



Basin and Range Watch

QUARTER 1, 2026 PROTEST
DOI-BLM-UT-0000-2026-0001-EA - BLM Utah 2026 First Quarter Competitive Oil and Gas Lease Sale Environmental Assessment

February 24, 2026

Bureau of Land Management
Utah State Office

To whom it may concern:

The following signators, and noted related organizations, hereby submit this protest to the DOI-BLM-UT-0000-2026-0001-EA - BLM Utah 2026 First Quarter Competitive Oil and Gas Lease Sale and related Environmental Assessment:

- John W. Hiscock
- Chandra Rosenthal, Rocky Mountain Regional Director, Public Employees for Environmental Responsibility (PEER)
- Landon Newell, Staff Attorney, Southern Utah Wilderness Alliance (SUWA)
- Emily Thompson, Executive Director, Coalition to Protect America's National Parks (CPANP)
- Kevin Emmerich, Co-Founder, Basin and Range Watch (BRW)

This protest is based on the failure of the Bureau of Land Management (BLM) to meet the “hard look” test of the National Environmental Policy Act (NEPA) (*see* 42 U.S.C. § 4332(2)(C)) through disregard of existing and applicable law and policy, lack of such information presented to the public, and presentation of erroneous information in the subject EA. For these reasons and others presented the proposed BLM action should be considered prospectively unlawful as “without observance of procedure required by law” and “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law” as prohibited by the Administrative Procedure Act (5 U.S.C. §706 (2)(D) & (A)). Furthermore, in its finalization of the subject EA, the BLM failed to address comments and legal requirements previously noted in the protestants January 2, 2026 submission, as legally required by Council on Environmental Quality regulations (*see* 40 CFR § 1503.4), again, “without observance of procedure required by law.” Those earlier comments are attached (*Attachment #4, Protest*) and once again submitted for comprehensive consideration, and incorporated as part of this protest.

The focus of these comments is on the impacts of the noted project on the Northern Route of the Old Spanish National Historic Trail (OSNHT) in the Moab and Monticello Field Office areas of Bureau of Land Management (BLM) lands in southeast Utah. More specifically, these comments express concerns with paramount Department of the Interior (DOI), BLM, and National Park Service (NPS) administration, management, and protection of the OSNHT, and its resources and values in the vicinity of the proposed oil and gas lease parcels 7772, 7824, and 7825, all of which are proximate to the OSNHT.

In summary, our protest of the subject EA and proposed BLM Utah 2026 First Quarter Competitive Oil and Gas Lease Sale action is based on many deficiencies, including the following factors:

- A. The relationship of specific management and protection provisions of the National Trails System Act (NTSA) and the general BLM multiple use management mandates of FLPMA and the requirement that the BLM and Department of the Interior reach a conclusion that the proposed action will not “substantially interfere with the nature and purposes” of the Old Spanish National Historic Trail as required by law. (*See* NTSA, 16 U.S.C. §§1246).
- B. The failure of the Secretary, DOI, and BLM and National Park Service OSNHT Administrators to complete a Comprehensive Plan for the Management (CMP) of the OSNHT pursuant to, and in accordance with time requirements of the NTSA, thus resulting in a lack of guidance on OSNHT management and protection related to BLM land management decisions. (*See id.* at §1244(f)).
- C. The failure of the Secretary, DOI, and BLM and NPS OSNHT Administrators to establish, and publish a OSNHT NTSA right-of-way, including the location and width of such right-of-way, in accordance with the requirements of the NTSA. (*See id.* at §1246(a)(2), and for the BLM, as OSNHT co-administrator, in accordance with the requirements of BLM Policy Manual 6250 - *National Scenic and Historic Trail Administration* (2012) and as mandated by its Policy Manual MS-1221 - *BLM Directives* (2018).
- D. Additional legally unauthorized and faulted alterations of the OSNHT alignment and dissemination of confusing related information concerning such, that has demonstrably confused BLM’s assessment of effects of this proposal on the OSNHT and the public’s understanding and ability to meaningfully offer comments and input.
- E. The failure of the BLM to conduct a comprehensive inventory of OSNHT resources, values and public opportunities as required by Policy Manual 6280 and as mandated by its Policy Manual MS-1221 - *BLM Directives* (2018).
- F. The failure of the BLM to establish a Trail Management Corridor as required by Policy Manual 6280 and as mandated by its Policy Manual MS-1221 - *BLM Directives* (2018).
- G. The failure of the BLM to amend the Moab and Monticello Resource Management Plans (RMPs) for OSNHT management purposes as required by Policy Manual 6280 and as mandated by its Policy Manual MS-1221 - *BLM Directives* (2018).
- H. The resultant insufficiency of BLM’s NTSA, NTSA policy, and NEPA assessment process, to assure no substantial interference with the nature and purpose of the

OSNHT and, consequent fatal flaw in the NEPA analysis of the proposed oil and gas lease sale of parcels 7772, 7824, and 7825.

John Hiscock, PEER, CPANP, and BRW are currently plaintiffs in litigation against the Department of Interior over many of the same issues referenced concerning proper administration and management of the OSNHT. The legal claims raised in that case directly relate to and also weigh against the action that BLM is now considering. Given the ongoing litigation, BLM should consult with its counsel before moving forward with this project and EA related to parcels 7772, 7824, and 7825.

BACKGROUND

- The National Trails System Act (16 U.S.C. §§ 1241 – 1251)

The National Trails System Act was passed by Congress in 1968, initially establishing national scenic trails (NSTs). It was amended in 1978 to include national historic trails (NHTs).

The general purpose of each NHT is “identification and protection of the historic route and its historic remnants and artifacts for public use and enjoyment.” *Id.* at §1242(a)(3).¹

The NTSA spells out what is allowed along NSTs and NHTs – “National scenic or national historic trails may contain campsites, shelters, and related-public-use facilities.” Other unlisted uses along each Trail are specifically limited to those “which will not substantially interfere with the nature and purposes of the trail” *Id.* at §1246(a)(c). And, motor vehicle uses along NHTs are limited to those which do not “substantially interfere with the nature and purposes of the trail, **and which**, at the time of [Trail] designation, are allowed by administrative regulations.” *Id.* at §1246(c)(emphasis added).

- Old Spanish National Historic Trail Established (P. Law 107-325; 16 U.S.C. §1244(a)(23))

The Old Spanish National Historic Trail (OSNHT) was established by Congress in 2002. *Id.* It consists of routes utilized for trade and other purposes, from 1829 – 1848, between Santa Fe, New Mexico and Los Angeles, California. Congress designated the OSNHT Northern Route, Armijo Route, North Branch, and Mojave Road as portions of the OSNHT “as generally depicted on the maps numbered 1 through 9, as contained in the report entitled ‘Old Spanish Trail National Historic Trail Feasibility Study,’ dated July 2001.” *Id.* at §1244(a)(3)(A). The established routes total approximately 2700 miles including federal and non-federal lands. The proposed oil and gas lease parcels that are a focus of these comments lie along the designated Northern Route of the OSNHT.

The enabling legislation directed that the Secretary of the Interior would act as Administrator of the OSNHT. *Id.* at §1244(a)(3)(C).

¹ The NTSA further ties NHT “public use and enjoyment” purpose to “greater than average scenic values” and opportunities “to vicariously share the experience of the original users of a historic route.” BLM policies in its Manual 6280 on NT management emphasize these ties.

- **Co-Administration of the OSNHT Delegated to the NPS and BLM by the Secretary of the Interior**

In July of 2003, Secretary of the Interior, Gale Norton delegated administrative responsibility for the OSNHT, jointly, to the NPS and BLM. *See, Memorandum – Administrative Responsibility for the Old Spanish National Historic Trail*, Gale Norton, Secretary of the Interior (July 5, 2003).

- **National Landscape Conservation System – Omnibus Public Lands Management Act (16 U.S.C. §7202)**

The National Landscape Conservation System (NLCS) was established in 2009 via the Omnibus Public Lands Management Act. 16 U.S.C. §7202. The NLCS was mandated to include “Each area that is designated as . . . a national scenic trail or national historic trail designated as a component of the National Trails System” and “administered by the Bureau of Land Management.” *Id.* at §7202(b)(1)(D). The purpose of the NLCS is “to conserve, protect, and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations” and directs the Secretary to manage such lands “in a manner that protects the values for which the components of the system were designated.” *Id.* at §7202(a) & (c)(2).

The OSNHT is a “component” of the NLCS, and the management direction cited reiterates the mandated protection of its landscape values.

