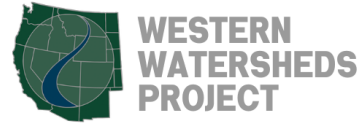


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QUARTER 2, 2026 PROTEST

DOI-BLM-UT-0000-2026-0003-EA - BLM Utah 2026 Second Quarter Competitive Oil and Gas Lease Sale Environmental Assessment

May 23, 2026

Bureau of Land Management
BLM Utah Lease Sales

To whom it may concern:

The following signators, and noted related organizations, hereby submit this protest to the DOI-BLM-UT-0000-2026-0003-EA - BLM Utah 2026 Second Quarter Competitive Oil and Gas Lease Sale Environmental Assessment:

- John W. Hiscock
- Chandra Rosenthal, Rocky Mountain Regional Director, Public Employees for Environmental Responsibility (PEER)
- Emily Thompson, Executive Director, Coalition to Protect America's National Parks (CPANP)
- Erik Molvar, Executive Director, Western Watersheds Project
- Landon Newell, Staff Attorney, Southern Utah Wilderness Alliance

The purpose of this protest is not to preclude possible **appropriate** and **authorized** multiple use of public lands under the provisions of the Federal Land Policy and Management Act (FLPMA) and the Mineral Leasing Act (MLA). It is to assure that collateral and precedential congressional mandates for the protection of National Trails System Act (NTSA) conservation lands, further detailed in public land agency policies, and proper environmental assessment under the National Environmental Policy Act (NEPA) of public land uses, are completely and accurately applied in actions such as the subject oil and gas lease sale, to assure the proper hierarchical management of said lands. This is why statutory, regulatory, and policy procedures exist.

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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 incomplete and erroneous information in the subject EA. For these reasons and others presented the EA and proposed BLM action should be considered unlawful as “without observance of procedure required by law”, “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law”, “in excess of statutory jurisdiction, authority, or limitations, or short of statutory right” as prohibited by the Administrative Procedure Act (5 U.S.C. §706 (2)(D), (A), & (C)). Furthermore, in its finalization of the subject EA, the BLM failed to address comments and legal requirements previously noted in the protestants March 30, 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 #A*) and once again submitted for comprehensive consideration, and incorporated as part of this protest.

The focus of this protest is on the impacts of the noted project on the Northern and North Branch Routes of the Old Spanish National Historic Trail (OSNHT) in the Moab Field Office area 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 1743, 1744, 1749, 1751, 1819, 1821, 1830, 1831, 1834, 1846, 1852, 1855, 1856, 1859, 1861, 1868, 1870, 7846, 7847, 7850, 7852, 7886, 7893, and 7898, all of which are crossed or proximate to the OSNHT.

In summary, our protest of the subject EA and proposed BLM Utah 2026 Second 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 violations of statutory requirements and 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 - as mandated by its Policy Manual MS-1221 - *BLM Directives* (2018) -

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of BLM Policy Manual 6250 - *National Scenic and Historic Trail Administration* (2012).

- D. The absence of any clear indication by BLM of what alignments of the Northern Route and North Branch Route the BLM has used in its assessment of effects of the subject project. By all appearances the BLM has inappropriately utilized the legally insufficient Route realignments merely **recommended** in the OSNHT Co-Administrator's "Comprehensive Administrative Strategy" rather than the legally applicable routing adopted by Congress for the Trail. This critical unaddressed factor and related dissemination of confusing information concerning such, has negated BLM's legitimate 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 amend the Moab Resource Management Plan (RMP) and the Moab Master Leasing Plan (MLP), assuring the legally and policy appropriate management of the OSNHT required by NTSA, and BLM Policy Manual 6280 – as directed by its Policy Manual MS-1221 - *BLM Directives* (2018). Said land use planning amendments are also required by federal court rulings, prior to proceeding with actions such as the subject oil and gas lease sales pursuant to the inadequate RMP and MLP.
- G. The failure of the BLM to properly assess the likelihood and potential for approval of necessary rights-of-way (such as road access, pipeline rights-of-way, transmission line rights-of-way, and/or other), and the requirements for approval of such, in accordance with NTSA, 16 USC §1248(a), as part of its EA.
- H. 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). 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 1743, 1744, 1749, 1751, 1819, 1821, 1830, 1831, 1834, 1846, 1852, 1855, 1856, 1859, 1861, 1868, 1870, 7846, 7847, 7850, 7852, 7886, 7893, and 7898.
- I. The failure of the BLM to assess the cumulative impacts of the subject oil and gas lease sale and other FLPMA land use decisions along the OSNHT.

