

Technical Comments on the Bears Ears National Monument Resource Management Plan Draft Environmental Impact Statement

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Submitted by the Grand Canyon Trust, Southern Utah Wilderness Alliance, National Parks Conservation Association, The Wilderness Society, Western Watersheds Project, Center for Biological Diversity, Sierra Club, Great Old Broads for Wilderness, Conservation Lands Foundation, WildEarth Guardians, Natural Resources Defense Council, and Coalition to Protect America's National Parks

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1. Introduction

Over many years, we have thought deeply and deliberated carefully about the future of the public lands that we love and steward, and the collective experience in land management planning of the authors and readers of these comments stretches over many decades. While all of these plans are important, this one stands out. More than just zoning uses and allocating resources here and there, the management plan for Bears Ears National Monument (BENM, Bears Ears, or Monument) presents an opportunity to practice restorative justice for both individuals and Native Nations.

Most national monuments protect only lands and objects of historic and scientific interest, but this one is the first to protect Traditional Knowledge. Barack Obama's Proclamation 9558 reads,

The traditional ecological knowledge amassed by the Native Americans whose ancestors inhabited this region, passed down from generation to generation, offers critical insight into the historic and scientific significance of the area. ***Such knowledge is, itself, a resource to be protected and used in understanding and managing this landscape sustainably for generations to come.***

If done right, the Bears Ears plan will set a new model that furthers Indigenous voices in the management of ancestral public lands by understanding and incorporating Traditional Indigenous Knowledge (TIK). Though public land managers have worked with tribes on collaborative management elsewhere, the Bears Ears plan represents a big step forward into a new era—one where tribes and federal land managers collaborate and cooperate in decision making. Alternative E, the preferred alternative, could set a new framework for how ancestral lands are managed using Indigenous science, Traditional Indigenous Knowledge, and Traditional Ecological Knowledge (TEK). But all the pieces must fall in line, and they must do so quickly.

Our coalition of conservation organizations does not seek additional analysis, which we believe is unnecessary. Our suggestions and proposals for the FEIS include only management prescriptions and actions that have already been analyzed in the alternatives presented at the DEIS stage. While we generally endorse Alternative E, we are aware that some elements of other alternatives (mainly Alternative D) can also honor tribes and Traditional Indigenous Knowledge while affording maximal protection of the objects and values for which the Monument was proclaimed.

Respectfully, we submit these comments in support of Alternative E with modifications that seek to best protect this matchless place. Our comments include the following overarching points that detail ways to best honor the Proclamations, the legal mandate for management of National Conservation Lands, and the federal Agencies' commitments to tribes while allowing for utilization of Traditional Indigenous Knowledge. **To aid the Agencies in reviewing these comments, we have also provided an attached Executive Summary.**

We commend the Agencies for taking their commitment to honoring tribes seriously, and we strongly support a final plan that is most protective of Bears Ears National Monument and the objects and values for which it was proclaimed in perpetuity.

These comments are submitted on behalf of the Grand Canyon Trust, Southern Utah Wilderness Alliance, National Parks Conservation Association, The Wilderness Society, Western Watersheds Project, Center for Biological Diversity, Sierra Club, Great Old Broads for Wilderness, Conservation Lands Foundation, WildEarth Guardians, Natural Resources Defense Council, and Coalition to Protect America's National Park

The **Grand Canyon Trust** is a 501(c)(3) regional non-profit conservation organization whose mission is to safeguard the wonders of the Grand Canyon and the Colorado Plateau, while supporting the rights of its Native peoples. We envision a Colorado Plateau where wildness, a diversity of native plants and animals, clean air, and flowing rivers abound; where sovereign Tribal Nations thrive; where a livable climate endures; and where people passionately work to protect the region they love for future generations.

The **Southern Utah Wilderness Alliance (SUWA)** is a non-profit environmental membership organization with members in all fifty states and offices in Utah, Washington, D.C., Chicago, Portland, and Maine. SUWA is dedicated to the sensible management of all federal public lands within the State of Utah, including the preservation and protection of plant and animal species, the protection of clean air and water, the preservation and protection of cultural and archaeological resources, and the permanent preservation of Utah's remaining wilderness quality lands. SUWA staff and members actively supported both President Obama's and President Biden's exercise of their authority under the Antiquities Act to designate the Bears Ears National Monument and preserve the objects and values identified in both Proclamations. SUWA staff and members have worked for decades to obtain permanent, heightened protection for the Bears Ears area.

The mission of the **National Parks Conservation Association** is to "protect and enhance America's National Park System for present and future generations." Founded in 1919, NPCA is the leading citizen voice for the national parks. We are a national non-profit with headquarters in Washington, DC, and 29 regional and field offices across the country, including our field office in Salt Lake City, Utah. NPCA represents over 1.6 million members and supporters who care deeply about America's shared natural and cultural heritage preserved by the National Park System.

The **Wilderness Society** is dedicated to uniting people to protect America's wild places. We see a future where people and wild nature flourish together, meeting the challenges of a rapidly changing planet. To accomplish that vision, we work to ensure that public lands are a solution to the climate and extinction crises and that all people benefit equitably from public lands. We focus our work in landscapes across the country that we have identified as the most biologically rich, large-scale landscapes to protect and connect, working in partnership with communities,

tribes, state and federal agencies, conservation organizations, and many others to advance habitat conservation, connectivity, ecological resilience, and equitable access to nature.

Western Watershed Project is a west-wide non-profit 501(c)(3) membership organization dedicated to protecting and conserving the public lands and natural resources of watersheds in the American West. WWP has over 11,000 members and supporters, including members who live in Utah. WWP is active in seeking to protect and improve the riparian areas, water quality, fisheries, wildlife, and other natural resources and ecological values of western watersheds. To do so, WWP actively participates in agency decision-making concerning Forest Service and BLM lands throughout the West, and the Forest Service and BLM's management of livestock grazing in Idaho, Nevada, Utah, Colorado, Arizona, Montana, California, Oregon, and Wyoming.

The **Center for Biological Diversity** is national, non-profit organization dedicated to the protection of endangered species and wild places through science, policy, and environmental law. The Center is headquartered in Tucson, Arizona, with offices throughout the United States, and includes staff who reside in Salt Lake City. The Center has more than 79,000 members and over 1.7 million online activists who are dedicated to the protection of endangered species and wild places.

The **Sierra Club** is the largest grassroots environmental organization in the U.S. In addition to protecting every person's right to get outdoors and access the healing power of nature, the Sierra Club works to promote clean energy, safeguard the health of our communities, protect wildlife, and preserve our remaining wild places through grassroots activism, public education, lobbying, and legal action.

Great Old Broads for Wilderness is a women-led national grassroots organization that engages in and inspires activism to preserve and protect wilderness and wild lands. Our volunteer-led chapters, located in rural and urban communities across the nation, organize members to engage as advocates to protect and steward wilderness and wild places.

Conservation Lands Foundation is a 501(c)(3) non-profit organization that promotes environmental conservancy through support of the National Conservation Lands and preservation of the outstanding historic, cultural, and natural resources of those public lands. CLF works to protect, restore, and expand the National Conservation Lands through education, advocacy, and partnerships. CLF achieves its mission by working with and supporting the Friends Grassroots Network (FGN). The FGN consists of over 80 organizations located in 13 states, including Utah, to foster and implement a national strategy to promote the protection of the National Conservation Lands.

WildEarth Guardians is a registered 501(c)(3) non-profit organization, incorporated in New Mexico, dedicated to protecting and restoring the wildlife, wild places, wild rivers, and health of the American West. The organization regularly participates in federal public lands management agencies' decision-making to advance its mission. WildEarth Guardians has more than 179,000 members and supporters, including many who visit public lands in Utah for recreational and professional pursuits.

The **Natural Resources Defense Council, Inc.** (NRDC) is a non-profit environmental membership organization with hundreds of thousands of members nationwide. Part of NRDC's core mission is to preserve the earth's wild places and wildlife, to safeguard the integrity of undeveloped lands, and to prevent the destructive impacts of extractive industry exploration and development on public lands. NRDC uses the power of law, science and people to further its mission. NRDC has a longstanding commitment to the protection of federal public lands in Utah and was actively involved in advocating for the designation of the Bears Ears National Monument.

The **Coalition to Protect America's National Parks** represents over 2,200 current, former, and retired employees and volunteers of the National Park Service, with over 45,000 collective years of stewardship of America's most precious natural and cultural resources. Our membership includes former National Park Service directors, deputy directors, regional directors, and park superintendents. Recognized as the Voices of Experience, the Coalition educates, speaks, and acts for the preservation and protection of the National Park System, and mission-related programs of the National Park Service.

2. Protection of Monument Objects and Values

The release of the Draft Bears Ears National Monument Plan and Environmental Impact Statement represents a historic step forward for both land management and tribally-inclusive land management. We applaud the Agencies and the five Tribes of the Bears Ears region for this significant accomplishment. We fully support the finalization of the plan and appreciate that the preferred Alternative, Alternative E, was designed to maximize the use of Traditional Indigenous Knowledge in decision-making.

However, the final plan must incorporate additional management provisions and other improvements, as outlined below, to ensure the protection of Monument objects and values. Presidential Proclamation 10285 specifically states that the management plan for BENM shall be developed "for purposes of *protecting and restoring* the objects identified above" (emphasis added). Section 302(a) of FLPMA further clarifies that "the Secretary shall manage the public lands under principles of multiple use and sustained yield, in accordance with the land use plans... *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.*" 43 U.S.C. § 1732(a) (emphasis added). Courts have recognized that this provision requires BLM to manage lands in accordance with monument proclamations¹ and that agency compliance with proclamations is reviewable under FLPMA. *See, e.g., Mont. Wilderness Ass'n v. Connell*, 725 F.3d 988, 998 n.8 (9th Cir. 2013). *See also W. Watersheds Project v. Bureau of Land Mgmt.*, 629 F. Supp. 2d 951, 968 (D. Ariz. 2009) (finding monument proclamation provided "law to apply,"

¹ *Wilderness Soc'y v. United States BLM*, 822 F. Supp. 2d 933, 938 (D. Az. 2011) ("Pursuant to the Proclamations, BLM is mandated to "protect" Monument objects"), *affirmed* 526 Fed. Appx. (9th Cir. 2013).

and so was reviewable). FLPMA requires the multiple-use management framework to give way when other law requires the elevation of a specific use. The mandate to protect the objects and values for which the BENM was designated overrides the multiple-use mandate.

Congress has reaffirmed the need to manage national monuments to protect the objects and values for which they were designated by directing that they be managed as part of the National Landscape Conservation System (NLCS). The purpose of this system 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.” 16 U.S.C. § 7202(a). Components of the NLCS must be managed in a manner that “protects the values for which the components of the system were designated.” 16 U.S.C. § 7202(c).

To fulfill its management obligations, BLM must assess the compatibility of discretionary uses with the protection of monument objects and values, as the BLM has previously acknowledged.

Through the NEPA process, the manager with decision-making authority for a Monument or NCA will evaluate discretionary uses and will analyze whether the impacts of the proposed use in the Monument or NCA or similarly designated area are consistent with the protection of the area’s objects and values. As part of this analysis, the manager will consider the severity, duration, timing, and direct and indirect and cumulative effects of the proposed use. If necessary and appropriate, the BLM may use the land use planning process to consider whether to change discretionary use authorizations.

BLM National Monuments, National Conservation Areas, and Similar Designations Manual 6220, Section 1.6(c) (2017). Because the Agencies have not undertaken the compatibility analysis in the DEIS, they must do so as part of implementation-level planning and approval of site-specific projects. They must also ensure monument objects and values remain protected until implementation-level planning is completed. In our comments below, we have included default management prescriptions for this purpose.

Finally, to ensure that the management plan and implementation-level plans and projects protect Monument objects and values, the final plan must identify them. According to NLCS policy, land use plans must;

Clearly identify Monument and NCA objects and values as described in the designating proclamation or legislation; where objects and values are described in the designating legislation or proclamation only in broad categories (e.g. scenic, ecological, etc.), identify the specific resources within the designating area that fall into those categories;

BLM National Monuments, National Conservation Areas, and Similar Designations Manual 6220, Section 1.6.G.4 (2017). For BENM, the Proclamations identify a wide range of objects and values, all of which must be included. Because many areas of the Monument have yet to be

inventoried or monitored for cultural, ecological, and scientific resources, the final plan must make clear that the list of objects and values is subject to change and adaptation.

3. NEPA

To promote fully informed decision making and sound environmental analysis, the National Environmental Policy Act (NEPA) requires that the Environmental Impact Statement (EIS) briefly state the purpose and need to which the agency is responding in proposing alternatives, including the proposed action. 40 C.F.R. § 1502.13 (2022). For this planning process, the need for the Agencies' action arises from, and is constrained by, the Proclamation, which directs that BLM and FS "prepare and maintain a new management plan for the entire monument" for the specific purposes of "protecting and restoring the objects identified [in Proclamation 10285] and in Proclamation 9558."

The BENM DEIS defines the purpose and need of its proposal to develop a Bears Ears management plan as: "provid[ing] a framework, including goals, objectives, and management direction, to guide the management of BENM consistent with the protection of BENM objects and other applicable laws, regulations, and policies." DEIS, Vol. 1, p. 1-2. The Agencies' articulation of the purpose and need, with its specific reference to the mandate to protect BENM objects and values as directed by the Proclamation, is reasonable and complies with NEPA.

Developing the purpose and need statement is a vital and foundational step in the NEPA process, particularly since it informs the range of reasonable alternatives that an agency analyzes and considers to achieve the stated purpose and need for the action. See *Westlands Water Dist. v. U.S. Dep't of Interior*, 376 F.3d 853, 868 (9th Cir. 2004). As with the purpose and need statement, the range of alternatives is constrained by both the terms of the Proclamation and the objects and values of the Proclamation. Here, the Agencies developed and analyzed the potential effects of five different alternatives: the required No Action alternative and four action alternatives. Further expansion of these alternatives to allow for additional discretionary uses would arguably violate the directives of FLMPA and the Proclamations establishing the BENM.

4. Traditional Indigenous Knowledge (TIK), Traditional Ecological Knowledge (TEK), and Integrating TIK and TEK and Western Scientific Approaches.

The requirement to collaborate with the BEC and to integrate TIK and TEK into management planning and subsequent management decisions affecting the Monument is well established. We are concerned that Alternative E does not fully comply with this mandate.

When President Obama designated BENM, he established the Bears Ears Commission. Proclamation 9558 reads;

...[i]n recognition of the importance of tribal participation to the care and management of the objects identified above, and to ensure that management decisions affecting the monument reflect tribal expertise and traditional and historical knowledge...to provide guidance and recommendations on the development and implementation of management plans and on management of the monument.

President Obama specifically recognized that traditional knowledge is a resource to be protected and used in understanding and managing BENM. To protect this invaluable resource and ensure its incorporation into managing the Monument, Proclamation 9558 requires that:

- The BEC “may effectively partner with the Federal agencies by making continuing contributions to inform decisions regarding the management of the monument and to inform subsequent management of the monument.”
- “[I]n developing or revising the management plan, the Secretaries shall carefully consider integrating the traditional and historical knowledge and special expertise of the Commission or comparable entity.”
- “The management plan shall also set forth parameters for continued meaningful management with the Commission or comparable entity in implementation of the management plan.”

When President Biden re-designated the Monument, he re-established the BEC and ensured that Monument management will incorporate the traditional knowledge of the tribes:

...[i]n recognition of the importance of knowledge of Tribal Nations about these lands and objects and participation in the care and management of the objects identified above, and to ensure that management decisions affecting the monument reflect expertise and traditional and historical knowledge of Tribal Nations... [and] in accordance with the terms, conditions, and obligations set forth in Proclamation 9558 to provide guidance and recommendations on the development and implementation of management plans and on management of the entire monument.

Proclamation 10285.

BLM’s NLCS management manual also recognizes the importance of incorporating “the traditional knowledge and historic practices of local tribes and communities” into land use plans and science strategies addressing NLCS units with cultural values. BLM National Landscape Conservation System Management Manual 6100, Section 1.6.G.3 (2012).

Unfortunately, Alternative E is inconsistent in establishing the necessary parameters for continued meaningful collaboration with the Commission for implementation of the management plan and fails to integrate TIK and TEK in a number of essential areas. Throughout these comments, we provide a number of recommendations to address these omissions.

5. Soils and Biological Crusts

Proclamations 10285 and 9558

Soils and biological soil crusts are part of the “landscape’s intact ecosystem” described in the proclamation. The Goals and Objectives to protect highly sensitive soils, biological soil crusts, and all resources dependent on soil health align with the values of Proclamations 9558 and 10285, which recognize the important ecological role that the “diversity of the soils” play across the Bears Ears landscape. Alternative E further aligns with these values by incorporating TIK and culturally led standards to not only protect soil resources, but to restore and improve them for the benefit of the entirety of BENM’s nestled ecosystems.

Important Components from Alternative E

Soil Quality and Productivity

We appreciate the management action that commits to maintaining or improving “soil quality and long-term soil productivity using culturally led standards, identified in collaboration with the BEC, designed to benefit natural ecosystems, native species, and important relationships between water and soil” because it emphasizes the interconnected relationships between the soil and the myriad of life forms that constitute an ecosystem. DEIS, Vol. 1, p. 2-17, Table 2-4. Furthermore, this management action reflects the Monument’s intention, as identified in the Proclamations, to include the expertise and traditional and historical knowledge of the Tribal Nations who have stewarded these soils and ecological relationships for time immemorial.

Sensitive Soils

“If discretionary actions cannot be avoided on slopes between 21 percent and 30 percent, an erosion control plan would be required. The plan must be approved by the agencies prior to construction and maintenance; agencies would collaborate with the BEC regarding the discretionary action” *Id.*, p. 2-17. Considering the ecological importance of and the Proclamation’s identification of the Monument’s invaluable “diversity of soils,” we support Alternative E’s management action that will avoid discretionary actions on slopes greater than 30%.

The added protection of a BEC-approved erosion control plan for actions on slopes between 21 and 30 percent, in addition to the BEC’s collaboration in discretionary actions, will further protect the Monument’s soils from erosion and remain consistent with the Proclamations’ stated direction to ensure the “preservation of the landscape’s intact ecosystems” through the

incorporation of Tribal knowledge which includes a longstanding intimate understanding of the BENM landscape.

Biological Soil Crusts (BSC)

Biological soil crust is fundamental to ecological health within the BENM landscape. The amount of unimpacted biological soil crust in the region has declined significantly over the past several years. Multiple land uses such as mechanical disturbance, off-road vehicle travel, livestock grazing, vegetation treatments, and climate change have contributed (and continue to be significant contributors) to the destabilization of these vitally important soil communities.² Impaired biocrust and soil loss dramatically reduces surface stability, site fertility, and the land's ability to sequester carbon.^{3 4 5 6}

Alternative E's management actions that focus on the restoration of BSC are extremely important as this direction will better ensure the overall "preservation, restoration, and protection of the objects of scientific and historic interest on the Bears Ears region, including the entire monument landscape." Proclamation 10285. Alternative E's promise to utilize Western science *and* Indigenous knowledge/science for the restoration of these crusts will be crucial for the health and ecological integrity of the Monument's landscapes.

