



WILDERNESS WATCH

Keeping Wilderness Wild

March 6, 2020

Board of Directors

Louise Lasley, NM
President

Marty Almquist, MT
Vice President

Gary Macfarlane, ID
Secretary

René Voss, CA
Treasurer

Talasi Brooks, ID

Franz Camenzind, WY

Mark Peterson, WI

Cyndi Tuell, AZ

Executive Director

George Nickas

Advisory Council

Magalen Bryant

Dr. Derek Craighead

Dr. M. Rupert Cutler

Dr. Roderick Nash

Minneapolis, MN Office

2833 43rd Avenue South
Minneapolis, MN 55406

Moscow, ID Office

P.O. Box 9623

Moscow, ID 83843

Elijah Waters
Gunnison Field Office Manager
210 W. Spencer Ave., Suite A
Gunnison, CO 81230

Sent via email: ewaters@blm.gov and
blm_co_gfo_NEPA_comments@blm.gov

Dear Mr. Waters,

On behalf of Wilderness Watch, please accept this protest of the proposed decision to construct and reconstruct range improvements and renew the livestock grazing permit for the Powderhorn Grazing Allotment. **DOI-BLM-CO-F070-2019-0033-EA**. I received the Notice of Proposed Decision on Monday, Feb. 24, 2020, and this Protest is therefore filed within 15-day time period in which to file a Protest.

Protest Specifics:

The Environmental Assessment analyzing developments on the Powderhorn Allotment, DOI-BLM-CO-F070-2019-0033-EA, is missing critical information and a glaring error led to an omission which makes the Assessment, and the Minimum Requirements Analysis used to inform it, fatally flawed.

Inadequate Range of Alternatives

In short, the MRDG analyzes impacts from 1) always using motorized equipment; 2) always using motorized equipment with some caveats; and 3) never using motorized equipment.

Where is the logical analysis of using motorized equipment for some of the component activities, and not for others? This failure appears due, at least in part, from an improper set-up of the component activities as first outlined on page 8 of the MRDG (Appendix 3). At this point, the three actions being considered -- maintenance of the stockpond, maintenance of

fences, and opening up “cattle movement corridors” have been conflated. In other words, the component activity for maintaining the stockpond should not be combined with maintaining the fences; and the component activity for route maintenance to the stockpond should not be combined with maintenance of the pond itself.

This has been further compounded by the assumption that necessity for one action means necessity for all. We believe this is questionable, as is discussed later.

In other words, where you have two component activities (#2, and #3) there should be perhaps seven, along the line of:

1. development of access route to stockpond
2. maintenance of stockpond
3. development of access route to fences
4. maintenance of fences
5. development of access route to “cattle movement corridors” (if not already covered above)
6. creation of “cattle movement corridors”
7. maintenance of “cattle movement corridors”

This could result in a simple matrix, where each component is analyzed under three scenarios: no further management action is necessary; management action is necessary but is restricted to non-motorized equipment and non-mechanical transport; management action is necessary and requires motorized equipment or mechanical transport.

	further action necessary?	non-motorized, non-mechanical?	motorized, mechanical?
stockpond access route			
stockpond maintenance			
fence access route			
fence maintenance			
“CMC” access route			
“CMC” development			
“CMC” maintenance			

It appears from your analysis that you have used needing motorized equipment to maintain the stockpond¹ to piggyback motorized uses on all the other component actions. We find it highly unlikely that motorized equipment is the “minimum necessary,” and in any event you have not demonstrated this.

The lack of any alternative (let alone a reasonable range of alternatives) where non-motorized tools are used for some component activities and motorized tools are used for other component activities points to the failure of the MRDG and fatally undermines the entire EA. You must

¹ The MRDG and EA do not make the case that even an excavator is necessary for maintenance of the pond. One is led to infer that an excavator is necessary, but sufficient justification is lacking in terms of the size of the task.

redo this analysis.

New Development Not Properly Analyzed

We have serious concerns over the very inclusion of “cattle movement corridors.” The EA claims these routes, totaling what appears to be 15 miles (see p. 15), pre-exist Wilderness designation. We can find no map where these are delineated, and suspect they are actually new developments. BLM Wilderness policy 6340 states at 1.6.C.8(d)(iii) that “New facilities will be permitted by the BLM only for the purpose of enhancing the protection of wilderness character.” These routes fail that test. If these routes are not new, you must show where they were located prior to 1993. In addition, per the policy at 1.6.C.8(d)(i)(C), if chainsaws are to be used you must show “the motorized use was allowed prior to wilderness designation.”

Insufficient Support for the Use of Motorized Equipment for Certain Component Actions

In several places the EA refers to the extremely limited use of a UTV to move fence materials. See, for example: “an in-and-out trip” (p. 15); “Mini excavator and UTV operations would commence over a period of 3 days one to two times over a ten-year period” (p. 21). With such limited use, it certainly seems practical that fencing materials could be brought in by pack animals. You have not made the case that motorized equipment is necessary.

And as for clearing routes and fencelines, you have not made the case for the necessity of chainsaws.