John Hiscock, PEER, CPANP, and others are currently plaintiffs in litigation against the Department of Interior over many of the same issues referenced herein concerning proper administration and management of the OSNHT (PEER, *et al.* v. DOI, *et al.*, 24-cv-3420 (SLS) U.S. District Court for DC). John Hiscock, PEER, CPANP, and BRW are also appellants in an appeal regarding BLM's First Quarter 2026 Oil and Gas Lease Sale before the Interior Board of Land Appeals (IBLA 2026-0152). The legal claims raised in that case and IBLA appeal directly relate to and also weigh against the action that BLM is now considering. Given the ongoing litigation and appeal, BLM should consult with its counsel before moving forward with this project and EA related to parcels 1743, 1744, 1749, 1751, 1819, 1821, 1830, 1831, 1834, 1846, 1852, 1855, 1856, 1859, 1861, 1868, 1870, 7846, 7847, 7850, 7852, 7886, 7893, and 7898.

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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 and North Branch 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).

- **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).

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.

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- 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.**

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).

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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.

Other BLM policy manuals pertinent to the BLM's NEPA assessment of the subject project and protection and management of the OSNHT include Manual 6100 – National Landscape Conservation System Management (2012) and Manual 8400 – Visual Resource Management (1984).

The BLM NT policy Directives, Manuals, 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 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

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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).* 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,

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).

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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 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.

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.

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.

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*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. Nevertheless, BLM land managers and the Utah State Office have treated certain elements of the CAS as though formally enacted. Such elements include CAS revisions of OSNHT route realignments, and CAS listings of recommended high potential sites and route segments of the OSNHT. From a legal standpoint both of these CAS assertions are only recommendations as the CAS does not legally equate to the NTSA required CMP, and the revised alignments directly contradict NTSA statutory administrative procedure and authority for alignment revisions. Furthermore, as aforementioned the CAS was not NEPA compliant.

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

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 RMPs and Moab Master Leasing Plan 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."

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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. 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 rights-of-way. 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.”

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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. Neither the maps of proposed lease parcels 1743, 1744, 1749, 1751, 1819, 1821, 1830, 1831, 1834, 1846, 1852, 1855, 1856, 1859, 1861, 1868, 1870, 7846, 7847, 7850, 7852, 7886, 7893, and 7898 provided in the EA, nor the textual description of those parcels identify which alignment (congressional or CO-Administrator CAS) are actually used for NEPA assessment purposes, although the OSNHT routes shown on the one pertinent map in the EA, seem to show the CAS **recommendations** being used for analysis, as opposed to the legally applicable congressional routes. *See*, Appendix B to this protest, titled “*BLM Utah Oil and Gas Lease Sale Moab Field Office – Map 1*” to the Subject EA. As an additional aid to this Protest, the protesting parties submit an ArcGIS generated map of the OSNHT in the project vicinity showing the relationship of the noted parcels to both the

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congressionally designated Northern and North Branch Routes, and the CAS recommended revised routes. See, Appendix C to this protest, titled “BLM 2026 2nd Qtr O G Overview All – OSNHT Cong Lines – CAS Recommended Lines.” The updated “Protest” level version of the EA in its section regarding public comments and responses to such, does indicate that NEPA assessment of the lease parcels potential impacts on the OSNHT is based on the revised realignments of the Co-Administrators CAS. See, BLM Utah 2026 Second Quarter Competitive Oil and Gas Lease Sale Environmental Assessment DOI-BLM-UT-0000-2026-0003-EA Grand, San Juan, and Uintah Counties, Utah (April, 2026)- Appendix D Comments and BLM Responses, p.325. Those realignments violate the provisions of NTSA, and have not been subjected to NEPA analysis, therefore cannot serve as the basis for NEPA assessment for the subject lease sale project. The project EA does state various distances of each of the subject parcels from the Trail alignment, or supposed Trail lands classifications and developments such as recreational sites.⁹

In apparent defense of its misuse of the CAS revised realignments, in the BLM’s responses to public comments, it is stated that “the BLM notes that there is no language in the NTSA or Public Law 107-325 (which designated the OSNHT) that prohibits the Secretary from making refinements or modifications to the OSNHT congressionally-designated alignment.” *Id.* at p. 324-325. This statement is absolutely wrong as the NTSA specifically limits the process for making such revisions to Trail alignments. 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 problem is that the Secretary has never established a right-of-way for the OSNHT through procedures required by the NTSA, and, therefore, revisions by the Secretary’s Co-Administrators in the CAS are in violation of NTSA.

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 and North Branch Routes 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.”

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).

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CAS, p. 22. The Co-Administrator’s reasons for these refinements based on BLM studies and consultation with the Old Spanish Trail 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 “substantial” and therefore, 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*.
- 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

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.

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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 1743, 1744, 1749, 1751, 1819, 1821, 1830, 1831, 1834, 1846, 1852, 1855, 1856, 1859, 1861, 1868, 1870, 7846, 7847, 7850, 7852, 7886, 7893, and 7898 in the EA is seemingly erroneous, and misleading.

E. 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 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 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 (emphasis added). 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.*

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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.¹¹

¹¹ ** 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 in a CMP for the Trail, the law generally protects **all** federal lands crossed by NHTs as “Federal protection components.” *16 U.S.C. §1242(a)(3) (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

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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.

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.¹²

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. 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

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 the 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.

