

The Truth about BLM's Decision to Open Factory Butte to ORV Destruction

In what's quickly becoming standard operating procedure for the BLM's Richfield office, the agency acted first and thought later. Specifically here, it lifted the cross-country ORV closure on May 22, 2019, recorded its decision in a post-hoc "memo to file" on May 24, and didn't make this document available to the public until May 28.

It makes sense that implementing and enforcing the 2006 closure would reduce impacts from ORV damage. And that was in fact the case from 2011-2016, but according to the BLM's own 2019 monitoring report submitted to the U.S. Fish and Wildlife Service, the number of ORV violations increased in both 2017 and 2018.

The BLM should never have designated a 5,400 acre area ringing Factory Butte for cross-country ORV joy riding, as it did in 2008. Rather than correct this error, the BLM's May 2019 decision to lift the closure doubles down on a bad decision.

The BLM also said in the 2008 Richfield RMP that by 2013 it would complete a management plan for the Factory Butte SRMA. The agency never got around to drafting it—but they did find time to lift this closure!



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Date: May 24, 2019

Memo to File

From: Joelle McCarthy, Field Manager, Richfield Field Office

By Federal Register Notice on September 20, 2006, the Bureau of Land Management's Richfield Field Office (RFO) provided notice to the public pursuant to 43 C.F.R. § 8341.2 that it was restricting Off-Highway (OHV) travel on certain RFO-managed public lands near Caineville, Utah, known as the Factory Butte area. Among other things, the notice indicated that the travel restriction was intended to protect threatened and endangered species (cacti) that had been adversely impacted or were at risk of being adversely impacted by OHV use. The notice also indicated that the travel restriction would remain in effect until the conditions giving rise to the restriction had been sufficiently addressed or the RFO Resource Management Plan (RMP) that was currently being prepared had been completed.

Monitoring of the affected area has shown that the on-the-ground conditions that led to the OHV travel restriction have significantly improved during the period of the travel restriction. In addition, in 2008, the RFO completed the RMP. In the RMP, **the RFO designated and provided for the management of the Factory Butte Special Recreation Management Area.** The RMP also identified specific measures to prevent recurrence of the conditions that led to the travel restriction. Those measures have been put in place. Further additional conservation measures identified in the U.S. Fish and Wildlife Service's (FWS's) 2010 Biological Opinion have been implemented. Because of these actions, the RFO determined it was appropriate to rescind the OHV travel restriction. Thus, on May 22, 2019, BLM's Utah State Office issued a press release advising the public that the RFO had rescinded the travel restriction. The purpose of this memo is to briefly summarize the bases for the decision and, consistent with the RFO RMP, formally confirm the rescinding of the OHV travel restriction.

The RFO Approved RMP, October 2008, established the Factory Butte Special Recreation Management Area (SRMA) and designated three Off-Highway Vehicle (OHV) Open Areas within the Factory Butte SRMA (see management action TRC-10). Further, the RFO RMP management action REC-18 provided that the OHV travel restriction would remain in place until specific criteria that would conserve the listed species were met. This criteria involved installation of infrastructure to protect the threatened and endangered cacti, and development and implementation of a monitoring plan. In addition, during preparation of the RMP, the U.S. Fish and Wildlife Service (FWS) prepared a Biological Opinion in which it identified certain conservation measures that when implemented would allow for the lifting of the OHV travel restriction and re-opening the Factory Butte OHV Play Area (5300 acres) and the Caineville Cove OHV Play Area (100 acres).

The conservation measures identified in the Richfield RMP Biological Opinion (BO) specific for *Sclerocactus wrightiae* protection included such items as surveys, avoidance, and mitigation for future projects within habitats for the species; research; and educating BLM

The BLM's Henry Mountains Field Station (where Factory Butte is located) is notoriously short-staffed and overworked. Rather than focus its staff on the backlog of outstanding work, the BLM chose instead to focus its efforts on opening Factory Butte to destructive cross-country motorized use—without even the resources to adequately enforce its new “open area” boundaries.

According to the BLM's May 22 press release, driving pell-mell across Factory Butte is family fun. In reality, the BLM's decision caters to extreme thrill seekers, not the general public, at the expense of scarring this landscape for years or decades to come.