- **BLM Formally Adopts Agency Policies for NT Administration and Management**

On September 14, 2012, the BLM formally adopted two separate policy manuals regarding agency administration and agency management of NTs. Those two documents that thus became part of the BLM’s Directives System are: Manual 6250 - *National Scenic and Historic Trail Administration*; and Manual 6280 - *Management of National Scenic and Historic Trails and Trails Under Study or Recommended as Suitable for Congressional Designation*.² Furthermore BLM Manual 1221 – *BLM Directives* (2018), places responsibility for adhering to BLM policy manuals, such as Manual 6250 and Manual 6280, squarely on all BLM managers and employees.³

² To be clear, NTs established by Congress such as the OSNHT are subject to this management manual. They are not only “recommended as suitable for congressional designation” but are so designated. Manual 6280 states: “In sum, this manual describes the statutory requirements and policy guidance for managing trails under study and trails recommended as suitable, including the requirements and goals for such trails during the land use planning process. **This manual also describes the statutory requirements and policy guidance for the management of designated trails, including those related to inventory, land use planning, management, and monitoring.**” Manual 6280, p. 1-3 (emphasis added).

³ BLM Manual 1221 – *BLM Directives* (2018) clearly states the following:

1.6 Policy

The BLM Directives System provides and documents the central instructions needed to comply with laws, regulations, and administrative policy to ensure program effectiveness. The BLM directives system must provide essential, accurate, and timely instructions and information; must be clear and concise; and, must meet the approved formatting requirements. **Compliance with directives is mandatory.**

In addition, in 2020, the BLM issued Technical Reference 6280-1 - *National Scenic and Historic Trails Inventory, Assessment, and Monitoring Methodology Volume 1: Methodology*, and Technical Reference 6280-2 - *National Scenic and Historic Trails Inventory, Assessment, and Monitoring Volume 2: Field Guide*, both of which provide additional guidance to BLM managers and staff on preparation of NT resource, value, and qualities inventories.

The BLM NT policy Directives and Technical References are some of the most comprehensive requirement and guidance references throughout federal public land management.

In the statutes and agency policies cited above, the OSNHT Co-Administrators, and BLM land managers at the BLM State Directorate level, and field unit level are obligated to take certain actions in timely fashion regarding administration, management, and protection of the OSNHT. The following specifics will demonstrate how the DOI Co-Administrators, and said BLM land managers failure to execute such responsibilities, and their misinterpretation of such responsibilities, has resulted in mismanagement, or non-management of the OSNHT in violation of the law. Without fulfilling such NTSA requirements which override discretionary FLPMA actions, such as the proposed oil and gas leasing in this instance, the DOI and BLM managers have exceeded their authority. Furthermore, as will be described, the OSNHT Administrators and BLM land managers legally and procedurally inadequate geographical alterations of the alignment of the congressionally enacted OSNHT demonstrate the arbitrary and arguably capricious administration, management, and protection of the OSNHT.

PROTEST DETAILS

A. Relationship of NTSA To Federal Land Policy and Management Act (FLPMA) & The NTSA Protective Hurdle – “No Substantial Interference”

An initial issue this project proposal gives rise to, in regard to the OSNHT, is the relationship between the discretionary BLM issuance of oil and gas leases under the Federal Land Policy and Management Act (FLPMA), 43 U.S.C. §1701, et. seq. and the Mineral Leasing Act, 30 U.S.C. §§ 181–287, and the Secretary of the Interior’s statutorily mandated management and protection obligations under the National Trails System Act (NTSA), 16 U.S.C. §1241, et. seq.. It is well established that multiple use authorizations, such as oil and gas leasing on public lands pursuant

Id. at p. 1-6 (bold emphasis added).

Furthermore, 1221 states:

- E. *State Directors* are responsible for establishing, operating, and maintaining directives subsystems within their areas of jurisdiction according to standards and instructions contained in this BLM manual section. . . . State directors are also responsible for—

- 2. Supporting and **requiring compliance** with the BLM Directives System

Id. at p. 1-3 (bold emphasis added).

to FLPMA and the MLA, are precluded or limited by congressional statutes prescribing more specific and protective uses on such lands. *See* 43 U.S.C. §1732(a). FLPMA states: “The Secretary shall manage the public lands under principles of multiple use and sustained yield, in accordance with the land use plans developed by him under section 1712 of this title when they are available, except that where a tract of such public land has been dedicated to specific uses according to any other provisions of law it shall be managed in accordance with such law.” *Id.* The proper management and protection of National Historic Trails, such as the OSNHT, under the NTSA specifically limits the Secretary of the Interior’s authorization of activities as follows: “National scenic or national historic trails may contain campsites, shelters, and related-public-use facilities. Other uses along the trail, which will not substantially interfere with the nature and purposes of the trail, may be permitted by the Secretary charged with the administration of the trail.” 16 U.S.C. 1246(c).⁴ Consequently, DOI and BLM must reach a finding that oil and gas leasing on NT lands “will not substantially interfere with the nature and purposes” of the OSNHT. **This hurdle has not been cleared.**

Quite clearly, what has made it tremendously difficult for BLM to legitimately analyze the impacts of oil and gas leasing on NTs are the self-evident failures of the DOI Co-Administrators and BLM State and Field Managers to comply with the NT planning requirements of the NTSA, and explicitly detailed BLM policy manuals. (These will be further referenced and discussed below.) There is no excuse for DOI and BLM neglect of these statutory and policy mandates, and such disregard demonstrates the agency’s arbitrary and capricious dismissal of such controlling mandates.

B. The Lack of a Mandated OSNHT CMP

The Secretary of the Interior and his delegated OSNHT Administrators, the BLM and the NPS, are in violation of NTSA, 16 U.S.C. §1244(f) which requires the submission of a completed “comprehensive plan for the management [CMP], and use of” each national historic trail “[w]ithin two complete fiscal years of the date of enactment of legislation designating a national historic trail . . . as part of the system . . . to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.” The OSNHT was enacted through legislation on December 4, 2002 (Pub. Law 107-235, (16 U.S.C. §1241(a)(23)), making this NTSA Secretarial obligation regarding the OSNHT 21 years delinquent. Without a formal, National Environmental Policy Act (NEPA) compliant CMP, guidance for BLM land managers is lacking.

A full year – in 2006 - after the mandated due date for a OSNHT CMP – in 2005, the NPS and BLM Co-Administrators for the Trail issued a “Notice of Intent to Prepare a Comprehensive Management Plan/Environmental Impact Statement for the Old Spanish National Historic Trail . . .” in the Federal Register. *Notice of Intent to Prepare a Comprehensive Management Plan/Environmental Impact Statement for the Old Spanish National Historic Trail; New Mexico, Colorado, Arizona, Utah, Nevada, and California – NPS & BLM, 71 Fed. Reg. 11, 2956 (2006).*

⁴ And, to reiterate, motor vehicle uses along NHTs are also limited to those which do not “substantially interfere with the nature and purposes of the trail, **and which**, at the time of [Trail] designation, are allowed by administrative regulations.” *Id.* at 16 U.S.C. §1246(c) (emphasis added).

That Notice stated that related documents were available from the Co-Administrators, and public comment was sought. The Notice also stated that: “Public participation elements will include, but not be limited to, public notices and press releases; newsletters and a project web page; public meetings (scoping, alternative development, and review of draft EIS); and depositories for public document review.” *Id. at 2957*. This statement confirms that the Notice, at least initially was for NEPA scoping purposes only. In fact, a Scoping Report was completed in August, 2006, and at that time implied that a Draft CMP/Draft EIS would follow. *See, Scoping Report - Old Spanish National Historic Trail Comprehensive Management Plan/Environmental Impact Statement - U.S. Department of the Interior, Bureau of Land Management, New Mexico State Office, Division of Resources & National Park Service, National Trails System, Santa Fe (August 2006)*.

By all indications, the preparation of a OSNHT CMP and related EIS appear to have been abandoned as no such follow-up work exists.⁵ To date, the Secretary of the Interior has not completed, or submitted a “comprehensive plan for the management” of the OSNHT in accordance with the NTSA statutory mandate.

Furthermore, the completion of a “Old Spanish National Historic Trail Comprehensive Administrative Strategy” Issued by the Secretary of the Interior’s BLM and NPS OSNHT Co-Administrators in 2017 fails to meet NTSA mandates, or National Environmental Policy Act (NEPA) requirements and cannot be considered legally equivalent.

