



***Bureau of Land Management  
Director's Summary Protest Resolution  
Report***

**White River Field Office  
Travel and Transportation  
Management Resource  
Management Plan  
Amendment**

February 5, 2020

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## *Acronyms*

BLM	Bureau of Land Management
LWC	lands with wilderness characteristics
OHV	off-highway vehicle
RMP	Resource Management Plan
RMPA	Resource Management Plan Amendment
TTM	Travel and Transportation Management
WRFO	White River Field Office

***Protesting Party Index***

<b>Protester</b>	<b>Organization</b>	<b>Determination</b>
Soren Jespersen	The Wilderness Society	Denied
Henry Chambers	N/A	Dismissed – No Standing

## ***Lands with Wilderness Characteristics – Travel and Transportation Management Decisions***

***Soren Jespersen***

***The Wilderness Society***

**Issue Excerpt Text:** Oil and gas use or projected future use should not be the primary basis for determining whether or not an area can or cannot be designated as closed to OHV use through travel and transportation management planning. BLM shows that it can manage LWCs as closed to OHV use whether or not they are designated as Tier 1 or Tier 2 LWC units in the 2015 Oil and Gas RMPA. In fact, the proposed TTM RMPA would designate portions of both Tier 1 and Tier 2 LWC units as closed to OHV use, regardless of existing leases or projected future oil and gas development. Instead of arbitrarily closing only some of the Tier 1 and Tier 2 LWCs to OHV use, BLM can and should designate all Tier 1 and Tier 2 LWC areas as closed to OHV use, to ensure that protection of the wilderness characteristics of these areas can be considered in the future. BLM’s approach here to rely on the tiering of LWCs developed for oil and gas management when it is convenient, and ignore it when it is not, is arbitrary, and contravenes the law and BLM policy direction to “use the land use planning process to determine how to manage lands with wilderness characteristics as part of the BLM’s multiple-use mandate” and to “consider a full range of alternatives for such lands when conducting land use planning.” BLM Manual 6320 at .06.; see also, *Ore. Natural Desert Ass’n v. BLM*, 625 F.3d 1092, 1122 (9th Cir. 2008) (holding that “wilderness characteristics are among the values the FLPMA specifically assigns to the BLM to manage in land use plans).

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***Soren Jespersen***

***The Wilderness Society***

**Issue Excerpt Text:** Now, in the context of the White River Travel and Transportation Management Resource Management Plan Amendment (Proposed TTM RMPA), BLM is making new decisions on LWC management in the context of travel and transportation management. These decisions are largely based on the tiers adopted in the Oil and Gas RMPA, tiers which BLM created based almost exclusively on then existing oil and gas leases and future oil and gas development potential<sup>2</sup>. The tier definitions used in the Oil and Gas RMPA do not consider any other values of each individual LWC unit other than their overlap with existing oil and gas leases and their location in areas of High, Medium, or Low potential for oil and gas development.

This approach is problematic because it undermines BLM’s fundamental authority and obligation to consider wilderness resources on the public lands in the context of other resources and values and make management decisions that serve the public interest. The White River Field Office is following a path in which initial LWC tiers were determined based solely in the oil and gas management context, and those tiers are now being transformed into travel management decisions, which will continue to be transformed into additional resource management decisions, and the result is that by the time BLM revises the White River RMP or otherwise finds the will or resources to consider protection of LWCs in a planning process, the agency will have predetermined management for all LWC based on its original tiering of LWCs in the 2015 Oil and Gas RMPA. For example, in the 2015 Oil and Gas RMPA, BLM designated LWC Unit 27 – MF Mountain as a Tier 2 area simply because

it was in the Dinosaur Master Leasing Plan area for oil and gas development. This despite the fact that the area was unleased, and no producing well has ever been drilled within its boundaries. In accordance with that history, no new acreage has been leased or wells drilled in the MF Mountain LWC unit since the completion of the 2015 Oil and Gas RMPA. Currently the 9,100-acre unit is almost 100% unleased. Nothing differentiates this LWC from the Tier 1 LWCs that are being closed to OHV use in the Proposed TTM RMPA except for its Tier 2 status as defined in the 2015 Oil and Gas RMPA. Even though no oil and gas development has ever occurred within the boundaries of this LWC, and is highly unlikely to occur in the future, BLM is opening the LWC to the possibility of new or improved roads and trails that could preclude the area from ever being considered for protection in a land-use plan, only because the area was designated as a Tier 2 LWC unit in the context of the Oil and Gas RMPA.

**Summary:**

The Bureau of Land Management’s (BLM’s) travel and transportation management decisions would preclude lands with wilderness characteristics from being managed to protect their wilderness character prior to the area being considered for protection in a land use planning effort.