Improvements to Alternative E that Protect Monument Objects and Values

In support of BENM's ecological integrity, we offer the following recommendations regarding the protection of soil resources to further enhance Alternative E's alignment with Proclamation 10285.

Sensitive Soils

According to Chapter 3, a "'highly susceptible' rating indicates a soil has one or more features that make the soil very vulnerable to degradation. A "moderately susceptible" rating indicates a soil has features with moderate vulnerability to impacts from disturbance." Table 3-5 demonstrates that the majority of the decision area mapped with a Site Degradation

² Belnap, J. (2003). The world at your feet: desert biological soil crusts. *Front Ecol Environ* 1(5):181-189.

³ Belnap, J. (1993). Recovery rates of cryptobiotic crusts: Inoculant use and assessment methods. *Great Basin Naturalist* 53(1), 89-95.

⁴ Belnap, J. (1999). Soil surface disturbances in cold deserts: effects on nitrogenase activity in cyanobacterial-lichen soil crusts. *Biol Fertil Soils* 23, 362–367. <https://doi.org/10.1007/BF00335908>

⁵ Harper, K. T., and J.R. Marble. (1988). A role for nonvascular plants in management of arid and semiarid rangelands: Vegetation science applications for rangeland analysis and management. *Handbook of vegetation science* 14,135-169.

⁶ Chaudhary, V.B., M.A. Bowker, T.E. O'Dell, J.B. Grace, A. E. Redman, M.C. Rillig, and N.C. Johnson. (2009). Untangling the Biological Contributions to Soil Stability in Semiarid Shrublands. *Ecological Applications*, 19(1):110–122.

Susceptibility Rating (SDSR) falls within “highly susceptible” and “moderately susceptible” ratings, while 30% of the Monument’s soils have yet to be rated. *Id.*, pp. 3-33-34.

Protecting highly sensitive soils is consistent with Proclamation 10285’s direction to protect and preserve the Monument’s “diverse array of species that benefit from the preservation of the landscape’s intact ecosystems.” Gypsum soils, for example, are sensitive and unusual soils with a high biodiversity and conservation value because they support a large number of different crust species, including endemics.⁷ Allowing for discretionary actions on sensitive soils may be detrimental to BENM’s ecosystem functionality and therefore, is inconsistent with the direction of the Proclamation.

We propose: Alternative E should incorporate the following management action from Alternative B: “if SMUs indicate that discretionary actions are within areas with sensitive soils, consider further restricting activities to assure control of soil erosion within acceptable levels.” DEIS, Vol. 1, p. 2-17, Table 2-4. Additionally, the Agencies should include further stipulations related to soil’s susceptibility to degradation rating. If soils are rated as “highly susceptible,” discretionary actions should be restricted.

Biological Soil Crust (BSC) Inventory

Alternative E states that agencies “would collaborate with the BEC in identifying areas with BSCs and classifying those crusts to best protect them. These protections could include seasonal closures of areas to visitation during drought periods and ceremonially and traditionally important times of the year or permanent closures of areas with high BSC density.” DEIS, Vol. 1, p. 2-17, Table 2-4.

We appreciate the goal to increase understanding of biological soil crust management through research and TEK. This is a notable example of the collaborative management and resource protections for which BENM was designated. To honor this commitment, however, Alternative E should be modified to include specific, measurable, and time-bound goals regarding BSC inventories.

We propose: Add language requiring the inventory and classification of BSC within the Monument be completed within 10 years of signing the ROD. For any surface-disturbing discretionary actions planned prior to the 10-year deadline, all BSC should be inventoried prior to implementation. This will contribute to the final inventory while ensuring the protection of Monument resources.

⁷ Concostrina-Zubiri, L., E. Huber-Sannwald, I. Martínez, J. L. Flores Flores, J. A. Reyes-Agüero, A. Escudero, and J. Belnap. (2014). “Biological Soil Crusts across Disturbance–Recovery Scenarios: Effect of Grazing Regime on Community Dynamics.” *Ecological Applications* 24, no. 7: 1863–77.

We propose: The data collected on BSC result in a map with associated shapefiles that are made available to the public that include BSC cover and distribution to be utilized in the planning of all surface-disturbing projects across the Monument where BSC occurs.

Chapter 3 of the draft plan reflects on the impacts of various land uses on soil, as well as the relationships between climate change and soil communities, recognizing that “alternatives that manage for minimized soil disturbance and emphasize rehabilitation and protection of soil crusts would likely have more resilient and higher functioning BSC communities that are better able to weather changes in climate” *Id.*, p. 3-40. This is because, as Chapter 3 highlights, “BSCs, especially late-successional crusts, perform many important ecosystem functions such as regulating infiltration, nutrient cycling, soil stabilization, and carbon sequestration that have important implications for climate change resiliency (de Guevara and Maestre 2022).” *Id.*, p. 3-39.

The importance of functioning BSC communities on the landscape, especially in the face of climate change, makes protecting this resource a priority if resilient, functioning, intact ecosystems are going to be part of BENM’s future. With a shifting hydrological cycle, we need this crucial resource to hold and infiltrate water into arid landscapes such as BENM. Prioritizing protection, inventory, distribution, and understanding of these soil communities will help the Agencies and the BEC to determine how best to manage this precious resource. Including a timeframe for the inventory, classification, and protection of BSC within the Monument will demonstrate the commitment of the agencies to align with the Proclamation’s values, which strive to “ensure the preservation, restoration, and protection of the objects of scientific and historic interest on the Bears Ears region.” Proclamation 10285.

Livestock Grazing and Biological Soil Crusts (BSC)

Considering the pervasive use of livestock grazing across BENM, the final plan should include adaptive management strategies for soil resources.

We propose: Include a general plan (in collaboration with the BEC) to monitor soils with a commitment to identify triggers for mandatory actions and develop consequences for the failure to meet objectives as part of the management action to inventory, classify, and protect BSCs. DEIS, Vol. 1, p. 2-17, Table 2-4.

More specific direction for protection of biocrusts from livestock grazing should be incorporated into the Final Plan, considering that protecting biocrust is fundamentally incompatible with surface disturbance. Concostrina-Zubiri *et al.* found that grazing disturbance not only reduced biodiversity and altered the species composition in biocrust communities, but it altered them permanently. *Removing grazing did not restore the previous biocrust community.* As the final sentence of that paper concludes:

Because of the high possibility of state changes with grazing disturbance and the uncertainty surrounding the true impact of such a change, as well as our limited

ability to restore the original communities, it is of critical importance that management goals in these landscapes include preservation of the BSC communities.

The Proclamations require the protection of the Monument's intact ecosystems, which includes maintaining the species composition of ecologically intact biocrust.

Closing Summary

Alternative E, with the above modifications, provides the greatest protections for soil resources and Monument objects and values on a landscape-scale. The management actions that recognize and prioritize the understanding, preservation, and restoration of soil communities in collaboration with BEC in order to facilitate the healing of the landscape are aligned with the values for which BENM was designated. The above improvements to Alternative E are focused on increased protections for sensitive soils, as well as measurable time-bound goals for the inventory and classification of biological soil crusts across the Monument, which will ensure the RMP's alignment with the Proclamations.

Other alternatives fail to provide for collaboration with tribes, and there is a lack of commitment to restore BSC and soil productivity across the Monument. Since Proclamation 10285 emphasizes the need to preserve and protect the lands and waters of BENM in collaboration with BEC, Alternative E is the only alternative that best fulfills the Agency's management obligations.

Proposals

- Restrict discretionary actions on soils rated as "highly susceptible" to erosion and degradation.
- Inventory and classify BSC within BENM within 10 years of signing the ROD. For any surface-disturbing discretionary actions planned prior to the 10-year deadline, inventory all BSC prior to implementation.
- Include a general plan (in collaboration with the BEC) to monitor soil with a commitment to identify triggers for mandatory actions and develop consequences for the failure to meet objectives as part of the management action to inventory, classify, and protect BSCs, especially in relation to livestock grazing.
- Prior to treatment, salvage biological soil crust for restoration post-treatment.

6. Water Resources

Proclamations 10285 and 9558

Hanging gardens, springs, riparian areas, water-dependent wildlife, and "vibrant riparian communities" are just a few examples of the numerous water-related Monument objects listed in Proclamations 10285 and 9558. These Proclamations stress the importance of "consistent sources of water in a dry landscape" for the myriad of life forms that depend on BENM for their

existence. The draft RMP's goals to manage for ecological (native) diversity, stability, and sustainability within riparian areas while providing for traditional, cultural, and ceremonial uses are consistent with the values for which BENM was designated. These values are further demonstrated in the promise to not only complete spring inventories but to develop a spring revitalization program in collaboration with the BEC.

Important Components from Alternative E

Discretionary Actions

Riparian areas are mentioned in both Proclamations as Monument objects. These areas are of extreme value to wildlife, humans, and ecosystem functionality in this otherwise arid region. These water-bearing areas are of particular significance and concern to tribes. As stated in the Bears Ears Inter-Tribal Coalition Land Management Plan, A Collaborative Land Management Plan for the Bears Ears National Monument (BEITC Plan): "Water is respected as a living entity that is essential to life, which must be protected in all of its forms for the benefit of all living creatures." DEIS, Appendix L, p. 25.

Surface disturbance by mechanized equipment should be restricted in the final plan to instances where the priority methods (Traditional Indigenous Knowledge and techniques, light-on-the land methods, and natural processes) are shown through tangible data and documentation to be impractical and ineffective for the protection of BENM objects and values. Mechanized equipment can destabilize banks, increase sedimentation, compact soil, and harm native species, all of which can negatively impact water quality. Furthermore, we strongly support that any treatments that do occur within riparian areas and floodplains will be "implemented on a seasonal basis determined in collaboration with the BEC and Tribal Nations," which allows for collaborative management with tribes and recognizes the importance of timing in relation to the health of the landscape and project success. *Id.*, Vol. 1, p. 2-19, Table 2-5.

For discretionary actions outside of floodplains and riparian areas, the management action, which will "map and evaluate riparian areas and/or wetlands that may be impacted," prior to implementation is extremely important for the protection of Monument objects, resources, and values. *Id.*, p. 2-20. Designing these actions to "protect riparian areas, wetlands, and water resources," in collaboration with the BEC will facilitate the collaborative management between the tribes and federal agencies that the Proclamation intended. *Id.* This collaboration will create the opportunity to develop a deeper understanding of how to manage the land and waters of BENM in a sustainable manner. Alternatives B-D do not specify collaboration with the BEC and, therefore, do not align with the values and objectives of Proclamations 10285 and 9558.

Management of Harmful Invasive Riparian Vegetation

We support the following management direction:

The agencies would collaborate with the BEC to reduce tamarisk, Russian olive, other woody or herbaceous invasive species, and other harmful invasive species and/or noxious weeds identified in collaboration with the BEC, where appropriate, using minimally invasive vegetation treatments. Reseed treatment areas with native plants to avoid erosion damage or the re-establishment of invasive species.

All treatments would be implemented on a seasonal basis, as determined in collaboration with the BEC.

Id., p. 2-19.

Riparian areas are vulnerable to invasion by non-natives due to their ability for seed dispersal. As stated in the BEITC Plan, many of these aggressive non-natives can significantly alter the ecology and morphology of a given riparian area, so it is extremely important to get these species under control.

Tamarisk and other non-native plants cause damage to the natural environment. Tamarisk draws the water table down, chokes out other species, and takes over natural riparian areas. These trees also alter natural water courses, thereby altering ecosystems. In addition to tamarisk, Tribal members are concerned about tumbleweeds, Russian olives, Chinese elm, and other invasive species. These plants consume a lot of moisture, and they compete with native plants. There should be plans for replanting and revegetation of cottonwoods, and revival of water tables.

DEIS, Appendix L, p. 38.

Many non-native invasive plants thrive in areas of disturbance. The use of minimally invasive vegetation treatments in conjunction with native reseeding will dramatically increase restoration success for invasive removal projects. We strongly encourage the Agencies to keep these management actions in the final Management Plan.

Functional-At-Risk and Non-Functional

The following management action is identified for all alternatives:

If monitoring determines that a permitted activity is a causal factor in riparian areas functional-at risk or nonfunctional, steps would be taken on a case-by-case basis to mitigate the impacts of that activity or temporarily restrict the activity, or, if necessary, the riparian area would be closed seasonally to that activity to provide for rest, restoration, and maintenance of riparian area PFC. In those cases where there are closures, those closures would be lifted if changes in the permitted activity provide for restoration and maintenance of riparian area PFC.

DEIS, Vol. 1, p. 2-20, Table 2-5. Alternative E includes the following addition: “Time periods for closure would be determined in collaboration with the BEC.” *Id.*

The current PFC assessment methods are inadequate for evaluating if Monument objects are impaired. The inclusion of the BEC in the monitoring and timing decisions for closures of conflicting uses will help remedy this. Utilizing the knowledge held by BEC and Tribal Nations will create a more holistic approach to determining whether or not an activity should resume within an area deemed to be functioning-at-risk and/or non-functioning. Because Alternatives A-D do not include BEC in this process, they fail to incorporate the knowledge and collaboration specified many times throughout Proclamation 10285 and 9558.

Improvements to Alternative E that Protect Monument Objects and Values

Wood Product Harvest in Floodplains and Riparian Areas

Both Proclamations emphasize the deep and ongoing connection that tribes have with the Bears Ears landscape. Many tribes “view Bears Ears as a part of the personal identity of their members and as a cultural living space—a landscape where their traditions began, where their ancestors engaged in and handed down cultural practices.” Proclamation 10285. Tribal Nations have a rich cultural history with BENM, including riparian woody plants. Allowing only for uses of these plants for religious purposes may inhibit the ability for Tribal members to connect with their rich history and continue important cultural and traditional practices. Thus, it is important to include cultural and traditional purposes in the allowance of riparian woody harvest.

We propose: Add the following components from Alternative A (underlined) to Alternative E:

Excluded from private and/or commercial use of wood products, except for Tribal Nations’ cultural and traditional purposes as determined on a site-specific basis, and where inconsistent with the Religious Freedom Restoration Act and other applicable laws. Private collection of wood products would not be prohibited where such prohibition constitutes a substantial burden on religious practices.

Id., p. 2-19.

Water Withdrawals

We propose: The following additions (**in bold**), and provisions incorporated from Alternative D (underlined) should be included in Alternative E:

In collaboration with the BEC, new water withdrawals or diversions **will** not be authorized unless **absolutely** necessary to ensure the protection of BENM objects **and it can be shown through tangible research that there are no alternatives to protect BENM objects. This research should be documented for review by the BEC.** Require a hydrologic study for all proposed groundwater withdrawals.

DEIS, Vol. 1, p. 2-20, Table 2-5.

Prohibit modifications to existing water developments for livestock grazing purposes, unless:

- The primary purpose is to protect BENM objects; and
- BLM-administered lands only: A current (within the last 10 years) land health assessment has been completed, and, if needed, a causal factor determination has been made for the allotment or applicable watershed. As informed by the land health assessment and causal factor determination, the modified water development would support the achievement of the BLM Utah Rangeland Health Standards. An exception to this requirement could be approved for modifications to water developments to prevent imminent damage to BENM objects.

Livestock **will** be excluded from perennial surface water (except existing stock ponds) and associated riparian areas and springs.

Existing water developments for livestock or wildlife **will** be removed unless they protect BENM objects, where feasible. If it is not possible to be removed, the existing water development **will** be reclaimed and/or restored, as appropriate.

Corresponding changes may be necessary to applicable livestock grazing permits.

Id., pp. 2-127-128, Table 2-21.

BLM often attempts to address livestock damage to water sources and riparian areas by installing new water developments away from the damaged sites. The current language in Alternative E, which permits new developments if “necessary to ensure the protection of BENM objects,” allows the Agencies too much discretion to continue this often-unsuccessful practice, and there is no research or data supporting this conjecture. In fact, new developments are more likely to introduce more impacts into new areas, such as expansion of exotic plants and destruction of soils, biocrusts, cultural resource sites, and vegetation. Until research demonstrates that installing new water developments will reduce livestock damage to Monument objects and values and will not result in more damage elsewhere, BLM must first use more proven actions such as reductions in stocking rates and utilization, changing season of use, or long-term rest with native vegetation restoration – all of which are possible under the current language used in Alternative E:

Prioritize the review and processing of grazing permits and leases, including compliance monitoring and resource assessments, to protect Monument objects...Reassess stocking levels, seasons of use, and management approach...Identify resource thresholds, monitoring, and automatic responses related to land health and/or impacts to cultural and sacred resources.

Id., p. 2-125.

Groundwater pumping has the potential to reduce spring flows and negatively impact hanging gardens and wetlands associated with springs, which are all Monument objects that must be protected. As stated in Chapter 3: *“Surface water and groundwater resources are interconnected. Changes to groundwater conditions, such as water quality, depth, or static water levels, can affect surface water resources over time.”* DEIS, Vol. 1, p. 3-66 (Emphasis added).

While we strongly believe FS and BLM should not allow any new water developments for livestock, *if* the Agencies do permit this, we appreciate that a hydrological study will be required for all proposed groundwater withdrawals. The hydrologic analysis should consider locations of the wells in relation to faults in the watershed. Fractured rock generally has greater groundwater storage and better recharge. Unfractured rocks generally have less storage and slower recharge. Wells in unfractured areas mean that groundwater pumping from wells will likely be more connected to local springs. The demands on the aquifer, recharge rates, and residence time of the groundwater should all be considered.

Moreover, in consideration of the long-term aridification that the Southwest is experiencing, even the recharge rates at higher elevations need to be re-evaluated, particularly in light of the proposed wells and their assumed life spans. Stable isotope tracing, including springs in the proposed project area, could reveal the residence time for groundwater emerging from springs. There is great variability in residence time, with some if it certainly being modern recharge (Kimball & Christensen, 1996)⁸. If we presume that some water development locations will have modern recharge and combine that with the long-term aridification that started as a drought in 2000, it is reasonable to conclude that aquifers could already be declining, further putting Monument objects such as seeps, springs, hanging gardens, riparian areas, and rivers and streams at risk.

Proclamation 9558 states:

Communities have depended on the resources of the region for hundreds of generations. Understanding the important role of the green highlands in providing habitat for subsistence plants and animals, as well as capturing and filtering water from passing storms, the Navajo refer to such places as "Nahodishgish," or places to be left alone. Local communities seeking to protect the mountains for their watershed values have long recognized the importance of the Bears Ears' headwaters.

