. Wilderness

At least in this initial stage in this process, we want to remain open and flexible when considering Wilderness. Our "official" position supports Wilderness designation for the "recommended" WSAs on BLM lands in Utah as long as routes and areas currently authorized for motorized and mountain bike use are "cherry-stemmed" out of these areas².

When reviewing proposals for Wilderness the legislation should specifically evaluate and address key issues such as:

Access:

Designated routes should be "cherry-stemmed" through any new Wilderness designation. Many areas that will likely be proposed for Wilderness in this process contain historic roads and significant OHV and mountain bike use. BLM recently completed a comprehensive travel and transportation plan designating those roads and trails which are suitable for continuing motorized and non-motorized uses. Therefore, it is appropriate that any legislation "cherry-stem" any route that is currently on the BLM's travel plan out of the designated Wilderness area.

Grazing/VER/Water rights/Buffer Zones

Whatever the designation this process considers (e.g. National Recreation Area (NRA), National Conservation Area (NCA), Wilderness, state management) the grazing of livestock should be permitted to continue where established based on sound range management, including, but not limited to, predator control, permanent structures and water projects, which benefit the resource and ensure

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- 1 Under "multiple-use management" Idaho BLM's Jarbidge office simply "re inventoried" WSAs that were released via the Owyhee Public Land Management Act and is now proposing to manage those lands as "Non Wilderness Study Areas with Wilderness Characteristics: and impose management that is even more restrictive than under WSA management. Recently Colorado BLM's Grand Junction Field Office has proposed a "de-facto" Wilderness management for some WSAs in the event Congress releases them into "multiple use management."
 - 2 The BLM has authorized OHV use in several existing WSAs and current monitoring has shown the use has not substantially diminished the Wilderness characteristics. These routes and areas should be "cherry-stemmed" out of the new Wilderness area.

that grazing levels will remain viable for the livestock growers. In addition, nothing in the process should affect any valid existing surface water or ground water right or other valid existing right. The legislation should also preclude any protective perimeter or buffer zone and clearly acknowledge that an activity or use on land outside any Wilderness or other designation that can be seen or heard within that designation shall not preclude the activity or use.

Boundary review and adjustment process.

Any area proposed for Wilderness in this effort should go through a process to review and adjust the boundary to address conflicts in Wilderness management.

Suitability and Manageability assessment

Any area proposed for Wilderness in this effort should go through a process to review the suitability and manageability for management under the National Wilderness Preservation System. Where suitability and manageability conflicts exist, a designation other than Wilderness should be considered.

C. Alternative Designations – NCA, NRA or Beyond

We are open to consider any federal land designation, including Wilderness, in this process. However, it is necessary for each designation to include very specific management guidelines. It is important to determine the nature and specifics of the ultimate management vision, and select the land designation that best provides for the desired result.

Identify specific “legislative values”

The establishment of the National Landscape Conservation System (NLCS) directs the Secretary of the Interior to manage lands in a manner that protects the values for which the components of the system were designated. However, BLM's NLCS implementation directives generally require management plans to enhance environmental preservation. This requires that special attention be given to the specific legislative values. For example, legislation establishing an NCA may identify “recreation” as a value to be managed for. However, under current NLCS guidelines, such a term would not ensure that a diverse range of recreational uses will continue. Therefore, to ensure the wide range of diverse recreational uses currently authorized will continue, each recreational use should be specifically mentioned as a value in the legislative language.

No Net Loss - Minimum Transportation System

In line with the theme of regulatory security, any NRA or NCA should include the concept of codifying the existing travel plan so it serves as a minimum travel system. Recreational trails, both motorized and non-motorized, could then be added consistent with NEPA and other applicable laws.

Again, it is not our intent to preclude federal land managers from temporarily closing or restricting public access to a designated route for purposes of significant resource protection or public safety. Provided, however, that if the closure becomes permanent, or the length of the temporary closure impairs established access and use normally provided by the designated route, the land managing agency shall establish alternate access, equivalent to that provided by the designated route.