Incomplete and Inaccurate Assessment of Impacts to Wilderness

While we do not endorse the BLM Manual definition or description of *wilderness character*, it is worth noting that the proposed project runs afoul of the Manual. As exemplified by Table 1.3 on page 7, you seem to believe the only impact to Wilderness Character² to be analyzed in detail is the use of motors. (By the way, the table errs in referring to motorized equipment and mechanical transport. The use of the latter is not proposed. The Proposed Action includes the use of motorized equipment and motor vehicles.)

To be sure, the use of these temporal developments degrades Wilderness Character. But so would the physical developments of trails along the fencelines and the “cattle movement corridors.” It appears these would impact both the natural and untrammed qualities of wilderness character beyond what existed at the time of designation, and your claim to the contrary on pages 21 and 22 is unsupported. To be valid, you would have to show that the both these impacts existed in the manner and degree described in the Proposed Action.

(We also should point out the statement on page 21 that “the faces of cut logs from chainsaw use would impact the Natural and Untrammed aspects of wilderness character” is incorrect. The cutting of the log impacts the Natural and Untrammed qualities. The faces of the cut logs do

² While we are responding to the agency’s definitions and protocol for the MRDG process in this protest, it is not an endorsement of that process or how it has been conducted in this instance.

not affect Untrammelled, and affect Natural only in a negligible way. The most significant impact is to the Outstanding Opportunities quality, though that, too, is minor in comparison to the other developments proposed.)

Lack of Specificity of the Proposals as Required

The EA states at 12:

Chainsaw use may occur on a case-by-case basis with Authorized Officer approval. This approval would take into consideration the extent of clearing to be completed, anticipated time for completion, whether BLM employees, or group volunteers, are available to assist using primitive tools, and the need for cattle to egress based on varying factors such as weather and forage conditions.

We addressed this concern in our earlier comments:

This is important because the BLM Manual (6340 at 1.6 D. 4.) states the agency “must provide public notice of proposed actions within wilderness areas.” “Any substantive comments from the public (e.g. NEPA scoping comments), solicited or not, should be considered during the NEPA process.” Even more important, “The notice should include enough information for the recipient to understand the purpose, location, nature, size, and expected implementation date of the proposed action.” This detail is not included in the scoping letter.

The problem remains. We do not know how much chainsaw use is proposed, or when. Even the proposed stock pond work is vague, 2 times per ten-year period, even though it would be needed only once. EA at 12.

Additional Minor Errors

In addition to the parenthetical corrections above, there are several additional minor errors which, while not fatal to the analysis, should be corrected.

1. The map of the Proposed Action refers to the access as a “Historic Road.” It certainly is not a “road,” and may not be “Historic.” It does not appear at all on the Scoping Map; the USGS map refers to the north-south portion as a “Pack Trail” and most of the east-west portion as a “Jeep Trail.” What the route is might be called a “Pre-existing Route.” This is not simply a matter of semantics, and the EA is deficient in accurately describing the historic maintenance (or lack thereof) and current condition of these routes.
2. The MRDG Alternative 1 is a straw man, and we suggest you drop it when you re-do the analysis. The “open authorization” directly violates BLM 6340 Policy at 1.6.C.8(d)(i). And why would you propose a D-6 if you know a mini-excavator would be sufficient?
3. The No Action Alternative cites limits: “a group cannot consist of more than ‘25 heartbeats’ (people, horses, dogs, et cetera), camping is limited to 14 consecutive days.”

(p. 17). These restrictions usually pertain to recreational uses. Obviously, they could be waived for necessary management activities.

4. The MRDG repeatedly states there are no Other Features of Value. Yet it appears there is a cultural site in or near the proposed access route. The description makes it sound as if it is in the Wilderness. If so, the MRDG needs to be corrected. This should be relatively simple, since you have already addressed the potential impacts to the site as a separate issue.
5. The MRDG also repeatedly says there are no time constraints. This is not quite accurate, given the documents proper deference elsewhere to sensitive times for wildlife. The window for work is shorter than the full season this portion of the Wilderness is snow-free, but you are correct in stating (by omission) that there is no reason any of the component activities might be undertaken over two or more seasons.

Summary

In addressing the Cumulative Effects on page 22 you state: “These cumulative impacts would interrupt the current trend towards a more untrammelled, undeveloped, natural, and unconfined wilderness. This periodic interruption of natural trends is inherent to wilderness areas that permit multiple uses such as livestock grazing.” We agree that not just interruption of natural trends, but periodic degradation of other qualities of Wilderness Character is inherent to wilderness areas that permit livestock grazing. That does not absolve you of the mandate to preserve Wilderness Character at every instance it is practical to do so. You have not demonstrated that many of the impacts in your Proposed Action meet the so-called “minimum necessary” test.

To sum up, you cannot make a reasoned decision based on this faulty Environmental Assessment. The proposed actions must be reanalyzed or done with non-motorized means.

Thank you for this opportunity to file this Protest.

Sincerely,



Kevin Proescholdt
Conservation Director