Protecting water and water availability for Monument objects should take precedence over livestock grazing and recreational water needs. Proposed water developments must be analyzed via the NEPA process to determine potential impacts to BENM objects to ensure those objects, as well as aquatic, wetland, and terrestrial organisms, will not be harmed.

⁸ Kimball, B.A. & Christensen, P.K. (1996). Residence Time of Water Discharging from the Hanging Gardens of Zion National Park. *Water Resources Bulletin*, 32(3), 531-540.

The BEITC Plan describes the importance of water as follows:

Water is fundamental to all life. In the arid west, water is of central importance to Native religion and identity. Water is respected as a living entity that is essential to life, which must be protected in all of its forms for the benefit of all living creatures.

DEIS, Appendix L, p. 25.

Not only is there the potential to harm Monument objects with water withdrawals installed within BENM but, as Chapter 3 points out, Monument objects are already at risk from water infrastructure outside of the planning area.

...there are proposed water developments outside of the Planning Area that could have the potential to impact groundwater levels inside of the Planning Area. These known projects include expansion of the Daneros Mine, drilling one water well, developing one spring, and constructing three fences in Lockhart Basin; drilling two wells on Cave Canyon; the drilling of a new well by Elk Petroleum; and temporary access to Utah Trust lands to drill two water wells for cattle in Red Canyon.

DEIS, Vol. 1, p. 3-91.

Excessive pumping of groundwater is a concern both within and outside of BENM. Climate change and reduced precipitation mean that water extraction will need to be carefully managed to protect Monument objects and values.

The entire cultural landscape of the Monument is an object to be protected. Proclamation 10285 says, "The Bears Ears landscape ... is not just a series of isolated objects, but is, itself, an object of historic and scientific interest requiring protection." The cumulative impacts of significant groundwater pumping and surface water availability for livestock grazing are harmful to the "object" that is the entire Bears Ears landscape. We believe that the proposed additions to Alternative E will aid the agencies in this careful and intentional management of one of the Monument's most precious resources – water.

Discretionary Actions

Due to the immense value of riparian areas, floodplains, springs, and streams – all of which are identified as Monument objects to be protected – it is essential the Agencies consider every practical alternative prior to moving forward with a discretionary action that may impact these resources. Due to the active and changing nature of riparian areas, Alternative E's 0.5-mile buffer is much more protective than the 330' buffer in the other alternatives and more likely to avoid active floodplains. The Agencies must ensure that any discretionary action protects these resources first and foremost.

We propose: The following changes should be incorporated from Alternative D (underlined), with additional changes **in bold**, into Alternative E.

No discretionary actions that alter vegetative cover, result in stream channel instability or loss of channel cross sectional area, or reduce water quality **will** be allowed within 100-year floodplains or within 0.5 mile of riparian areas and along perennial and intermittent springs and streams unless absolutely necessary to protect BENM objects, it can be shown that there are no practical alternatives, and the action is designed for long-term benefits to riparian, wetland, or aquatic habitats (e.g., side channel restoration).

DEIS, Vol. 1, p. 2-20, Table 2-5.

Closing Summary

In summary, Alternative E, along with the above modifications, would be the most protective of Monument objects and more closely aligned with the values for which BENM was designated. The significant requirements of Agency collaboration with the BEC, the exclusion of new water withdrawals for livestock, the removal of non-native invasive riparian vegetation, the reseeding of riparian areas with native vegetation, and the protection of riparian areas during discretionary actions are all extremely important “to ensure the preservation, restoration, and protection of the objects of scientific and historic interest on the Bears Ears region, including the entire monument landscape.” Proclamation 10285. The other alternatives fail to ensure collaboration with the BEC and, therefore, do not comply with the Proclamations.

Proposals

- Allow for wood product harvest in riparian areas for Tribal Nations’ traditional purposes as determined on a site-specific basis.
- New water withdrawals or diversions will not be authorized unless absolutely necessary to ensure the protection of BENM objects, and it can be shown that there are no practical alternatives.
- Prohibit new water developments for livestock grazing purposes.
- Remove existing livestock water developments that are not consistent with protecting BENM objects.
- Exclude livestock from perennial surface water and associated riparian areas and springs.
- Do not allow discretionary actions within 100-year floodplains or within 0.5 mile of riparian areas and along perennial and intermittent springs and streams unless absolutely necessary to protect BENM objects, it can be shown that there are no practical alternatives, and the action is designed for long-term benefits to riparian, wetland, or aquatic habitats (e.g., side channel restoration).

7. Vegetation

Proclamations 10285 and 9558

Proclamation 10285 details many native plants and vegetation communities as Monument objects. They include “forested mountaintops with lush meadows,” “dense fir and aspen forests,” “rare and important plant...species,” “plants native to the region,” “relict plant communities,” riparian communities, and hanging gardens, to name a few. Intact, healthy native plant communities are critical to the sustainability of cultural lifeways, native species, and scenic values. Proper care of these Monument Objects calls for careful consideration and management when manipulating vegetation, which we provide below.

Important Components from Alternative E

The preferred alternative contains several provisions that advance the practice of restoration management. However, the following recommendations must also be included in the final plan to ensure adequate protection of Monument objects and values.

Ecological Site Descriptions

Many of the vegetation goals and objectives support the intent of the Monument’s designation. For example:

In collaboration with the BEC and Tribal Nations, use ESDs/Vegetation Condition Classes (VCC) to identify and manage for desired vegetation community composition and range of conditions for vegetation communities throughout BENM, including what communities are most appropriate for different areas, where traditional harvest can be used as part of the management of the Monument, and where fire can be used to return natural vegetative communities.

DEIS, Vol. 1, p. 2-25.

This affirms the role of the tribes in managing this crucial resource and recognizes value in Ecological Site Descriptions (ESDs) as the benchmark for healthy vegetation communities. ESDs classify and provide detailed information about soils and expected vegetation cover types, soils data, and historic vegetation mapping, including land treatment and other disturbance data. ESDs are soil-based and often more reliable than other sources of information. This standard for Alternative E reinforces the goals and objectives for vegetation and other biologically based Monument objects such as soils, water, and wildlife.

Chaining

The preferred alternative states, “No chaining would be allowed on BENM.” *Id.*, p. 2-26, Table 2-6. We fully support this management action. Chaining is a highly impactful method (damaging

intact vegetation communities and cultural and paleontological resources). It is incompatible with protection of Monument objects and values. The Proclamation also calls for restoring native vegetation while limiting the spread of exotics. Considering that chaining lacks selectivity to retain older trees and specific native plant life, while often leading to a vegetation-type conversion to non-natives such as cheatgrass, the final plan must retain this management action to remain consistent with the values for which the Monument was designated.

No Vegetation Treatments for Livestock

Alternative E prohibits “vegetation treatments and nonstructural range improvements with a primary purpose of increasing forage for livestock.” *Id.*, p. 2-27. This provision recognizes that livestock grazing is a discretionary use, not a Monument object or value, and that these projects often have negative impacts on resources. Livestock grazing is already at odds with the protection of many Monument objects and values, and allowing these actions to occur for the purpose of increasing livestock forage will cause further harm and, therefore, be inconsistent with the Proclamations and NLCS requirements. This management action must be retained in the final plan.

Collaboration with the BEC

We support the management action that requires the Agencies to collaborate with the BEC and Tribal Nations to “provide for the monitoring, management, protection, and access to vegetation types important to Indigenous ceremonial or other traditional uses,” and the “identification of areas for seasonal restrictions to vegetation management and vegetation gathering...to provide for resource rest or to allow for traditional uses or ceremonies.” *Id.*, p. 2-28.

As discussed previously, the Proclamations recognize that TEK is a protected resource to be used in understanding and managing BENM. Including the BEC in vegetation management and monitoring recognizes the inherent and valuable knowledge held by the tribes that is inextricably linked to the BENM landscape.

Improvements to Alternative E that Protect Monument Objects and Values

Treatment Method Terms Defined

We propose: The final plan must explicitly define “natural processes,” a vegetation management method mentioned in Alternative E, and the definition of “light-on-the-land” must clarify that it does not include the use of mechanical methods.

The draft RMP refers to several vegetation management treatment methods and techniques in the alternatives. Some are not defined, while others are vaguely defined, making it difficult to understand the differences between the alternatives. For example, Alts B and D list a “light-on-the-land” vegetation management technique, implying that mechanical methods would not be

used; however, the glossary definition for this treatment method says, “strategies would include emphasis on non-motorized and nonmechanized (boots on the ground) work.” DEIS, Vol. 2, p. 8 (emphasis added). This implies that there is a possibility of light-on-the-land treatments utilizing mechanical methods. This could lead to confusion during implementation. Considering that the draft plan emphasizes light-on-the-land methods over mechanical methods several times, these two treatment methods must be explicitly different from one another.

Alternative E calls for an emphasis on “Traditional Indigenous Knowledge and techniques and/or natural processes for vegetation management.” DEIS, Vol. 1, p. 2-26, Table 2-6. The term “natural processes” is not defined anywhere in the plan. We assume “natural processes” is more of a passive restoration approach. Henceforth, our comments will move forward under this assumption. However, it is important that both of these terms are explicitly defined as different methods in the final plan to avoid confusion and misunderstandings in the future.

Vegetation Treatment Methods

Alternatives D and E state that mechanical methods would be used for vegetation management “only when necessary to protect BENM objects.” *Id.* This sentence makes it seem as though mechanical methods would be a rare occurrence; however, it could potentially allow the agencies to use mechanical methods often. Chapter 3 further cements this concern: “Manual treatments would occur in areas where mechanical equipment use would be unfeasible or prohibited.” DEIS, Vol. 1, p. 3-107. This statement implies that mechanical methods would be used so long as it was feasible to do so. Using mechanical methods in BENM requires additional direction to constrain the circumstances under which these more impactful activities might be used to ensure they do not become the norm. Any projects where mechanical methods are proposed must be analyzed in either an EA or EIS, providing opportunities for public comments, and shall not be analyzed with a Categorical Exclusion.

We propose: The following additions to Alternative E (**in bold**) and provisions from Alternative D (underlined):

Vegetation management throughout BENM **will be done in collaboration with the BEC and** emphasize **and prioritize** Traditional Indigenous Knowledge and techniques, light-on-the-land methods, and/or natural processes for vegetation management, including consideration of impacts on wildlife species habitat. Mechanical methods for vegetation management **will** be used only when necessary to protect BENM objects, **and only if the priority methods are shown through tangible documentation to be impractical and ineffective for the protection of those objects.** *Id.*

Non-Native Seeds

We propose: The use of nonnative seeds *only* be approved for *emergency actions* that call for phased restoration efforts that lead to a native vegetation community. The term “emergency actions” needs to be explicitly defined. Plans should include a transition to native species as soon as possible. A research component should be included, and *the BEC must approve all final seed mixes*.

As with mechanical methods of vegetation management, Alts D and E state that non-native seeds could be used for vegetation management “only when necessary to protect BENM objects.” *Id.*, p. 2-27, Table 2-6. While this implies that non-native seed will not be used under normal circumstances, it leaves significant room for exceptions. Alts B, C, and E allow for the use of non-native species in restoration seed mixes under certain conditions (availability, adaptation, and probability of success). *Id.* However, those conditions are easily met, so the use of non-natives could be allowed in most cases. The Agencies need to redefine “probability of success” on a longer time scale. Native seed may require more time to germinate than non-natives, but in the long run, the achievement of stated objectives to restore vegetation to the Ecological Site Description will be achieved only with native seed.

The DEIS does not specify a non-native seed mix, but the species used in these projects are often fast-growing aggressive species such as crested wheatgrass and Russian wildrye. In our experience, the Agencies frequently use non-native plants preferentially since they are less expensive, more readily available, and produce forage quickly. This short-term advantage is inconsistent with the long-term goal of native ecosystem restoration. These are highly competitive species that often establish and permanently dominate native species, limiting the ability of a site to restore native vegetation communities. Research shows that many of these non-native species become permanently established, outcompeting native vegetation.

Because of the potential for significant resource damage and conflict with the Proclamations, non-native species should only be used in emergencies, and even then, only when native species are unavailable or inadequate to stabilize soils and prevent establishment of non-native invasive species. “Emergency” must be defined to reflect true emergency situations (such as intense fire or flooding) with the planting of non-natives to be utilized only for the prevention of unacceptable degradation of Monument objects.

Any non-natives used must be short-lived annuals or biennials that are not competitive with natives, will not persist longer than a few years, and are unlikely to spread from the project site. Once the resource emergency has stabilized, there should be a plan to restore native species to reduce the risk of permanent replacement with non-natives. Where appropriate, restoration of species will include replacement of biological soil crust. Surface-disturbing activities, including livestock grazing, must be excluded until the restoration project is established, defined as 80% cover of all functional groups as defined in the Ecological Site Description.

We appreciate and support that “Agencies would collaborate with the BEC when determining appropriate seed mixes to provide for the revegetation of native and/or culturally important or traditionally harvested species.” *Id.*, p. 2-27. However, we encourage requiring that *all seed mixes be approved by the BEC.*

Existing Vegetation Treatments

Alt E calls for the Agencies to “maintain existing vegetation treatments and design new vegetation treatments to protect BENM objects.” *Id.*, p. 2-29. We appreciate that this will be done in collaboration with the BEC. However, existing vegetation treatments were likely conducted prior to the establishment of the Bears Ears landscape as a national monument and may not be consistent with the protection of Monument objects.

We propose: A re-evaluation of existing vegetation treatments should be completed, and NEPA compliance with public comment opportunities should be conducted, prior to any vegetation treatment decisions.

Vegetation Management in Wilderness Areas and Other Specially Designated Areas

Alternative E calls for fuels and vegetation treatments in specially designated areas (Wilderness, LWC, WSAs, FS recommended wilderness) only where consistent with protection of monument objects and wilderness character. *Id.*, p. 2-29. These treatments should only use light-on-land or Traditional Indigenous techniques and, consistent with NLCS management requirements, which is a much higher standard of protection than multiple use, this standard should also be applied Monument-wide, not just in wilderness and similar designations (see above comments under “Non-Mechanical Vegetation Treatment Methods”).

We propose: Vegetation Management in Wilderness areas should combine Alternative E with Alternative C and D (underlined) to say: “Traditional Indigenous Knowledge and techniques, natural processes, and/or light-on-the-land methods for vegetation management will be the only methods of treatments authorized in designated wilderness, USDA Forest Service recommended wilderness, WSAs, and lands managed for wilderness characteristics.” *Id.*, p. 2-26.

BEC Must Approve All Vegetation Treatments Prior to Implementation

The following management action is common to all alternatives: “Agencies would collaborate with the BEC in planning vegetation treatments during the appropriate season and conditions to protect BENM objects.” *Id.*, p. 2-25. Although some form of collaboration with the BEC on vegetation management is mentioned several times throughout the draft, it is unclear how much collaboration will actually take place.

Proclamation 10285 states:

In recognition of the importance of knowledge of Tribal Nations about these lands and objects and participation in the care and management of the objects identified above, and to ensure that management decisions affecting the monument reflect expertise and traditional and historical knowledge of Tribal Nations, a Bears Ears Commission (Commission) is reestablished in accordance with the terms, conditions, and obligations set forth in Proclamation 9558 to provide guidance and recommendations on the development and implementation of management plans and on management of the entire monument.

(Emphasis added).

We propose: To ensure that collaborative management is an inherent part of this plan as intended by the Proclamation, all vegetation management plans and projects should be done in close collaboration with the BEC. This should be explicitly stated in the final plan.

Inconsistencies in the DEIS

This section of our comments refers to inconsistencies both within the DEIS and with published research.

Chaining, Harrowing, and Tilling

Chapter 3 states: “Existing vegetation in the treatment area would be reduced, and the soil surface would be disturbed during treatments. Vegetation removal would be conducted by motorized vehicles such as mowers, masticators, disk plows, and harrows and imprinters.” DEIS, Vol. 1, p. 3-107. First, chaining (i.e., harrowing) is not an approved method under Alternative E, the preferred alternative. Disk plows are a heavy farming tool that cuts deep into soil and flips it over, damaging intact soils and increasing erosion. It is commonly used on farms on soils with a high clay content. This section also explains tilling as a tool to remove vegetation and bury it, creating an unvegetated area. This is highly impactful, as the draft admits, and suited only for complete vegetation removal. This highly risky method risks exotic invasion (Zouhar 2003)⁹.

We propose: Harrowing must be removed as an allowable treatment in the final plan. Disk plowing and tilling should only be permitted when attempting to restore native ecosystem functionality, such as attempting to convert a monoculture of the non-native smooth brome back to a native herbaceous vegetation community. These methods require close scrutiny and careful implementation to ensure the protection of Monument objects and values, due to the significant surface disturbance that they cause.

⁹ Zouhar, Kris. 2003. Bromus tectorum. In: Fire Effects Information System, [Online]. U.S. Department of Agriculture, Forest Service, Rocky Mountain Research Station, Fire Sciences Laboratory (Producer). Available: <https://www.fs.fed.us/database/feis/plants/graminoid/brotec/all.html>

Non-Native Seeds

Chapters 2 and 3 are inconsistent regarding the use of non-native seeds in Alternative E. While Table 2-6 says that non-native seeds will only be used to protect Monument objects, Chapter 3 says "...the inability to use nonnative, non-invasive plants may slow restoration and potentially allow for an increase in invasive plants." DEIS, Vol. 1, p. 3-127. This statement in Chapter 3 suggests that non-native seeds are entirely prohibited in Alternative E. This is not the case, as we discussed above.

Closing Summary

In many respects, Alternative E provides the basis for a solid vegetation management plan. The addition of science-based sidebars will add needed guidance for Agency actions and increase the likelihood of success in achieving vegetation goals and protecting and restoring Monument objects and values.

Proposals

- Explicitly define "light-on-the-land methods" as non-mechanical methods of treatment.
- Prioritize Traditional Indigenous Knowledge and techniques, light-on-the-land methods, and/or natural processes for vegetation management.
- Mechanical methods for vegetation management should be used rarely and only if the priority methods are shown through tangible documentation to be impractical and ineffective for the protection of BENM objects.
- Prepare all vegetation treatment plans in close collaboration with the BEC.
- Use native seed only in restoration, except in well-defined, on-going emergency situations where short-lived non-natives might better control active soil erosion and exotic invasion. A plan for removing the non-natives and restoring native species should be part of all actions that use non-natives on a temporary basis. All seed mixes should be approved by the BEC.
- Prior to treatment, salvage biological soil crust for restoration post-treatment.
- Keep livestock off lands impacted by restoration projects until all functional groups expected in the Ecological Site Descriptions have attained at least 80% of potential. This may be longer than two years.
- Invest in monitoring that will inform future vegetation projects to increase achievement of goals and objectives. Include large (at least 50m²) grazing exclosures in every project.