After years of foundering, and apparent interagency disagreement in regard to the NTSA required “comprehensive plan for management,” in approximately 2015, the BLM and NPS internally agreed to pursue the preparation of what they chose to title a Comprehensive Administrative Strategy (CAS) for the OSNHT. The CAS, completed in 2017 described the delinquency in planning and development of the CAS in this way:

On June 19, 2014, the NPS’s Intermountain Regional Director and the BLM’s Utah State Director met with the NPS / BLM joint agency planning and administrative team for the Old Spanish National Historic Trail regarding the completion of a comprehensive plan for the administration of the national historic trail. The planning and administrative team had completed [sic] a comprehensive management plan and draft environmental impact statement in compliance [sic] with the National Trails System Act and the National Environmental Policy Act. However, policy changes within the BLM then resulted in a lack of concurrence with the plan. To resolve this issue, the NPS Regional Director and BLM Utah State Director agreed that the draft comprehensive management plan/environmental impact statement would be modified and presented as a comprehensive administrative strategy. They also agreed that the strategy would provide the BLM with the opportunity to outline how the agency would meet all applicable national historic trails policies separately after development of the strategy found in this

⁵ It should be noted that no evidence exists of compliance with NEPA regarding the development of even a draft CMP for the OSNHT. Reference <https://parkplanning.nps.gov/parkHome.cfm?parkId=456> which appears to be an accounting of all NPS “Planning, Environment, and Public Comment (PEPC)” documents.

document.^[6] The NPS agreed that the change to a comprehensive administrative strategy would not impede their collaborative efforts to administer trail resources and values. *Comprehensive Administrative Strategy for the Old Spanish National Historic Trail, NPS & BLM, p. viii (December, 2017).*⁷ The CAS also stated:

The purpose of this strategy is to establish the administrative objectives, protocols, processes, and guidelines necessary to fulfill preservation and public use goals for the entire Old Spanish National Historic Trail. Although the National Trails System Act (NTSA) designating the Old Spanish National Historic Trail does not specifically require the development of a planning document, Section 5(f) of the Act requires that a comprehensive plan be developed for all designated national historic trails.^[8] This administrative strategy will function as the core component of the planning portfolio for the Old Spanish Trail comprehensive strategy, focusing on administration.

Id. at vii. This language specifically contradicts NTSA's mandate and procedure for a CMP for each NHT. It also confuses the issue of an administrative strategy versus a comprehensive strategy versus a comprehensive plan, and which may be a sub-plan of another, or whether a CMP will ever be completed, although statutorily mandated.

Furthermore, there is no doubt that NEPA compliance was ever achieved for the OSNHT CAS. It is worthy of note that normal comprehensive plans for management of NSTs and NHTs which have been completed, have all undergone required NEPA assessment.

Regardless, of the Administrators confused statement of intent regarding the CAS, the lack of NEPA compliance for the undertaking and other shortfalls, the CAS does not suffice to legally replace a CMP as overarching Administrator guidance for the OSNHT, including guidance for BLM field managers.

C. Lack of a Statutorily Mandated (NTSA) Right-Of-Way for the OSNHT

The Secretary of the Interior and his delegated OSNHT Administrators, the BLM and NPS, have failed to fulfill the direction of the NTSA to select and publish NTSA rights-of-way for the OSNHT. *See* 16 U.S.C. §1246(a)(2). The NTSA mandates that: "Pursuant to section 5(a), the appropriate Secretary [for the OSNHT, the Secretary of the Interior] shall select the rights-of-way for national scenic and national historic trails and shall publish notice thereof of the availability of appropriate maps or descriptions in the Federal Register . . ." 16 U.S.C.

⁶ In actuality not only an outline but explicit BLM policy in the form of BLM Manuals 6250 and 6280 had already been adopted and mandated how BLM "would meet all applicable national historic trails policies" and NTSA requirements in 2012, five years prior to the CAS.

⁷ No explanation for why "policy changes within the BLM precluded "concurrence with the plan" has ever been offered. No "modification" of a "environmental impact statement" for the CMP has ever been presented as related to the CAS. The BLM's "opportunity to outline how the agency would meet all applicable national historic trails policies separately after development of the strategy found in this document" would have been achieved through subsequent BLM adherence to the policy process laid out in its Manual 6280 when developing, or in this case amending, its field unit RMPs. Routinely, in regard to most, if not all BLM RMPs, and in specific regard to the Moab and Monticello Area RMPs those policies, and recommendations of the CAS, were not, or have not, been incorporated.

⁸ This is contradictory CAS "double-speak." A "comprehensive plan" (CMP) required for submission to Congress by the NTSA, is a "planning document."

1246(a)(2). To date, the Secretary of the Interior has not selected or published “appropriate maps or descriptions” of such rights-of-way for the OSNHT in the Federal Register in accordance with this statutory mandate.

This requirement of the NTSA is intended in part to clearly define the location and width of NHT rights-of-way for management and protection purposes. Without such definitive location and width of such rights-of-way the precedential hierarchy of NTSA purposes over multiple use FLPMA purposes, and NEPA analysis of FLPMA actions, is stymied.

Furthermore, the BLM as delegated Co-Administrator of the OSNHT has not fulfilled standing BLM policy regarding establishment of NTSA right-of-ways. The BLM policy manual on administration of national trails – Manual 6250 – National Scenic and Historic Trail Administration (2012) states the following:

Once a trail is designated by Congress, the National Trail Administrator, shall identify and determine the nature and purposes of National Trails, select National Trail Rights-of-Way, and establish goals and objectives within trailwide Comprehensive Plans to safeguard the nature and purposes of assigned National Trails, provide for maximum compatible outdoor recreation potential, and protection, conservation and enjoyment of the nationally significant scenic, historic, natural, and cultural qualities of the areas and associated settings through which such trails may pass, as well as the primary use or uses of the trail.

and,

The National Trail Right-of-Way . . . is selected by the National Trail administering agency in the trailwide Comprehensive Plan and includes the area of land that is of sufficient width to encompass National Trail resources, qualities, values, and associated settings in order to further the purposes for which the trail was designated by Congress. In selecting the right-of-way, the BLM, through the Secretary, shall include the resources, qualities, values, and associated settings, (comprised of the scenic, historic, cultural, recreation, natural, and other landscape values of the land areas through which such National Trails may pass), and the primary use or uses.

BLM Manual 6250, p. 1-7 – 1-8.

Manual 6250 also directs that “[t]he National Trail Administrator, to the extent practicable, shall conduct a viewshed analysis in cooperation with land managing agencies to inform the selection of the required National Trail Right-of-Way for the trailwide Comprehensive Plan. [i.e. CMP]” This responsibility has not been fulfilled by the BLM OSNHT Administrator, thus further hampering the statutorily mandated NTSA right-of-way and development of a CMP.

These mandatory BLM NT Administrator policy requirements based on NTSA statutory requirements further demonstrate BLM mismanagement and the current oil and gas lease sale proposal as “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.”

Despite fifteen years of inaction and delinquency of completion of a CMP, and designation of a NTSA right-of-way, the informal and non-compliant CAS as a reputed replacement made the

following statement about the supposed scheduling of viewshed analysis, inventories, and setting of a NTSA right-of-way:

BLM *Manual 6250* requirements to be addressed in future planning will include, but are not limited to the following:

. . .

- Ensure that the resources, qualities, values, and associated settings and primary use or uses are inventoried . . .
- Select a national historic trail right-of-way based on the general route location designated by Congress and the best available resource data.
- After selection of the national historic trail right-of-way, the BLM shall publish a Notice of Availability of the appropriate maps or descriptions in the Federal Register.
- To the extent practicable, conduct a viewshed analysis in cooperation with other land managing agencies to inform the selection of the required national historic trail right-of-way. Refer to BLM *Manual 6280 (Management of National Scenic and Historic Trails and Trails under Study or Recommended as Suitable for Congressional Designation)* for inventory processes.

CAS (2017), p.17 – 18. The 2017 CAS statements concede the delinquency of a CMP compared to the required timeframe of NTSA, gives lip service to BLM policies requiring action that existed since 2012, further concedes that OSNHT inventories and viewshed analyses have yet to be begun and a matter of “future planning,” and, at best pushes the establishment of a NTSA right-of-way even further down the road to be, again, “addressed in future planning.” Such CAS excuses by the BLM Co-Administrator, and agreed to by the NPS Co-Administrator further demonstrate mismanagement and nonmanagement of the OSNHT and emphasize the current action proposal as “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.”