¹² Examples of the completion and NEPA use of Manual 6280 comprehensive inventories by BLM-Utah include: *Grand Staircase-Escalante National Monument - Proposed Resource Management Plan And Final Environmental Impact Statement - Volume 3 – Appendix N (2024) - Old Spanish National Historic Trail Inventory, Assessment, and Monitoring Report (2023)*; and, *Upper Sevier Vegetation Enhancement Project Final Environmental Assessment (2026) - Old Spanish National Historic Trail Upper Sevier Basin, Kanab Field Office -Inventory, Assessment, And Monitoring Report (2025)*.

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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 original, and or amendments to, the relevant RMPs related to this action, those being the Moab Field Office RMP (2008) and the Moab Master Leasing Plan (2016), and NEPA analysis for project proposals in the Moab FO area, including the current project. 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.

Illegitimate Limitation of Assessment and Inventories to Non-Compliant OSNHT Alignments

Overall, the BLM’s limited Trail inventories and viewshed analysis and discussion regarding the relationship of the proposed lease sales and the OSNHT is locationally erroneous. BLM appears to have used the non-compliant, merely recommended CAS OSNHT route alignment revisions for its analysis, rather than the congressionally designated alignment of routes.

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

Parcel #	On Cong. Trl. – Northern Route	Distance to Cong. Trl. – Northern Route	Distance to Cong. Trl. – North Branch	On CAS – Northern Route Recommendation	Distance to CAS – Northern Route Recommendation	On CAS – North Branch Recommendation	Distance to CAS – North Branch Recommendation
1743		1.09 mi.	2.37 mi.		2.37 mi.		2.67 mi.
1744		1.17 mi.	2.75 mi.		1.17 mi.		3.06 mi.
1749		0.28 mi.	1.78 mi.		1.78 mi.		2.05 mi.
1751		2.02 mi.	4.34 mi.		2.02 mi.		3.87 mi.
1819		0.35 mi.	7.47 mi.		0.88 mi.		6.15 mi.
1821	X	0	7.65 mi.	X	0		6.18 mi.
1830		2.25 mi.	9.55 mi.		3.10 mi.		8.20 mi.
1831		0.21 mi.	9.62 mi.		1.18 mi.		8.17 mi.
1834	X	0	9.84 mi.	X	0		8.42 mi.
1846		1.53 mi.	11.67 mi.		2.02 mi.		10.10 mi.
1852	X	0	17.33 mi.	X	0		15.61 mi.
1855		2.47 mi.	7.08 mi.		2.56 mi.		6.49 mi.
1856		0.90 mi.	6.5 mi.		1.00 mi.		5.4 mi.
1859		4.11 mi.	8.86 mi.		4.11 mi.		8.20 mi.
1861		5.06 mi.	9.24 mi.		5.06 mi.		
1868		4.38 mi.	10.62 mi.		5.05 mi.		9.55 mi.
1870		6.04 mi.	10.82 mi.		6.24 mi.		10.18 mi.
7846		3.31 mi.	5.04 mi.		3.31 mi.		5.40
7847		3.48 mi.	5.4 mi.		3.48 mi.		5.23 mi.
7850		0.49 mi. (Lisbon Valley Rt.) 8.62 (E. Cyn. Rt.)	NA		7.94 mi. (E. Canyon Rt.)		
7852	X	0 (Lisbon Valley Rt.) 8.12 (E. Cyn. Rt.)	NA		7.35 mi. (E. Cyn. Rt.)		
7886	X	0	7.74 mi.	X	0		6.47 mi.
7893		0.83 mi.	10.66 mi.		1.92 mi.		9.26 mi.
7898		2.6 mi.	8.56 mi.		2.99 mi.		7.47 mi.

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As the CAS revised realignments are in violation of NTSA mandated procedures as previously discussed, legally, the BLM should use the valid congressional alignment of the OSNHT routes for any Trail resource and value inventories, including viewshed analyses. However, as the Co-Administrators' CAS realignments may have some degree of valid substantiation, arguably, until such time as the potential realignment issue is procedurally valid, it is important that the BLM assess impacts to both the congressional route alignments and the CAS recommendations, and we would suggest such an approach. It must be kept in mind that any realignments, such as those suggested in the CAS must undergo NEPA review, including public input, and may not ultimately be adopted.

Insufficient and Non-Compliant Viewshed Analysis

A viewshed analysis along the Trail is recommended for Secretary/Co-Administrator establishment of the OSNHT NTSA right of way, and required for Co-Administrator and agency completion of BLM Manual 6280 comprehensive inventories. 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, no NTSA right of way for the OSNHT has been confirmed and published by the Secretary or Co-Administrators, and, therefore, a comprehensive Manual 6280 Trail inventory cannot be completed.