8. Noxious Weeds and Nonnative Invasives

Proclamations 10285 and 9558

Both Proclamations 10285 and 9558 recognize plants as Monument objects to be protected. Further, BLM recognizes that native plants are "the foundation of healthy functioning

ecosystems.”¹⁰ Noxious weeds and nonnative invasive plants can have devastating impacts on functioning ecosystems, including altering natural fire regimes, competing with native plants, impacting waterflows and riparian watersheds, and limiting habitat for sensitive and threatened species.¹¹¹²

BENM is unique in that it has not yet been infested with annuals like cheatgrass to the degree other areas have. “According to terrestrial BLM AIM Strategy and landscape monitoring framework data from 2013 through 2021, a majority (69%) of the monitoring plots had little to no invasive annual grass cover, and most HUC 10 watersheds are meeting expected LANDFIRE BPS conditions for invasive annual grass cover.” DEIS, Vol. 1, p. 3-134. Because of this, the spread of noxious weeds can be an important gauge of how successfully the BLM is managing the Monument and whether management actions are adequate to protect Monument objects and values. The BLM must proactively monitor and limit the spread of noxious weeds and nonnative invasive plants.

Important Components from Alternative E

Reduction of Invasives in Collaboration with the BEC

As noted above, we support the Agencies’ commitment to collaborate with the BEC to reduce tamarisk, Russian olive, other woody or herbaceous invasive species, and other harmful invasive species and/or noxious weeds identified in collaboration with the BEC, where appropriate, using minimally invasive vegetation treatments. Reseed treatment areas with native plants to avoid erosion damage or the re-establishment of invasive species. All treatments would be implemented on a seasonal basis determined in collaboration with the BEC.

DEIS, Vol. 1, p. 2-19. We note that special consideration should be given to occupied or designated critical habitat for federally threatened or endangered species, where removal of some non-native species may be incompatible with those species’ survival and recovery.

Improvements to Alternative E that Protect Monument Objects and Values

Herbicide Treatments

We support the Agencies’ commitment to “collaborate with the BEC on herbicide use or other control methods (i.e., introduced species) as part of vegetation management projects.” *Id.*, p. 2-

¹⁰ BLM, About Native Plants, <https://www.blm.gov/programs/natural-resources/native-plant-communities/about-native-plants> (accessed June 4, 2024).

¹¹ Bryce, S. A., J.R. Strittholt, B.C. Ward and D.M. Bachelet (2012). Colorado Plateau Rapid Ecoregional Assessment Report. Prepared for the United States Department of the Interior, Bureau of Land Management, Denver, Colorado

¹² Stohlgren, T. J., M. Miller, P. Evangelista, A. Crall, D. Guenther, N. Alley, and M. Kalkhan (2006). Landscape-scale assessment of Grand Staircase-Escalante National Monument. Learning from the Land – Grand Staircase-Escalante National Monument Science Symposium Proceedings.

28, Table 2-6. We recognize that herbicides can play an important role in combating invasive plants and noxious weeds and encourage obtaining BEC input on how and when herbicides should be used. However, we are also cognizant of the negative effects herbicides can have on pollinators, reptiles, birds, and native plants, and herbicides are only effective in preventing the spread of noxious weeds when combined with other appropriate management actions. The Agencies should improve the final plan to reflect the need to address the root causes of noxious weed spread.

We propose: Adding the following sentence: “Herbicide treatments will only be carried out in conjunction with an integrative plan to address the root causes of noxious weeds and invasive plants, including determination of causal factors and identification of appropriate management actions.” This will clarify for both the public and decision-makers the context in which herbicide treatments are to be utilized.

Surveying for Noxious Weeds and Nonnative Invasive Plants

Surveys for noxious weeds and nonnative invasive plants will help identify the need for adaptive management, identify areas at risk for invasive weed spread, and serve as a useful data point for assessing overall landscape health. Also, given the relatively low-level of noxious weed and invasive plant spread across BENM this would be an important proactive measure to prevent expansion and the associated harm to Monument objects and values.

We propose: Including explicit provisions for ongoing surveys for noxious weeds and nonnative invasive plants, which will be conducted annually with the BEC to determine whether additional management actions are needed.

Closing Summary

Proposals

- Herbicide treatments should only be used as part of an integrated management strategy that includes identifying the causal factors of noxious weed and invasive plant spread, appropriate management responses and minimization, and avoidance of conventional (synthetic) herbicides.
- The BLM should commit to conducting ongoing noxious weed and invasive plant inventories and using this data in collaboration with the BEC to inform management decisions and priorities.

9. Forestry and Woodlands

Proclamations 10285 and 9558

Proclamation 10285 speaks to the importance of the “diverse array of species that benefit from the preservation of the landscape's intact ecosystems.” Proclamation 9558 names specific species that constitute these intact ecosystems, including the forest and woodland ecosystems

of the Monument. Species mentioned include “pinyon-juniper woodlands along with big sagebrush...mountain mahogany, ponderosa pine...Gambel's oak...aspen.” Thus, the management of Bears Ear’s forests and woodlands must be consistent with the care and management of those Monument objects. Management of forests and woodlands must use only methods that do not adversely affect Monument objects, and must protect valuable BENM resources such as old-growth forests.

Important Components from Alternative E

Monitoring of Areas Open to Wood Harvest

Alternative E states:

Where monitoring of vegetation cover and soil erosion indicates that wood product harvest is having adverse impacts on natural or cultural resources or is conflicting with BENM objects, the agencies would collaborate with the BEC to alter the designated harvest area or harvest season as necessary to allow for resource rest or reclamation and/or to protect that resource or resource use. Consistent monitoring for soil erosion and vegetation cover would be needed to establish baselines in the designated harvest areas.

DEIS, Vol. 1, p. 2-30, Table 2-7.

To ensure the protection of Monument resources and values amidst areas open to wood product harvest, it is crucial that the agencies collaborate with the BEC to establish baselines and undergo ongoing monitoring efforts. We appreciate this management direction and urge the agencies to commit to this effort and include this language in the final plan.

Identification and Monitoring of Traditionally Important Trees

Alternative E emphasizes the importance of woody species and their ties to Tribal communities. Proclamation 10285 states:

Resources found throughout the Bears Ears region, including wildlife and plants that are native to the region, continue to serve integral roles in the development and practice of indigenous ceremonial and cultural lifeways. From family gatherings, dances, and ceremonies held on these sacred lands, to gathering roots, berries, firewood, piñon nuts, weaving materials, and medicines across the region, Bears Ears remains an essential landscape that members of Tribal Nations regularly visit to heal, practice their spirituality, pray, rejuvenate, and connect with their history.

We appreciate the management action that commits to coordinating with the BEC and tribes to monitor the populations and locations of culturally important vegetation in order to ensure these communities remain healthy. DEIS, Vol. 1, p. 2-34, Table 2-7. This will not only ensure that

tribes can continue to nurture their relationships with specific species but also contribute to the overall health of the landscape. There is no similar management action for any of the other alternatives, and the final management plan must retain this action.

Improvements to Alternative E that Protect Monument Objects and Values

Old-Growth Management Plan

One of the management actions common to all alternatives commits to an inventory and development of a plan in collaboration with the BEC to manage old-growth trees within 5 years of plan approval. DEIS, Vol. 1, pp. 2-29, 2-32. We appreciate and support this directive.

The public may have valuable information that should be included in the old-growth plan. BENM covers a significant area, and the public may have insight into potential inventory gaps, for example. Old-growth trees are special to many people from all walks of life, and a plan to manage these invaluable trees should consider public input. Allowing for such engagement can foster trust between the public and the Agencies while supporting the goals and recommendations set forth by the BEC.

We propose: As with all implementation-level plans, the BENM old-growth management plan must go through the NEPA process, including public comment, in a way that does not delay the 5-year deadline.

Interim Old-Growth Tree Protections

We propose: To be consistent with the protection of Monument objects and values and in alignment with the developing national old-growth policies, the final plan requires the Agencies (in collaboration with the BEC) to provide immediate protections for old-growth trees within the Monument.

We propose: Old-growth trees should be inventoried and protected within all proposed and current vegetation projects areas, as well as areas open to wood product harvest. The inventory should utilize the old-growth criteria for the Intermountain Region (Region 4) included in Table 11, Appendix 1 of the Mature and Old-Growth Forest Report unless a representative sample of aged trees (through coring or cookies) determines that a different set of criteria is more appropriate for a given location.

We propose: The final plan must ensure that the purpose of all vegetation management in old-growth forests is limited to proactive stewardship to promote resilient and adaptable old-growth forest conditions.

President Biden's Executive Order (EO) 14072, Strengthening the Nation's Forests, Communities, and Local Economies, recognizes the critical roles that old-growth trees play in conserving biodiversity and fostering resilience in the face of a changing climate and calls for

the conservation and restoration of these forests. In response to this direction, the Secretaries of the Interior and Agriculture developed the “Mature and Old-Growth Forest Report” to define, identify, and inventory old-growth and mature forests on Federal lands. The EO also led to the development of old-growth protections in the BLM’s Public Lands Rule and the Land Management Plan Direction for Old-Growth Forest Conditions Across the National Forest System¹³.

We’re concerned that the current draft plan for BENM does not provide immediate protection for old-growth trees. Although we appreciate the management action to inventory and develop a plan for managing old-growth within 5 years, there need to be old-growth standards in place to protect old-growth trees *immediately*. Vegetation management activities during the 5-year interim period (and beyond) must not degrade or impair the composition, structure, or ecological processes in a manner that prevents the long-term persistence and development of old-growth forest conditions within project areas. Any vegetation treatments should retain the cultural function and integrity of old-growth forest conditions – all of which will contribute to the commitment to “the preservation of the landscape’s intact ecosystems” as required in Proclamation 10285.

Old-growth forests provide important and increasingly rare wildlife habitat, store atmospheric carbon, provide clean water, are intricately tied to cultural and traditional values, and contribute to climate resilience. These forests and trees contain ecological characteristics such as dead and downed limbs and trees, snags, and complex branching systems that provide habitat for wildlife, fungi, arthropods, and understory plant life and soil development. Old-growth and mature ecosystems are also of value for their genetics due to their survival amidst disturbance, stress, and climate fluctuation. These trees are important repositories of genetic material that promote resilience and provide insight into the way trees and understory vegetation respond to perturbations like climate change.¹⁴

Proclamation 10285 speaks to the importance of forested areas in BENM, including:

Tribal Nations view the high elevation oasis as the key to life in the Bears Ears region. ... The area’s higher elevations, which contain pockets of ancient Engelmann spruce, rare stands of old-growth ponderosa pine, aspen, and subalpine fir, and a genetically distinct population of Kachina daisy, provide welcome respite from the higher temperatures found in the region’s lower elevations, especially during the summer.

In sum, the final BENM plan must include immediate old-growth protections to remain in alignment with Monument values, National directives, and the draft management plan’s stated

¹³ USDA Forest Service. 2023. Mature and Old-Growth Forests: Definition, Identification, and Initial Inventory on Lands Managed by the Forest Service and Bureau of Land Management. Fulfillment of Executive Order 14072, Section 2(b). FS-1215a.

¹⁴ Hanna, D.P., D.A. Falk, T.W. Swetnam, and W.H. Romme (2018). Age-related climate sensitivity in *Pinus edulis* at Dinosaur National Monument, Colorado, USA. *Dendrochronologia* 52:40-47.

goal to “promote continued health, diversity, and resiliency of forest structural stages, including old growth.” DEIS, Vol. 1, p. 2-29.

Default Standards for Silvicultural Projects

According to the preferred alternative, the topics below (maximum size openings, snags, and downed logs) are all to be determined at a later date by the agencies in collaboration with the BEC. We appreciate this co-management effort; however, it’s prudent to include default standards for each of these topics with the opportunity to make determinations outside of these standards on a case-by-case basis in collaboration with and approval of the BEC.

These defaults are necessary to ensure that silvicultural projects are ecologically appropriate with specific standards in place in the case that the BEC does not have the availability or capacity to engage on the above specifics of a given project. Of course, our hope is that the BEC will have the capacity and funding to be intimately engaged in all management across the Monument.

Maximum size openings -

We propose: The following additions to Alternative E from Alternative D (underlined), and other necessary changes (**in bold**):

Agencies **will** limit the maximum size opening created by silvicultural treatment in ponderosa pine and mixed-conifer forest to two acres. All other forest types will be limited to a maximum size opening of ten acres. These standards could be altered on a case-by-case basis in collaboration with the BEC on additional standards of maximum size openings for silvicultural treatments, as consistent with federal regulations.

Id., pp. 2-31, 2-32, Table 2-7.

Snags -

We propose: The following additions to Alternative E from Alternatives A-D (underlined), and other necessary changes (**in bold**):

As a standard, leave a minimum of 200 snags/100 acres in the ponderosa pine and aspen cover types and 300 snags/100 acres in the mixed-conifer cover type. The minimum preferred size of snags is 18 inches DBH and 30 feet tall. If the minimum size is unavailable, use the largest trees available on-site. The number of snags should be present at the stand level on average and, where they are available, distributed over each treated 100 acres. **These standards could be altered on a case-by-case basis in collaboration with the BEC**, with consideration for the cultural and ecological importance of snags.

Id., p. 2-33.

Downed logs -

We propose: The following additions to Alternative E from Alternatives A-D (underlined), and other necessary changes (**in bold**).

When initiating vegetative management treatments, prescriptions should be designed to retain a minimum of 30 down logs (12-inch mid-point diameter and 8 feet long) and 50 tons of coarse woody debris/10 acres in the ponderosa pine cover type, 50 down logs and 100 tons of coarse woody debris/10 acres in mixed-conifer cover type, and 50 down logs and 30 tons of coarse woody debris/10 acres in the aspen cover type. **These standards could be altered on a case-by-case basis in collaboration with the BEC.**

Id., pp. 2-33, 2-34.

Default Standards for Areas Open to Wood Product Harvest

We propose: The following additions to Alternative E from Alternatives A-D (underlined), and other necessary changes (**in bold**).

Agencies **will** collaborate with the BEC and Tribal Nations to identify specific areas within BENM that would be open or closed to wood product harvest permanently or on a seasonal or multiyear basis to allow for resource rest. All wilderness, wilderness study areas (WSAs), Research Natural Areas, ACEC's, and the Canyon Rims Special Recreation Management Area (SRMA) will be closed to wood product harvest unless research indicated that wood product harvest will protect and enhance Monument objects and values. Wood product harvest in these areas will only be allowed if approved by the BEC.

Acreage closed to wood product harvest (unless deemed necessary for the protection of BENM objects as determined in collaboration with the BEC): 433,148.

Id., p. 2-33, 2-34.

See above rationale under "Default Standards for Silvicultural Projects."

All Silvicultural Projects and Vegetation Treatments Must be Approved by the BEC

The following management action is common to all alternatives: "Agencies would collaborate with BEC and Tribal Nations to incorporate Traditional Indigenous Knowledge to establish and implement forest health and forest management standards and guidelines to assess conditions and guide management decisions for wood products." *Id.*, p. 2-28.

Although collaboration and coordination with the BEC is mentioned several times through the forestry and woodlands section of the draft plan, the level of decision-making power held by the tribes and their role in the collaborative management of projects is unclear.

As discussed previously, the Proclamations specifically recognize TEK as an important resource to be protected and applied in understanding and managing BENM. Tribes have maintained relationships of reciprocity with forests and woodlands since time immemorial. Generations of regional knowledge have been accumulated within Tribal communities about forest health, resiliency, and management that result in more robust forests and stronger ecological communities.

We propose: To ensure collaborative management is an inherent part of this plan as intended by the Proclamations, the final plan should include the requirement that all vegetation treatment and silvicultural plans would be approved by the BEC prior to implementation.

Commercial Timber Harvest Versus Commercial Wood Product Harvest

Commercial timber harvest is inconsistent with the values for which BENM was designated and is an inappropriate management direction for a National Monument. Commercial timber harvest has a high potential to harm Monument objects and must be taken out of the final plan. Commercial wood harvest will still allow for the improvement of forest conditions while supporting local communities. Commercial wood harvest is significantly less destructive, and is usually done on a smaller scale. Commercial wood harvest and commercial timber harvest should each be defined in the final plan, with the latter being explicitly prohibited.

We propose: Additions to Alternative E (**in bold**):

Agencies **will** collaborate with the BEC to identify criteria and/or areas for commercial **wood product** harvest if activities protect BENM objects. This **will** include identifying opportunities to use wood product harvest to improve or restore healthy forest conditions. **Commercial timber harvest will be prohibited on BENM.**

Id., p. 2-30, Table 2-7.

Closing Summary

We appreciate Alternative E's emphasis on collaborative management between the Agencies and the BEC in regard to BENM's forests and woodlands. To ensure that Monument objects are protected while fulfilling the intent of Monument designation, we recommend the following standards and alterations.

Proposals

- Ensure NEPA analysis and public comment on the BENM old-growth inventory and management plan.
- Develop immediate interim protections for old-growth trees.

- Include default standards for maximum size openings, downed logs, snags, and areas open to wood product harvest. These standards may be altered if determined appropriate by the Agencies in collaboration with the BEC.
- Require BEC approval for all silvicultural projects and vegetation treatments prior to implementation.
- Prohibit commercial timber harvest within the Monument.

10. Lands with Wilderness Characteristics

Proclamations 10285 and 9558

Managing all lands identified as having wilderness characteristics to protect those characteristics will best meet the intent and language of the Proclamations. Lands with Wilderness Characteristics (LWC) provide much needed cohesive management for the protection of the greater Bears Ears landscape, described in the Proclamations as “one of the most extraordinary cultural landscapes in the United States” with a “unique density of significant cultural, historical, and archaeological artifacts spanning thousands of years,” and “characterized by deep sandstone canyons, broad desert mesas, towering monoliths, forested mountaintops dotted with lush meadows, and the striking Bears Ears Buttes.” Proclamation 10285. We believe that Alternative E, with the essential change that all LWC will be designated as OHV closed, as well as additional improvements identified below, will best protect Monument objects.

Important Components from Alternative E

We appreciate that Alternative E will manage all 419,128 acres that have been inventoried as having wilderness characteristics to conserve their wilderness characteristics, while allowing for compatible uses, and that the Agencies, in collaboration with the BEC, will develop additional standards for wilderness characteristics and lands that meet these characteristics “to ensure that standards are guided by Traditional Ecological Knowledge and Tribal expertise.” DEIS Vol. 1, p. 2-35, Table 2-8.

The lands BLM identified as LWC connect with existing protected areas such as WSAs, natural areas, FS roadless and wilderness areas, ACECs, and adjacent remote landscapes managed by the Park Service. This landscape-level connectivity will enable the strongest protections for BENM’s cultural and historical resources and values, ecologically and culturally significant wildlife and bird species and their habitats, riparian areas, native vegetation, sensitive cryptobiotic soils, and all other Monument objects and values.