D. BLM and NPS Co-Administrator/DOI Alterations of the OSNHT Trail Alignment Are Legally Unauthorized as Asserted, and Have Confused BLM’s Assessment of Effects of This Leasing Proposal on the OSNHT and the Public’s Understanding and Ability to Meaningfully Offer Comments and Input.

The subject EA contains erroneous information regarding the actual alignment of the OSNHT. The information publicized by BLM is apparently based on OSNHT alignment adjustments **recommended** in the Co-Administrators CAS. Although the maps of proposed lease parcels 7772, 7824, and 7825 provided in the EA do not actually show the relationship of the alignment of the OSNHT (and such omission is a critical fault in the EA properly informing the public), some information regarding the proximity of the OSNHT alignment to the parcels can be derived from the text regarding the OSNHT in the original “draft” EA and the updated “Protest” level version of the EA. The EA states various distances of each of the subject parcels from the Trail alignment, or supposed Trail lands classifications and developments such as recreational sites.⁹

⁹ It should be noted that no such sub-classifications (high potential sites or high potential route segments) or OSNHT recreational sites are relevant, or have been properly vetted or reviewed in accordance with NTSA, BLM Manual 6250 & BLM Manual 6280, or NEPA, as discussed elsewhere in this protest. The bottom line is the only distance that matters for NEPA analysis purposes is the fact that all sections of the OSNHT that cross federal lands are federal protection components of the OSNHT (also discussed elsewhere).

The NTSA does provide the Secretary (and/or his delegated Co-Administrators) with authority to make Trail alignment adjustments **after** publication of NTSA Trail right-of-ways in the Federal Register – a required function discussed above. Specifically, the NTSA states: “[a]fter publication of notice of the availability of appropriate maps or descriptions in the Federal Register, the Secretary charged with the administration of a national scenic or national historic trail may relocate segments of a national scenic or national historic trail right-of-way.” 16 U.S.C. §1246(b). That section also states that “Provided, That a substantial relocation of the rights-of-way for such trail shall be by Act of Congress.” *Id.*

The root of BLM’s current confusion over proximity of the noted parcels to the alignment of the OSNHT seems to be the Co-Administrator’s asserted realignment of the Trail, and specifically a portion of the Northern Route in this vicinity as part of, and at the time of issuance of the CAS. In this regard the CAS states:

“Refinement of Congressionally Designated Routes During the development of this strategy, new historic and archeological information became available that led the study team to make a series of refinements to the congressionally designated routes of Old Spanish National Historic Trail. . . All maps in this document reflect these route refinements.”

CAS, p. 22. The Co-Administrator’s reasons for these refinements based on BLM studies and consultation with the Old Spanish Taril Association is not herein questioned, however, the process for doing so via the CAS, given the inadequacy of the non-compliant CAS, and especially NTSA Trail alignment adjustment procedural requirements, exceeds the authority granted to the Secretary and Co-Administrators by the law. Furthermore, and possibly in part due to the failure to follow statutorily mandated process, do we know whether the Co-Administrators’ adjustments are such substantial and actually subject to congressional legislation.

Via agreement between the BLM and NPS Co-Administrators of the OSNHT, the NPS has been assigned the responsibility to maintain GIS data, and maps related to the Trail. We have researched existing GIS maps most accessible to the public – those posted by the BLM and NPS Co-Administrators at the ESRI ArcGIS Online website, and from the BLM EPlanning Map Data access. These include the following maps:

- Old Spanish National Historic Trail feasibility study alignment (https://services1.ArcGIS.com/fBc8EJBxQRMcHlei/ArcGIS/rest/services/OLSP_NHT/FeatureServer) – Author - ntirres_nps¹⁰, added to ARCGIS Online on Jan. 04, 2025. It should be noted that this Co-Administrator map of the “feasibility study alignment” of the Trail is presumably the same as the enacted congressional line cited in 16 U.S.C. §1244(a)(23) (i.e., the OSNHT congressionally enacted line before any Secretarial or Administrator modification). This presumption seems verifiable through a close comparative examination of the Feasibility Study maps found at – *National Historic Trail Feasibility Study and Environmental Assessment – Old Spanish Trail*, Department of the Interior, National Park Service (July, 2001), *Appendix C – Maps*.

¹⁰ “ntirres_nps” is a reference to the Long Distance National Trails Office, Intermountain Region, NPS where NPS management and staff of the NPS Co-Administrator are based.

- OLSP_CAS_Line_201801 – https://www.arcgis.com/apps/mapviewer/index.html?url=https://services1.arcgis.com/fBc8EJBxQRMchlei/ArcGIS/rest/services/OLSP_CAS_Line_201801/FeatureServer/0&source=sd - Author – ntirres_nps - a map previously available on ARCGIS Online showing the line as recommended to be adjusted pursuant to the issuance of the Co- Administrator’s *Old Spanish National Historic Trail Comprehensive Administrative Strategy* (CAS), United States Department of the Interior, Bureau of Land Management, National Park Service (December, 2017) –. This map was available on ARCGIS Online until relatively recently – December, 2025. Again, it should be recognized that OSNHT alignments contained in the CAS are in violation of the NTSA and NEPA and BLM policy, and should be considered as no more than recommended by the Co-Administrators until such time as properly processed, and analyzed via NEPA with public input and review.
- OLSP NHT Congressionally Designated Alignment – https://services1.ArcGIS.com/fBc8EJBxQRMchlei/ArcGIS/rest/services/OLSP_CAS_Line_201801/FeatureServer a map currently available on ARCGIS Online – Author – ntirres_nps, added to ARCGIS Online on August 4, 2025, asserting to show, and mislabeled as the congressionally designated alignment of the Trail, but actually showing the aforementioned, procedurally faulted Co-Administrator CAS recommended alignment. Again, it should be noted that the “congressionally designated alignment” is the same as the feasibility study line as explained at 16 U.S.C. §1244(a)(23), and that no Secretarial or Co-Administrator realignment has been properly legally or procedurally made, via the CAS or otherwise. The noted ntirres_nps (NPS Co-Administrator) map information even goes so far as to erroneously explain: “Old Spanish NHT congressionally designated alignment [sic] as depicted in the Comprehensive Administrative Strategy,” which is not the same as the congressionally designated alignment. *See* ARCGIS Online weblink (and background information) provided above. The congressionally designated alignment is not depicted in the CAS. What is depicted there is the Co-Administrator’s recommended realignment, which as explained, has not been properly adopted.

With these explanations of Co-Administrator errors and mislabelings in mind, we have attempted to further analyze the EA descriptions of the parcels relevant to the OSNHT and actual distances between such. That analysis reveals that BLM’s discussion of the proximity of the OSNHT to parcels 7772, 7824, and 7825 in the EA is seemingly erroneous, and misleading

Here is a ESRI ArcGIS synopsis of parcel distances from OSNHT alignments based upon NPS Co-Administrator GIS maps and digital measurements derived from ESRI ArcGIS:

Parcel #	Distance to Cong. Trl. – “Hwy 191 Fork”	Distance to Cong. Trl. – “Lisbon Valley Fork”	Distance to CAS Trl.
7772	2.75 – 2.81 mi.	1.48 – 2.54 mi.	2.75 – 2.81 mi.
7824	5.69 mi.	0.17 - 0.94 mi.	5.21 - 6.04 mi.
7825	4.87 - 7.67 mi.	2.19 – 2.28 mi	4.70 – 6.37 mi..

More thorough maps of the relationship between the proposed lease parcels and both the congressionally designated alignment of the OSNHT, and the CAS recommended alignment of the OSNHT, and distances between such and the noted lease parcels are included in this protest as Attachments #1 (Parcel 7772), Attachment #2 (Parcel # 7824), and Attachment #3 (Parcel # 7825).

From this corrected analysis of distances, it is easy to see that the distances between the parcels and the official alignment of the OSNHT (the congressionally designated alignment) have been misrepresented in the EA. Furthermore, the EA analysis of visibility of proposed parcel development from either the congressionally designated OSNHT, or the Co-Administrator recommended realignment is highly questionable, if not outright wrong. For instance, although the EA states that Parcel 7772 is 4.1 miles from the OSNHT, close analysis shows the proximity to be as little as 1.48 miles; or from the CAS recommendation 2.75 miles. Likewise, although the EA states that Parcel 7824 is, at closest 5.5 miles, close analysis shows the proximity to be as little as 0.17 miles; or from the CAS recommendation 5.21 miles. And, finally, although the EA states that parcel 7825 is, at closest 5.5 miles, close analysis shows the proximity to be as little as 2.19 miles; or from the CAS recommendation 4.70 miles.

