



SAN JUAN COUNTY COMMISSION

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November 1, 2024

BLM Director
Attn: Protest Coordinator (HQ210)
Denver Federal Center
Building 40 (Door W-4)
Lakewood, CO 80215

Re: Protest of Bears Ears Monument Proposed Plan

Dear Director:

San Juan County, a political subdivision of the State of Utah, includes the entirety of the Bears Ears National Monument. We submit the following protest items in good faith for resolution in the development of a final Bears Ears Management Plan that can better meet the needs of San Juan County and its residents.

Livestock Grazing

Livestock grazing of the public lands has been an integral part of the County's history, culture and economy since white settlers first entered the area and continues to be an integral part of the County. For these reasons the County Resource Management Plan recognizes the importance of livestock grazing and directs that the County continue to support the local livestock industry. This plan includes support for continued properly managed livestock grazing on public lands including the implementation of range improvements necessary for the conduct of grazing operations. Certain parts of the Proposed Plan for BENM are inconsistent with the County's support of livestock grazing. Some of these inconsistencies are described in the following protest points.

Livestock Grazing Exclusions

We question the AIM data used as rationale for closing Johns Canyon to livestock grazing. The AIM terrestrial plot that is used as being representative of Johns Canyon was established and read on June 19, 2024. This one-time sampling of site conditions may not be representative of long term conditions.

However, if this recent data is used, the ecological site to which the study site conditions are compared (R035XY215UT Semidesert Sandy Loam 4-Wing Saltbush) may not be appropriate as the photo of the study site appears to be a blackbrush site and includes significant numbers of blackbrush plants. This would indicate that the appropriate ecological site would be R035XY211UT Desert Sandy Loam (Blackbrush). When the 2024 AIM study plot data are compared to the blackbrush ecological site description, existing grass cover of 12.7% is within the parameter of 3-20%, biological soil crust of 0.67% is within the 0-40% range and bare soil cover of 41.33% is within the 15-60% range of the blackbrush ecological site description. This comparison to the blackbrush site shows that existing conditions are consistent with the ecological site description.

We also question the statement on page K-52 about soil stability condition being inadequate and “is likely a symptom of excessive compaction/trampling”. We question whether a desert sandy loam soil could be “excessively compacted” under past light or moderate stocking rates and light to moderate forage utilization levels. The statement isn’t logical and is at best only speculative.

The use of one-time AIM sampling data and comparing that data to an ecological site description inappropriate for the study site as the basis for excluding livestock grazing may be flawed. Additionally there is no compelling argument made to show that livestock grazing is the cause of the observed site conditions. Other factors such as recent drought would certainly affect site conditions.

We ask that this decision be re-evaluated with the proper ecological site data and consideration whether one-time sampling is justifiable for such a drastic decision as exclusion of grazing where grazing’s effect on conditions has not been determined.

In the lower Indian Creek area it appears that the area unavailable for livestock grazing has been expanded in the Proposed Plan. The unavailable area has been extended south and west to the National Park boundary (parts of T29 1/2S, R20E. Sec. 31; T30S, R19E Sec. 1; and T30S, R20E Sec. 6). This new area unavailable for grazing was never analyzed for exclusion from grazing in any of the alternatives (Alternatives A – E). There is no explanation in the EIS for this change. Such a practice is out of compliance with the requirements of a NEPA analysis. We request that an explanation be given and corrective action taken to comply with NEPA.

North Cottonwood Livestock Trailing

The restriction of livestock use in the North Cottonwood drainage to trailing only would create a serious impact to the livestock grazing operation and the data used to justify that restriction is inadequate and misrepresentative of the area as a whole.

The North Cottonwood drainage has two pastures that are important forage production pastures in the livestock operation. The restriction of grazing use to trailing only in these two pastures would severely hamper the operation which depends on these pastures for fall, winter and spring forage. Loss of these pastures would upset the grazing scheme of which these pastures are a part and would limit flexibility of management options to use these pastures commensurate with annual fluctuations in forage production. Additionally, restriction to trailing use would deprive the livestock operator the use of unfenced private and State lands within these pastures unless he constructed expensive fencing to fence these lands from surrounding BLM lands. This loss of pasturage would necessitate a reduction in livestock numbers and/or the need to feed these displaced stock on hay for the lost seasons of use. None of these are good options or outcomes for the livestock operation.

Only one terrestrial AIM plot is used to justify the trailing only use. Using only the data from one plot when more plot data would be desirable is risky and can lead to incorrect conclusions. And when the plot location is not representative of the area this only compounds the problem. The sole plot is located on private land which is not a good representative location for the pastures for various reasons. For one, this private land was irrigated and farmed in the early 20th century. This agricultural use would have changed the vegetation and possibly the soil make-up so as to create a site different from the majority of other parts of the pastures which are native range. After farming ceased, the area was likely heavily grazed as was the practice at that time and may have been used as a gathering area for seasonal movements of livestock. Such use would have likely affected the vegetation and soils for decades. Furthermore, this terrestrial AIM plot is located in bottomland which is also not representative of the benchlands which are the majority of the grazed lands in these pastures.

And, the interpretation of this plot data is inconsistent with BLM's upland study plot data. The BLM plot shows a predominantly upward trend in site condition over the past 40 years of data collection during livestock use. Forage utilization in these pastures has been at light to moderate utilization levels with more seasons at light use levels. In fact, BLM's utilization studies show an average utilization rate of 24% (light category) from 2016 to 2024. BLM range staff have not identified any site condition in these pastures that would warrant restriction of grazing to trailing only.