The relevant existing BLM planning documents, the Moab RMP, and Master Leasing Plan (MLP), make vague and unfounded references to viewshed analysis and OSNHT inventories in their coverage areas that carry over into the current project EA. The Moab RMP simply makes statements about review of OSNHT segments and supporting protective management consistent with a forthcoming CMP for the OSNHT. In regard to its visual resource management provisions, it makes no mention of the OSNHT. The Master Leasing Plan makes references to the agency – notably not the OSNHT Co-Administrators – determining the actual location of the Trail, and that such determinations will result in such portions of the Trail being subject to the provisions of the NTSA. Such an approach is not supported by the language of the NTSA, or by BLM policy on administration or management of NHTs. The **entirety of the OSNHT**, as established by Congress, is subject to the provisions of the NTSA and BLM policy. Furthermore, in regard to viewshed analysis along the OSNHT the MLP limits such analysis to:

- Visual assessment within 2 miles of 3 high potential sites (Kane Springs, Looking Glass Rock, and the Colorado River Crossing);
- Visual assessment of lands within 2 miles of 2 high potential route segments (Moab Trail, Mule Shoe);

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- Visual assessment within 2 miles of the south side of the Blue Hills high potential route segment (with certain exceptions).

The MLP also infers that the noted area settings will be protected, but the authorized office retains the power to grant exceptions, modify stipulations, or waive stipulations to such protections. None of these MLP, and consequently Moab RMP amendatory provisions, comply with overriding provisions, or guidance, of NTSA, or BLM NT management. Furthermore, the MLP references to high potential sites, and high potential route segments of the OSNHT, and the heightened protection of such is based only, in 2016 when the MLP was executed, on projected mere recommendations of the insufficient OSNHT CAS. And, yet, they frame the basis of supposed OSNHT inventory information and assessment conclusions contained in the project EA.

In addition, the subject EA makes vague references to viewshed analyses in the noted project parcel areas and supposed Trail inventories, but they lack explanation and are not in compliance with BLM policies or at all comprehensive.

The BLM has committed a fundamental procedural and substantive policy error in its analysis of lease parcels 1743, 1744, 1749, 1751, 1819, 1821, 1830, 1831, 1834, 1846, 1852, 1855, 1856, 1859, 1861, 1868, 1870, 7846, 7847, 7850, 7852, 7886, 7893, and 7898 by utilizing a standard, bottom-up Visual Resource Inventory (VRI) and Visual Resource Management (VRM) framework for general public lands under BLM Manual 8400. The agency has evaluated visual impacts using existing, lower-protection multiple-use VRM Class III or IV designations.

This positioning turns federal land management law and explicit agency policy on its head. Under the National Trails System Act (NTSA) (16 U.S.C. §§ 1241–1251), the Omnibus Public Land Management Act of 2009 (16 U.S.C. § 7202), and BLM Manuals 6100 and 6280, the designation of a National Historic or Scenic Trail *automatically* triggers a mandatory top-down protective overlay. The BLM cannot use its own administrative delay in establishing a formal National Trail Management Corridor as a legal shield to permanently degrade the trail's viewshed through fluid mineral leasing.

The BLM's contention that it lacks a specific policy directive to assign Class I or II status prior to an RMP amendment ignores the structural hierarchy of the National Landscape Conservation System (NLCS).

- The Omnibus Public Land Management Act of 2009 (16 U.S.C. § 7202) legally established the NLCS (now National Conservation Lands) to "conserve, protect, and restore nationally significant landscapes," explicitly including National Scenic and Historic Trails.
- Section 1.6 of Manual 6100 (NLCS Management) dictates that the BLM must prioritize the protection of the values for which NLCS units were designated. For viewshed management, the policy directs that NLCS units—by virtue of their Congressional designation—possess an inherent high sensitivity that defaults to the highest tiers of visual protection.

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- Explicit trail policy in Manual 6280 establishes that the BLM must protect National Trail resources, qualities, values, and settings regardless of whether a comprehensive management plan or RMP amendment has been completed. Because the "setting" is an immutable component of a National Historic Trail's cultural, natural, and landscape resources, Manual 6280 dictates that the baseline management objective for the visible viewshed is VRM Class I or VRM Class II to retain the existing character of the landscape. Furthermore, 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.

By treating the trail viewshed as a standard, low-sensitivity landscape simply because it falls within a legacy VRM Class III or IV multiple-use zone, the BLM is actively violating the top-down conservation mandate established in Manuals 6100 and 6280.

By offering oil and gas leases within the arguable right-of-way or pending trail management corridor using standard, non-NLCS viewshed criteria, the BLM is violating NEPA and FLPMA by creating a *fait accompli*.

Once a lease is issued without adequate protective stipulations such as a No Surface Occupancy (NSO) stipulation covering the entire visible foreground and middleground of the trail), the lessee acquires a non-discretionary right to occupy the surface. When the BLM eventually complies with the law and establishes the National Trail Management Corridor, its ability to assign the mandatory VRM Class I or II status required by NLCS policy will be fatally compromised by pre-existing lease rights.

NTSA explicitly bars the agency from taking actions that would substantially alter the nature and purposes of a National Trail. Issuing a lease based on a standard, bottom-up analysis before establishing the mandatory top-down NLCS protections constitutes an irretrievable commitment of resources that unlawfully forecloses the high-protection management alternatives required by NLCS policy.