It is clear that the Co-Administrator realignment recommendations, again, legally insufficient, and Co-Administrator map publications have confused the BLM's oil and gas lease analysis, and the public's ability to provide meaningful comments on erroneous EA statements.

D. The Failure of the BLM To Conduct a Comprehensive Inventory of OSNHT Resources, Values and Public Opportunities as Required by Policy Manual 6280.

The BLM's Utah State and Moab and Monticello Field Office management have failed to conduct thorough inventories of all OSNHT resources, purposes, and values in the project area, thus precluding the proper designation of a Trail corridor in compliance with Manual 6280, and precluding a proper NEPA assessment of impacts on the Trail corridor.

Manual 6280 states the following purposes for Trail inventories:

Inventory. The BLM shall conduct and maintain a standardized inventory of the trail-related resources, qualities, values, and associated settings and the primary use or uses that support the nature and purposes of the National Trail. The inventory will be used in order to establish a National Trail Management Corridor through the land use planning process. Until such time as a National Trail Management Corridor is established through the Resource Management Plan in accordance with this policy, an inventory shall be conducted for proposed actions within the National Trail viewshed. Inventory results inform future NEPA analyses for land use plans and for proposed actions by identifying

¹¹ For purposes of this table, it must be understood that the congressionally designated alignment of the Northern Route in the vicinity of the parcels is bifurcated, an easterly fork running roughly south to north through the Lisbon and Lower Lisbon Valleys, and a westerly fork running roughly south to north along Hwy 191. The asserted, yet procedurally inadequate CAS realignment eliminated the Lisbon Valley fork and changed the Hwy 191 fork.

the area of potential adverse impact, including the resources, qualities, values and associated settings and the primary use or uses present in that area. BLM Manual 6280, p. 1-19. If a National Trail Management Corridor has yet to be established, as in the case of the Moab and Monticello FO areas, as will be further discussed below, an “inventory shall be conducted for proposed actions “within the National Trail viewshed.” *Id.* Clearly these inventories are required to be available as part of NEPA analyses of proposed projects or actions such as the current oil and gas lease sale.

Manual 6280 also details when, how, and why Trail inventories are to be conducted stating the following:

Chapter 3. Congressionally Designated National Trails - Inventory

This chapter outlines BLM requirements for inventory and assessment of designated National Trails. The affected BLM Field Offices, **upon designation of a National Trail by Congress, conducts and assesses a field inventory of the National Trail resources, qualities, values, and associated settings and the primary use or uses of the trail for the public land areas through which such trails may pass.** This chapter outlines inventory by individual landscape element, including scenic, historic, cultural, recreation, natural, and other landscape elements, and the assessment of that inventory for National Trail purposes.

3.1 General Requirements

The BLM shall:

- A. Conduct an inventory in accordance with FLPMA Section 201 and the NTSA, National Trail policy, resource program policy, Federal Trail Data Standards (FTDS), related national geospatial standards, and route inventory standards.
- B. Use the inventory to make informed decisions regarding proposed uses within National Trail areas, to identify opportunities to safeguard the nature and purposes of National Trails, and to allocate the resources, qualities, values, and associated settings and the primary use or uses of the trail during land use planning (NTSA and FLPMA).
- C. Use the inventory to establish a National Trail Management Corridor through the land use planning process.
- D. Conduct inventory within the National Trail viewshed to identify the area of potential adverse impact for proposed actions, until such time as a National Trail Management Corridor is established.**
- E. Recommend to the National Trail administering agency for inclusion in the trailwide Comprehensive Plan, data regarding Federal Protection Components (land and water based components of a historic trail), including high potential historic sites and high potential route segments, identified or discovered through the inventory process.^[12]

¹² Note that BLM policy does not limit “Federal Protection Components” of NTs to high potential sites and high potential route segments. This is in accord with statutory intent of NTSA. Although a specific “protection plan” for identified “high potential historic sites or high potential route segments” is specifically required by NTSA, the law generally protects **all** federal lands crossed by NHTs as “Federal protection components.” 16 U.S.C. §1242(a)(3)

BLM Manual 6280, p. 3-1 (emphasis added). The following eleven pages of the Manual comprehensively spell out the requirements for conducting Trail inventories including coverage of cultural and natural resources, landscapes and settings, recreational opportunities, and detractions from the aforementioned categories. *See id.* at pp. 3-1 – 3-12.

As in other instances, the informal and non-compliant CAS lists the development of a “viewshed analysis of the national trail or national trail resources, qualities, values, and associated settings” to be a study to “be considered as time and funding become available.” *CAS* (2017), p.57. Again, akin to innumerable other lip service statements of the CAS, no actual viewshed analysis has been completed to date in the project area. And, again, therefore, the Trail inventory cannot be completed.

The subject EA makes vague references to viewshed analyses in the noted project parcel areas and supposed Trail inventories, but none are in compliance with BLM policies or at all comprehensive.¹³ The EA discussion of viewshed analysis for the Trail is based on faulty information regarding mileage distances between OSNHT alignments and parcel locations as described hereafter.

Parcel 7772. The EA describes the distance from the OSNHT “Looking Glass Rock Recreation Site” to be 4.1 miles from parcel 7772, and the “Hook and Ladder OHV Trailhead” to also be 4.1 miles from parcel 7772. Why these two particular sites are of special importance in the EA is unclear. The EA seems to infer that the recreational values of these two sites has been validated

(*emphasis added*). The NTSA defines “Federal protection components” of NHTs as follows: “those selected land and water based components of a historic trail which are on federally owned lands and which meet the national historic trail criteria established in this Act are included as Federal protection components of a national historic trail.” 16 U.S.C. §1242(a)(3). Because the NTSA directs that only historic trails and routes meeting established criteria be congressionally established as NHTs (see 16 U.S.C. §1244(b)(11)), it is clear that all congressionally selected and enabled NHTs meet such criteria, and all portions on federal lands are “Federal protection components” of such NHTs, including the OSNHT. All portions of the OSNHT on federal lands, including those portions crossing the proposed BLM project area, are “Federal protection components” of the OSNHT. It should be noted that the only recommendations of high potential sites and high potential route segments for the OSNHT made thus far are those suggested by the OSNHT Co-Administrators in the CAS; that the basis for such recommendations has not been provided by the Co-Administrators or ever been formally subjected to review by the general public, and is therefore inconclusive. If such recommendations had been part of a formal NEPA reviewed NTSA compliant CMP they might be considered formal for certain NTSA purposes (such purposes related to coordination with non-federal land owners where Trail crosses such lands which is the real purpose of high potential site and high potential route segment designations), but this process has never been completed.

¹³ It is worthy of note to point out that BLM Manual 6280 states in its Land Use Planning Chapter 4: “1. *Scenic and Visual Resources*. The land use plan and associated NEPA analysis should consider the following management decisions for scenic and visual resources for National Trails: . . .the BLM should consider establishing VRM classes at the most protective level practicable to meet National Trail scenery management objectives” and, “VRM Class I or II designation for . . . and National Historic Trail Federal Protection Components” BLM Manual 6280, p.4-8 (emphasis added).

and conferred by the *Old Spanish National Historic Trail Recreation and Development Strategy, Grand County, Utah* (BLM and NPS, 2018) and *The Old Spanish National Historic Trail Recreation and Development Strategy San Juan County, Utah* (BLM and NPS, 2018) (see EA at p. 104), however, this assertion is invalid. First of all, the BLM initiated recreation and development strategies for the OSNHT have never been intended to be Trail resource and value inventories and are stated to be non-decisional land use documents. Secondly, they were developed with limited, localized input and review without general public review that might make them more legitimate as land use guidance for national conservation system areas. And, third, such Recreational and Development Strategies should be considered implementation plans as discussed and subject to all provisions of BLM Manual 6280, Chapter 5. See BLM Manual 6280, Chap. 5, Section 5.4. While useful in preparatory discussion and planning documents they cannot replace a CMP, or RMP amendments regarding Trail management parameters, and are subject to all requirements of BLM Trail management policy. In fact, the so-called San Juan County Recreational and Development Strategy was never even concluded and withdrawn – contrary to the EA text - from consideration or completion by the BLM Co-Administrator, due to San Juan County objection. Looking Glass Rock is recommended as a “high potential site” in the informal CAS – again not subject to formal NEPA review, and, the Hook and Ladder OHV Trailhead is otherwise unmentioned in any Co-Administrator or BLM Trail management document. In actuality parcel 7772 is within 1.48 miles of the congressionally established OSNHT alignment and 2.75 miles of the recommended, but unofficial CAS adjusted realignment. These distances are to federal protection components of the OSNHT. (*See also Attachment #1, Protest*).