**Response:**

The BLM has considered a reasonable range of alternatives for the management of lands with wilderness characteristics units, including no special management for these units in Alternative A, all units managed as closed to motorized travel in Alternative B, and all units managed as limited to motorized travel to existing and identified primitive routes in Alternative C. Alternative D reflects the BLM’s careful consideration of the manageability of these areas in the context of travel management.

The BLM’s multiple use mandate (Federal Land Policy and Management Act Section 103(c)) provides that various resource values should be used in the combination that best meets present and future needs. BLM Manual 6320 requires that the BLM evaluate lands with wilderness characteristics through the land use planning process, but recognizes that planning, “may result in several outcomes, including, but not limited to: 1) emphasizing other multiple uses as a priority over protecting wilderness characteristics; 2) emphasizing other multiple uses while applying management restrictions (conditions of use, mitigation measures) to reduce impacts to wilderness characteristics; 3) the protection of wilderness characteristics as a priority over other multiple uses.” The BLM is not required to lump all possible “multiple uses” (such as recreation and minerals) together into one single category and then weigh that collective use against management of wilderness characteristics. In other words, there is no policy constraint that precludes the agency from evaluating oil and gas development and travel management separately when considering manageability of these units (note that the management of oil and gas resources is outside the scope of this Resource Management Plan [RMP] amendment).

The BLM’s proposed RMP amendment (Alternative D) generally provides consistent management of these units in regard to travel management and oil and gas development (e.g., Tier 3 areas are limited to designated routes). The BLM considered existing decisions about oil and gas management not because it is constrained by those decisions but rather because they are relevant to the public’s experience. The BLM also endeavored to promote non-motorized areas and the public’s expected experience of solitude and primitive recreation as much as possible by evaluating which areas of the field office are less likely to be affected by future oil and gas development. The BLM’s analysis focused on how existing management decisions will dictate the location of future development rather than market conditions and demand for drilling, which fluctuate over time. Outside of the Wilderness Study Areas, all of the White River Field Office (WRFO) is available for oil and gas leasing and development. However, the Tier 1 and Tier 2 areas have either No Surface Occupancy or Controlled

Surface Use stipulations designed specifically to either avoid or minimize impacts on wilderness characteristics. As a result, the BLM identified non-motorized areas in the RMP amendment where they are unlikely to have a proliferation of new routes due to oil and gas development activity in the future.

In Alternative D, the majority of Tier 1 areas (with the exception of Units 32, 33, and 34) have an area of at least 5,000 contiguous acres identified as a non-motorized area. However, the boundaries of the management decisions for oil and gas development and travel management do not align based on manageability for the various resources. BLM Manual 6320 requires us to “consider whether boundary modification of the area would improve manageability.” Oil and gas leasing is based on aliquot parts (legal description) and so oil and gas management boundaries were drawn as straight lines based on the Public Land Survey System. In contrast, for the general public recreating in an area, ensuring that boundaries are readily identifiable on the ground (e.g., an existing road, drainage, or prominent ridgeline) improves manageability of the area. Using these types of boundaries would make the travel management plan efficient to implement and monitor and uncomplicated for the public to recognize and navigate. Some areas (e.g., Units 32, 33, and 34 and portions of Upper Coal Oil Rim, Big Ridge, Coal Ridge, and Pike Ridge) are managed as Tier 1 areas (for oil and gas development), but are managed as limited to designated routes. In this example, the BLM’s management priority order is (1) promoting public access and motorized camping opportunities and using easy to delineate on-the-ground boundaries, and (2) protecting wilderness characteristics as a priority over oil and gas development.

Other deviations from the oil and gas management approach were not made arbitrarily, but rather based on promoting continued public access and reducing conflicts with access by permitted users. In Section 5.1.2 of the Environmental Assessment (Alternative D), the BLM explained that Units 32, 33, and 34 would be managed as limited to designated routes in order to allow for improved public access to adjacent Wilderness Study Areas (and associated motorized primitive camping adjacent to existing routes in these units). The eastern portion of the Upper Coal Oil Rim unit would be managed as limited to designated routes because existing routes through this unit provide access to other BLM-managed public land. For Big Ridge, the BLM explained that approximately 800 acres would be managed as limited to designated routes so there would be no change in current public access. For Pike Ridge, the BLM considered conflicts between the public and the private landowner regarding the existing non-motorized boundary. In Coal Ridge, the non-motorized area reflects a strategic balance about which decisions to make at a land use planning level (area designations) and which decisions to make during implementation planning (route designations) in regard to concerns from Rio Blanco County about a pending application for a new water reservoir. In Section 5.1.1 of the Environmental Assessment (Alternative D), the BLM adjusted the Pike Ridge non-motorized boundary to exclude the private inholdings to eliminate conflicts between the public, who expected all users to follow non-motorized requirements, and the landowner, who had a right to access their property.

