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Attorneys for Plaintiffs  
Southern Utah Wilderness Alliance *et al.*

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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION

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SOUTHERN UTAH WILDERNESS  
ALLIANCE, THE WILDERNESS  
SOCIETY, and NATIONAL PARKS  
CONSERVATION ASSOCIATION,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF THE  
INTERIOR, UNITED STATES BUREAU  
OF LAND MANAGEMENT, and AHMED  
MOHSEN, in his official capacity as Color  
Country District Manager,

Defendants.

**COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

Case No. 2:19cv297-TS  
Honorable Ted Stewart

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1. This lawsuit challenges the Bureau of Land Management's (BLM) arbitrary decision that Garfield County, Utah holds an adjudicated R.S. 2477 right-of-way along a 7.5 mile segment of the Burr Trail, a portion of remote backcountry dirt road adjacent to Capitol Reef National Park and the Mount Pennell wilderness study area. Contrary to rural legend, no federal court has ever quieted title to any stretch of the 66-mile Burr Trail in favor of Garfield County,

and thus the County has no such right-of-way. This decision violated the Federal Land Policy and Management Act (FLPMA), its implementing regulations, and BLM's own policies.

2. This lawsuit also challenges BLM's arbitrary decision that, even if the County has an R.S. 2477 right-of-way, chip sealing this remote dirt road is a "reasonable and necessary" improvement and thus within the scope of the right-of-way and could proceed without the County first obtaining a FLPMA Title V right-of-way. This decision violated FLPMA, its implementing regulations, and BLM's own policies.

3. This lawsuit also challenges BLM's final environmental assessment, Finding of No Significant Impact, and Decision Record (Final EA and DR-FONSI) which authorized Garfield County to chip seal the 7.5 segment of the Burr Trail at issue (referred to herein as "the Chip Seal Project"). BLM's Final EA and DR-FONSI violated the National Environmental Policy Act (NEPA) and its implementing regulations.

4. BLM's decision was made under the cover of darkness; it was signed on Friday, April 26, 2019 but not made available to the public until Monday, April 29 at 1:53pm. Based on information and belief, local BLM officials met with representatives of Garfield County on Friday and/or Saturday April 26 and 27 to discuss this matter and convey that the Final EA and DR-FONSI were completed. Garfield County immediately commenced work on the Chip Seal Project, before the public had been made aware that the Final EA and DR-FONSI had been signed and issued.

5. The 7.5 mile segment of the Burr Trail at issue in this case begins at the eastern boundary of Capitol Reef National Park and runs generally southeast. It is bounded on the east by the Mount Pennell Wilderness Study Area (WSA) and on the west by the Long Canyon Land with Wilderness Characteristics (LWC) unit. The segment also crosses the corner of two Utah

School and Institutional Trust Lands Administration section for a total of approximately ¼ miles. The area is wild, remote and infrequently traveled.

6. Garfield County's Chip Sealing Project will unlawfully impair and impact the Mount Pennell WSA, and impact the Long Canyon LWC unit and Capitol Reef National Park. These impacts include but are not limited to: increased visitation and off-road travel, loss of solitude, and impacts to wildlife. BLM has refused to acknowledge that these impacts will or are likely to occur.

### **JURISDICTION AND VENUE**

7. This Court has jurisdiction over this action pursuant to FLPMA, 43 U.S.C. §§ 1701 *et seq.*; NEPA, 42 U.S.C. §§ 4321 *et seq.*; 28 U.S.C. § 1331 (federal question); 28 U.S.C. §§ 2201-2202 (declaratory and injunctive relief); and the Administrative Procedure Act (APA) 5 U.S.C. §§ 501-706.

8. Venue is proper in the United States District Court for the District of Utah, Southern Region of the Central Division, pursuant to 28 U.S.C. § 1391(e)(1).

9. BLM's Reasonable and Necessary Determination and DR-FONSI for the Chip Seal Project each constitute final agency action.

### **PARTIES**

10. Plaintiff SOUTHERN UTAH WILDERNESS ALLIANCE ("The Alliance") is a nonprofit environmental membership organization dedicated to the preservation of outstanding wilderness found throughout Utah, including surrounding the Burr Trail, and the management of wilderness-quality lands in their natural state for the benefit of all Americans. The Alliance is headquartered in Utah, and has members in all fifty states and several foreign countries. The Alliance's members use and enjoy public lands throughout Utah for a variety of purposes,

including scientific study, recreation, wildlife viewing, aesthetic appreciation, viewing cultural and historic artifacts, and financial livelihood. The Alliance promotes local and national recognition of the region's unique character through research and public education, and supports administrative and legislative initiatives to permanently protect Utah's wild places. The Alliance brings this action on its own behalf and on behalf of its members.