In addition, in a standard VRM contrast analysis (BLM Manual 8431), the agency asks: "*Does the proposed project attract the attention of the casual observer based on the existing VRM class?*" Because the BLM is erroneously relying on legacy, non-NLCS classifications (Class III or IV), its analysis concludes that the visual contrast of oil and gas infrastructure is "acceptable."

However, under the NLCS framework, the sequencing must be inverted. The target baseline is fixed by policy. Under BLM Manual 6100 and 6280, the trail's viewshed must be managed to meet Class I or Class II objectives (where changes cannot attract the attention of the casual observer or must repeat the natural character of the landscape). Consequently, the BLM must analyze whether the oil and gas leasing parcels can be developed without violating a Class I or Class II threshold. Because the BLM worked from the bottom up, it completely skipped the

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analysis of whether industrial visual contrast (drill rigs, tanks, access roads, flaring) can conform to a Class II standard within the trail's viewshed.

The BLM has failed to comply with the National Trails System Act, the Omnibus Public Land Management Act of 2009, and BLM Manuals 6100 and 6280 by substituting a standard multiple-use visual analysis for the mandatory, top-down protective framework required for NLCS units.

“Inventory” of OSNHT Recreational Opportunities

The project EA and the underlying Moab RMP and MLP make reference to an analysis of recreational sites long and associated with the OSNHT. The comprehensive nature of such an inventory of recreational OSNHT recreational opportunities is woefully insufficient.

Recreational opportunities associated with the OSNHT to be identified, inventoried, and in some instances developed include a variety of types including: auto tour routes; hiking trails; equestrian trails; backcountry off-trail hiking; cultural, natural, and landscape appreciation and interpretation; etc. To date, and as referenced in the EA, the identification of such recreational opportunities in the project area has been limited to the *Old Spanish National Historic Trail Recreation and Development Strategy, Grand County, Utah* (BLM and NPS, 2018). The EA fails to recognize that this “strategy” is extremely limited, and never intended to be comprehensive in regard to the full array of opportunities. First of all, the few BLM initiated recreation and development strategies for the OSNHT have never been intended to be comprehensive Trail recreational opportunity inventories and are stated to be non-decisional land use documents. The noted Strategy states:

“The purpose of this document is to guide partners in bringing the Old Spanish NHT to life in Grand County so that it becomes a valuable educational and recreational asset for residents and visitors alike. This document identifies ways that the trail could reach full potential and help users enjoy, understand, and connect to past historical events. This is not a decisional document, but rather a guiding document for future efforts to mark, improve, interpret, and use the trail.”

Id. at p.5. 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. The recreational opportunities identified and discussed in the strategy are mainly limited to already existing recreational sites and development and in very few instances so located due to the establishment of the OSNHT. As an example, the pertinent strategy does not include possible retracement trails, and without exception ignores potential off-trail backcountry hiking or equestrian use where the true vicarious experience of the original Trail travelers may be “recreated.” And, third, such Recreational and Development Strategies should be considered merely initial scoping investigations 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 planning, and are subject to all requirements of

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BLM Trail management policy. And, most certainly, NEPA analysis of project impacts on OSNHT recreational opportunities should not be limited, as was the case, to recreational opportunities discussed in such “strategies.”

The foregoing observations show clear problems with BLM EA’s, comprehensive inventory and overall assessment of impacts on trail resources, values, and opportunities of federal protection components of the OSNHT, and viewshed analysis component of inventories, 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.”

F. The Failure of the BLM To Amend the Moab RMP and Moab Master Leasing Plan (MLP) to Account for OSNHT Management

The relevant BLM resource management plan for the Moab Field Area (2008) as amended by the Moab Master Leasing Plan (2016) contain little reference to the OSNHT and have not been amended as required by policy to account for such. Both 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. [Note that no OSNHT CMP existed in 2008, making this statement meaningless at the time and now, 18 years later.]

These statements in the Moab FO RMP exemplify the unit field management paralysis on proper management and protection of the OSNHT. Likewise, the amending MLP makes no reference to

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a OSNHT CMP, and as surprisingly, no reference to extensive 2012 BLM policy manuals on NT administration and management. Furthermore, it seems to adopt legally insufficient changes – route alignment revisions – considered in the Draft CAS of 2016.

All of this, and no further amendments of the RMP, 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 FO area have clearly violated BLM policy in not achieving land use plan amendments for the Moab FO area. This is yet another indication of the current action proposal as “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.”