In addition, the 419,128 acres that would be designated as LWC coincide with remote recreation zones (*Id.*, p. 2-82, Table 2-19), thereby proactively managing recreation to protect Monument objects, as well as preventing further loss of naturalness, quiet, solitude, and remote backcountry recreation opportunities within the Monument and on adjacent lands. As

stated in the DEIS, the Remote Zone “would provide a natural, undeveloped, and self-directed visitor experience with an emphasis on facilitating landscape-level protections by connecting low-elevation areas to high-elevation areas. This zone is intended to connect remote and undeveloped areas on surrounding lands managed by other federal agencies.” *Id.*

We support the following LWC management prescriptions of Alternative E:

- VRM Class I.
- ROW exclusion areas.
- Limitations on management actions and recreation use would be designed with consideration of seasonality in collaboration with the BEC.
- Available for authorized private wood product harvest if beneficial or non-impairing to wilderness characteristics and if it would meet VRM Class I objectives.
- All existing facilities could be maintained at their current level but may be removed at the discretion of the Agencies and in collaboration with the BEC.
- Fire suppression would be through light-on-the-land tactics or Minimum Impact Suppression Tactics.

Id., p. 2-35, Table 2-8.

Improvements to Alternative E that Protect Monument Objects and Values

Goals and Objectives

Our first concern with BLM’s proposed management of LWC is the first Goal/Objective: “Protect wilderness characteristics (appearance of naturalness and outstanding opportunities for primitive and unconfined recreation or solitude) of non-wilderness study area (WSA) LWC as appropriate, considering manageability and the context of competing resource demand.” *Id.*, p. 2-34. There is no mention of the Proclamation, collaboration with the BEC, or Monument objects.

We propose: “Protect wilderness characteristics (appearance of naturalness and outstanding opportunities for primitive and unconfined recreation or solitude) of non-wilderness study area (WSA) LWC, in collaboration with the BEC, to facilitate landscape-level protections for Monument objects and values as identified in Proclamations 10285 and 9558.”

In addition, the plan should address management consistency with remote recreation zones and adjacent lands managed by other agencies.

We propose: “Manage LWC as remote recreation zones to protect naturalness, quiet, solitude, and remote backcountry recreation opportunities within the Monument, and ensure harmonious management with Monument-adjacent lands managed by other federal agencies.”

Manage LWC as OHV Closed

Alternative E would designate all LWC as OHV limited. *Id.*, p. 2-35, Table 2-8. As the DEIS admits, however, “[a]reas managed as OHV closed would protect cultural, scenic and recreational values to a greater extent than areas designated as OHV limited.” *Id.*, p. 3-441. Accordingly, we support managing all LWC as OHV closed, as in Alternative D, because this will best conform with the Proclamations by protecting all Monument objects and values, protect wilderness characteristics, proactively manage recreation use, and is consistent with management of the remote recreation zone. In addition, managing LWC as OHV closed is the first step in complying with Executive Order 11644, as amended by Executive Order 11989, which impose a substantive obligation on the BLM and FS to locate designated OHV areas and trails in order to *minimize* damage to natural and cultural resources and conflicts with other existing or proposed recreational uses. *See* 43 C.F.R. § 8342.1; 36 C.F.R. § 212.55(b); *see* Grand Canyon Trust et. al., Bears Ears National Monument, Monument Management Plan Scoping Comments, October 2022 (Scoping Comments), pp. 58-59.

We propose: Manage all LWC as OHV closed. As part of this management prescription, BLM will collaborate with the BEC to identify existing designated routes necessary for private wood harvest, and cultural/ceremonial purposes to remain open.

Throughout the Monument, there are 1,840 miles of BLM or FS OHV routes (1,364 miles of BLM motorized routes and 476 miles of FS motorized routes). DEIS, Vol. 1, p. 3-434. BLM itself has acknowledged that its current travel network is not adequately protecting cultural and paleontological resources.¹⁵ The BEITC Plan recognizes this: “OHV use can damage archaeological sites directly and provide access to archaeological sites in remote locations where the potential for vandalism and pothunting is high (see Appendix L).” *Id.*, p. 3-436. In addition, OHV use “could also result in impacts to natural resources, including destruction of vegetation, erosion, increased noise, habitat fragmentation, and other impacts (Ouren et al. 2007).” *Id.* Further,

The use of OHV routes can impact an LWC area’s apparent naturalness from route widening or braiding, vegetation loss, increased erosion, wildlife disturbances, degraded water quality, introduction of noxious weeds, and damage to cultural resources. Outstanding opportunities for solitude and primitive, unconfined recreation can be degraded by the noise and dust of motor vehicles and increased presence of other visitors.

Id., p. 3-163.

¹⁵ BLM, Land Use Plan Evaluation Report, Monticello Field Office Approved Resource Management Plan 5 (July 7, 2015).

Managing all LWC as OHV closed is the first step in minimizing these impacts, complying with the Proclamations, protecting wilderness characteristics, and proactively managing recreation use. As the DEIS explains for Alternative D, LWC areas “include approximately 315 currently designated route segments that are longer than 50 feet comprising approximately 190 miles.” *Id.*, p. 3-167. Therefore, managing LWC as OHV closed would impact only a fraction of the designated routes on the Monument. The next step will be identifying additional route closures through travel management planning.

Seasonality and TIK

The DEIS states that “[l]imitations on management actions and recreation use would be designed with consideration of seasonality in collaboration with the BEC.” *Id.* The use of the descriptor “limitations” sets a negative tone and implies a lack of respect for the tribes’ cultural practices and values.

We propose: Improve this management prescription to state: “The agencies, in collaboration with the BEC, will design management actions and recreation use with consideration of seasonality and Traditional Indigenous Knowledge.”

Closing Summary

Alternative E, with the proposed changes we provided, will best preserve Bears Ears “spiritual, cultural, prehistoric, and historic legacy and maintain its diverse array of natural and scientific resources, ensuring that the prehistoric, historic, and scientific values of this area remain for the benefit of all Americans.” Proclamation 10285.

Proposals

- Manage all 419,128 acres identified as having wilderness characteristics as OHV closed.
- Clarify that mechanical treatments such as mastication, and commercial vegetation removal are not authorized in LWC.
- Respect Tribal cultural practices and values in all management prescriptions.

11. Forest Service Recommended Wilderness and Inventoried Roadless Areas

Forest Service Recommended Wilderness Areas present a unique predicament for the agencies in this planning process. From the beginning, land managers have insisted that they will not address Forest Service recommended wilderness areas in the BENM plan, opting instead to make recommendations in the separate Manti-La Sal Land and Resources Management Planning Process (M-LS LRMP or Forest Plan). As elucidated in greater detail in our scoping comments, it remains inappropriate to “tier” or consign decisions about wilderness to a separate and non-parallel Forest Plan with an unknown and likely distant decision date. See, Scoping Comments, pp. 101-104.

The only reference to evaluating and recommending wilderness for Forest Service lands in the DEIS states:

USDA Forest Service Recommended Wilderness and Wilderness Evaluation

- A wilderness evaluation to determine whether or not LWC managed by the USDA Forest Service would be recommended for wilderness designation would not occur as part of the RMP/EIS but would occur under the USDA Forest Service planning process. Currently there are no recommended wilderness areas on NFS lands within BENM.

DEIS, Vol.1, p. 2-36

Proclamation 9558 specifically references forested lands:

Understanding the important role of the green highlands in providing habitat for subsistence plants and animals, as well as capturing and filtering water from passing storms, the Navajo refer to such places as "Nahodishgish," or places to be left alone. Local communities seeking to protect the mountains for their watershed values have long recognized the importance of the Bears Ears' headwaters.

A place to be left alone is another way of describing designated Wilderness Areas. One of the most effective ways to protect watersheds is with wilderness designations, a fact evidenced by Congress' designation Forest Service Wilderness Areas in Utah along the Wasatch Front, near St. George, in the High Uintas, and other places above Utah communities.

Though it is true that both the National Forest Management Act's 2012 Planning Rule and the Utah Wilderness Act of 1984 require the Manti-La Sal National Forest (M-LS NF) to inventory, evaluate, and recommend potential wilderness areas in the Forest Planning process, leaving Forest Service lands out of this plan regarding potential wilderness is a major oversight.

Further, the BEC appears not to have been consulted in the Forest Planning process regarding wilderness review and evaluation. This is required under the Inter-Governmental Cooperative Agreement (IGCA) entered into between the five Tribal Nations and USDOI-BLM and USDA-FS on June 18, 2022.

The IGCA calls for "...coordinating on land use planning and implementation, as well as the development of long-term resource management and programmatic goals." IGCA, p.2. The FS committed in writing to "...ensure that Tribal priorities inform the management of the Bears Ears," (IGCA, p.2), "[c]ooperate in land use planning, including preparation of a monument management plan..." (IGCA, p. 3), and to "[c]oordinate and consult with the Commission throughout land use planning..." IGCA, p. 5.

To our knowledge, the BEC has not been involved in writing the Forest Service's Draft Revised Land Management Plan or its Alternatives. Because the IGCA refers to the "preparation of a monument management plan" and does not mention a "Forest Plan," the Forest Service must

correct this oversight and come into compliance with the IGCA by presenting all components already detailed in the draft Forest Plan and its alternatives for lands within BENM to the Bears Ears Commission for their input and recommendations.

Beyond just the wilderness issue, the Forest Service must present the Bears Ears National Monument and Elk Ridge Geographic Area special management areas, timber potential harvest, visual quality objectives, and other designations and management prescriptions within BENM to the Bears Ears Commission for their approval or modification in order to comply with the IGCA.

A second concern is that the DEIS for the M-LS LRMP, released in August 2023, is a fatally flawed document lacking a range of alternatives and adequate analysis of alternatives other than the preferred alternative. Some among our collective of NGOs signed on to these comments have requested the M-LS NF issue a supplemental draft EIS correcting these serious flaws since November 2023, and we have not yet received an answer as to whether the Forest Service will oblige this request. In short, despite beginning in 2016, the M-LS NF plan is on a timeline that appears to be months, if not years, behind the BENM plan.

Where does that leave us? Regrettably, without the BEC being involved in reviewing, evaluating, or making recommendations for wilderness areas Forest Service lands, the BENM plan is not as protective of lands with wilderness characteristics on Forest Service Lands as it should be, inconsistent with Proclamation 9558. BLM and the Forest Service must correct this situation should be corrected as soon as it is reasonably practicable.

In the interim, the following nine recommended wilderness areas that were submitted to the Manti-La Sal National Forest as a part of a comprehensive Conservation Alternative¹⁶ and during this plan's scoping period as a GIS shapefile. These areas should be managed to maintain and protect their wilderness character.

Unit Name	Acres
Arch Canyon	19,203
Butler Wash	2,145
Chippean Ridge	34,326
Dark Canyon Extensions	33,326
Dark Canyon Plateau	12,285

¹⁶ *Revised Conservation Alternative_2022_08_31 CLEAN.pdf*. (August 31, 2021). Google Docs. <https://drive.google.com/file/d/1Y6XxzCKhbvF8OadAiNUcy3hnTsUoJr2W/view?usp=sharing>. (Accessed October 27, 2022)

Hammond Canyon	25,744
Milk Ranch Point	7,929
Seven Sisters Buttes	7,662
The Wilderness	43,276

Inventoried Roadless Areas

Consistent with the 2001 Roadless Rule (36 C.F.R. Part 294), the USDA Forest Service will manage Inventoried Roadless Areas (IRA) to not impair the roadless characteristics associated with each specific IRA.

Closing Summary

A flawed process leaves protections for wilderness quality Forest Service lands out of the BENM plan. At present, the timeline of the Manti-La Sal’s Forest Planning process lags far behind the BENM process, the Manti-La Sal NF’s DEIS for their Land and Resources Management Plan is fatally flawed, and the Forest Service may be in violation of the June 18, 2022, Inter-Governmental Cooperative Agreement (IGCA).

We propose: To remedy this, the Forest Service must begin to cooperate with the BEC for the Forest planning process, bringing the issue of recommended wilderness areas before the Commission in a timely manner. In the interim, Forest Service lands with wilderness characteristics should be managed to preserve those characteristics.

12. Areas of Critical Environmental Concern

Pursuant to FLPMA and BLM’s revised regulations, the BLM must prioritize the designation and protection of ACECs. 43 U.S.C. § 1712(c), 43 C.F.R. § 1610.7-2(b). “[T]he designation and management of ACECs for their relevant and important values would also serve to protect Monument objects.” DEIS, Vol. 1, p. 3-178. The proposed ACECs would help protect cultural resources, watersheds, relict plant communities, and other Monument objects and values identified in Proclamations 10285 and 9558. In the context of monument planning, ACEC designation should be viewed as both a requirement and an essential tool to help BLM comply with its management obligations. The revised ACEC regulations specifically state, “the boundaries of proposed ACECs shall be identified for public lands, *as appropriate, to encompass the relevant and important values and geographic extent of the special management attention needed to provide protection.* 43 C.F.R. § 1610.7-2(f) (emphasis added). Alternative E, *with the modifications requested below*, best fulfills this requirement.

Important Components from Alternative E

Alternative E's inclusion of all existing ACECs and the two newly nominated ACECS (John's Canyon and the Aquifer Protection ACEC) is essential to ensure the protection of Monument objects and values, particularly given the lack of compatibility analysis. The values for which the ACECs were nominated echo the values highlighted in Proclamations 10285 and 9558, including protection of relict vegetation, protection of cultural resources, fish and wildlife, and natural processes. Designating all the ACECs proposed in Alternative E is appropriate under FLMPA and the governing Presidential Proclamations.

The addition of the 11,465-acre John's Canyon ACEC in Alternative E is particularly significant because it would provide additional protection for Monument objects and values, and because an ACEC should be of an appropriate size to protect the area that satisfies the relevant and important criteria. As noted by BLM, in addition to the important paleontological resources, the John's Canyon area has significant cultural resources, is used by migrating yellow billed cuckoo (*Coccyzus americanus*) (threatened) and has high potential as nesting habitat for threatened Spotted Owl (MSO) (*Strix occidentalis lucida*).¹⁷ There is no evidence that the smaller-sized ACEC (1,542 acres) recommended in Alternative D would protect these values and uses. For the following reasons, we urge the BLM to retain the 11,465-acre John's Canyon ACEC in the final plan.

Improvements to Alternative E that Protect Monument Objects and Values

John's Canyon ACEC

While we support the John's Canyon ACEC proposal as outlined in Alternative E, we note that to truly support and protect the relevant and important values of John's Canyon, and to conform with management requirements for WSA/ISA lands, the BLM must modify the management criteria. As shown in Attachment 1, John's Canyon ACEC/Grand Gulch ISA map, approximately 88% of the John's Canyon proposed ACEC is in the Grand Gulch ISA Complex. As noted in the DEIS, "in addition to WSAs, BLM-administered ISAs in the Planning Area are natural areas that existed at the passage of FLPMA and were identified under FLPMA for accelerated wilderness review; they are administered by the BLM the same as WSAs." DEIS, Vol. 1. p. 3-190. Accordingly, lands within the Grand Gulch ISA complex must be managed so as not to impair suitability for preservation as wilderness. 43 U.S.C. § 1782(c). The proposed management prescriptions for John's Canyon do not meet this requirement. The proposed management prescriptions provide that "surface disturbances would be limited to those necessary to protect BENM Objects." They also allow for vegetation management and OHV use. There is no mention of protection of wilderness characteristics.

¹⁷ BENM John's Canyon Paleontological ACEC Evaluation Table. Prepared by SWCA Environmental Consultants and Bureau of Land Management Monticello Field Office. On file with SWCA Environmental Consultants, Salt Lake City, Utah.

We propose: The management prescriptions for John’s Canyon ACEC include language that specifically requires it to be managed so as not to impair area’s suitability for designation as wilderness and only allow vegetation management, OHV use, and surface disturbance as appropriate for a WSA. Grazing should be prohibited because it is inconsistent with protecting the relevant and important values for which the ACEC was nominated.

Aquifer Protection ACEC

We propose: BLM must adopt the Aquifer Protection Boundaries specified in Alternative D because there is no evidence that the much smaller acreage proposed in Alternative E would protect the relevant and important values for which the ACEC was nominated or adequately protect Monument objects and values.

As noted by BLM, the relevant and important values for which the ACEC was nominated extend across the BENM, and protecting only a small fraction of the acreage as proposed in Alternative E is simply not appropriate to encompass the relevant and important values and geographic extent of the special management attention needed to provide protection. The proposed ACEC in Alternative E also fails to adequately protect watersheds, riparian areas, and associated wildlife and plants — all of which are Monument objects and values. “Local communities seeking to protect the mountains for their watershed values have long recognized the importance of the Bears Ears’ headwaters” Proclamation 9558. BLM itself has acknowledged the benefits and appropriateness of protecting **all** aquifers under Alternative D. The Agency’s decisions about the boundaries of ACECS must be based on sound science, and the science supports the designation of an Aquifer Protection ACEC as outlined in Alternative D.

“T&E animal species are Monument objects according to the Presidential Proclamations. MSO and southwestern willow flycatcher are explicitly mentioned as Monument objects in Proclamation 9558, along with yellow-billed cuckoo in Proclamation 10285. All three of these species have habitat requirements directly influenced by water.”¹⁸ There is no evidence that the Aquifer Protection ACEC under Alternative E would adequately protect this habitat.

“The four T&E fish species are dependent on the groundwater that supplies water to tributary streams that drain from the Aquifer Protection ACEC. Colorado pikeminnow and razorback sucker are directly named in Proclamation 10285 as Monument objects and have critical habitat supported by this ACEC.”¹⁹ There is no evidence that the Aquifer Protection ACEC under Alternative E would adequately protect these T&E Species.

“Deer, elk, and bighorn sheep are directly named in Proclamation 10285 proclamation as Monument objects. The health of the habitat for these species (winter range for deer and elk,

¹⁸ BENM Aquifer Protection ACEC Evaluation Table. Prepared by SWCA Environmental Consultants and Bureau of Land Management Monticello Field Office. On file with SWCA Environmental Consultants, Salt Lake City, Utah.

¹⁹ *Id.*

lambing and rutting areas for bighorn sheep) is directly linked to the health of the aquifers.”²⁰ There is no evidence that the Aquifer Protection ACEC under Alternative E would adequately protect this habitat.

“The area of the proposed ACEC under Alternative D contains habitat for many sensitive species. Some of these species are named directly in Proclamation 10285 as Monument objects. Some, while not yet listed as T&E species, require additional consideration to ensure they remain unlisted, others are unique to the area and can also have cultural significance.”²¹ There is no evidence that the Aquifer Protection ACEC under Alternative E would adequately protect these species.