11. Plaintiff THE WILDERNESS SOCIETY (TWS) is a non-profit national leadership organization founded in 1935. TWS works to protect America's wilderness and to develop a network of wild lands through public education, scientific analysis, and advocacy. TWS's goal is to ensure that future generations will enjoy the clean air, water, wildlife, beauty, and opportunities for recreation and renewal that pristine deserts, mountains, forests, and rivers provide. TWS views protecting wilderness quality and other sensitive Utah BLM-managed lands as vital to achieving its mission. TWS has worked for years to protect BLM wilderness quality and other sensitive lands in Utah including the BLM-managed lands in the Richfield field office. TWS members frequently visit and recreate (*e.g.*, sightsee, view and appreciate pre-historic and historic cultural sites, bird watch, enjoy clean air and expansive views, and enjoy solitude) throughout the wild federal public lands adjacent to and impacted by the Chip Seal Project, including Capitol Reef National Park, the Mount Pennell WSA, and Long Canyon LWC. TWS brings this action on its own behalf and on behalf of its members.

12. Plaintiff NATIONAL PARKS CONSERVATION ASSOCIATION (NPCA) is a non-profit national organization whose primary mission is to address major threats facing the National Park System. NPCA is the leading voice of the American people in protecting and enhancing the National Park System and has more than 325,000 members throughout the United States, with over 2,000 in Utah. NPCA plays a crucial role in ensuring that America's national

parks are protected in perpetuity by undertaking a variety of efforts, including: advocating for the parks and the National Park Service, educating decision-makers and the public about the importance of preserving the parks, lobbying members of Congress to uphold the laws that protect the parks and in support of new legislation to address threats to the parks, and assessing the health of the parks and park management to better inform NPCA's members and the general public about the state of the park system. NPCA actively works to protect the national parks in southern Utah, including Capitol Reef National Park, from the impacts of claimed R.S. 2477 rights-of-way and other motorized vehicle use. NPCA brings this action on its own behalf and on behalf of its members.

13. Southern Utah Wilderness Alliance, The Wilderness Society, and National Parks Conservation Association (collectively, "SUWA") and their members' interests have been directly affected and irreparably harmed, and continue to be affected and harmed, by BLM's DR-FONSI for the Chip Seal Project that authorized this project in violation of FLPMA, NEPA, and the APA. SUWA members frequently visit the Burr Trail and recreate throughout the lands that surround it, including in the Mount Pennell WSA, Long Canyon LWC unit, and Capitol Reef National Park.

14. Mr. Ray Bloxham, an employee and member of the Alliance, TWS, and NPCA has traveled the Burr Trail and recreated on the surrounding lands including the Mount Pennell WSA, Long Canyon LWC unit, and Capitol Reef National Park on numerous occasions over the past several years, including most recently in April 2019. Mr. Bloxham has plans to return to this area again in 2019, and intends to continue to visit the area for years to come. Mr. Bloxham particularly enjoys the incredible scenic views and remote and largely untrammelled nature of the

area, viewing wildlife and cultural and historic artifacts, and the native and endemic vegetation on his visits. A copy of Mr. Bloxham's declaration is attached hereto as Exhibit A.

15. Ms. Terri Martin, an employee and member of the Alliance, has participated in grassroots efforts and litigation to protect the remote, wild nature of the Burr Trail for over 25 years. Since 1974, Ms. Martin has frequently traveled the Burr Trail and recreated along the surrounding lands including in the Long Canyon LWC unit and Halls Creek Overlook, most recently within the last two years. She plans to return to the area to seek out the undisturbed solitude and wild landscapes, shaped in part by the unpaved nature of the eastern reaches of the Burr Trail, as often as possible and certainly within the next year. Ms. Martin particularly enjoys the primitive backcountry experience of traveling the remote portions of the Burr Trail, where one must engage with the landscape on its own terms, and the attendant wilderness values, unconfined recreation, and wildlife viewing. A copy of Ms. Martin's declaration is attached hereto as Exhibit B.