Limits on new management plans

Some stakeholders are asserting that federally managed lands are in need of immediate protection. This assumes that the current management plans do not provide sufficient protection of natural resources. This is not true. In November 2008, the BLM completed six management plans in Utah. These new plans contain significant protection for important natural resources. Given this Herculean effort, a more traditional Congressional command to “study and plan” is not only unnecessary but would squander scarce agency resources. This is a perfect time and place for Congress to seize upon

the work already performed by the agency and engaged stakeholders to create a new certainty for public lands management.

Notwithstanding the above, it does not seem appropriate to categorically preclude any planning for any new designation (NCA, NRA, etc) and, of course, any additions to the National Wilderness Preservation System would require the completion of a management plan. So that scarce financial and staff resources are not wasted, any new designation should specifically limit the BLM's authority to plan and include specific direction on what uses and activities federal land managers can plan for. The focus for subsequent planning for any new designation should be the "need for change."

IV. DETAILED SUBMISSIONS

We are mindful of the Delegation's request for detailed submissions to allow an assessment of the viability of a new solution along the lines of the draft Emery County Public Lands Management Act. BRC is only able to address this request on a limited scale at this time, given its unique place between grassroots users, local organizations, private industry, and state and local governmental entities. We will continue to monitor and update this status and offer here our suggestions and detailed submissions in those areas where an obvious direction or growing consensus is apparent.

A. Rationale

To address the need for adequate OHV recreation opportunities:

Motorized OHV use is firmly established as a major recreational activity on BLM-administered public lands. National Management Strategy for Motorized Off-Highway Vehicle Use on Public Lands. BLM's Manual 8340 (May 25, 1982), establish that off-road vehicle use is an 'acceptable use of public land wherever it is compatible with established resource management objectives.' As established by the Federal Land Policy and Management Act of 1976 (FLPMA), the BLM is required to manage public lands on the basis of multiple use and sustained yield, including providing recreation, while protecting natural values.

Unfortunately, federal agencies have responded to the significant, and in at least some instances increasing demand for quality OHV access by closing tens of thousands of miles of roads and trails. Motorized recreational opportunity has been drastically reduced throughout the region. Travel management planning on adjacent BLM and National Forest lands have reduced opportunity for motorized recreationists, while at the same time provided additional opportunity for those who prefer a non-motorized experience.

The amount of motorized route and area closures has reached a critical mass. Every single mile of motorized route that is open today is extremely important. Further closures will have a much larger impact than those in the past.

Economic benefits of motorized and mountain bike recreation

The Outdoor Industry Association, when pushing a unilateral presidential National Monument, cited a recreation impact study that shows "that outdoor recreation is 'an overlooked economic giant,' generating \$646 billion in national sales and services in 2011 and supporting 6.1 million jobs, powering the economy in a manner comparable to the financial services and insurance industries or outpatient health care." They are telling only part of the story. The same study shows that approximately \$257 billion or nearly 40% of the total \$646 billion in economic impact is derived from motorized recreation.

Unfortunately motorized recreation is often severely restricted in protective designations such as NCAs or even NRAs. Unless specific measures are taken the designation of these lands as a NCA or

NRA along with the almost certain restrictions that come along with designation could effectively mean that a significant portion of the total economic impact of recreation to the area will be forfeited. Also, many other recreational uses that contribute to the overall figure of \$646 billion frequently are restricted in National Monument areas as well. For example bicycling accounts for another \$81 billion annually. Now consider that the National Park Service has recently twice denied permits for a professional bike race to be held, in part, in Colorado National Monument, despite the positive economic impact the race would have on the local economy. This is but one of many examples of recreational uses being limited in these areas.

B. Specific Proposals

Our proposal here is based on the current management and protections provided in the RMPs but strengthen the ability to manage and provide OHVs.

Carbon County

No specific recommendation at this time

Uintah County

No specific recommendation at this time

Wayne County

No specific recommendation at this time

San Juan County

In addition to the proposals made by San Juan County and SPEAR (San Juan Public Entry & Access Rights), we suggest the Yellow Circle Mine OHV Area be designated for enhanced OHV use and the Cameo Cliffs SRMA be expanded.