In sum, the Aquifer Protection ACEC under Alternative D incorporates “portions of the aquifers and aquifer systems serving as primary drinking water sources for several communities near BENM, including White Mesa, Bluff, and Blanding, and the public drinking water systems at NBNM and Sand Island Ranger Station” DEIS, Vol. 1, p. 3-189. This does not adequately protect the natural system/aquifer recharge, scenic, cultural, and paleontological values for which the ACEC is being proposed, nor does it adequately protect Monument objects and values.

Closing Summary

- The BLM should designate the John’s Canyon ACEC with management prescriptions appropriate for land that is within the Grand Gulch ISA Complex.
- The BLM should designate the Aquifer Protection ACEC based on the boundaries proposed in Alternative D.

13. Wilderness Study Areas (WSAs)

Proclamations 10285 and 9558

As stated in the DEIS:

management actions within BENM WSAs to protect wilderness characteristics would largely serve to protect identified Monument objects under all alternatives because they often include complementary management objectives. The protections subject to WSA designation would preserve wilderness characteristics also important to Indigenous peoples who share cultural connections to the sacred and cultural landscapes of BENM (see Appendix L).

DEIS, Vol. 1, p. 3-192.

²⁰ *Id.*

²¹ *Id.*

WSAs provide the type of landscape-scale protections for BENM’s cultural, ecological, and scientific objects and values as envisioned by the Proclamations, even more so when connected to other protected areas such as LWC, ACECs, and FS wilderness and roadless areas. We appreciate that WSAs will continue to be protected under Alternative E.

Important Components from Alternative E

We support that, under all alternatives, BLM will “[m]anage FLPMA Section 603 WSAs in a manner that does not impair their suitability for congressional designation into the National Wilderness Preservation System and that “WSAs would continue to be managed per BLM Manual 6330, including management as VRM Class I and closed to OHV use.” *Id.*, pp. 2-35-36.

We support that “no filming permits would be issued in WSAs.” DEIS, Vol. 1, p. 2-76, Table 2-18.

Improvements to Alternative E that Protect Monument Objects and Values

Throughout these comments we propose improvements to Alternative E that would ensure management actions in WSAs meet the non-impairment standard and protect Monument objects and values. We won’t repeat them here.

Management of Congressionally Released WSAs

It appears that there is a mistake in the DEIS concerning what will happen when WSAs are congressionally released. According to the DEIS: “Alternatives A and E would not require re-inventory of wilderness characteristics and the BLM would only conduct a land use plan amendment of the MMP, with accompanying NEPA analysis, to determine how those lands would be managed.” *Id.*, p. ES-15; *see also, Id.*, p. 3-194.

However, according to the WSA management matrix in Chapter 2, there is no difference between Alternatives B-E. In fact, in Chapter 2, the Matrix states that Alternatives B-D are the same as Alternative E. *Id.*, p. 2-42, Table 2-18. In the FEIS and final plan, the BLM must ensure that under all action alternatives WSA lands released by Congress will continue past management, in collaboration with the BEC, to ensure non-impairment of wilderness characteristics and protection of BENM objects and values.

We propose: We support Alternative E’s management action with the following improvements **(in bold)**:

When any WSA, in whole or in part, is released from wilderness consideration by Congress, continue past management of such released lands, unless otherwise specified by Congress in its releasing legislation, in a manner to ensure protection of BENM objects **and preserve their wilderness characteristics, and in collaboration with the BEC.** The following would occur:

- Re-inventories for wilderness characteristics of all released WSAs not designated as wilderness; all lands determined to have wilderness characteristics, in collaboration with BEC, would immediately be managed to protect wilderness characteristics.
- Until the above are completed, and all steps necessary have been completed to establish management of the released areas moving forward, no proposals/actions would occur in the released areas unless essential for the protection of BENM objects **and preservation of wilderness characteristics. Any proposals/action would be done in collaboration with the BEC.**
- Following such interim steps, the agencies, in collaboration with the BEC and Tribal Nations, would conduct an amendment to the RMP/EIS, with accompanying NEPA analysis, to determine how those lands would be managed in the long term.

Reasonable Access to State Lands

According to the DEIS, “[a]s per State of Utah v. Andrus, October 1, 1979 (Cotter Decision), the BLM would grant the State of Utah reasonable access to state lands for economic purposes on a case-by-case basis. *Id.*, p. 2-73.

We propose: To best protect Monument objects and values and prevent user conflicts, we propose the following changes to this management action **in bold**:

~~As per State of Utah v. Andrus, October 1, 1979 (Cotter Decision),~~ The BLM would grant the State of Utah reasonable access to state lands for economic purposes on a case-by-case basis **and in consultation with the BEC. In most instances, administrative use designations are sufficient to provide access to State and Private lands, and may best protect Monument objects and prevent user conflicts.**

Closing Summary

Proposals:

- BLM must correct the discrepancies between Chapter 2, and the executive summary and Chapter 3. The management actions in Chapter 2 must apply, with our proposed changes, to best protect Monument objects and values and wilderness characteristics.
- Prioritize the use of administrative designations when granting the State of Utah reasonable access to state lands, and ensure collaboration with the BEC in such decisions.

14. Wildlife and Fisheries

Proclamations 10285 and 9558

The Bears Ears landscape supports a rich and diverse population of wildlife. Proclamation 10285 says that this region “provides critical habitat for Mexican spotted owls, peregrine falcons, golden eagles, and spotted bats.” While both Proclamations identify many species by name, many more call the Bears Ears landscape home, from abundant avian species to bighorn sheep, from native carnivores to insects, from agile rodents to fish. The Proclamations also name species unique to the area, as well as those that are endangered, such as the southwestern willow flycatcher and the razorback sucker (the only member of its genus). If we were to name each species listed in these Proclamations, the list would be of considerable length. It is clear that the Monument was designated, in large part, to protect the rich and abundant life that dwells within the Bears Ears landscape.

Important Components from Alternative E

Critical Habitat for Native Fish, Amphibian, and Aquatic Species

We fully support the Management Action to restore aquatic habitat and riparian corridors. Alternative E’s commitment to manage habitat for culturally and ecologically important species, including critical habitat restoration is a great step forward in managing the greater Bears Ears ecosystem. Alternative E will have greater contributions than the other alternatives to the protection and restoration of water-related Monument objects through its commitment to monitor groundwater conditions and water quality, as well as cumulative effects on watershed health. DEIS, Vol. 1, p. 2-47, Table 2-10.

Proclamation 10285 states: “Consistent sources of water in a dry landscape draw diverse wildlife species to the area’s riparian habitats, including an array of amphibian species.” It also identifies BENM’s aquatic and riparian areas as providing “important habitat for the threatened yellow-billed cuckoo and the endangered southwestern willow flycatcher...endangered fish species: Colorado pikeminnow, the largest minnow in North America, which is believed to have evolved more than 3 million years ago, and the razorback sucker, the only member of its genus.” In order to protect these and other aquatic-dependent species in compliance Proclamations, the final plan must retain this aspect of Alternative E.

Nesting Surveys

All alternatives commit to conducting nesting surveys for native birds prior to implementation of projects. DEIS, Vol. 1, p. 2-45. We support this; however, we want to point out that the preferred alternative takes this management action a step further by requiring such surveys to be conducted for migratory birds and raptors in addition to native birds. DEIS, Vol. 1, p. 2-49, Table 2-10. Importantly, this alternative also includes the collaboration of BEC and the Agencies

to determine avoidance and mitigation strategies for the protection of BENM’s diverse array of avian species.

Bighorn Sheep

Although there are several important aspects that span all the alternatives to monitor, restore habitat, and prevent livestock grazing in key areas, Alternative E is the most protective of bighorn sheep. Proclamations 9558 and 10285 both note populations of bighorn sheep in BENM, including in the Cedar Mesa and Indian Creek areas. Proclamation 9558 also notes the depiction of bighorn sheep in rock art, underscoring the long-standing cultural importance of this animal to Indigenous people. Alternative E prioritizes collaboration with the BEC and Tribal Nations in the management and monitoring of bighorn sheep habitat and populations, which will provide for more resilience and care for the species. Additionally, the preferred alternative includes a 10-mile buffer intended to separate domestic sheep from known bighorn habitat and connectivity corridors. DEIS, Vol. 1, p. 2-50, Table 2-10. We applaud this management action and encourage the retention of this buffer in the final plan.

Improvements to Alternative E that Protect Monument Objects and Values

Pinyon Jay Surveys

Proclamation 9558 specifically mentions pinyon jays. This species is currently proposed for listing under the Endangered Species Act and is undergoing a 12-month status review by the Fish and Wildlife Service after an initial finding that listing may be warranted. The U.S. Fish and Wildlife Service listed pinyon jay as a Bird of Conservation Concern as of 2021 within Bird Conservation Region 16, Southern Rockies/Colorado Plateau. The Utah Division of Wildlife Resources designated pinyon jay as a Species of Greatest Conservation Need (SGCN) in its 2020 changes to the Utah SGCN list, which is part of its Wildlife Action Plan, stating that pinyon jay “is undergoing significant range wide declines.”²² An estimated 85% of the pinyon jay population was lost between 1967 and 2015, and the population is anticipated to decline by another 50% in 19 years.^{23 24}

While we appreciate the nesting surveys mentioned above, we have concerns about the lack of specific management actions for pinyon jay in the DEIS. The pinyon jay nesting season differs slightly from other birds (generally February through May), and this species has a high nest site fidelity.

²²2020 Addendum – Changes to Utah Species of Greatest Conservation Need, <https://wildlife.utah.gov/pdf/WAP/2020-addendum.pdf>, pp. 1, 3; see also Utah’s Species of Greatest Conservation Need October 2021, <https://wildlife.utah.gov/pdf/WAP/2021-10-sgcgn-list.pdf>, p. 1. (Accessed 6-7-2024)

²³ Boone JD, Witt C, Ammon EM (2021) Behavior-specific occurrence patterns of Pinyon Jays (*Gymnorhinus cyanocephalus*) in three Great Basin study areas and significance for pinyon-juniper woodland management. *PLoS ONE* 16(1): e0237721. <https://doi.org/10.1371/journal.pone.0237621>. (Accessed 6-7-2024)

²⁴ Partners in Flight Avian Conservation Assessment Database, <https://pif.birdconservancy.org/avian-conservation-assessment-database-scores/>. (Accessed 6-7-2024)

We propose: Pinyon jay surveys and mitigation measures to protect pinyon jay habitat, in accordance with the 2020 Conservation Strategy for the Pinyon Jay, be included in the final plan.²⁵

Water Pumping

In the case that recreational water pumping is negatively impacting resources to the point that Monument objects are harmed, there must be flexibility to restrict water pumping in order to protect those objects. Including the possibility for restriction will give the plan the most adaptability and resilience regarding the protection of water-reliant BENM objects.

We propose: One slight addition to Alternative E from Alternative C (underlined):

The agencies, working collaboratively with the BEC, would monitor water resources to identify whether water pumping for recreational use needs to be limited or restricted in any specific areas in order to protect Monument objects, as informed by Traditional Indigenous Knowledge.

DEIS, Vol. 1, p. 2-47, Table 2-10.

Reintroduction, Transplantation, Augmentation, and Re-Establishment of Species

We highly appreciate Alternative E's management actions, which have many admirable goals and commitments. However, the stated actions should be focused solely on native species. The BEITC Plan states: "Over the millennia, wildlife has become inextricably tied to all aspects of traditional Native beliefs and practices." DEIS, Appendix L, p. 27. Focusing efforts on native species is the most consistent with Monument values and objects, and will help "to ensure the preservation, restoration, and protection of...the entire monument landscape" as directed by proclamation 10285.

We propose: Changes to Alternative E (strikethrough text), and additions from Alternatives B-D (bold).

Agencies would coordinate with the BEC, Tribal Nations, UDWR, and USFWS in the introduction, transplantation, augmentation, and re-establishment of ~~both native and naturalized~~ **species** to include, but not be limited to, pronghorn, desert bighorn sheep, wild turkey, beaver, ~~chukar~~, Colorado River cutthroat trout, and endangered Colorado River fish species. Priority would be given to species that provide for traditional uses and ceremonies. Introduction, transplantation, or re-establishment programs would require prior genetic and disease monitoring.

²⁵ Conservation Strategy for the Pinyon Jay (*Gymnorhinus cyanocephalus*), Version 1., https://partnersinflight.org/wp-content/uploads/2019/10/Conservation-Strategy-for-Pinyon-Jay_Version-1_February-2020_LowRes.pdf. (Accessed 6-7-2024)

DEIS, Vol. 1, p. 2-50, Table 2-10.

Closing Summary

Alternative E, with the few minor recommendations we provided, will best protect the objects and values for which BENM was designated.

Proposals

- Include pinyon jay nesting surveys consistent with the Conservation Strategy for the Pinyon Jay.
- Identify whether water pumping for recreational use needs to be limited or restricted in specific areas in order to protect BENM objects.
- Focus efforts to introduce, transplant, and re-establish species within BENM on native species only.

15. Visual Resource Management, Night Skies, and Soundscapes

a. Visual Resource Management/Viewsheds

Proclamations 10285 and 9558

Visual resources and scenic quality are Monument objects requiring protection and are important features of the Monument that are necessary for the protection of other Monument objects. Proclamation 10285 emphasizes that the entire landscape encompasses visual and scenic resources of the Monument that must be protected, stating: “The Bears Ears landscape... is not just a series of isolated objects, but is, itself, an object of historic and scientific interest requiring protection under the Antiquities Act.”

The entire Monument landscape is considered sacred and requires the highest level of protection as articulated in the BEITC Plan:

Viewsheds are [the] visible portion of the landscape seen from any particular vantage point. Everything in the natural world – rocks, plants, animals, water, and other natural elements – has meaning and character. All these elements are interconnected and viewsheds are important beyond that of simply being ‘scenery’ in the sense of a view from a rock or overlook... Any disruption to the natural world would negatively affect the viewshed, and by extension Native people whose spiritual power resides in that natural world.

DEIS, Appendix L, p. 23.

Important Components from Alternative E

Alternative E provides the highest level of protection for visual resources relative to the other action alternatives by managing both the Remote and Outback Zones, comprising 1,336,694 acres, as VRM Class I and SIO Very High where pristine viewsheds and visual resources will be preserved intact. DEIS, Vol. 1, p 2-58, Table 2-12. The remaining landscape in the Front Country and Passage zones would be managed as VRM Class II and SIO High, further preserving the visual resources through primary access routes and areas of more concentrated visitor use and enjoyment. Under Alternative E, the Agencies would also reclaim, restore, and rehabilitate landscapes, native vegetation and waterways that have been significantly degraded and collaborate with BEC to identify landscape modifications that damage culturally significant viewsheds and cultural practices based on TIK. We fully support the additional coordination with BEC and Tribal Nations, under this alternative, to “identify culturally important viewsheds, and create interpretive materials that highlight Tribal connections to distant areas visible from vantage points with BENM” to help with future protection and interpretation of the visual landscape. *Id.* p. 3-251.

We strongly oppose Alternative A which would manage significant portions of the BENM landscape as VRM Class III and IV, and as the Agencies acknowledge, could lead to degradation of the scenic quality and characteristic landscapes, especially in high quality and intact landscapes of BENM. *Id.* P. 3-245.

b. Night Skies

Proclamations 10285 and 9558

Proclamation 9558 explicitly recognizes dark skies as an important natural feature of the Monument. The star-filled nights and natural quiet of the Bears Ears area are distinctive and inspiring. Against an absolutely black night sky, our galaxy and others more distant leap into view. As one of the most intact and least roaded areas in the contiguous United States, Bears Ears has that “rare and arresting quality of deafening silence.” Proclamation 9558. As noted in the AMS “[t]his inclusion in the original Proclamation, which Proclamation 10285 confirms, restores, and supplements, establishes the requirement to manage lands within BENM to protect dark night sky resources.” AMS, p. 6-204. The BEITC Plan also noted that all five of the tribes view night skies as an important cultural resource: “There is consensus that the night sky in open spaces should be protected in order to preserve these ancestral connections. Light and dust pollution are factors that affect the quality of the night sky.” DEIS, Appendix L, p. 25.

In addition to being a critical natural feature of the Bears Ears landscape, which is identified in Proclamation 10285, and an object in its own right, dark night skies also are a critical resource

for protecting various ecological processes on which many of the Monument's biological objects depend.²⁶

Important Components from Alternative E

BENM, recognized as “one of the most naturally dark outdoor spaces of its size left in the lower 48 states,” has pristine night skies where only “natural sources of light, such as starlight, airglow, aurora and zodiacal light, are visible to the human eye.” DEIS, Vol. 1, p. 3-277. The management actions in Alternative E best protect Monument dark night skies, sacred to Tribal Nations, and fundamental “to the qualities of wilderness characteristics within BENM, including naturalness, outstanding opportunities for solitude and primitive, unconfined recreation, and supplemental values associated with cultural resources.” *Id.* p. 3-278.

We support the prohibition of permanent lighting in BLM VRM Class I and II and FS Very High and High SIO under all alternatives, which leads to 100% of BENM and all Bortle Class 1 and 2 areas being protected from increased light pollution under Alternative E. *Id.* p. 3-282. Under the preferred Alternative E, the Agencies prioritize Tribal Nation's “deep ancestral connections to the night sky” and TIK by collaborating with BEC to survey existing light pollution and identify night sky impacts that damage or degrade cultural practices requiring darkness. *Id.*, p. 3-277. Ongoing inventory and monitoring of dark sky resources, the development of a night skies management plan, public education programming in collaboration with BEC and accreditation as an International Dark-Sky Associated International Dark Sky Place will ensure BENM remains a sanctuary of darkness for generations to come.

We strongly oppose Alternative A which would only prohibit permanent night lighting on less than 1% of BENM (BLM and FS combined) and protect less than 1% of Bortle Class 1 skies in BENM (*Id.* p. 3-281), leading to degradation of dark night skies in BENM, an object and value under Proclamation 10285 that must be protected.

c. Soundscapes

Proclamations 10285 and 9558

Proclamation 9558 states: “The star-filled nights and natural quiet of the Bears Ears area transport visitors to an earlier eon....As one of the most intact and least roaded areas in the contiguous United States, Bears Ears has that rare and arresting quality of deafening silence.” “This inclusion in the original Proclamation, which Proclamation 10285 confirms, restores, and supplements, establishes [sic] the requirement to manage lands within BENM to protect natural soundscapes.” AMS, p. 6-207. It is anticipated the soundscapes in BENM are some of the quietest in the lower 48 states. AMS, p. 6-207. The BEITC Plan also recognized the importance of natural soundscapes: “Tribal Nations of the BEITC consider BENM to be a spiritual place and

²⁶ See, e.g., Rich, C. and Longcore, T., eds. (2005). Ecological Consequences of Artificial Night Lighting. <http://darkskeyparks.org/dark-skies-and-nature-conservation/>. (Accessed 6-7-2024)

thus value the need for peace and quiet. Hopi people believe that the spirits of their ancestors still reside at BENM, and any disruption of peace will disturb them.” DEIS, Appendix L, p. 23.