16. As a result of BLM's legal failings, the construction activities, along with the accompanying surface disturbance and resulting change in character and ease of access to the remote eastern end of the Burr Trail will adversely alter the remote and rugged nature of the lands and resources surrounding the route. This will impair Plaintiffs' staff and members' use and enjoyment of the public lands within the project area, as well as adjacent public lands. SUWA and its members also have a substantial interest in seeing that BLM complies with its land management standards and obligations under federal laws including FLPMA, NEPA, their implementing regulations, and BLM's own policies in furtherance thereof. The relief sought herein, including an order that BLM remove the chip seal, will redress these harms.

17. Defendant UNITED STATES DEPARTMENT OF THE INTERIOR is the federal agency responsible for managing approximately five hundred million acres of federal public land across the United States for a variety of competing resources, including the protection of the natural and human environment.

18. Defendant BUREAU OF LAND MANAGEMENT (BLM) is the agency within the United States Department of the Interior that is responsible for the management of approximately twenty-three million acres of federal public land in Utah, including the land at issue in this litigation. BLM is directly responsible for carrying out the Department of the Interior's obligations under statutes and regulations governing land use management and for complying with FLPMA, which requires the agency to manage public land resources for both present and future generations, and NEPA, which requires the agency to carefully consider the environmental impacts of its actions.

19. Defendant AHMED MOHSEN is the BLM's Color County District Manager and is charged with overseeing BLM's activities in that office. Field Office Manager Mohsen approved the Final EA and signed the DR-FONSI.

### **FACTS GIVING RISE TO SUWA'S CAUSES OF ACTION**

#### **I. History of Development and Improvements Along the Burr Trail**

20. Local proposals to substantially improve the remote Burr Trail have a lengthy and checkered history. Notably, BLM did not provide the public with this background of past proposals in the 2019 draft EA.

21. In 1984, the Five County Association of Governments, an organization of county governments in southwestern Utah, issued a "Preliminary Engineering Report" on an improvement project that included paving the entire 66-miles of the Burr Trail in Garfield

County. Congress declined to fund this project due to “strenuous objection about potentially serious environmental problems.”

22. In 1985 the National Park Service (NPS) and BLM issued an EA and decision record summarizing differing views concerning the proposed improvements on the Burr Trail.

23. Following completion of the 1985 EA, Garfield County improved approximately 28 miles of the Burr Trail, from Boulder to the western edge of Capitol Reef National Park, including upgrading the surface from dirt to gravel and making changes to the alignment and drainage features. *See generally Sierra Club v. Hodel*, 675 F. Supp. 594 (D. Utah 1987), *affirmed in part and reversed in part* 848 F.2d 1068 (10th Cir. 1988).

24. Subsequent EAs were prepared in 1988 and 1989, and the local BLM manager authorized additional improvements.

25. In 1993 NPS and BLM prepared yet another Environmental Assessment (1993 EA) analyzing additional road improvement alternatives for the Burr Trail. The associated DR and FONSI was finalized and released in 1995 (1995 DR-FONSI). In the mid-1990s Garfield County conducted authorized and unauthorized improvements on the Burr Trail within Capitol Reef National Park, including widening, realigning, and bulldozing part of a hill. *See generally United States v. Garfield County*, 122 F. Supp. 2d 1201 (D. Utah 2000).

26. In 2009, Garfield County “advised” BLM it was going to chip seal the Burr Trail east of Capitol Reef National Park for roughly 7.5 miles to Eggnog Junction. This is the same segment at issue in the Final EA. Comments from NPS and conservation groups objected to this proposal and urged BLM to prepare an environmental assessment before allowing the County to proceed.

27. NPS's 2009 comments identified several potential impacts from chip sealing this segment of the Burr Trail, including impacts to air quality, land use, wildlife (including species of special concern and federally listed species), and visitor experience.

28. In 2010, NPS submitted a follow-up letter to BLM regarding the chip seal proposal and questioning whether the project was reasonable and necessary and within the scope of the County's right-of-way, if any such right-of-way existed. NPS also insisted that the project would result in increased visitation with potentially serious impacts to Capitol Reef National Park and surrounding BLM-managed lands.

29. In 2011, BLM prepared a draft EA and briefing paper, but that document was not finalized and no improvements were made. Since 2011 the County has continued to grade and maintain, but not chip seal, this 7.5 mile segment of the Burr Trail.