What both the 2008 Moab RMP and its amendatory MLP do include, are conditions and stipulations for the issuance of oil and gas leases, blindly applied to OSNHT lands, for instance on the current project EA. The instances in which prohibitory stipulations are applied and aren't

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applied (in specific instance of the OSNHT) is egregious. The 2008 Moab RMP includes a No Surface Occupancy (NSO) stipulation for Areas of Critical Environmental Concern – an administrative designation as opposed to the OSNHT statutory designation. Even certain RMP recreational areas have such NSO stipulations directed by the RMP, although such recreation areas are again administrative designations as opposed to OSNHT statutory designation. A Conditional Surface Use (CSU) stipulation is directed for Class II visual classification areas, but not applied to the OSNHT due to the insufficient visual resource management assessment process previously described. And, congressionally designated wilderness areas, and FLPMA wilderness study area “set-asides” are completely closed to oil and gas development in contrast to the statutorily established OSNHT, portions of which should certainly be considered for such closures. The MLP offers no NSOs for the OSNHT, but as previously alluded to creates CSUs for portions of the Trail with recommended, but not formally adopted high potential sites, and high potential route segments suggested in the invalid CAS – and ignores that a list of high potential sites and route segments is ultimately correctly adopted may include fewer or more of such designations. Simple lease notices (LNs) are required for any lease parcels within the EA’s unjustifiable and unestablished right of way or Trail Management Corridor.

Precedential Court Rulings Regarding Hierarchy of Land Use Plans

Under the established framework of federal land management law, specific congressional conservation mandates must precede and strictly dictate general, multiple-use planning. Applying the core principles established by the federal courts in the *Yaak Valley* and *Merced River* decisions, the Bureau of Land Management’s (BLM) ongoing actions under the 2008 Moab Resource Management Plan (RMP) and 2016 Moab Master Leasing Plan (MLP)—specifically fluid mineral leasing and development—are structurally compromised.

Because the Department of the Interior and the BLM have failed to establish both the statutory OSNHT right of way and the BLM Trail Management Corridor, the agency is authorizing irreversible resource commitments without meeting legal planning requirements.

Under standard canons of statutory construction, a specific, resource-protective congressional mandate takes absolute precedence over broad, multiple-use statutes. The National Trails System Act (NTSA), 16 U.S.C. §§ 1241–1251, imposes distinct, affirmative duties on managing agencies that overrule the general provisions of the Federal Land Policy and Management Act (FLPMA) and the National Forest Management Act (NFMA).

As established in the *Merced River* litigation, an agency cannot rely on a broad, area-wide land-use document to substitute for the granular, baseline protections required by a site-specific statutory designation. See *Friends of Yosemite Valley v. Norton*, 348 F.3d 789, 803–04 (9th Cir. 2003) (holding that a broad General Management Plan cannot substitute for the specific, data-driven boundaries and user-capacity limitations required by a specialized conservation statute); see also *Friends of Yosemite Valley v. Kempthorne*, 520 F.3d 1024, 1035 (9th Cir. 2008).

The specific, protective plan must come first; it sets the boundaries, resource capacities, and ecological limits to which any subsequent general plan or project-level decision must strictly conform. Pushing forward with fluid mineral leasing before these parameters are legally defined represents a fatal flaw in administrative sequencing.

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The legal vulnerability of fluid mineral actions within the Moab MLP planning area is driven by two interdependent failures that have occurred at both the Secretarial and field-office levels.

Section 7(a)(2) of the NTSA states that the appropriate Secretary "shall select the rights-of-way for such trail and shall publish notice thereof in the Federal Register." 16 U.S.C. § 1246(a)(2). This is a non-discretionary, mandatory directive. By failing to select and publish the formal Trail ROW for the Old Spanish National Historic Trail (OSNHT), the Secretary has neglected the foundational legal mechanism required to establish federal jurisdiction and conservation priority over specific trail parcels.

This secretarial omission trickles down and paralyzes local land-use planning under BLM Manual 6280 requiring the BLM to establish a defined "National Trail Management Corridor" to protect the trail's resources, qualities, values, and associated viewsheds.

Furthermore, as previously discussed NTSA required the Secretary to complete a CMP for the OSNHT within two complete fiscal years of 2002. Manual 6280 explicitly mandates that when a trailwide Comprehensive Management Plan (CMP) is updated or trail-specific inventory data is established, the local Field Office must formally amend the RMP to incorporate these specific boundaries. Because the OSNHT lacks a fully implemented CMP and the Moab RMP has not been amended to define this corridor, the Moab Field Office continues to manage the trail as a nominal line on a map rather than a distinct, protected landscape unit.

Section 7(c) of the NTSA strictly forbids the authorization of any land use that "substantially interferes with the nature and purposes of the trail." 16 U.S.C. § 1246(c). However, because the BLM has failed to complete the foundational, site-specific work required to establish an environmental baseline, any project-level NEPA analysis such as the subject EA for a quarterly lease sale claiming "no significant impact" or "no substantial interference" to the OSNHT is arbitrary and capricious.