The Yellow Circle Mine OHV Area

The Yellow Circle Mine is located approximately ten miles southeast of Moab (see attachment). The Yellow Circle Mine is a cluster of abandoned roads on a steep and rocky hillside. It's next to large power-lines, as well as Area BFE, which is a 320-acre rock-crawling park on private property. This area is suitable and manageable for a "high challenge" 4x4 OHV management area.

Cameo Cliffs OHV Area

Extend the Cameo Cliffs SRMA south toward South Canyon Point and north toward Black Ridge

Grand County

Rationale:

Presumably, a public lands bill could establish long-distance trails, recreation areas, and other special designations. Whatever the means, we envision an end product that provides more and closer day loops surrounding OHV hubs or focus areas, as well as quality multi-day loops that connect towns. It's much easier for land managers to achieve compliance when the visitors have diverse recreation opportunities.

The 2008 RMP established the Labyrinth Rims Special Recreation Management Area (SRMA), which includes the Dee Pass Motorized Trail Focus Area. It also established the Utah Rims SRMA partly for motorcycling (and mountain biking). Finally, it established the Cameo Cliffs SRMA partly for ATV riding (and horseback riding).

These SRMAs provide three hubs for OHV riding. While they may seem large on a map, many parts of

the SRMAs are off-limits to OHV use (i.e. the top of Duma Point in Labyrinth Rims, the bottom of Bitter Creek in Utah Rims, and the upper part of Hook And Ladder Gulch in Cameo Cliffs).

There is a need to expand those hubs toward the nearest towns so that visitors won't have to travel so far just to reach the trail. Further, this connectivity would facilitate multi-day rides, and emerging markets like dual-sport motorcycling. This sort of long-distance trail, such as Paiute ATV Trail, has helped many rural communities. The same thing could be done for Green River, Moab, and Monticello (or even from Price to Blanding).

Already, Kokopelli's Trail connects Moab with Grand Junction, Colorado. However a lot of the "trail" relies on graded roads, while another section is non-motorized, which forces OHVs onto paved roads. Therefore, long-distance trails for multi-day rides should utilize primitive routes to consistently provide enough challenge, scenery, etc. Motorcycle single-track (40" wide) and ATV trails (52" wide) are ideal, but only in addition to a wider route for side-by-sides and "jeeps." So the main route would be doubletrack and then single-track options could appeal to more motorcyclists and mountain bikers.

To proactively manage recreation, areas should be designated in anticipation of increasing visitation, not in reaction to it. SRMA boundaries and focus areas should be large enough to "grow into," as trends emerge.

Suggestions:

Utah Rims Recreation Area

There is a need to extend the Utah Rims SRMA southwest toward Cottonwood Wash (to encompass Mel's Loop) and north to the Bookcliffs to encompass the Wild Cow Loop.

An expanded Dee Pass Motorized Focus Area

The current Dee Pass Motorized Focus Area should be expanded northwest to reach Green River and further southeast toward Bartlett Wash, where many riders stage from.

Trail corridors:

The current Moab Extensive Recreation Management Area should provide additional primitive roads, ATV and single-track trails and dry washes to connect SRMAs and towns. Such routes offer opportunities for long-distance tours, which are increasingly popular among motorized and mechanized enthusiasts. Additionally, such links boost rural economies and disperse use, thereby alleviating conflicts. Three logical trail corridors are the Thompson to Mack trail corridor, Green River trail corridor and the Moab to Monticello trail corridor (see map).

Emery County

BRC is on record as strongly supporting the process used to formulate the draft Emery County land bill. Although still in draft form, BRC generally supports the legislation.

One of the key consensus points in the Emery County proposal is that it would, as much as possible, "freeze" the current management in the BLM's 2008 Price Field Office Resource Management Plan, including the travel management plan, in place. However, on page 19, of the draft legislation the bill mandates yet another round of OHV travel management planning.

Normally, such an inconsistency would raise serious questions. However, we are approaching this review based on the understanding the current mandate on page 19 was not intentional and the county would be open to suggested edits that would preserve the consensus agreement.

