



SAN JUAN COUNTY COMMISSION

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June 4, 2024

Jared Lundell, Monument Manager
ATTN: Monument Planning
BLM Monticello Field Office
365 North Main
Monticello, Utah 84535

Re: Comments on Bears Ears Monument Draft Plan/EIS

Dear Mr. Lundell:

We have reviewed the Bears Ears Monument Draft Plan and EIS and offer the following comments in the spirit of improving the plan and future management of the Monument. Numerical references in the comments refer to sections of the draft plan/EIS.

General Comments

1. Management of the Monument requires agency collaboration/consultation with the Bears Ears Commission (BEC) which is a new requirement for the agencies specific to the Monument. We hope that this additional level of consultation will not unduly add to the time needed to develop decisions for management and operation of the Monument. Monument lands are critical assets to the livestock grazing, recreation and tourism components of the county economy. Any undue delays in developing management decisions may adversely affect the operators whose businesses depend on use of monument lands as well as recreational tourism based on these lands. These operations are important contributors to the County economy so any delays in decision-making affecting these operations could also affect the County economy. As the agencies work through this collaboration process we encourage them to develop administrative procedures that contribute to timely decision-making.

2. The draft plan primarily focuses on management actions for protection of Monument objects. While this may seem to be a reasonable and justifiable approach, it relegates the health and safety of Monument visitors, those who travel through the Monument without visiting and the daily operations of various components of the County economy to a 'back seat' status in relation to this protection policy. Restrictive and preclusive management prescriptions in some alternatives for programs such as Lands With Wilderness Characteristics, Rights-of-Way, Visual Resource Management and others would preclude infrastructure such as communication towers which would be critical for the health and safety of the public as well as the economy of the County. The plan must include provision for allowance for such or similar infrastructure. Allowance for future infrastructure could still protect Monument objects while providing for public

health and safety, a viable County economy, contribute to better coordination among County, tribes and federal and state agencies and overall better management of the Monument. Please add such provision(s) to appropriate sections of the plan.

Coordination with State and Local Governments

Coordination of BLM land use plans with those of State and local governments is a requirement stated in the Federal Land Policy Management Act (FLPMA). Among the coordination directions stated in FLPMA are the requirement for meaningful involvement of State and local government officials in the development of federal plans and the requirement for federal plan consistency with State and local government plans to the maximum extent consistent with Federal law and the purposes of FLPMA. This coordination requirement is in addition to the Cooperating Agency relationship (which San Juan County accepted) which is derived from NEPA.

Meaningful coordination was not practiced by the agency to the extent it could have been exercised. Utah's Public Lands Policy Coordinating Office (PLPCO) current comment letter lists several examples of agency shortcomings in coordination. A prime example is the development of Alternative E in which the Cooperating Agencies had no participation. Neither did the Cooperating Agencies have a say in determining that this alternative would be the "Preferred Alternative". San Juan County fully supports and incorporates by reference PLPCO's comments on coordination.

Some alternatives have management prescriptions that are inconsistent with the County Resource Management Plan (RMP). Examples of these inconsistencies are pointed out in various sections of this comment letter such as Lands with Wilderness Characteristics, Rights-of-Way, Travel and Livestock Grazing.

Volume 1

1.6.1 Federal Plans and Policies

p. 1-8 and 1-9 There is no mention anywhere in the DEIS of the on-going revision of the 1986 Forest Plan and how it would relate to the Bears Ears Monument (BEM) Plan. All references are made to the 1986 Plan and that it would be superseded by the BEM Plan in the Planning Area where 1986 Plan direction conflicts with BEM Plan direction. We think it would be useful to state that the 1986 Forest Plan is being revised and would defer to the BEM Plan where plans conflict. This may help the public better understand the whole planning situation currently affecting Forest Service lands.

2.4.5 Soil Resources

p.2-17 Slopes and Surface Disturbance

In Alternative E it appears the word "new" was left out as the adjective for discretionary actions. "New" is included in the other action alternatives so it is unknown whether its omission in Alternative E is intentional or unintentional. Please clarify as this is critical to understanding the alternative.