30. No portion of the Burr Trail has been adjudicated as an R.S. 2477 right-of-way. In each of the prior two federal court decisions cited above, *Sierra Club* and *Garfield County* (neither of which involved the 7.5 mile segment of the Burr Trail at issue here), the United States conceded for purposes of those suits that the County held an R.S. 2477 right-of-way for different stretches of the Trail.

31. Neither *Sierra Club* nor *Garfield County* involved a Quiet Title Act claim by the County or State over the Burr Trail, and thus title to the alleged right-of-way could not have been quieted in favor of the County or State. *See generally Block v. North Dakota*, 461 U.S. 273, 286 (1983) ("Congress intended the [Quiet Title Act] to provide the *exclusive means* by which adverse claimants could challenge the United States' title to real property.") (Emphasis added).

32. Nevertheless, in 2018-19 when Garfield County again proposed to chip seal the 7.5 mile segment, BLM performed a "reasonable and necessary" determination premised on the

erroneous assertion Garfield County holds an R.S. 2477 right-of-way on the entire length of the Burr Trail.

## **II. BLM's Reasonable and Necessary Determination**

33. If an R.S. 2477 claim has been adjudicated under the Quiet Title Act, the holder of the right-of-way must consult with BLM before it undertakes improvements to the right-of-way. *See Kane County, Utah v. United States*, 772 F.3d 1205, 1224-25 (10th Cir. 2014).

34. The goal of consultation is to allow BLM to determine if the proposed improvement is “reasonable and necessary” and thus within the scope of the existing right-of-way. *See id.*

35. BLM Instruction Memorandum (IM) No. 2008-175 outlines BLM's understanding of its consultation obligations. According to the IM, before BLM can allow improvements to an R.S. 2477 right-of-way, the claim must have been adjudicated by a federal court or found valid by BLM in an administrative non-binding determination (NBD). BLM Instruction Memorandum No. 2008-175, Consultation Process on Proposed Improvements to Revised Statute (R.S.) 2477 Rights-of-Way (Aug. 8, 2008) at 2.

36. No federal court has adjudicated an R.S. 2477 right-of-way in favor of Garfield County or Utah over the 7.5 mile segment of the Burr Trail at issue in the Final EA, or any other segment of the Burr Trail. Likewise, BLM has never issued an NBD on the Burr Trail, including the 7.5 mile project segment.

37. Despite Garfield County not having an adjudicated right-of-way or an NBD for the 7.5 mile segment, BLM, claiming to be acting in accordance with IM 2008-175, consulted with County to determine if its chip seal proposal was within the scope of the alleged R.S. 2477 right-of-way.

38. After a brief introduction and high-level description of the County's proposal, BLM's reasonable and necessary determination states:

it makes sense for a proposed improvement to be reasonable and necessary if there is a need to undertake an activity on such a ROW to increase its safety and/or comfort for the traveling public, enhance the traveling experience, prevent a condition on it from worsening and/or having a detrimental effect on the environment, and the proposed improvement appears to meet that need... As discussed above, the County has chosen chip-sealing as the means to respond to the road conditions on the 7.5 mile segment that it believes are detrimental to the travel experience and safety of the general public, including County residents, grazing permittees, and tourists.

Reasonable and Necessary Determination at 2. The determination largely parrots information provided by the County and summarily concludes that the proposed chip seal project is reasonable and necessary and thus within the scope of the ROW.

### **III. The Chip Seal Environmental Assessment**

39. On April 1, 2019 BLM released its draft EA on Garfield County's renewed proposal to chip seal the 7.5 mile segment east of Capitol Reef National Park. *DOI-BLM-UT-CO20-2019-0006-EA, Garfield County – Burr Trail Chip Seal Project.*

40. The draft EA did not state BLM's purpose and need for the Chip Seal Project.

41. The draft EA did not consider, or analyze any alternatives to the proposed action, the Chip Seal Project as proposed by the County.

42. The draft EA gave cursory treatment to the impacts of the proposed project, reviewing the vast majority in a checklist format. BLM provided slightly more treatment to the project's impacts to "wilderness values." None of this discussion complied with BLM's duty to take a "hard look" at the project's direct, indirect and cumulative impacts.

43. Despite BLM having knowledge of the proposed project for almost a year, the public comment period closed on April 15, 2019 – after a mere 15 days, including weekends.

44. BLM initially failed to provide the public with access to information necessary to make informed comments.

45. After requests from SUWA, BLM made the reasonable and necessary determination, and the 1993 EA and 1995 DR-FONSI publicly available on April 8, and April 12, respectively, well into the public comment period.