Parcel 7824. The EA describes the distance from the foregoing “Hook and Ladder OHV Trailhead” recreation site to parcel 7824 to be ten miles, and from the “Casa Colorado Auto Loop Route” to be 5.5 miles. Again, why these two particular sites are of special importance in the EA is unclear. Although the Casa Colorado Wash and Casa Colorado Wash trail segments are independently informally recommended in the non-compliant CAS as high potential sites and segments, they do not formally carry any particular significance different than other federal protection components, meaning federal land holdings crossed by the OSNHT, in the vicinity. Again, the same concerns cited in regard to parcel 7772 expressed above apply to the relationship between parcel 7825 and the noted sites. In actuality parcel 7824 is within 0.17 miles of the congressionally established OSNHT alignment and 5.21 miles of the recommended, but unofficial CAS adjusted realignment. These distances are to federal protection components of the OSNHT. (*See also Attachment #2, Protest*)

Parcel 7825. The EA describes the distance from the foregoing “Hook and Ladder OHV Trailhead” recreation site to parcel 7825 to be ten miles, and from the “Casa Colorado Auto Loop Route” to be 5.5 miles. Again, the same concerns cited in regard to parcels 7772 and 7824 expressed above apply to the relationship between parcel 7825 and the noted sites. In actuality

parcel 7825 is within 2.19 miles of the congressionally established OSNHT alignment and 4.70 miles of the recommended, but unofficial CAS adjusted realignment. These distances are to federal protection components of the OSNHT. (See also Attachment #3, Protest)

An excellent example of a seemingly comprehensive BLM Manual 6280 inventory of OSNHT resources, values, settings, and opportunities is contained in the recent Grand Staircase National Monument (GSENM) RMP. See *Grand Staircase-Escalante National Monument Proposed Resource Management Plan and Final Environmental Impact Statement Volume 3: Appendixes B—O—Appendix N - Grand Staircase-Escalante National Monument Old Spanish National Historic Trail Inventory, Assessment, and Monitoring Report Bureau of Land Management, Utah | October 31st, 2023*, pp. 1075 – 1193. Clearly comprehensive, this 118 page inventory was required for the GSENM RMP, fulfilled the BLM Manual 6280 requirements for said inventories, resulted in a RMP defined and designated Trail Management Corridor, and put limits and procedures in place for allowance or prohibition of activities that might substantially interfere with the nature and purposes of the Trail. It was formulated using the aforementioned BLM Technical Reference guides 6280-1 and 6280-2. The process and development of similar documentation is what should apply to the RMP amendments, and NEPA analysis for project proposals in the Moab and Monticello FO areas. In fact, BLM Manual 6280 calls for such nationwide NT management consistency in process. BLM Manual 6280 states: “Chapter 4. Congressionally Designated National Trails - Land Use Planning . . . 5. Resource Management Plan decisions should be compatible across BLM jurisdictions, as applicable, to provide for trailwide management consistency.” BLM Manual 6280, p. 4-1. Furthermore, BLM Manual 6250 on Trail Administration assigns the following management responsibilities:

1.4 Responsibility

A. The Director, Bureau of Land Management, through the Assistant Director, National Landscape Conservation System and Community Partnerships, is responsible for:

...

9. Providing effective trailwide leadership for National Trail stewardship responsibilities

...

B. State Directors are responsible for:

1. Implementing budget and policy direction and providing statewide and/or multistate program coordination for administering National Trails.

...

7. Providing effective leadership for trailwide stewardship responsibilities.

See BLM Manual 6250, pp. 1-3 –1-5. It does not seem that these mandatory NT Administrator and management responsibilities are being fulfilled, despite what appears to be the good work, even within Utah on the GSENM inventory and RMP.

The foregoing observations all cast doubt on the veracity of the BLM EA’s viewshed analysis component, comprehensive inventory and overall assessment of impacts on Trail resources, values, and opportunities of federal protection components of the OSNHT in compliance with

NTSA requirements and step-down BLM policies. For these reasons the EA is insufficient and the current action proposal is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.”

E. The Failure of the BLM To Establish a Trail Management Corridor as Required by Policy Manual 6280.

The responsible BLM management offices – the Utah State Office, and the Moab and Monticello Field Area offices, have failed to establish a OSNHT Management Corridor in compliance with Manual 6280, precluding the management extent of, and protection of said Trail corridor.

Manual 6280 states the following explanations and purposes of establishing Trail management corridors:

Chapter 5. Congressionally Designated National Trails – Management

...

5.2 General Requirements

...

C. As soon as practical after activation, the BLM shall establish a National Trail Management Corridor through the land use planning process (see chapters 3 and 4 of this manual). Until such time that the National Trail is addressed in a Resource Management Plan, the trail shall be managed, as appropriate, in accordance with the designating legislation and according to the policy, procedures, and protocols outlined in this manual.

BLM Manual 6280, p. 5-1.

To date, over 23 years since congressional establishment of the OSNHT, the BLM has not established a OSNHT Trail Management Corridor in either the Moab FO area, or the Monticello FO area; nor, in the absence of such, has the BLM managed and protected the OSNHT “in accordance with the designating legislation and according to the policy, procedures, and protocols outlined in BLM Manual 6280.

Manual 6280 also states:

National Trail Management Corridor. Allocation established through the land use planning process, pursuant to Section 202 of FLPMA and Section 7(a)(2) of the NTSA (“rights-of-way”) for a public land area of sufficient width to encompass National Trail resources, qualities, values, and associated settings and the primary use or uses that are present or to be restored. To determine the width of the National Trail Management Corridor, the BLM conducts an inventory and analyzes the National Trail Right-of-Way as a key consideration.

and,

Relationship between the National Trail Right-of-Way and National Trail Management Corridor. The terms, National Trail Right-of-Way and National Trail Management Corridor, are both used to describe the area of land that encompasses the designated National Trail and the resources, qualities, values, and associated settings and the primary use or uses of the National Trail. The establishment of the National Trail Management

Corridor is a land use allocation decision made through the Resource Management Plan, which is the responsibility of the National Trail management agency by Field Office jurisdiction along segments of the trail. Selection of the National Trail Management Corridor is guided by the strategic direction provided in the trailwide Comprehensive Plan and the inventory of the resources, qualities, values, and associated settings and the primary use or uses.

BLM Manual 6280, p. 1-7.

The establishment of a Manual 6280 Trail Management Corridor is dependent on a Manual 6280 comprehensive inventory of “resources, qualities, values, and associated settings and the primary use or uses of the National Trail” discussed in the foregoing section, which also, has not taken place. As pointed out in the preceding section, the GSENM OSNHT inventory and setting of a RMP Trail Management Corridor demonstrates that the Utah State Office of BLM has the capability of fulfilling these mandates, but has not done so in the current instance.

This management failure related to the delinquency of establishing a OSNHT Trail Management Corridor in the Moab and Monticello FO areas in accordance with mandatory BLM policy manuals has further stymied proper BLM management and protection of the OSNHT, and greatly evidences the current action proposal as “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.”

F. The Failure of the BLM To Amend the Moab and Monticello Resource Management Plans (RMPs) For OSNHT Management Purposes

Relevant BLM resource management plans (RMPs) for the Moab Field Area and the Monticello Field Area have not been amended since 2008 and contain little, if any, guidance on the management or protection of the statutorily established OSNHT, despite statutory provisions of the NTSA that have been applicable since 2002. Neither RMP references the existence of the extensive 2012 BLM policy manual on management of national trails pursuant to the NTSA – Manual 6280 – Management of National Scenic and Historic Trails (2012), and only the Moab FO RMP mentions a “forthcoming” but still yet to be issued CMP for the OSNHT, stating the following:

SPECIAL DESIGNATIONS: NATIONAL TRAILS AND BACKWAYS (TRA)

Management Decisions:

National Historic Trail – Old Spanish Trail

....

TRA-3

Consider plan amendment, as necessary, to incorporate provisions of the forthcoming Old Spanish Trail Comprehensive Management Plan.

TRA-4

Participate in the development of the management plan for the Old Spanish Trail Comprehensive Management Plan and assist with its implementation as opportunities arise, consistent with other decisions of the RMP.