The agency cannot logically conclude it is avoiding substantial interference when it has failed to define the physical boundaries or gather the necessary site-specific data where those protections apply. Under the "Yaak Valley" decision, *Lands Council v. Powell*, 395 F.3d 1019, 1030–31 (9th Cir. 2005), the Ninth Circuit held that an agency's reliance on broad, programmatic models and inadequate site-specific baseline data fails to satisfy the rigorous scientific integrity requirements under NEPA and NFMA. The *Lands Council* rule is critical here because it establishes that a general planning document (like a Forest Plan or an RMP) cannot insulate specific project-level choices from rigorous, pre-decisional analysis. If the agency has an underlying duty to protect a resource, it must demonstrate compliance with those specific parameters *on the ground* before executing actions that alter that landscape. In direct violation of the *Lands Council* standard, the Moab RMP and MLP rely on generalized, area-wide Visual Resource Management (VRM) classes rather than a corridor-specific Inventory, Assessment, and Monitoring (IAM) process. These broad, proxy classifications fail to assess the specific trail relationship, allowing foreground and middleground industrial infrastructure to encroach directly upon the trail's historic settings and viewsheds without the required site-specific verification. Just as the Ninth Circuit ruled in *Friends of Yosemite Valley v. Norton*, 348 F.3d 789, 803 (9th Cir. 2003) and *Lands Council*, 395 F.3d at 1035, an agency cannot approve project-level actions and offer *post-*

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hoc rationalizations that resources are protected. The definition of the corridor, its baseline inventory, and its carrying capacity must be established *pre-decisively*, especially when a specific land management plan such as the NTSA CMP is required by law.

Federal courts have consistently held that the issuance of a fluid mineral lease represents an irreversible and irretrievable commitment of public resources. Once a lease is sold without an explicit No Surface Occupancy (NSO) stipulation tailored to a defined trail corridor, the BLM relinquishes its absolute authority to deny surface development.

Because the Secretary has failed to publish a statutory Trail ROW under 16 U.S.C. § 1246(a)(2), the Secretary has failed to complete a OSNHT CMP, and because the BLM has subsequently failed to amend the Moab RMP/MLP to include a valid, inventory-backed National Trail Management Corridor, the agency lacks the legal baseline required to authorize fluid mineral leasing along the Old Spanish National Historic Trail. The agency is putting the multiple-use cart before the statutory resource protection horse, rendering these FLPMA actions legally unsupportable under the standards set by *Friends of Yosemite Valley* and *Lands Council*.

For all of the reasons expressed above the Moab FO RMP as amended by the MLP and its exclusion of OSNHT management provisions directed by BLM Manual 6280 cannot serve as a basis for proper EA assessment of the current project, and the inclusion of parcels 1743, 1744, 1749, 1751, 1819, 1821, 1830, 1831, 1834, 1846, 1852, 1855, 1856, 1859, 1861, 1868, 1870, 7846, 7847, 7850, 7852, 7886, 7893, and 7898 is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law “in violation of the Administrative Procedure Act.

G. Failure to Analyze the Legal Impossibility of Collateral Road, Utility, and Infrastructure Right-of-Way Issuance Under NTSA 16 USC §1248(a)

The Bureau of Land Management (BLM) has violated NEPA by failing to evaluate a critical, legally binding constraint on the development of the proposed lease parcels: the high probability that ancillary road, pipeline, and transmission line rights-of-way (ROWs) cannot legally be granted across the National Historic Trail (NHT) corridor.

By treating the future issuance of oil and gas leases as a routine, discretionary administrative matter, the EA fails to account for the fact that 16 U.S.C. § 1248(a) strips the BLM of its standard "multiple-use" balancing authority when granting easements across National Trails. Instead, the statute explicitly commands that such grants must be executed "in accordance with the laws applicable to the national park system."

Because the National Park Service (NPS) Organic Act prohibits any management actions that cause "impairment" of resources and values, the BLM faces an incredibly high statutory bar that may legally compel the non-issuance of these vital development ROWs. The BLM's failure to analyze this statutory hurdle at the lease sale stage creates an impermissible segmented analysis

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and misleads the public regarding the actual exploitability and economic viability of these parcels.

When analyzing fluid mineral leasing impacts that will inevitably require linear infrastructure crossing an NHT corridor, the BLM routinely errs by evaluating future infrastructure under the lenient balancing criteria of Title V of the Federal Land Policy and Management Act (FLPMA).

Section 1248(a) of the National Trails System Act (NTSA) explicitly governs the structural mechanics of granting infrastructure access across designated national trails:

*"The Secretary of the Interior... may grant easements and rights-of-way upon, over, under, across, or along any component of the national trails system **in accordance with the laws applicable to the national park system**... Provided, that any conditions contained in such easements and rights-of-way shall be related to the policy and purposes of this chapter."* (16 U.S.C. § 1248(a), emphasis added).

By explicitly invoking the "**laws applicable to the national park system**," Congress intentionally elevated the protective standard for trail-crossing ROWs far above FLPMA's standard resource-balancing framework. Where general public land laws (like FLPMA) conflict with specific, resource-protective statutory directives (like the NTSA), the specific statutory directive controls. Consequently, any application for a road, pipeline, or transmission line crossing the trail corridor must be adjudicated under the strict legal regime governing the National Park Service.