2.4.6 Water Resources

p. 2-18 Goals and Objectives 1st bullet statement “Collaborate with the BEC...” leaves out grazing permittees and State agencies that should also be included in a discussion of water resources. Please add these entities to this section.

p. 2-18 Management Actions Common to All Action Alternatives (MCAs)

The 11th bullet statement calls for “additional water quality standards” in collaboration with the BEC. It would be useful for better understanding and analysis if some examples of these additional standards were given. In addition, this bullet statement should include reference to State law along with the listed federal law.

2.4.9 Lands with Wilderness Characteristics

p. 2-35 Table 2-8

San Juan County would not support the management of additional Lands with Wilderness Characteristics to preserve their wilderness character. Such restrictive, protective management in addition to protective management as a National Monument and other management designations would be excessive and unnecessary. Such management would restrict access and recreational uses of vast acreages of the Monument (approximately 39% of the Decision Area in Alternatives D and E) in addition to acreages already managed under wilderness or WSA designation. This management would further confine and restrict potential ROWs that may be necessary for management of the Monument as well as future infrastructure key to operation of the County economy. It is expected that such restrictive management would also compromise future range improvements that would facilitate grazing management and improvement of range condition.

Management of additional areas to preserve wilderness characteristics would directly conflict with County policy which supports multiple uses and opposes single resource management schemes and 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).

2.4.11 Wildlife and Fisheries

p. 2-50 Table 2-10 Fence Locations

In determining fence locations and fence standards the agencies must also coordinate with grazing permittees and UDWR in order to make the best decisions. Please add these entities to this prescription.

2.4.13 Visual Resource Management, Night Skies and Soundscapes

p.2-58 Visual Resources

The proposed high percentages of VRM I and II particularly in Alternatives D and E is overly restrictive and would likely preclude the development of future infrastructure (including range improvements and communications facilities) needed for management of the Monument. Additionally, the logic and credibility of the VRM and SIO systems would suffer if large areas are “converted” from their current VRM III and IV and lower SIO classifications to higher

classifications as in Alternatives D and E. This may be alright for analysis purposes in a range of alternatives but would not be practical. If an area is currently rated as VRM III or IV or a lower SIO class, is it credible to “magically convert” such classes to the highest classes with the stroke of a pen? Visual resource ratings should be consistent with current conditions as rated through agency evaluation procedures. We recognize that there is some leeway in making these evaluations. We recommend selecting a higher ratio of existing visual classifications to contrived classifications for practical management. Such a management strategy would still provide protection for BEM objects.

2.4.14 Cultural Resources

p.2-62 Cultural Resource Management Plan

Alternatives B and E should include the Hole-In-the-Rock Foundation (or similar group) in the development of a Cultural Resource Management Plan. This group or groups would have historical knowledge on the Hole-In-The-Rock Trail, settlement of Bluff and other historic features and events that would be a part of this Plan.

2.4.19 Lands and Realty

p. 2-73 ROWs

To designate 98% of the BEM in a ROW exclusion category in Alternative E would severely and unnecessarily limit the placement of future infrastructure that may be needed to maintain a viable county economy as well as management of BEM. We can't predict the future need for such infrastructure such as power transmission systems and communications sites and systems that would be prohibited with such an extensive exclusion designation. Curiously, these vast exclusion areas on BLM administered lands are out of sync with ROW designations on Forest lands which are predominately classified as avoidance areas. Any of the other action alternatives would be more reasonable while still providing protection of BEM objects than would Alternative E. Higher percentages of ROW exclusion areas would be in conflict with the County RMP which supports the development of utility corridors and power and communications systems (San Juan County Resource Management Plan, Utility Corridors and Pipelines and Infrastructure, 2022).

p. 2-75 Filming Permits

The prohibition of commercial filming in Alternatives D and E may be alright for analysis of a range of alternatives but would be unreasonable if this is included in the final plan. The BEM includes some of the most scenic locations in the county and many such as Valley of the Gods, Moki Dugway and Indian Creek areas have been the locations for commercial filming. San Juan County and local communities have benefitted economically from such filming operations. We would hope that a more reasonable approach would be selected such as Alternative B to allow some degree of commercial filming beneficial to local economies. This would be more consistent with County policy to “Work in cooperation with public land-management agencies to permit and promote special uses, events and activities that support the local economy.” (San Juan Resource Management Plan, Land Use, 2022).

p. 2-78 Wind and Solar

Wind and solar energy developments are prohibited in Alternatives B through E. A strict interpretation of this could prohibit development of localized renewable energy developments necessary to power infrastructure needed for management of the BEM. We suggest an exception clause be added to this prescription to allow for such developments. Chapter 3 is missing a section on wind and solar energy. Inclusion of wind and solar in this chapter is needed for a more complete analysis and better understanding of the alternatives.