TRA-5

Support protective management, interpretation, and public enjoyment and understanding of the National Historic Old Spanish Trail, consistent with the Old Spanish Trail Comprehensive Management Plan.

These statements in the Moab FO RMP, and lack of any reference to a “forthcoming” CMP in the Monticello RMP exemplify the unit field management paralysis on proper management and protection of the OSNHT.

This, despite the fact that BLM Policy Manual 6280 states the following regarding RMP amendment following establishment of NHTs:

Chapter 4. Congressionally Designated National Trails - Land Use Planning

This chapter outlines BLM land use planning requirements for congressionally designated National Trails and the National Trail Management Corridor. Through the land use planning process, where a designated trail is within the planning area, the BLM establishes National Trail Management Corridor, and will set forth allocation decisions, management actions, and necessary restrictions for resources and resource uses within that National Trail Management Corridor in order to effectively manage the nature and purposes of National Trail and the resources, qualities, values, and associated settings and the primary use or uses.

4.1 General Requirements

A. Addressing Designated National Trails through Land Use Planning

1. As soon as practical after activation, the BLM must address designated National Trails through the land use planning process.

2. Designated National Trails may be addressed through a land use plan amendment, or a Statewide Trail Management Plan or a programmatic multi-state effort which amends applicable Resource Management Plans.

3. Regardless of the type of land use planning process undertaken, the BLM shall establish a National Trail Management Corridor(s) and identify management goals, objectives, and actions for each designated National Trail.

4. National Trails shall be clearly identified as a specific resource or discipline, in its own unique section throughout the various chapters of the Resource Management Plan - not contained within and across multiple disciplines.

5. Resource Management Plan decisions should be compatible across BLM jurisdictions, as applicable, to provide for trailwide management consistency.

BLM Manual 6280, p.4-1 (emphasis added).

Over the next 19 pages of the Land Use Planning chapter of Manual 6280, comprehensive purposes and procedures of accomplishing the noted land use plan amendatory action are described in detail. The BLM Utah State Office and its Moab and Monticello FO areas have clearly violated BLM policy in not achieving land use plan amendments for the Moab and Monticello FO areas. This is yet another indication of the current action proposal as “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.”

G. Overall Failure to Assess Impacts to the OSNHT Pursuant to NTSA, NTSA Policy, and NEPA.

All of the above are indicative of BLM’s failure to manage the OSNHT in its field units and specifically in regard to the proposed action.

Numerous small oversights in the EA also indicate BLM’s inattention to detail regarding this national conservation system unit and its statutory standing. For instance, in Section 1.5 – “Relationship To Statutes, Regulations, Policies, And Other Plans” and its Table 2 – “Applicable Federal, State, and Local Laws” there is no mention of the NTSA, nor mention of BLM NT policies. In its Section 1.8 – “Issues” although many specific issues are mentioned, there is no coverage of the issue regarding a statutorily established national conservation area – the OSNHT. These oversights may seem minor, however, are indicative of BLM’s disregard for fulfilling the directives of NTSA and its own extensive NT policies. If nothing else they fail to bring the full context of the issues the proposal presents to NT management and protection to the attention of the public.

In addition to all of the foregoing points made, BLM Manual 6280 provides explicit requirements for how BLM should address and assess proposed projects along portions of NHTs in areas where RMPs have not been amended regarding Trail management and protection. These policy requirements apply to the assessment of impacts of oil and gas lease sales, as proposed for parcels 7772, 7824, and 7825, which lie within the Moab and Monticello FO areas.

In the event of the situation in which RMPs have not been amended to account for the overlying presence of a NT, and at hand, Manual 6280, states:

5.3 Protocol for Proposed Actions which May Adversely Impact Designated National Trails

A. Upon Receipt of a Proposed Action

1. Where a proposed action is found to be inconsistent with the purpose for which the National Trail was designated, the BLM shall consider rejecting applications for proposed projects or denying approval of the action pursuant to FLPMA, the NTSA, and other applicable law and policy.
2. The BLM may not permit proposed uses along National Trails which will substantially interfere with the nature and purposes of the trail, and the BLM shall make efforts, to the extent practicable, to avoid authorizing activities that are incompatible with the purposes for which such trails were established (see Chapter 1.6 Statement of Programmatic Policy).
3. If the BLM chooses not to defer analysis of a proposed action, the BLM shall follow the applicable procedures and protocols outlined in this manual.

BLM Manual 6280, p. 5-2

Chapter 1.6 “Statement of Programmatic Policy” dictates what aspects of NHTs must be evaluated to determine whether a proposed action may “substantially interfere with the nature and purposes of the trail.” It states:

1.6 Policy

A. Statement of Programmatic Policy

...

3. Management Standard for Congressionally Designated National Scenic and Historic Trails (National Trails).

i.

Nature and Purposes. To the greatest extent possible, the BLM shall manage National Trails so as to safeguard the nature and purposes of the trail and in a manner that protects the values for which the components of the System were designated, recognizing the nationally significant scenic, historic, cultural, recreation, natural, and other landscape values (hereinafter referred to as resources, qualities, values, and associated settings) of the public land areas through which such National Trails may pass, and the primary trail use or uses.

The BLM will effectively manage National Trails by conducting stewardship responsibilities which include inventory, planning, management, and monitoring, including land or easement acquisition, protection, development, maintenance, training, and operations.

Substantial Interference and Avoidance of Incompatible Activities. As set forth in Section 7(c) of the NTSA, "National scenic or national historic trails may contain campsites, shelters, and related-public-use facilities. Other uses along the trail, which will not substantially interfere with the nature and purposes of the trail, may be permitted by the Secretary responsible for administration of the trail. Reasonable efforts shall be made to provide sufficient access opportunities to such trails and, to the extent practicable, efforts shall be made to avoid activities incompatible with the purpose for which such trails were established." NTSA Sec. 7(c).

Through the land use planning and NEPA processes for proposed actions on National Trails, the BLM may permit uses that will not substantially interfere with the nature and purposes of the National Trails. To the extent practicable, the BLM shall make efforts to avoid activities that are incompatible with the purposes for which such trails were established. NTSA Sec. 7(c). As such, subject to valid existing rights, **the BLM may, through the appropriate NEPA analysis, approve, reject, deny, prohibit, minimize, and/or mitigate proposed actions.**

a. As part of the NEPA analysis for the proposed action, the BLM will evaluate whether the proposed action would substantially interfere with or be incompatible with the nature and purposes of a National Trail (hinders or obstructs), and will consider the following:

(1) For all National Trails:

(i) The extent to which the proposed action would affect the BLM's ability to effectively manage the nature and purposes of the trail, trail resources, qualities, values, uses (including public access and enjoyment) and associated settings.

(ii) The extent to which a proposed action would require a major relocation of the National Trail Management Corridor in order to provide for the conservation and enjoyment of the nationally significant resources, qualities, values, and associated settings of the areas through which such trails may pass, or the primary use or uses of the trail.

...

(3) National Historic Trails

(i) The original trails or routes of travel of national historic significance to maximize vicarious experiences and provide resource protection.

(ii) Historic route and its historic remnants and artifacts for public use and enjoyment.

(iii) Sustainable and premier trail-related opportunities.

(iv) Selected land and water-based components, not necessarily continuous on the ground.

...

iii.

Inventory. The BLM shall conduct and maintain a standardized inventory of the trail-related resources, qualities, values, and associated settings and the primary use or uses that support the nature and purposes of the National Trail. The inventory will be used in order to establish a National Trail Management Corridor through the land use planning process. **Until such time as a National Trail Management Corridor is established through the Resource Management Plan in accordance with this policy, an inventory shall be conducted for proposed actions within the National Trail viewshed. Inventory results inform future NEPA analyses for land use plans and for proposed actions by identifying the area of potential adverse impact, including the resources, qualities, values and associated settings and the primary use or uses present in that area.**

iv.

Land Use Planning. Through the land use planning process, the BLM shall establish a National Trail Management Corridor for a public land area of sufficient width to encompass National Trail resources, qualities, values, and associated settings and the primary use or uses that are present or to be restored. Through the land use planning process, the BLM shall establish allowable uses, management actions, and necessary restrictions for the

National Trail Management Corridor; and coordinate with and consider all BLM resource programs and uses within the National Trail Management Corridor to achieve National Trail goals and objectives.

v. *Management*. . . .

a. The BLM will consider the following National Trail characteristics in National Trail management:

. . . .