In addition, the lotic sampling data was taken from two plots within a 4 mile segment of the drainage which may not be representative of the entire 12 mile segment of the drainage. These samplings spanned a 9 year period which included two of the severest droughts in history and 2 of the highest snowpacks in 30 years. These extremes in weather conditions and their effects on sampling data were not considered in the analysis of this data. One site was sampled during high spring runoff (heavy snowpack year) which makes accurate sampling of macroinvertebrates difficult. Other parameters of nitrogen and phosphorous levels were cited as indicators of deteriorated water quality but we understand that Utah Division of Water Quality does not consider these levels an impairment to water quality in the drainage.

Furthermore, in the analysis of the study data used to limit livestock use to trailing, there was no conclusion drawn that livestock use was the cause of the site conditions. It seems that livestock use was arbitrarily determined to be the use that would be changed to improve site conditions.

We conclude that the restriction of livestock to trailing use was based on limited study data from sites which are not representative of the area, from times when accurate sampling may be difficult to obtain and interpreted with no clear tie to livestock grazing as the cause of these conditions. For these reasons we recommend that the restriction to trailing not be implemented.

Range Improvements

The prohibition of new range improvements or modifications to existing range improvements (Section 2.4 Detailed Descriptions of the Alternatives, p. 2-122, line 308) unless the primary purpose is to protect BENM objects is an interpretation inconsistent with the Proclamation. The Proclamation states that livestock grazing shall be managed "...consistent with the care and management of the objects...". We interpret this to mean that livestock grazing management shall be conducted so as not to damage or negatively impact the objects. This does not mean that livestock grazing's purpose is to protect the objects but that it is a use that is conducted so as not to negatively impact or damage the objects. There is a difference between doing no harm and protection. This strict interpretation of protection as to prohibit new range improvements or modifications of existing range improvements places a restriction on livestock management that is contrary to the Proclamation's instruction for the conduct of livestock grazing. We recommend revising this prescription to read similar to "New range improvements or modifications to existing range improvements are allowed so long as they do not damage or negatively impact the objects".

Areas of Critical Environmental Concern (ACECs)

Aquifer ACEC

We don't see the need for this ACEC and don't understand why it is designated in the PRMP. In other alternatives in the EIS where an ACEC is not carried forward it is stated that management actions for other resources would provide similar protection to the relevant and important values identified for the ACEC making ACEC designation unnecessary. Since the relevant and important values identified for this ACEC (waters including aquifers, scenic values, cultural and paleontological resources) are identified in the Proclamations as objects to be protected, ACEC designation would be redundant and unnecessary. Management prescriptions for these resources in various sections of the PRMP including Best Management Practices adequately protect these resources.

For example, the Management Actions Common to All Action Alternatives in the Water Resources section of the plan has a lengthy list of actions designed to protect water resources. Among this lengthy list are:

- In collaboration with the Bears Ears Commission, manage watersheds and natural catchments to facilitate groundwater recharge
- For the portions of BENM that include the NABR groundwater protection zone, adopt management actions defined in the NABR groundwater protection zone plan.
- Adhere to Utah Division of Drinking Water restrictions on activities within public Drinking Water Source Protection zones (DWSP zones).
- Protect domestic water sources (water quality and water quantity) as defined by the U.S. Environmental Protection Agency (EPA).

Management actions for other resources identified in the ACEC are similar in their protective prescriptions for these resources. Designation of an ACEC is therefore redundant and unnecessary and would only add to confusion in interpreting the vast matrix of monument prescriptions. Please do not designate this aquifer ACEC.

Travel and Transportation Management

Closing roads is not a land use planning level decision where a travel management plan is not part of the planning process. Such decisions should be deferred to the

implementation planning level where public, agency, local and State government comments can be considered on the open or closed status of individual roads.

Apparently most of the OHV closed areas derive from management for protected Lands with Wilderness Characteristics (LWC) where existing roads are to be closed consistent with protection of the character of these lands. We don't understand how an area with a road or roads can be classified as land with wilderness characteristics when the presence of a road or roads means non-wilderness character. In many cases these roads could be "cherry-stemmed" out of the LWC area but in no case should a road be closed other than at the implementation planning level. These roads are part of San Juan County's ATV/OHV Trail System so any closure of these roads would be inconsistent with the County Master Plan. We strongly oppose any road closures in the Final Plan.

Lands with Wilderness Characteristics

We still do not support the management of additional Lands with Wilderness Characteristics (LWCs, 421,965 acres or 31% of the Monument). Even though management of these areas has been differentiated in the PRMP between LWCs where wilderness characteristics are protected and LWCs where impacts to these characteristics are minimized, these measures are unnecessary under Monument-wide protective management.

Management of these areas as LWCs under either mode directly conflicts with County policy which supports multiple uses and opposes managing lands primarily for wilderness characteristics (San Juan Resource Management Plan 2022, decision Making criteria and Land Use Policies pages 3 and 8 and Wilderness page 13).

The Bears Ears Monument already includes 11 WSAs (Wilderness Study Areas totaling 377, 118 acres or 28% of the Monument) managed to protect wilderness characteristics. Management of additional LWC acres as defacto WSAs would place nearly 60% of the Monument under wilderness-type management. Such restrictive management over such a vast acreage would likely prohibit future (and possibly existing) range improvements that would facilitate improved grazing management with resultant improved range conditions. Such management could also preclude future infrastructure placement that may be necessary or desirable for Monument management. We recommend re-evaluating the need for restrictive LWC management within the Monument.

We appreciate this opportunity to provide protest items for this planning process and hope our concerns can be resolved in the final plan.

Sincerely,

Jamie Harvey
Commission Chairman

cc: Moab BLM District Manager
Monticello BLM Field Office Manager