2.4.20 Recreation and Visitor Services

p.2-80 Management Common to All Action Alternatives

The 7th bullet statement includes "...the cultural landscape of the Monument requires rest during certain seasons of the year." This is an open ended statement without specifics so it is unclear what may develop from such a statement. It would help if specifics could be included so as to better understand and analyze the impacts such action(s) may have on uses in the BEM.

p.2-81 – 2-83 Campfires

In Alternative E campfires are restricted to metal rings where available or to fire pans with ashes being hauled away. This very restrictive prescription for campfires may be OK for analysis purposes in a range of alternatives but is not reasonable or necessary for the entire BEM. Considering the vast expanses of the 1.36 million acre monument, there are many areas where visitation and camping occur infrequently or at levels that do not cause problems with monument objects or detract from the landscape. It would be more reasonable to select an alternative where restrictions on campfire use would be implemented only where necessary at sites where camping and campfire use are causing a problem.

p. 2-82 Route Re-evaluations

In the Outback and Remote Zones it is unclear what is meant by "Designated routes would be re-evaluated through future implementation-level travel planning...". Nearly all of the designated routes listed for re-evaluation are major roads accessing various parts of the Monument. These roads serve recreational as well as Native American access needs in addition to being an essential part of the County's transportation network. We suppose it is a given that all roads, regardless of how well used and important they may be, would be subject to evaluation in implementation-level travel planning. However, listing all major roads in this planning document is redundant and unnecessary unless a specific undisclosed purpose to do so is intended. Please clarify why this is included in this alternative. Likewise it is a given that State and local governments should be included in any re-evaluations of roads and these governments should be listed for inclusion in any route re-evaluation exercise.

p. 2-114 Recreational Shooting

The prohibition of recreational shooting over vast landscapes as proposed in alternatives D and E is unrealistic and unnecessary. Recreational shooting, while not a major use of these areas, is an important use enjoyed by many. Whether this is done by families teaching their children firearms safety and shooting skills or by sportsmen and sportswomen honing their shooting skills or just plain enjoying the use of firearms, this is a custom and lifestyle of local citizens as

well as the western way of life. We agree that recreational shooting is not appropriate in campgrounds, parking areas, trailheads and other locations as listed in Alternative B, but we think that the limited and sporadic occurrence of recreational shooting throughout most of the BEM would be acceptable and not likely to cause problems. Page 3-431 of Volume 1 states that there is minimal recreational shooting in the Monument so we don't see the need to prohibit such a limited activity. We do not support a ban of recreational shooting over vast areas. We recommend that recreational shooting be allowed over most of the Monument and prohibition of such shooting only be implemented if problems develop.

2.4.21 Travel and Transportation Management

p. 2-116 Management Actions Common to All

1st bullet, 2nd sentence: Add State as in "Agencies would coordinate with *State* and local government and the BEC...".

p. 2-116 Table 2-20 Road Closures

Alternative D (and to a lesser extent in other alternatives) includes a significant number of road closures due to these roads being within proposed OHV closed areas. Apparently these closed areas coincide with LWCs where wilderness characteristics are to be protected. Such a major closure of roads without any site specific analysis is arbitrary and contrary to the process of site specific road analysis that would be used in implementation level travel planning. Such an arbitrary method precludes meaningful public and local government input which could better inform decision-making and is inconsistent with guidance for requiring inclusion of the public and coordination with local government in land use planning. In addition, these closures would be inconsistent with San Juan County's Travel Plan which includes these roads. Closure of the roads in Bull and Imperial Valleys would also be inconsistent with Glen Canyon National Recreation Area's OHV Plan which recognizes the continuance of these roads from BLM lands onto the NRA. We recommend deferring consideration of any road closures to the travel planning (implementation level) stage.