(2) National Historic Trails

- (i) The original trails or routes of travel of national historic significance to maximize vicarious experiences and provide resource protection.
- (ii) Historic route and its historic remnants and artifacts for public use and enjoyment.
- (iii) Sustainable and premier trail-related opportunities.
- (iv) Selected land and water-based components, not necessarily continuous on the ground.
- (v) Federal Protection Components (selected land and water based components of a historic trail on federally owned lands which meet national historic trail criteria established in the NTSA), including high potential historic sites and high potential route segments.
- (vi) Properties potentially eligible for the National Register of Historic Places.
- (vii) Human health and safety.

B. *Determining the Scope of Analysis*

1. The BLM shall consider the significance of the Congressional designation as a National Trail (P.L. 90-543), as a unit of the NLCS (P.L.111-11), and public and private contributions and volunteer efforts along a National Trail when evaluating whether to approve a proposed action along the designated trail. The BLM shall manage the National Trails and the areas through which such National Trails may pass in a manner that recognizes the national significance of the trails and the individual or collective significance of National Historic Trail Federal Protection Components, including high potential historic sites and high potential route segments. The national significance of National Trails must be considered in the local, regional, and national context under the NTSA and NHPA, as applicable.

BLM Manual 6280, p. 1-15 – 1-21(emphasis added).

Without question, this explicit policy for situations where a Trail Management Corridor has not been established in an RMP govern the NEPA assessment that must take place to determine whether a proposed action may “substantially interfere with or be incompatible with the nature and purposes of a National Trail (hinders or obstructs).”

Due to the fact that the BLM has failed to conduct a comprehensive inventory of OSNHT resources, values, settings, and opportunities in the FOs in question, or the project area; has failed to establish a Trail Management Corridor in the applicable RMPs; and, because of both failures not established an area of potential effect related to the proposal nor meaningfully addressed impacts or justifiably reached a conclusion that its action will not substantially interfere with the nature and purposes of the OSNHT, parcels 7772, 7824, and 7825 should be withdrawn from the lease sales offering.

Note: In similar BLM energy development proposal policy, the agency has essentially gone the route of only considering authorization of proposals contingent upon the proponent or the agency completing a full-scale NT Manual 6280 inventory. This is evident in the BLM's 2024 Programmatic Utility Scale Solar Development PEIS for all western states. That PEIS requires that no proposal for solar development within 15 miles of any NT alignment centerline will be eligible for authorization until such inventory is completed and a conclusion reached that the proposal will not substantially interfere with the nature and purposes of the NT. This is a recent sensible approach to providing more certainty to proponents of projects and protecting NTs pursuant to the NTSA. *See Final Programmatic Environmental Impact Statement and Proposed Resource Management Plan Amendments for Utility-Scale Solar Energy Development (USS FPEIS/PRMPAs)*(August 30, 2024). Further details follow in the BLM Director's Protest Resolution Report for the PEIS:

Design Feature SDLW-3 requires project developers to

coordinate with the BLM field office, NSHT administrators, Tribes, and partner organizations to review the adequacy of information in available RMPs and NSHT inventory reports for any proposed solar project that may impact NSHT management corridors. They must ensure that the project design avoids substantial interference and adverse impacts on NSHT management corridors and determine any areas unsuitable for development, following the BLM national trail inventory process as outlined in the NSHT manuals (6250/6280) and Inventory, Assessment, and Monitoring (IAM) technical references. Developers should avoid, minimize, or compensate for impacts on NSHTs to the maximum extent practicable (see glossary) according to program policy standards. **If NSHT management corridors are not adequately inventoried in an RMP, developers shall refer to the DRAFT Inventory Analysis Units (IAU) established for NSHTs in the 11-state planning area. These areas, though not excluded from lands available for application under the [National Conservation Land] exclusion criterion, will require further consideration, inventory, and analysis by the BLM or project developer, including the refinement of IAUs at the local level during the solar project application process.** This inventory may reveal unanticipated or undocumented remnants, artifacts, trail tread or trace, high potential historic sites and route segments, trail features, and associated settings for NSHTs adjacent to or within the proposed project site" (USS FPEIS/PRMPAs Appendix B, p. B-28).

USS FPEIS/PRMPAs Appendix H, Section H.4, *National Scenic and Historic Trail – Draft Inventory Analysis Units*, describes the analysis units that project developers must consider in implementing Design Feature SDLW-3. Figure H.4-1 depicts the NSHT units,

including the OSNHT, and Draft IAUs based on the viewshed **within 30 miles of NSHTs.**

[I]f a proposed solar project includes areas within these Draft [Inventory Analysis Units], the project developer shall evaluate, in coordination with the BLM, whether the proposed development area has been adequately inventoried (per BLM Technical References 6280-1 Volumes 1 & 2) to inform about any adverse impacts on the resources, qualities, values, associated settings, and the nature and primary use or uses of the potentially affected trail. If adverse impacts are determined to be likely, avoidance or other mitigation measures must be identified in coordination with the BLM authorizing officer. Updates or refinements to the IAUs through the inventory process would supersede the Draft versions” (USS FPEIS/PRMPAs Appendix H, p. H-6).

In short, additional site-specific analysis would be required prior to authorizing any solar project that may affect the OSNHT or other NSHTs in the 11-state planning area. When the BLM receives an application for a utility-scale solar energy project, the BLM will review whether the application includes areas within a trail management corridor identified for protection through an applicable land use plan, in which case those areas would be excluded under exclusion number 14. Additionally, consistent with SDLW-3, the BLM will also review whether the application includes areas within a Draft IAU for a NSHT (USS FPEIS/PRMPAs Appendix H, Figure H.4-1). If it does, then the BLM will review the applicable RMP and any NSHT inventory reports to determine whether the existing inventories comply with BLM policy. If the existing inventories are not adequate (e.g., where a management corridor inventory has not been conducted consistently with BLM policy), the project developer will, in coordination with the BLM and other partner organizations, conduct additional inventory of trail resources, consistently with BLM policy, using the Draft IAU as a starting point. This inventory will inform potential changes to project design necessary to avoid substantial interference and adverse impacts on NSHTs. Furthermore, once the inventory is completed and refined at the local level, the BLM may update the relevant RMP to incorporate the inventory as part of the NSHT Management Corridor in accordance with BLM policy. The BLM has clarified SDLW-3 in the Approved Plan.

See Bureau of Land Management Director’s Protest Resolution Report - Final Programmatic Environmental Impact Statement and Proposed Resource Management Plan Amendments for Utility-Scale Solar Energy Development (December 11, 2024)(emphasis added).

The BLM’s Solar PEIS has already moved toward triggering comprehensive NT inventories where such may be lacking. Oil and gas leasing should be held to the same standard to ensure National Historic Trails are not subject to death-by-a-thousand-cuts through incremental development. This BLM national decision promoting protection of NTs most certainly supports the deletion of parcels 7772, 7824, and 7825 due to the lack of a Trail Management Corridor, and a comprehensive Manual 6280 inventory, and the related insufficient NEPA analysis regarding these parcels.

CONCLUSION

This project proposal as related to the proximate stretches of the OSNHT should be retracted, and the subject parcels deferred or discarded as part of the sale. The DOI, the delegated Co-Administrators of the Trail, and BLM management in the Utah State Office and Moab and Monticello Field Offices have disregarded obligations under the NTSA, and BLM policies. This has resulted in innumerable problems with NEPA evaluation of impacts to the Trail. Without DOI and agency definitions of width of a OSNHT NTSA right-of-way, and BLM Trail management corridor, no analysis of impacts is presently possible. Moreover, at least before work on a BLM Trail management corridor, a comprehensive mile by mile trail resource, value, settings and opportunities inventory must be conducted. The current lack of such inventories makes NEPA assessments of projects in the vicinity of the NT impossible. A OSNHT CMP must be completed. A OSNHT NTSA right-of-way must be established. And, BLM Trail management corridors established. Each of these administrative and management tasks must comply with NEPA and be available for public input and review.

In the interim individual BLM project proposals should be subject to the 30 mile wide trigger zone process and analysis adopted in the Western States Solar Programmatic EIS – a worthy and agency adopted option.

* Please keep each of us informed by email of further steps related to the current project proposal and NEPA process.

Sincerely,

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Attachments

¹⁴ (Regular and consistent user of the OSNHT in six southwest states. Member – Utah State Bar Association. Life member – Old Spanish Trail Association. Former Manager – Old Spanish Trail Association. Member – PEER. Member – SUWA. Member – CPANP. Retired Manager – National Park Service.)