Toward that end, below are suggestions we have submitted to Emery County:

The consensus is that the legislation should “freeze” current management, including travel management in place. However, the current draft mandates another round of travel planning for the NCA. There is also consensus that there is a need for additional trail based non motorized opportunity as well. The suggestions below attempts to address both concerns.

~~Strikeout~~ = deletions

Underline = additions

Draft Emery County Public Land Management Act of 2011, Pages 2,3:

(g) Motorized Vehicles -

(1) ~~IN GENERAL~~ ROADS– Except in cases in which motorized vehicles are needed for administrative purposes, or to respond to an emergency, the use of motorized vehicles in the National Conservation Area shall be permitted ~~only~~ on roads and trails designated by the Emery County Public Land Management Act, 2011—, as shown on the Emery County Comprehensive Travel and Transportation Management Plan.

(2) Trails: Except in cases in which motorized vehicles are needed for administrative purposes, or to respond to an emergency, the use of motorized vehicles in the National Conservation Area shall be permitted on roads designated by the Emery County Public Land Management Act, 2011 as shown on the Emery County Comprehensive Travel and Transportation Management Plan.

(3) CLOSURES AND RESTRICTIONS – The Secretary shall not-

(A) close any designated route as identified in the Price Field Office RMP that is open to the public as of the date of the enactment of this Act;

(B) Prohibit motorized access any designated road or trail as identified in the Price Field Office RMP Travel Plan that is open for motorized access as the date of the enactment of this Act;

(4) EXCEPTIONS – Nothing in this subsection shall be construed as precluding the Secretary from temporarily closing or restricting public access to a designated route for purposes of significant resource protection or public safety. Provided, however, that if the closure becomes permanent, or the length of the temporary closure impairs established access and use normally provided by the designated route, the Secretary shall establish alternate access, equivalent to that provided by the designated route.

Option A: Allowing for additional motorized trails in the NCA:

Page 19:

(c) Trail Plan –

(1) IN GENERAL – the Secretary, in consultation with interested parties, and after providing opportunities for public comment, in a manner consistent with the Emery County comprehensive travel and transportation management plan, shall develop a trail plan to provide additional motorized and non motorized trail recreation opportunities –

(A) in a manner consistent with the Wilderness Act (16 U.S.C. 1131 et seq.), hiking and equestrian trails in the wilderness areas designated by this Act;

(B) non-motorized and motorized recreation trails in the conservation area;

(C) enhanced recreation trail opportunities, including a West-Side Multiple-User Community-connector Trail System, on lands not designated wilderness or

National Conservation Areas by this Act.

(2) West-Side Multiple-User Community-Connector Trail System Defined – For the purpose of this subsection, the term “West-Side Multiple-User Community- Connector Trail System” means

(3) Report – Not later than two years after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the implementation of the plan required under subsection (?), including the identification of priority trails for development.

Option B: Allowing for no additional motorized trails in the NCA:

Page 19:

(c) Trail Plan –

(1) IN GENERAL – the Secretary, in consultation with interested parties, and after providing opportunities for public comment, in a manner consistent with the Emery County comprehensive travel and transportation management plan, shall develop a trail plan to provide additional motorized and non motorized trail recreation opportunities –

(A) in a manner consistent with the Wilderness Act (16 U.S.C. 1131 et seq.), hiking and equestrian trails in the wilderness areas designated by this Act;

(B) non-motorized ~~and motorized~~ recreation trails in the conservation area;

(C) enhanced recreation trail opportunities, including a West-Side Multiple-User Community-connector Trail System, on lands not designated wilderness or National Conservation Areas by this Act.

(2) West-Side Multiple-User Community-Connector Trail System Defined – For the purpose of this subsection, the term “West-Side Multiple-User Community- Connector Trail System” means

(3) Report – Not later than two years after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the implementation of the plan required under subsection (?), including the identification of priority trails for development.

V. A final thought

We are excited by the effort outlined in the June 3, 2013, letter. We sit collectively at a unique juncture created by decades of management uncertainty, a universal desire for management security, mature awareness of the diverse stakeholder positions, and unprecedented need for governmental efficiency and accountability. We look forward to helping create a new management vision for Utah’s treasured BLM lands.