Alternatives D and E include closure of Arch Canyon to OHV use. Such closure would be inconsistent with the San Juan County Resource Management Plan (RMP) including the County Travel Plan, as well as the County's long history of advocating and fighting for the retention of motorized access in the canyon. The objectives and policies in the Land Access section of the County RMP state the importance of an extensive transportation network vital to the "management, development, protection, use and enjoyment of lands and resources and to maintain the culture and lifestyle of the County...".

Arch Canyon is a well known destination for motorized recreation popular with local residents as well as visitors. It is a popular route on the annual San Juan ATV Safari and is used by two commercial outfitters as one of their routes. Various groups have used and continue to use the canyon as a motorized route authorized under agency Special Recreation Use Permits. It is a popular route with local residents who have enjoyed motorized access into the canyon for at least the past six decades. It is a route on the San Juan County Travel Plan as well as its ATV/OHV Trail System.

In 1990, BLM made an Administrative Determination recognizing the County's claim to an RS2477 Right-of-Way for the Arch Canyon Road and determined that the road was a public highway under this statute. Although this determination was contested and is still under litigation, BLM has continued to recognize and affirm the public's right to motorized use of this road and has periodically concurred with maintenance of the road by the County. In 2012, BLM authorized the County to re-route the lower section of this road under a Title V Right-of-Way Grant so the road would bypass a flooded area.

San Juan County does not support a closure of Arch Canyon to OHV use.

p. 2-121 OHV Impacts

All Action Alternatives: Any travel restrictions considered must also be coordinated with State and County governments.

p.2-123 San Juan ATV/OHV Trail System

The 2020 BEM Plan recognized the San Juan County ATV/OHV Trail System with direction to "integrate it to the extent possible" in future travel planning efforts. We are disappointed that similar direction is not included in any of the action alternatives. San Juan County and volunteer groups have worked hard over past decades to develop, maintain and promote this system. It is an important part of the travel network that allows recreationists unique experiences to enjoy the natural settings of the County including the Monument. This system is part of the County General Plan for which the BEM Plan must be consistent to the "maximum extent...consistent with Federal law...". San Juan County would not support any decision that does not give full consideration for inclusion of its ATV/OHV Trail System in travel planning.

p. 2-124 Modifications of Roads for Wildlife

Alternative E: In any consideration for adaptation of trails, roads and OHV routes to allow wildlife movement, Utah Division of Wildlife Resources, County and State governments must be included along with the BEC and Tribal Nations.

2.4.22 Livestock Grazing

p. 2-124 – 2-132

The entire section on livestock grazing liberally uses the phrase "protect" or "protection of BEM objects" in reference to livestock grazing and range improvements. This is an incorrect interpretation of how livestock grazing is to be managed and is inconsistent with the Proclamations. The Proclamations use the phrase "consistent with the care and management of the objects" in relation to livestock grazing. "Care and management" implies some degree of flexibility in regard to BEM objects rather than "protection", which, in a strict interpretation, could mean a prohibition of some uses that could affect BEM objects. Since BEM objects seem to be loosely defined as being almost anything within the Monument boundaries including soils, waters, vegetation, wildlife, landscapes, soundscapes, viewsheds and cultural objects among others, a strict interpretation of "protection" could severely limit or prohibit livestock grazing and the use and construction of range improvements necessary to facilitate grazing management.