The foundational law applicable to the National Park System is the NPS Organic Act (now codified at 54 U.S.C. § 100101 et seq.). The core statutory directive of the Organic Act requires the agency to manage resources:

"...by such means and measures as will conform to the fundamental purpose of the System units, which purpose is to conserve the scenery, natural and historic objects, and wild life in the System units and to provide for the enjoyment of them in such manner and by such means as will leave them unimpaired for the enjoyment of future generations." (54 U.S.C. § 100101(a)).

By operation of NTSA § 1248(a), this "No Impairment" standard applies to the BLM's evaluation of any proposed easement or ROW that intersects, parallels, or impacts the trail corridor. Under NPS management parameters, an action constitutes an impairment if it harms the integrity of resources or values, including the visual integrity, historical setting, pristine cultural and natural landscapes, and public recreational opportunities for which NTs were established. Unlike FLPMA, which allows the BLM to deliberately accept severe resource degradation in exchange for energy production, the NPS Organic Act completely deprives the administrator of the discretion to permit an impairment.

Because industrial access roads, large-diameter pipelines, and high-voltage transmission lines inherently degrade the viewshed, historical integrity, and continuous cultural and natural landscape of an NHT, it is highly probable that granting these ROWs would violate the imported

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"No Impairment" standard. Therefore, the non-issuance of these ROWs is not merely an optional alternative; it may be a non-discretionary legal requirement under Section 1248(a).

A NEPA document must accurately disclose the consequences of an agency action and analyze all reasonably foreseeable constraints. By failing to evaluate how the stringent requirements of Section 1248(a) restrict downstream infrastructure, the BLM's EA commits two fatal analytical errors. The BLM cannot isolate the decision to lease a parcel from the inevitable infrastructure required to develop it. If a parcel cannot be accessed by a road or hooked to a pipeline without causing an impairment that violates NTSA § 1248(a)/54 U.S.C. § 100101(a), the lease itself becomes a legal dead-end. The EA must analyze the "No Action" or "Non-Issuance of ROWs" scenario at this stage to prevent an irrational administrative commitment of federal resources. To satisfy NEPA, the BLM must consider alternatives that would avoid these statutory conflicts altogether—such as the complete non-issuance or deferral of parcels whose development relies entirely on obtaining legally impermissible ROWs across the trail protection corridor.

The BLM has failed to recognize that NTSA § 1248(a) strips it of its standard FLPMA discretion and replaces it with the unyielding "No Impairment" mandate of National Park System law. Because industrial infrastructure ROWs routinely cause severe, unmitigable impairments to the settings of National Historic Trails, the non-issuance of these ROWs is a highly foreseeable legal outcome.

Consequently, a lease sale of parcels in proximity to the OSNHT under the insufficient EA BLM has constructed is a violation of the APA and must be retracted. In regard to this specific point, any possible replacement EA must: evaluate the strict legal constraints imposed on future infrastructure by the importation of NPS law via Section 1248(a); contain a detailed alternative evaluating the non-issuance of all parcel-essential road, pipeline, and transmission line ROWs that cross the trail corridor; and assess the economic and operational viability of the proposed leases under a scenario where all trail-crossing ROWs are denied under the "No Impairment" standard.

H. 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.

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 1743, 1744, 1749, 1751, 1819, 1821, 1830, 1831, 1834, 1846, 1852, 1855, 1856, 1859, 1861, 1868, 1870, 7846, 7847, 7850, 7852, 7886, 7893, and 7898, which lie within the Moab FO areas.

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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.

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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.

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- (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

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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).”

I. Failure To Assess the Cumulative Effects of FLPMA Land Use Actions on The OSNHT In the Moab FO Area, The State Of Utah, And Along the Total Length of the OSNHT.

BLM has failed to address the cumulative effects of its 2026 oil and gas lease sales actions in the Moab FO area on the management and protection of the OSNHT, and its resources and values. At least two other BLM oil and gas lease sales have occurred, or will occur in 2026 – the 2026 1st Quarter oil and gas lease sale, and the prospective, yet initiated 2026 3rd Quarter oil and gas lease sale. In addition, innumerable other land use actions with some level of surface disturbance have occurred in proximity to the OSNHT in Utah since its congressional establishment in 2002, often, if not always, without NEPA assessment of impacts on the OSNHT. Add to this, additional BLM surface disturbance actions along the OSNHT in New Mexico, Colorado, Arizona, Nevada, and California since 2002. The cumulative effects of these actions are cumulative, project by project degradation of the resources, values, landscapes, and opportunities of the OSNHT. Impacts have not regularly and properly been evaluated due to many of the reasons given above that extend to all BLM management offices. These cumulative

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effects cannot be ignored and must be evaluated as part of the subject project and all future projects along the OSNHT.

CONCLUSION

For all of the reasons given above, the protestants respectfully request the retraction of the BLM Utah Second Quarter Oil and Gas Lease Sale as related to parcels 1743, 1744, 1749, 1751, 1819, 1821, 1830, 1831, 1834, 1846, 1852, 1855, 1856, 1859, 1861, 1868, 1870, 7846, 7847, 7850, 7852, 7886, 7893, and 7898.

* 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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¹³ (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.)