46. On April 9, 2019, SUWA requested an extension of the public comment period, which BLM denied on April 11, 2019.

47. On April 15, 2019, SUWA submitted timely comments and on April 18, 2019 SUWA submitted supplemental comments. BLM acknowledged receipt of both sets of comments.

48. On Friday, April 26, 2019, BLM signed the Final EA and DR-FONSI for the Chip Seal Project. BLM did not release these documents to the public until Monday, April 29, 2019 at approximately 1:53pm. Based on information and belief BLM provided the Final EA and DR-FONSI to representatives of Garfield County on Friday, April 26 who immediately began construction activities.

49. The Final EA is virtually identical to the draft EA and does not respond to SUWA's comments.

50. The Final DR-FONSI states that BLM did not need to analyze alternatives to the proposed project, and accordingly, the Final EA does not analyze any alternatives.

**First Cause of Action**  
**Violation of FLPMA**  
*(Failure to Comply with FLPMA's Title V*  
*Requirements in Absence of Valid Existing Right)*

51. SUWA incorporates by reference all of the preceding paragraphs.
52. FLPMA and its implementing regulations require BLM to regulate the use, occupancy, and development of public lands. 43 U.S.C. §1732 (b).
53. To grant rights-of-way across public lands, BLM must comply with the requirements and procedures contained in Title V of FLPMA and its implementing regulations. 43 U.S.C. §§ 1761 *et seq.*; 43 C.F.R. §§ 2800 *et seq.*
54. BLM is exempt from its duties under Title V only if the right-of-way is a “valid existing right.” 43 U.S.C. § 1701; Pub. Law 94-579, §701 note (h).
55. IM 2008-175 requires that before BLM can approve a proposed improvement to an R.S. 2477 right-of-way, the claim must have been adjudicated by a federal court or recognized by BLM in an administrative non-binding determination.
56. Garfield County does not hold an adjudicated right-of-way to the project segment and BLM has not issued an administrative non-binding administrative determination on the 7.5 mile segment of the Burr Trail at issue in the Final EA.
57. BLM's decision to issue the DR-FONSI and approve the Chip Seal Project without complying with FLPMA's Title V provisions and implementing regulations was arbitrary, capricious, and contrary to the law in violation of 5 U.S.C. §706(2)(A).

**Second Cause of Action**  
**Violation of FLPMA**  
*(Reasonable and Necessary Finding Violates FLPMA's*  
*Valid Existing Rights Exemption Requirements)*

58. SUWA incorporates by reference all preceding paragraphs.

59. FLPMA and its implementing regulations require BLM to regulate the use, occupancy, and development of public lands. 43 U.S.C. §1732 (b).

60. To grant rights-of-way across public lands, BLM must comply with the requirements and procedures contained in FLPMA Title V and its implementing regulations. 43 U.S.C. § 1761 *et seq.*; 43 C.F.R. § 2800 *et seq.*

61. Title V's right-of-way provisions do not apply to a right-of-way improvement project only if the improvement is part of a "valid existing right" under FLPMA. 43 U.S.C. § 1701; Pub. Law 94-579, §701 note (h).

62. Before allowing a proposed improvement to an R.S. 2477 right-of-way as an exercise of a valid existing right, BLM must determine if the improvement is within the scope of the right-of-way.

63. An improvement to an R.S. 2477 right-of-way is within the scope of the valid existing right if it is reasonable and necessary for safe travel, in light of traditional uses to which the right-of-way has been put.

64. BLM did not provide sufficient analysis, factual support, or reach an independent conclusion that chip sealing the 7.5 mile segment of the Burr Trail at issue was reasonable and necessary.

65. BLM failed to consider relevant factors in its reasonable and necessary determination. It did not consider if the proposed improvement was related to traditional uses of the project segment, or its land management responsibilities.

66. BLM's reasonable and necessary determination considered irrelevant factors, including Garfield County's assurance that construction activities would take place within the travel surface or within the presently "disturbed area."

67. BLM failed to explain its change in position from the 1993 EA regarding what type of travel surface (gravel as opposed to chip seal) is reasonable and necessary along the project segment.

68. Regardless of whether or not Garfield County has an R.S. 2477 right-of-way along the project segment, BLM's valid existing right determination regarding the scope of the alleged right was arbitrary, capricious, and contrary to law in violation of 5 U.S.C. §706(2)(A).