Prohibition of livestock grazing was not the intent of the Monument Proclamation authors as it is specifically provided for “consistent with the care and management of the objects”. All use of the word “protect” in the livestock grazing section of the draft plan should be replaced with the proper wording of “consistent with the care and management of the objects” to be consistent with the intent and wording of the proclamations.

p. 2-125 Management Actions Common To All Alternatives (MCAs)

2nd and 5th bullets: Grazing permittees are omitted in these statements and must be included. This would be consistent with BLM and FS grazing management policy to include consultation and coordination with grazing permittees in managing rangeland resources and livestock grazing. This affords permittees the opportunity to provide their knowledge gained from experience on the land and gives them the opportunity to “buy in” to decisions and just makes practical sense to do so. Please add grazing permittees to these statements.

p. 2-125 Areas Unavailable to Livestock Grazing

The exceptions in Alternative E appear to be unrelated to the other alternatives but are likely actions included in the MCAs. Please revise this alternative for clarification and better understanding of all alternatives. The 2nd bullet statement should be deleted as this is procedure addressed in the grazing regulations which is unnecessary to repeat here.

p. 2-126 Voluntary Permit Relinquishment

Delete the 3rd sentence in Alternative B: “ If a holder voluntarily relinquishes its grazing permit or lease, or portion thereof, the lands covered by such permit or lease, or portion of the lands, would automatically become unavailable for livestock grazing in accordance with Proclamation 10285.” Relinquished permits do not automatically become unavailable for livestock grazing as the Proclamation specifically states that the Secretary has the option of re-allocating relinquished forage if doing so would advance the purposes of the Proclamations. The statement to be deleted is incorrect and would lead to misinterpretation of the Proclamations.

Additionally, retirement of lands from grazing, even if done so voluntarily by a grazing permittee, is contrary to policy in the County RMP. County policy is to support continued properly managed grazing rather than conversion to conservation or other uses.

p. 2-126 Voluntary Relinquishments

The 5th bullet statement includes instruction to “manage the lands previously subject to the voluntarily relinquished permit or lease consistent with the goals and objectives for Wildlife and Fisheries in Section 2.4.11.1. “ It is unclear why wildlife and fisheries were selected over all the other objects in the BEM for management. It may be more reasonable to manage these lands for watershed or rangeland health.

p. 2-127 Forage Utilization Levels

Alternative E includes the statement “Utilization levels would take forage needs of wildlife into consideration.” This statement should be deleted as this is standard procedure for the agencies in determining utilization levels and is unnecessary in this document.

p. 2-127 & 128 Water Developments and Range Improvements

The restrictions on water developments and range improvements are extreme and troubling in reference to the Proclamations and their intent for the management of livestock grazing. Requiring new and existing water developments and range improvements to meet the criteria of “protecting BEM objects” is an almost impossible threshold to reach, is unreasonable and is inconsistent with the intent and wording in the Proclamations as pointed out above. Prohibition of new and removal of existing water developments and range improvements would severely hinder the management of livestock and severely reduce the capability of using livestock grazing as a tool for improvement of rangeland condition. Additionally, prohibiting new range improvements would conflict with County RMP policy which supports the implementation of rangeland improvement projects (Livestock and Grazing p. 76).

It appears that the extremes stated for the range of alternatives as to water developments and range improvements are inconsistent with the wording and intent for livestock grazing as stated in the Proclamations. We recommend wording such as stated in Alternative B be included for all alternatives and be added in the section “Management Actions Common To All Alternatives”.

p. 2-128 Livestock Trailing

The prohibition of livestock trailing along riparian areas is unreasonable unless justified by monitoring data as the movement of livestock among different pastures of some allotments requires the use of riparian areas as the most practical routes of moving livestock in rugged canyon country where the canyons and associated riparian areas are the natural travel ways. Likewise, the prohibition of grazing along riparian areas is unreasonable as prohibition would require the fencing off of riparian areas or cowboys working full time to keep livestock out of riparian areas. And, in many instances, water in riparian areas may be the only source of livestock water for a large area. Preclusion of grazing in riparian areas and thereby precluding access to stockwater would, in effect, make livestock grazing impractical in these areas. Livestock grazing management can be designed to allow livestock access and grazing in riparian areas either seasonally and/or at designated access points. Doing so would allow livestock to be used as a tool to improve riparian condition and would be a reasonable alternative to broad scale prohibition of use. More reasonable and practical management of riparian areas would be to “limit” or “avoid” livestock trailing and grazing in riparian areas rather than to prohibit these uses entirely.