Important Components from Alternative E

We are pleased to see that under Alternative E, the BLM and FS would collaborate further with the BEC to survey existing impacts to soundscapes and identify those that damage or degrade culturally affiliated tribes’ cultural practices requiring quiet. Based on this additional level of collaboration with the BEC, impacts to soundscapes potentially affecting traditional Indigenous practices would be reduced compared to the other Alternatives. In addition, impacts to soundscapes associated with management for vegetation, lands and realty, livestock grazing, range improvements, fire management, recreation, and transportation would be less intense than those associated with Alternative A. We fully support the management prescriptions described in Alternative E.

We also appreciate that all alternatives include the development of a soundscape management plan for BENM in collaboration with BEC, and education to increase public awareness and appreciation of, and engagement with, natural soundscape resources, and their importance to BENM and Tribal Nations.

Closing Summary

Alternative E provides the highest level of protection for visual resources, dark night skies and natural soundscapes by:

- Managing the Remote and Outback zones as VRM Class I and SIO Very High and the Front Country and Passage zones as VRM Class II and SIO High.
- Prohibiting permanent lighting throughout the Monument.
- Designating the entire BENM as ROW exclusion or avoidance.
- Collaborating with the BEC to survey existing impacts to night skies, soundscapes, and visual resources to identify those that damage or degrade culturally affiliated tribes’ cultural practices requiring quiet, darkness and natural viewsapes.
- Inventorying and monitoring night skies and soundscapes and developing night skies and soundscape management plans and education programming in collaboration with BEC.

16. Cultural Resources

Proclamations 10285 and 9558

Proclamations 10285 and 9558 both honor Bears Ears as a homeland of immense cultural and spiritual significance. Proclamation 9558 acknowledges that “For hundreds of generations, native peoples lived in the surrounding deep sandstone canyons, desert mesas, and meadow mountaintops, which constitute one of the densest and most significant cultural landscapes in the United States.” Proclamation 10258 reinforces that the Bears Ears cultural landscape

“retains remarkable and spiritually significant evidence of Indigenous use and habitation since time immemorial.” Both Proclamations describe in great detail the unique density of significant cultural and archaeological sites and artifacts, from ancient road systems and villages to ceremonial sites and rock writings. Referencing 9558, Proclamation 10285 states: “Describing as much as 13,000 years of human occupation of the Bears Ears landscape, Proclamation 9558 contextualizes the compelling need to protect one of the most extraordinary cultural landscapes in the United States.” In order to best honor the Proclamations and the tribes, the cultural resources section of the plan is among the most important.

Important Components from Alternative E

Because much of the specific management of this matchless and irreplaceable cultural landscape is site-specific and requires in-depth and careful consideration, we support Alternative E’s call to develop a Cultural Resources Management Plan (CRMP) in close coordination with the BEC, Tribal Nations, and other culturally affiliated Tribal Nation within two years of the completion of this plan. Alternative E’s focus on maximizing participation of the BEC is particularly necessary in the context of cultural resources.

We believe the following components of Alternative E are most in line with the proclamations and will best protect the objects and values for which the Monument was designated.

- “Management tools and methods that include ... **Tribal protocols for identifying and evaluating cultural resources** in collaboration with the BEC and Tribal Nations, including TCPs, Tribal Nations’ sacred sites, cultural landscapes, **Traditional Indigenous Knowledge about cultural landscapes and traditionally significant plants, wildlife, minerals, and tree species.**” DEIS Vol. 1, p. 2-62, Table 2-13.
- “**Annual survey requirements, using Western scientific and Indigenous methodologies**, developed in collaboration with BEC.” *Id.*
- “An interpretation plan, with an emphasis on education **goals identified in collaboration with the BEC** for sites allocated for specific uses.” *Id.*
- “A schedule for resource rest, including cultural sites, created in collaboration with the Tribal Nations.” *Id.*
- “An earth-to-sky based framework, recognizing the interrelatedness of the entire cultural landscape of BENM to the Tribes of the BEC.” *Id.*
- “Protective measures would be established and implemented in coordination with the BEC, the Tribal Nations, and other culturally affiliated Tribal Nations for sites, structures, objects, and traditional use areas that are important to Tribal Nations with historical and cultural connections to the land to maintain the viewsheds and intrinsic values, as well as the auditory, visual, and aesthetic settings of the

resources. Protection measures for undisturbed cultural resources and their natural settings would be developed in compliance with regulatory mandates and in collaboration with the BEC. Coordinate law enforcement efforts with the BEC and Tribal Nations to protect cultural sites and historic properties” *Id.*, p. 2-63.

- “The agencies, in coordination with the BEC and Tribal Nations, would proactively reduce hazardous fuels or mitigate the potential hazard around cultural sites, including archaeological sites that are susceptible to destruction from prescribed burns. Management response to fire would follow guidelines described in Section 2.4.17 Fire Management and in current implementation-level fire management planning documents. **Hazardous fuels mitigation and fire mitigation would utilize traditional Tribal methods** where feasible.” *Id.*
- All of the protective measures related to potential recreation impacts. *Id.*
- “Agencies would **collaborate with the BEC to identify which additional cultural resource sites to prioritize for allocation** to uses through area- or resource-specific implementation-level plans to be completed **prior to the broader CRMP...**” *Id.*, p. 2-64.
- “The agencies would **collaborate with the BEC to develop management direction for Public Use Developed sites. The agencies would consult with the BEC, Tribal Nations, the MAC, and the public, as appropriate, to add or remove sites to [the] list, as necessary.**” *Id.*
- “When identified by the BEC or Tribal Nations as necessary for ceremonies and gatherings, **implement actions to minimize potential conflicts with other resource uses that could interfere with ceremonies and gatherings.** Sensitive cultural information would be kept confidential and safeguarded from release to the extent allowed by law.” *Id.*, p. 2-65.

In addition to the direction found within Alternative E, the agencies are to be commended for maximal involvement of the BEC in management actions common to all alternatives. If done properly, and with integrity, the final plan honoring all these components could create a model for the management of cultural landscapes across the United States on ancestral lands that are now also public lands.

Improvements to Alternative E that Protect Monument Objects and Values

We propose: Because other areas of the plan allocate resource uses and activities that affect cultural resources, in order to best honor the Proclamations and the objects and values for which the monument is designated, components of Alternative D and other alternatives including, but not limited to, the following should be adopted in the final plan:

- "...allocate 202,585 acres (359,201 acres total) as unavailable/not suitable for livestock grazing in the following areas and/or pastures; modify any existing term grazing permits, as applicable (Appendix A, Figure 2-45, Alternative D, grazing and trailing)." DEIS, Vol. 1., p. 2-125, Table 2-21.
- Adopt the Aquifer Protection ACEC (1,012,371 acres) as found in Alternative D to minimize surface disturbance and maximally protect intact cultural resources. DEIS, Vol. 1, p. 2-40, Table 2-9.
- Adopt the Travel and Transportation Management prescriptions detailed in Alternative D, including "Open to OHV use: 0 acre, OHV limited: 381,239 acres, Closed to OHV use: 982,914 (Appendix A, Figure 2-36, Alternative D, off-highway vehicle area designation)" DEIS, Vol. 1, p.2-216, Table 2-20.

In addition, throughout these comments we recommend a number of improvements and additions to Alternative E necessary to protect cultural resources and other Monument objects and values.

Closing Summary

According to the BEITC Plan:

In the Native worldview, time and space, and the sacred and secular, are not rigidly partitioned; the spiritual and physical are mutually co-implicated, and the environments, spaces, and landscapes composing places are organic and cannot be divided or segmented along clearly delineated borders and boundaries—all of nature exists in sacred interrelation and unity. Humans are part of nature, and should respect and live in a balanced, reciprocal, and harmonious relationship with all of the environment and all of life, any disruption in balance is the fault of human action, inaction, and error.

DEIS, Vol. 2, Appendix L, p. 1.

The Agencies' rephrasing of this statement reads:

In traditional indigenous worldviews, there is no distinction between cultural and natural resources. In traditional societies people depended directly on plants, animals, and the surrounding environment to survive; thus, these resources that are frequently classified by Western science as natural resources become cultural resources (see Appendix L). Accordingly, individual resource types cannot be considered separately from the landscape as a whole.

DEIS, Vol. 3., p 3-284

With this in mind, *the entirety of the management plan for Bears Ears is a cultural resources plan*. That is why the deep, detailed, and determined engagement of the BEC in preparation of the CRMP is so important.

We propose: Adopt Alternative E for cultural resources, including preparing a CRMP in close collaboration with the BEC within two years for the final plan decision. It is also essential that the final plan includes maximally protective components from other issue areas, as detailed in these comments, because as the Proclamations, the tribes (in the BEITC Plan), and the DEIS make clear, there is no distinction between natural and cultural resources and values.

17. Lands and Realty

Proclamations 10285 and 9558

“Nothing in this Proclamation shall be construed to interfere with the operation or maintenance, or the replacement or modification within the current authorization boundary, of existing utility, pipeline, or telecommunications facilities located within the monument in a manner consistent with the care and management of the objects identified above.”
Proclamation 9558.

Important Components from Alternative E

Though the Proclamations are silent on new Rights of Way (ROWs), consistent with resource protection and composed of mostly ROW exclusion (81% of the Monument), limited avoidance areas (19% of the Monument), and no open areas, Alternative E best honors the Proclamations and best protects Monument objects and values by maximally avoiding surface-disturbing activities associated with the issuance of new ROWs.

Most protective of Monument objects and values, Alternative E prohibits commercial filming. Infamously damaging, commercial productions in southern Utah over the years have harmed soils, vegetation, and other natural and cultural resources. Commercial filming has no place in this sacred landscape.

The agencies are to be commended for prohibiting public UAS usage in Alternative E in the Monument, unless that use would benefit the protection of BENM objects. Adding collaboration with the BEC and allowing UAS use only via formal authorization is also the most protective way to manage the Monument. We discuss this issue further, below.

The Agencies are to be commended for collaborating “...with the BEC on lands and realty actions, including seasonality and resource rest” under all alternatives.

Alternatives B, C, and D do not comply with the Proclamations because they would allow for more surface-disturbing activities that could destroy objects and values for which the Monument was designated.

Closing Summary

Containing the highest percentage of right of way (ROW) exclusion areas, Alternative E best protects the objects and values for which the Monument was designated. Alternative E's prohibition of public UAS use and commercial filming are also important aspects that should be included in the final plan. Provisions for Lands and Realty under Alternative E should be adopted in the final plan.

18. Recreation and Visitor Services

Proclamations 10285 and 9558:

As discussed in detail, above, BENM is part of the NLCS. As such, it must be managed "in a manner that protects the values for which the components of the system were designated." 16 U.S.C. § 7202(c). As to recreation: NLCS units will be available for a variety of recreation opportunities, *to the extent consistent with the designating legislation or proclamation and other applicable law*. BLM Manual 6100, Section 1.6.M.1 (emphasis added); *see also*, BLM Manual 6220, Section 1.6.K.1.

While mentioned in the Proclamations, recreation is not "[an object] of historic and scientific interest designated for protection." Instead, BENM was designated to protect its cultural, ecological and scientific objects and values at a landscape level. For example,

Indigenous people lived, hunted, gathered, prayed, and built homes in the Bears Ears region. As a result, each geographic subregion and the mountains, canyons, mesa tops, ridges, rivers, and streams therein that make up the Bears Ears landscape hold cultural significance. These individual locales come together as objects of historic and scientific interest — many of which have spiritual significance to indigenous people and are located across this living landscape -- to tell stories, facilitate the practice of traditions, and serve as a mnemonic device that elders use to teach younger generations where they came from, who they are, and how to live.

Proclamation 10285.

In addition to the geographic and cultural landscape, the Proclamation recognizes the importance of BENM as an ecological landscape, stating that "the area continues to provide habitat to a variety of threatened, endangered, sensitive, endemic, or otherwise rare species of wildlife, fish, and plants. The area also contains a diverse array of species that benefit from the preservation of the landscape's intact ecosystems." *Id.*

Because BENM is a protected cultural, ecological, and scientific landscape and not a recreation area, many of the recreation management strategies that the agencies are used to are not applicable. Those strategies, such as Special Recreation Management Areas (SRMA) and

Extensive Recreation Management Areas (ERMA), are based on multiple-use management and prioritize protecting and promoting recreation over other values. They are not management strategies designed for areas specially designated “to conserve, protect, and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values” over discretionary uses such as recreation. 16 U.S.C. § 7202(a).

We do not support Alternatives A-D because they attempt to adapt BLM’s multiple-use “Recreation Management Framework as described in H-8230-1” to this specially designated landscape. DEIS, Appendix E, p. E-4. But, it’s like trying to put a square peg into a round hole – it doesn’t fit.

Alternatives A-C use SRMAs and ERMAs to manage recreation across a large part of the Monument. These designations are not appropriate. BLM’s Recreation and Visitor Services Manual and Handbook state:

- “R&VS objectives in RMAs are recognized as a primary resource management consideration, and specific management is required to protect the recreation opportunities.” BLM Planning for Recreation and Visitor Services Handbook, H-8320-1 (2014), Chapter I.F.1.a.
- “Within an SRMA, R&VS management *is recognized as the predominant LUP focus*, where specific recreation opportunities and recreation setting characteristics are managed and protected on a long-term basis.” BLM Planning for Recreation and Visitor Services Manual 8320 (2011), Section .06.C.3.a; *see also*, BLM Handbook H-8320-1, Chapter I.F.1.b(1).
- ERMAs “are managed *to sustain principal recreation activities* and associated qualities and conditions of the ERMA, *commensurate with* management with other resources and resource uses.” BLM Manual 8320, Section .06.C.3; *see also*, BLM Handbook H-8320-1, Chapter I.F.1.c(1).

Neither of these designations – SRMAs and ERMAs - are applicable in BENM, where recreation is neither predominant over or commensurate with protection of objects and values identified in the designating Proclamation. Alternative E is the only alternative that complies with NLCS policy that, *subject to the designating proclamation*, BLM shall provide “*appropriate* recreational opportunities, education, interpretation, and visitor services to enhance the public’s understanding and enjoyment of the NLCS.” BLM Manual 6100, Section 1.4.C.5 (emphasis added); *see also*, BLM Manual 6200, Section 1.4.C.5.

Alternative E’s zoned management approach properly prioritizes landscape-scale protection and restoration of BENM’s objects and values while also facilitating a spectrum of high-quality, *appropriate* recreation experiences—from remote, backcountry solitude to frontcountry interpretive site opportunities and trails. Accordingly, Alternative E is the only alternative that also complies with NLCS policy that: “In harmony with, and subject to, applicable designating legislation or proclamations, the BLM will work to maintain and promote ecological connectivity and resilience and to restore, to the extent feasible, the natural system function and species

composition of disturbed areas within NLCS units.” BLM Manual 6100-National Landscape Conservation System, 1.6.A.8.

Important Components from Alternative E:

The zoned management approach in Alternative E is a proactive, holistic, science-based approach to managing recreation on a landscape-scale. *See*, Scoping Comments, pp. 51-52; Monz, 2021. In particular:

- It concentrates recreation use and primary visitation infrastructure in frontcountry areas where trails and facilities are already developed and cultural sites are appropriate for high-volume visitation. New major developments would be focused in high use areas and on the periphery of the Monument and close to communities, and thereby easier to access.
- It places cultural, historical, Leave No Trace, and Visit with Respect education and information in Front Country and Passage zones, which host the vast majority of visitors.
- It includes collaboration with the BEC and requirements that recreation developments and improvements “would be designed to protect Monument objects, including cultural resources, wildlife, and water resources, as informed by Traditional Indigenous Knowledge.” *Id.*, p. 2-103, Table 2-19.
- It focuses Agency and Tribal personnel and resources, including law enforcement, where they are most needed.
- By taking a scaled approach to development, maintenance, improvement, and expansion of recreation facilities, it provides for expected increased use while protecting less used/unused locations, which “are the most precious and fragile, and thus should be intensively protected and managed to avoid the proliferation of impacts.” Monz, 2021. This also complies with NLCS policy that “[t]he BLM will only develop new facilities, including roads, within NLCS units where they are required under law, required for public health and safety, are necessary for the exercise of valid existing rights or other non-discretionary uses, prevent impacts to fragile resources, or further the purposes for which an area was designated.” BLM Manual 6100, Section 1.6.I.3.
- By managing remote areas in harmony with adjacent remote landscapes managed by the Park Service and other agencies, it administers BENM “as an integral part of the larger landscape, in collaboration with all BLM programs, other agencies, willing landowners, and surrounding communities and in consultation with tribes.” BLM Manual 6100, Section 1.6.A.8.

- It focuses monitoring where it is most needed, and provides for a variety of management tools to limit or control activities that are determined to be impacting BENM objects and values.
- It supports economic opportunities in local communities by allowing for special recreation permits/special use permits for certain commercial activities, and prioritizing the placement of major visitor use infrastructure near towns such as Monticello, Blanding, Bluff, and Mexican Hat. *See*, BLM Manual 6100, Section 1.6.I.2: “When new administrative offices, visitor centers, contact stations, and similar facilities are needed in association with NLCS units, the BLM will generally develop, or encourage the development of, these facilities within nearby communities to enhance local economic vitality and quality of life and to minimize disturbance within NLCS units.”
- Management of other resources coincide with the recreation zones. For example, the Remote Zone incorporates protected areas such as FS wilderness and roadless areas, WSAs, and LWC; ROWs coincide with existing routes in Front Country and Passage zones; and VRM classes are also tied to appropriate management zones.

We also support Alternative E’s prohibition of recreational shooting in BENM. Target shooting is in direct conflict with the protection of the natural and cultural resources and values identified in the designating Proclamations. Further, target shooting threatens the health and safety of all visitors to the Monument, as well as the natural quiet they come to enjoy. The agencies recognize that “[d]ue to the limited opportunities provided by the agencies for recreational shooting, impacts to shooters would likely be minimal.” DEIS, Vol. 1, p. 3-432. These minimal impacts are far outweighed by the benefits of prohibiting target shooting, which include reducing user conflicts and health and safety issues as visitation to the Monument increases (*see*, DEIS, p. 418), as well as “environmental benefit by preventing noise pollution and lead fragments from bullets leaching into soils and waterways, protecting wildlife from lead poisoning and retaining the natural character of BENM for visitors seeking a more remote experience.” *Id*, p. 3-432.