According to the BLM's 2019 monitoring report to the U.S. Fish and Wildlife Service, there has been a "consistent decline" in monitored populations of Wright fishhook cactus in the Factory Butte area from 2014-2018, including at least one instance of deliberate destruction of native plants.

staff of protocols when working within the vicinity of known populations. **The RFO has and will continue to conduct surveys prior to surface-disturbing projects, work with FWS regarding avoidance/mitigation, conduct research as funding permits, as well as educating our staff to the sensitivities required when working in this area.** The BO called for continued documentation of new populations that the RFO may locate through the Factory Butte and Rangewide monitoring efforts. The BO requested that the RFO consider OHV closures or additional restrictions and development of new recreational facilities/opportunities that concentrate dispersed recreational use away from habitat, especially occupied habitat. That was the purpose of establishing the specific OHV play areas at Factory Butte and restricting OHV travel in the remaining habitat through route designation or closure. **The play areas were identified to allow for specialized OHV riding experience outside of habitat.** Any future closures or restrictions would be driven by monitoring results. The remainder of the RMP BO conservation measures discussed such items as prescribed burning, land exchange or disposal, and livestock activities, which are not part of the Factory Butte SRMA actions.

As required by the RMP, the RFO developed a monitoring plan for the Factory Butte SRMA (in 2009) and identified infrastructure to put into place. The FWS prepared a separate Biological Opinion for the SRMA in 2010 (2010 BO). The 2010 BO identified certain additional measures to protect the cacti, such as a new gate near Coal Mine Wash to eliminate OHV access to that area, additional signage in the SRMA to alert OHV users of areas closed to cross-country OHV travel, and additional disturbance monitoring transects in cactus habitat outside of the SRMA. These measures were implemented.

In 2013, the BLM requested the FWS to provide additional input regarding implementation of the 2010 BO and to determine if BLM had accomplished the required conservation measures necessary to rescind the OHV travel restrictions and continue implementation of the SRMA management plan. The FWS reviewed the actions taken to-date and provided a list of eight additional recommended conservation measures, and requested that the RFO consider implementing them prior to rescinding the travel restriction. In a memo to the FWS dated April 1, 2019, BLM addressed in detail each of the eight recommended conservation measures. Specifically, the RFO explained how it had completed implementing the recommended measures, or was in the process of doing so. In addition, the RFO and FWS had a subsequent meeting and follow-up emails and verbal communications regarding possible modifications and clarifications to the Factory Butte SRMA. Based on such communications, by memo dated May 17, 2019 to the FWS, the RFO identified additional, detailed, proposed monitoring measures and methodology for monitoring any OHV disturbance as well as cactus population trends in macroplots associated with the SRMA.

On May 20, 2019, the FWS sent the RFO a memo responding to the points and proposals made in the RFO's April 1 memo to the FWS. In the memo, the FWS discussed those points and proposals. Among other things, the FWS noted that the RFO's proposed change in monitoring methodology meant that the monitoring area would now be ten-times the size of the original monitoring areas specified in the 2010 BO. The FWS also indicated that the revised threshold and monitoring methods are compatible with monitoring OHV use in Wright fishhook cactus habitat and maintaining suitable habitat conditions for the species over the long-term. **As a result, the FWS advised the RFO that it concurred with its previous conclusion based on the 2010 BO that the RFO management of the Factory Butte SRMA and the lifting of the OHV restriction “is not likely to jeopardize the continued existence of Wright fishhook cactus.”**

In sum, monitoring of the area covered by the OHV travel restriction has shown that the conditions that led to the restriction have significantly improved during the period of the restriction. Further, fences, kiosks, and signage intended to protect the cacti have been in-

The BLM entered into a court-enforceable settlement in 2017 and agreed to prepare a new travel management plan for approx. 1.45 million acres in the Henry Mountains and Dirty Devil region by Dec. 1, 2019, including the Factory Butte area. However, the BLM recently told SUWA it will not be able to meet that deadline and will ask the court for an extension. Rather than working diligently towards the court-mandated deadline, it's apparent the BLM has instead focused its efforts on lifting the closure around Factory Butte.

stalled. The RFO has met the one-time conservation measures the FWS proposed for the Factory Butte SRMA. Many conservation measures will continue over time. Any additional conservation measures that monitoring shows are necessary will be put in place. The RFO has the ability to implement any such measures and is committed to work with the FWS on any necessary actions. For these reasons, consistent with the RFO RMP, I formally confirm the rescinding of the OHV travel restriction.