3.5.5 Environmental Justice and Social and Economic Values

p.3-363 Economic Contributions

2nd full paragraph, 1st sentence: This statement reads “...if grazing permittees decide to voluntarily relinquish their permits or lease, the lands under the allotments would be retired from livestock grazing.” Retirement from grazing may not always be the case as the Proclamation states that the Secretaries may reallocate the forage in the relinquished permit for livestock grazing purposes if doing so would advance the purposes of the proclamation. Clarification should be added to the end of the statement such as ‘*unless the Secretaries find that reallocation of forage for livestock use would advance the purposes of the Proclamations.*’

p. 3-376 Table 3-118 AUMs by Alternative

AUM figures in Table 3-118 don't match with those shown in Table 2-2 p. 2-131. For instance, Allocated AUM figures in Alternative E (63,894 total BLM and NFS) don't match with those shown in Table 2-2 Alternative E (72,694 total) and information for Alternatives A, B and C in Table 2-2 doesn't match with that in Table 3-118. This is confusing and hinders understanding of the alternatives. Please correct these inconsistencies.

Volume 2

Appendix A – Figures

p. A-31 Figure 2-28 FS Recreation Opportunity Spectrum Classes

Figure 2-28 is not labeled as to which alternative it represents. In Volume 1 under 2.4.20 Recreation and Visitor Services subsection 2.4.20.2 Management Common to All Alternatives, the 4th bullet statement refers to Figure 2-28 as representing ROS classes in all alternatives. From this statement a reader of this document would logically conclude that ROS classes in this figure depict ROS classes in all alternatives including Alternative A. This would be a false conclusion as the figure does not represent current ROS classifications in Alternative A. Figure 2-28 shows more non-motorized ROS class areas than are currently present in Alternative A. One example is the Davis Canyon-Seven Sisters area shown as SPNM but is in fact SPM in the 1986 Plan. Figure 2-28 gives the public the impression that ROS class areas would not change from the present when in fact they are changed in the action alternatives. This misconception skews the public's understanding of changes proposed in ROS classifications and hinders their ability to make meaningful comments on the EIS. This same inaccuracy is also depicted in Figure 3-39, Table 3-133 and in the "FS BENM ROS Draft" layer of BLM's e-planning interactive map. Please correct this inaccuracy by labeling Figure 2-28 as applying to Alternatives B-E, adding a figure depicting current ROS class areas for Alternative A and correcting Figure 3-39, Table 3-133 and BLM's interactive map.

p. A-89 Figure 3-40 Current Travel System

Ride with Respect has brought to our attention that this map inaccurately labels at least 15 motorized routes on the National Forest as being non-motorized. We have checked their observations and have found that the following routes are mislabeled as non-motorized (using National Forest road/route numbering system):

- 203 – off Heifer Mesa Trail
- 008 – off Maverick Point into North Cottonwood
- 5067 – old mining roads west side of North Cottonwood
- 5069 - “ “
- 5070 – “ “
- 445 – Gooseberry to South Cottonwood
- 938 – south off North Long Point Road
- 939 – to end of Poison Point
- 940 – off 5163 head of Drift Trail Canyon
- 942 – complex SW of Dry Wash Reservoir

455 – off Causeway Road E of Bayles Ranch

456 - “ “

489 – off Kigalia Point Road to west

023 – North off Dry Mesa Road

482 – off Elk Ridge Road SW of Bears Ears

Please correct this map to reflect road status on the current travel plan.

Appendix H Travel Management Plan Criteria

p. H-1 Section 1 BLM Travel Management Plan Criteria for Area Designations

The 43 CFR section referenced here appears to be a typographical error. Rather than 43 CFR 8343.1 it should be 8342.1.

Appendix M- Amendment Language to Manti-LaSal National Forest Land and Resource Management Plan

p.M-3 Standard

It appears that referencing Appendix G for the Bears Ears Management Plan in the revised Standard is an error. Appendix G is Best Management Practices which are implementation practices under the umbrella of management prescriptions in the BEM Plan. We recommend deleting reference to Appendix G and leaving the Standard to read “...shall be managed per the Bears Ears National Monument Resource Management Plan.”

We appreciate this opportunity to comment and trust you will give full consideration to our comments including their relationship to mandated direction for coordination with state and local government plans in agency planning efforts.

Sincerely,

Jamie Harvey
Commission Chairman