In regard to areas such as MF Mountain, it is important to remember that leases may expire, but the area would remain available for oil and gas leasing and development. It is quite common for the BLM to re-lease parcels in which previous leases expired without development. It is also important to remember that the proposed RMP amendment is only the first step in developing the transportation network in the WRFO. During implementation planning, the BLM will make decisions about the designation of existing routes. Construction of any new routes or trails would be subject to site-specific National Environmental Policy Act review.



## ***Lands with Wilderness Characteristics – Designation of Primitive Routes***

***Soren Jespersen***

***The Wilderness Society***

**Issue Excerpt Text:** Specifically, BLM policy guidance on lands with wilderness characteristics defines “primitive route” as “any transportation linear feature located within areas that have been identified as having wilderness characteristics and not meeting the wilderness inventory road definition.” BLM Manual 6310 at .07 (Glossary) (2012).

Importantly, primitive routes apply to lands the agency has identified as having wilderness characteristics and not just those being managed to protect wilderness characteristics in the RMP. The BLM’s Travel Manual 1626 provides that:

Primitive routes will not be made a part of the transportation system, classified as a transportation asset, or entered into FAMS unless they meet one of the following conditions: the BLM designates routes as non-motorized and non-mechanized trails or, under an RMP decision, the wilderness characteristics will no longer be protected and the BLM designates the routes. BLM Manual 1626 (2016) at 6.5(F)(1).

Thus, the clear language and intent of BLM policy is that any routes within an area that has been identified as having wilderness characteristics, prior to a decision being made on how to manage those wilderness characteristics, should be designated as a primitive route. No primitive route should be designated and classified as an asset in a travel management plan unless and until BLM decides not to protect the wilderness characteristics in the land use plan. None of the LWC areas in the WRFO which have been inventoried since 2013 meet these criteria because they have yet to be considered for protective management in a land use planning process; as described in further detail elsewhere in these comments, the oil and gas amendment to the White River RMP only considered management in the context of oil and gas leasing and development.

It is important that BLM not classify routes in LWC as assets because BLM’s definition of an asset implies maintenance: “Assets are maintained through the annual and deferred maintenance programs.” BLM Manual 1626 at .09 (Glossary). Classifying routes in inventoried LWC as assets and assigning maintenance levels to them is problematic because if BLM designates routes in inventoried LWC, classifies them as assets and begins maintaining them on a regular basis, BLM may undermine its ability to protectively manage those LWC units in the future by creating roads that are improved and maintained by mechanical means to insure regular and continuous use; because BLM has not yet made management decisions for the inventoried LWC units, that outcome is unacceptable.

### **Summary:**

The BLM cannot classify transportation routes in areas inventoried for lands with wilderness characteristics beyond designation as primitive routes. Furthermore, because the BLM has not made a decision in a land use plan regarding whether to protect the 2013-inventoried lands with wilderness characteristics, it cannot designate primitive routes in these areas as assets in the RMP amendment.

### **Response:**

The BLM’s Travel and Transportation Management Manual (1626) states that: “At a minimum, each TMP will classify transportation linear features as a road, primitive road, trail, primitive route, temporary route, or transportation linear disturbance (i.e., an unauthorized route, route for which the authorization has expired, or route that is no longer needed). The BLM will designate these features as open, limited, or closed to OHV use per 43 CFR 8341.1 and 8342.1.” This approach also provides the public and the BLM the most flexibility in designing the transportation system in these areas

during future travel management planning (i.e., identifying which routes, if any, should be closed or limited to certain modes of travel). By designating the area as limited to designated routes, the BLM retains flexibility to make decisions on individual routes as to whether some routes in the transportation system should be allowed to be maintained or upgraded (designated “route” vs “primitive route”). It is appropriate to make this decision during subsequent travel management planning because, during that time, the BLM and the public will be able to evaluate connectivity of the transportation system and desired types of access to specific areas.

In the proposed RMP amendment (Alt D), the area designation has been streamlined and all areas outside of the non-motorized areas and open areas would be managed as “limited to designated routes.” Rather than make a land use planning–level decision about whether all routes within an area should be managed as primitive routes, the WRFO is instead proposing to make site-specific decisions during implementation planning about designation of an individual route. Because the BLM is not actually designating routes as primitive routes in the proposed RMP amendment, the Final Environmental Impact Statement complied with all policy contained in BLM Manual 1626 at 6.5 (F)(1).