**Third Cause of Action**  
**Violation of NEPA and FLPMA**  
*(Failure to Adequately Analyze Alternatives)*

69. SUWA incorporates by reference all the preceding paragraphs.

70. NEPA's implementing regulations require that an environmental assessment "[s]hall include brief discussions of the need for the proposal," 40 C.F.R. § 1508.9(b), and BLM's NEPA Handbook explains that "[t]he purpose and need statement for an externally generated action must describe the BLM purpose and need, not an applicant's or external proponent's purpose and need. . . . It is the BLM purpose and need for action that will dictate the range of alternatives and provide a basis for the rationale and eventual selection of an alternative in a decision," BLM NEPA Handbook, H-1790-1 § 6.2.

71. NEPA requires federal agencies to "study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources." 42 U.S.C. § 4332(2)(E); *see also* 40 C.F.R. § 1508.9(b) (environmental assessments "[s]hall include brief discussions . . . of alternatives as required by sec. 102(2)(E), of the environmental impacts of the proposed action and alternatives.").

72. FLPMA imposes a duty to prevent unnecessary or undue degradation on all BLM managed lands. 43 U.S.C. § 1732(b).

73. The Final EA does not state the BLM's purpose and need for the project.

74. The Final EA fully analyzes only the proposed action.

75. The Final EA does not analyze the no action alternative nor explain why it was not chosen.

76. The Final EA does not mention, consider or analyze any alternatives to the proposed action. It does not mention or reject SUWA's proposed alternative of reducing speed on the 7.5 segment of the Burr Trail and taking other reasonable measures to improve safety without the need to chip seal the route.

77. BLM's assertion it does not need to consider alternatives to the proposed action and its concomitant failure to fully consider or explain why the no action or a middle ground alternative was not chosen violates its obligation under FLPMA to prevent unnecessary and undue degradation to public lands.

78. BLM's failure to analyze a range of reasonable alternatives violated NEPA and FLPMA and their implementing regulations and was arbitrary, capricious, and contrary to law in violation of the APA, 5 U.S.C. § 706(2)(A).

**Fourth Cause of Action  
Violation of NEPA**

*(Failure to Take a Hard Look at Environmental Impacts)*

79. SUWA incorporates by reference all the preceding paragraphs.

80. NEPA and its implementing regulations require federal agencies to take a "hard look" at the environmental impacts of proposed actions. 42 U.S.C. § 4332(C)(i).

81. Under NEPA, federal agencies must consider the direct, indirect and cumulative environmental impacts of a project. 40 C.F.R. §§ 1508.8, 1508.25(c).

82. To comply with NEPA's hard look requirement, BLM's analysis must involve informed decision making and informed public participation, along with discussion of possible effects and risks.

83. BLM violated NEPA and its implementing regulations by failing to take a hard look at impacts of approving the proposed action to a host of resources, including but not limited to 1) wildlife, 2) visual resources, 3) safety, 4) the Mount Pennell WSA, 5) the Long Canyon LWC unit, 6) Capitol Reef National Park, as well as impacts from historic improvement and reasonably foreseeable improvements to the Burr Trail.

84. BLM's failure to take a hard look at environmental impacts violated NEPA and its implementing regulations and was arbitrary, capricious, and contrary to law in violation of the APA, 5 U.S.C. § 706(2)(A).

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs respectfully pray that the Court enter judgment in their favor and against the United States Department of the Interior; the Bureau of Land Management; and Ahmed Mohsen, in his official capacity as the Color Country District Manager of the Bureau of Land Management; and that the Court:

- (1) Declare that Defendants have violated FLPMA as set forth above;
- (2) Declare that Defendants have violated NEPA as set forth above;
- (3) Declare unlawful and set aside the BLM's Final EA and DR-FONSI;
- (4) Award injunctive relief prohibiting Defendants from relying on the Final EA or DR-FONSI until Defendants are in compliance with NEPA;

(5) Award injunctive relief instructing Defendants to remove the recently placed chip seal on the 7.5 mile segment of the Burr Trail at issue in this case or other such equitable relief as the Court deems proper;

(6) Retain jurisdiction of this action to ensure compliance with its decree;

(7) Award Plaintiffs' costs incurred in pursuing this action, including attorney's fees, as authorized by the Equal Access to Justice Act, 28 U.S.C. § 2412(d), and other applicable provisions; and

(8) Grant such other and further relief as is proper.

Dated: May 1, 2019

Respectfully submitted,

/s/ Stephen Bloch

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