Improvements to Alternative E that Protect Monument Objects and Values:

We propose: In Attachment 2 we provide a revised Recreation and Visitor Services matrix with all of our proposed improvements to Alternative E. We found the Recreation and Visitor Services matrix in the DEIS, particularly related to Alternative E, to be extremely confusing, redundant, and at times contradictory. DEIS, Vol. 1, Table 2-19. Instead of providing all of our proposed improvements here, we felt it would be easier and more efficient to provide a revised matrix.

In our improved matrix we address BLM’s concerns, particularly with respect to camping. BLM claims that Alternative E’s zoned management approach “would limit the agencies’ ability to respond to issues that may arise due to limited ability to provide interior infrastructure.” DEIS, Vol. 1, p. 3-430. BLM also claims that the removal and reclamation of campsites as necessary, to

protect BENM objects “would limit dispersed camping opportunities more than Alternative A and would potentially lead to overcrowding in designated campgrounds if demand in the Monument increases.” DEIS, Vol. 1, p. 3-430. This seems to be contradicted by the statement that “new camping sites and areas could be designated by the agencies through implementation-level decisions” to address limits to camping opportunities during MSO PAC restriction season. DEIS, Vol. 1, p. 3-431.

Indeed, the Agencies’ concerns are unwarranted. Alternative E allows the improvement and development of new developed campgrounds and dispersed camping areas in Frontcountry and Passage zones. In all zones, working in collaboration with the BEC, the agencies can “designate campsites and areas to help guide and focus visitors to appropriate places” and “identify areas that are available to dispersed camping.” *Id.*, p. 2-103, Table 2-19. In our improved matrix, we provide additional management actions to clarify these, and identify additional zone-based management actions.

Our improved matrix also includes management actions related to monitoring, and the presence of BLM and Tribal personnel and resources, including law enforcement officers. Providing improved education, monitoring, and personnel in areas where known problems exist are better ways to address BLM’s concerns than dispersing use further into remote areas. As the Monz report states:

- “Activity types and behaviors that result in expanding recreation use from concentrated, high-use areas to new, less visited and undisturbed locations are perhaps the most serious consideration.”
- “Concentrating visitor use in previously impacted or hardened sites and trails will likely be a successful management strategy, while dispersal strategies may result in a proliferation of recreation disturbance.”

Monz, 2021.

To address BLM’s concerns regarding dispersed camping, we also provide language addressing the potential future development of a designated dispersed camping system for vehicle camping if the Agency determines that it is necessary due to “limitations on BLM’s ability to respond to dispersed campsite damage caused by increased visitation.” *Id.*, p. 3-430. In fact, the Moab BLM is in the process of implementing such a plan in areas of high visitation, which was needed regardless of the existence of extensive developed campsites within the field office (i.e., 29 developed campgrounds totaling almost 600 campsites) as many users are looking for a dispersed camping experience. In fact, one could argue that the existence of developed campgrounds has little effect on dispersed camping as the preference in camping location varies widely within user groups. Similarly, one could also argue that developed campgrounds within the Monument would result in the promotion of camping types that are currently not prolific within the Monument due to the lack of developed campgrounds (i.e., motor homes/RVs) and that increases in these types of uses would actually detract from the “natural condition” and cultural landscape values of the Monument. Such a plan could be implemented at a future date through an implementation-level plan and/or plan amendment.

Closing Summary

Alternative E is the only alternative that complies with the Proclamations and NLCS policies by prioritizing the protection and restoration of Monument objects and values, while also facilitating a spectrum of high-quality, *appropriate* recreation experiences—from remote, backcountry solitude to frontcountry interpretive site opportunities and trails. Alternative E also appropriately bans recreational target shooting.

Proposals

- Revise Alternative E as proposed in Attachment 2

19. Travel and Transportation Management

Proclamations 10285 and 9558

Proclamation 10285 specifically states that recreation is not an object of historic and scientific interest designated for protection. This includes motorized recreation. In addition, the Proclamation recognizes that:

the Bears Ears landscape remains one of the most ecologically intact and least-roaded regions in the contiguous United States. As a result, the area continues to provide habitat to a variety of threatened, endangered, sensitive, endemic, or otherwise rare species of wildlife, fish, and plants. The area also contains a diverse array of species that benefit from the preservation of the landscape's intact ecosystems.

The final management plan must ensure that BENM continues to do so.

As discussed previously, there are approximately 1,840 miles of designated routes on BLM and FS lands within the Monument, and BLM has known since at least 2015 that its travel network is not adequately protecting cultural and paleontological resources.²⁷ DEIS, Vol. 1, p. 3-434. We discuss the impacts of roads and OHV use on Monument objects and values in the Lands with Wilderness Characteristics section and will not repeat them here. As stated in that section, we support Alternative D's management of LWC as OHV closed, with the limited exception of routes necessary for wood gathering and access for ceremonial and cultural purposes, as identified in collaboration with the BEC. In addition, we support Alternative E's OHV closed designations, including the Arch Canyon area. DEIS, Vol. 1, p. 2-116, Table 2-20. These management prescriptions, and our recommended improvement, are essential to moving the travel network towards conforming with the Proclamations by protecting Monument objects

²⁷ BLM, Land Use Plan Evaluation Report, Monticello Field Office Approved Resource Management Plan 5 (July 7, 2015).

and values, and to the protection of wilderness characteristics of naturalness, solitude, and opportunities for primitive and unconfined recreation.

Important Components from Alternative E

Arch Canyon

Designating the Arch Canyon area as OHV closed is essential for the protection and restoration of Monument objects and compliance with the Proclamations. Protected objects and values found throughout Arch Canyon include, but are not limited to, fossilized remains, cliff dwellings, the Arch Canyon Great House, hanging gardens, pictographs and petroglyphs, Arch Creek and its sensitive riparian area, sensitive fish, amphibian, and bird species and their habitats, native vegetation, including threatened Navajo sedge, and threatened Mexican Spotted Owl. See Proclamations 10285 and 9558. It is a “sensitive” riparian area (DEIS, Vol. 1, pp. 3-216, 3-223), and “is one of a small handful of canyons in the area with a semi-perennial water source. The availability of year-round water makes Arch Canyon important for wildlife, specifically Mexican Spotted Owl and amphibious species.” *Id.*, Vol. 2, p. E-28.

As BLM admits in the DEIS, allowing OHV use in Arch Canyon “would *continue* to impact water resources and water quality conditions, including increased erosion and sediment loading from unstable streambanks at road crossings and from the sections of road located within the stream channel.” DEIS, Vol. 1, pp. 3-78, 3-82, 3-84 (emphasis added). On the other hand, “[c]losing areas to OHV use, *including the Arch Canyon Road*, would eliminate impacts from OHVs.” *Id.*, pp. 3-86, 3-89 (emphasis added).

The DEIS also recognizes that “[a]lthough the relationship between OHV use and impacts to cultural resources is complex, in general increased easy access to cultural resources by OHV correlates with increased impacts to cultural resources. Accordingly, areas closed or limited to OHV access would generally provide greater protection to cultural resources and fewer associated impacts.” *Id.*, pp. 3-287, 3-305. This is consistent with the best available scientific data on the impacts of roads and OHVs on cultural resources: “Research studies have examined both the direct and indirect effects of road proximity (Hedquist et al., 2014) and off-highway vehicle (OHV) activity (Sampson, 2007) to cultural sites and found both to be a concern. For example, disturbance from recent activities was prevalent at sites that are found within 300 m of a motorized access road.”²⁸ The Monz study concluded that, “no one single strategy except for closure will completely eliminate damage or loss of cultural resources.” Monz., p. 21. Due to the damage Arch Canyon has already suffered from OHV use, closure is the only acceptable strategy.

²⁸ Christopher Monz, *Outdoor Recreation and Ecological Disturbance*, Recreation Ecology Lab at Utah State University, p. 12 (2021).

Aircraft and Unmanned Aircraft System (UAS)

We support Alternative E's management prescriptions that "[a]ircraft takeoffs and landings would be limited to Bluff Airport and Fry Canyon Airstrip" and "[p]ublic UAS use would be prohibited throughout BENM, although permitted UAS use may be allowed through formal authorizations, where use would be beneficial to protecting BENM objects." DEIS, Vol. 1, p. 2-122, Table 2-20.

UAS (otherwise known as drones), recreational air travel (scenic overflights, backcountry air strips), and commercial filming threaten BENM's natural and cultural resources, including natural quiet and soundscapes, wildlife, and overall ecosystem health. The Agencies recognize that limiting the potential for using UAS on the Monument would limit noise pollution and preserve the land's natural character. *Id.*, p. 3-431. In addition to disrupting natural soundscapes, these uses also threaten cultural resources by exposing their locations, whether purposefully or inadvertently. Such exposure could lead to significant negative impacts from increased visitation, vandalism, and theft.

Prohibiting the use of drones also provides consistent management with the current ban on their use in national parks.

The popularity of UASs, also known as drones, has increased in recent years, as most have become more affordable to the public. UAS are banned in several national monuments and state parks and are temporarily banned in national parks due to safety, noise, and impacts to wildlife... UAS are another potential source of unnatural sound that may affect the natural soundscape valued by Indigenous peoples.

DEIS, Vol. 1, p. 3-437. Consistent cross-boundary management will prevent trespass into the monuments, parks, and special management areas within and surrounding the Monument.

Improvements to Alternative E that Protect Monument Objects and Values

To comply with the Proclamations and NLCS policy, and because the agencies have known for over a decade that the travel network is not adequately protecting the natural, cultural and paleontological resources of the Bears Ears landscape, Alternative E must be improved to ensure collaboration with the BEC, incorporate TIK and TEK, and prioritize the protection of Monument objects.

In addition, there are numerous management prescriptions related to implementation-level travel planning, including the designation, development, maintenance, and improvement of motorized, mechanized, and non-motorized routes and trails. These prescriptions must be strengthened, clarified, and consolidated to make the plan less confusing, to ensure that designation, development, maintenance, and improvement of non-motorized trails and motorized routes will be in accordance with NLCS policy, the relevant recreation management

zone, and to ensure the protection and restoration of Monument objects and values. Below are our proposed improvements. Changes **in bold**.

- We propose: We have provided necessary improvements to Appendix H: Travel Management Plan Criteria. These improvements are detailed in Attachment 3.
- “Manage the transportation system so it provides safe and reasonable access while protecting BENM objects.” DEIS, p. 2-116 (Goals and Objectives).

We propose: “Manage the transportation system **in collaboration with the BEC to protect BENM objects and values while providing** safe and reasonable access.”

- “Ensure that travel and transportation management facilitate appropriate use and interaction with the cultural landscape of BENM. Ensure the travel network supports education and protection of BENM objects by siting roads and trails in locations that allow the public to better understand the cultural landscape in a manner that is consistent with the protection of BENM objects.” *Id.*

We propose: “Ensure that travel and transportation management **incorporates Traditional Indigenous Knowledge** to facilitate appropriate use and interaction with the cultural landscape of BENM. Ensure the travel network supports education by siting roads and trails in locations **that protect BENM objects and values, and enables the public to better understand the cultural landscape.**”

- “Agencies would develop a travel and transportation implementation-level plan. Agencies would coordinate with local government and the BEC and other Tribal Nations on implementation-level travel planning.” DEIS, p. 2-116 (Management Actions Common to All Action Alternatives).

We propose: “**Within three years of issuance of the Record of Decision**, the Agencies **will** develop a travel and transportation implementation-level plan **in collaboration with the BEC**. Agencies **will also** coordinate with local governments and other Tribal Nations on implementation-level travel planning.”

- Several management prescriptions address the designation of new non-motorized or non-mechanized *routes*. For consistency and to distinguish between motorized routes and non-motorized trails, the final plan must clarify that these are non-motorized or non-mechanized *trails*. The final plan must also clarify that “new non-motorized trails” and “new non-mechanized trails” are those trails that may exist on the ground but that are not designated in the 2008 Monticello Resource Management Plan, the 1991 Manti-La Sal Travel Plan, or other implementation-level planning documents. Our proposed management actions, below, clarify this.

- In addition, several management prescriptions address the designation of new motorized routes. The final plan must clarify that “new motorized routes” are those routes that may exist on the ground but that are not designated as OHV Open or OHV Limited in the 2008 Monticello Resource Management Plan or the 1991 Manti-La Sal Travel Plan. Our proposed management actions, below, clarify this.
- “With the exception of existing non-motorized trails that allow mechanized travel, future mechanized travel would be limited to routes where OHV use is allowed.” *Id.*, p. 2-119, Table 2-20. This management action must clarify that mechanized travel is limited to existing “designated” non-motorized trails that allow mechanized use. To best protect Monument objects and prevent user conflicts, new mechanized trails should not be designated on the Monument.

We propose: “With the exception of existing **designated** non-motorized trails that allow mechanized travel, future mechanized travel **will be** limited to routes where OHV use is allowed.”

- “Implementation-level travel planning would not designate new motorized and mechanized routes in riparian areas, wetlands, and water resources unless necessary to ensure the protection of BENM objects and in collaboration with the BEC.” *Id.*, p. 2-122. The Agencies should revise this management prescription to include sensitive soils and other water resources (taken from redundant prescriptions, below), remove “new mechanized routes” (see above), and identify actions that the agencies will take regarding routes that are impacting these resources.

We propose: “Implementation-level travel planning, **in collaboration with the BEC, will** not designate new motorized routes in **sensitive soils**, riparian areas, wetlands, **100-year floodplains, perennial springs and seeps**, and **other** water resources unless **absolutely** necessary to ensure the protection of BENM objects **and values**. **New motorized routes are those that may exist on the ground but that are not designated as OHV Open or OHV Limited in the 2008 Monticello Resource Management Plan or 1991 Manti-La Sal Travel Plan. The designation of new motorized routes will be in accordance with the relevant recreation management zone.**”

“Existing routes that are impacting Monument objects, including sensitive soils, riparian areas, wetlands, 100-year floodplains, perennial springs and seeps, and other water resources, will be closed, modified, or re-routed, and as necessary the area will be rehabilitated, to protect and restore these resources.”

The second part of this management prescription states: “Implementation-level travel management planning will ensure motorized and mechanized routes that parallel or cross streams would be located to best complement riparian and aquatic ecosystems as well as road/trail and stream geometry. This includes locating crossings (fords) at points of low bank slope and firm surfaces wherever practicable.” *Id.*, p. 2-122. Because this management

prescription is included with the one above, it appears that it is applicable only to the designation of new motorized routes. This should be clarified. In addition, it is unclear what “best complement” means. The Agencies are required to protect Monument objects and values, which include riparian areas and aquatic ecosystems, as well as *minimize damage* to watersheds. “Best complement” does not suffice.

We propose deleting this management action.

- “Implementation-level travel planning would not designate new non-motorized or non-mechanized routes in degraded riparian, wetland, and water resources unless necessary to ensure the protection of BENM objects.” *Id.*, p. 2-122. This prescription should include additional resources (taken from redundant prescriptions, below), and clarify actions that the agencies will take regarding trails that are impacting these resources. Also, including non-mechanized is unnecessary because, as we explain above, no new mechanized trails should be designated in BENM.

We propose: “Implementation-level travel planning, **in collaboration with the BEC, will not designate new non-motorized trails in sensitive soils, riparian areas, wetlands, 100-year floodplains, perennial springs and seeps, and other water resources where monitoring has shown degradation to these resources, unless absolutely necessary to ensure the protection of BENM objects and values. New non-motorized trails are those that may exist on the ground but that are not designated in the 2008 Monticello Resource Management Plan, the 1991 Manti-LaSal Travel Plan, or other implementation-level planning document. The designation of new non-motorized trails will be in accordance with the relevant recreation management zone.**”

“Existing trails that are impacting Monument objects and values, including sensitive soils, riparian areas, wetlands, 100-year floodplains, perennial springs and seeps, and other water resources, will be closed, modified, or re-routed, and as necessary the area will be rehabilitated, to protect and restore these resources.”

- We propose: Delete the following management action: “Implementation-level travel planning would not designate new mechanized routes in sensitive soils unless necessary to ensure the protection of BENM objects.” *Id.*, p. 2-122. This management prescription is unnecessary because, as explained previously, for the protection of Monument objects and values, and to prevent user conflicts, the Agencies should not designate new mechanized routes.
- We propose: Delete the following management action: “Implementation-level travel planning will not designate new motorized or non-motorized routes in riparian areas, 100-year floodplains, and perennial springs and seeps where monitoring has shown degradation to these resources necessary to protect BENM objects.” *Id.*, p. 2-123. This prescription is redundant. We have incorporated its provisions in our recommendations.

- Management prescriptions for route maintenance and improvement. *Id.* It is unclear whether these prescriptions are applicable only to motorized routes, or also to non-motorized trails. The third paragraph, which defines “improvement” mentions routes *or trails* several times. *Id.* However, the management prescriptions only mention routes.

We propose: The final plan must clarify that improvement applies to both routes and trails.

“Maintenance: Designated routes could be maintained to meet public health and safety needs and/or to protect BENM objects. Deviations from current route maintenance levels on designated routes, to provide for public health and safety needs and/or to protect BENM objects, would be considered during plan implementation on a case-by-case basis.” *Id.*

We propose: “Maintenance: Designated routes **and trails** could be maintained to meet public health and safety needs and/or to protect BENM objects, **in consultation with the BEC.** Deviations from current route maintenance levels on designated routes **and trails**, to provide for public health and safety needs and/or to protect BENM objects, **will** be considered during implementation-level planning or on a case-by-case basis, **in accordance with the relevant recreation management zone, agency policy and in consultation with the BEC.**”

“Improvements: Improvements to routes, including potential reroutes or alternative alignments, to provide for public health and safety needs and/or to protect BENM objects, would be considered during plan implementation on a case-by-case basis, in accordance with agency policy.” *Id.*

We propose: “Improvements: Improvements to routes **and trails**, including potential reroutes or alternative alignments, to provide for public health and safety needs and/or to protect BENM objects, **will** be considered during implementation-level planning or on a case-by-case basis, in accordance with **the relevant recreation management zone**, agency policy, **and in consultation with the BEC.**”

- “No new trails would be developed in riparian areas or 100- year floodplains. Existing trails would be maintained as necessary to protect BENM objects.” *Id.*, p. 2-123. The final plan must clarify that the first sentence is applicable only to the development of new non-motorized trails. In addition, the agencies should revise this action to better protect water resources and sensitive soils, clarify that areas identified as suitable for new trails would be made in implementation-level travel planning in consultation with the BEC, and ensure consistency with the management of each recreation zone.

We propose: “**Implementation-level travel planning, in collaboration with the BEC, will not develop new non-motorized trails in sensitive soils, riparian areas, wetlands, 100-year floodplains, perennial springs and seeps, and other water resources. The development of new non-motorized trails must be consistent with the applicable recreation management zone and is prohibited in the Remote Zone.**”

We propose: Because the second sentence is relevant only to the maintenance of existing trails, it should be deleted. We incorporated trail maintenance into separate management prescriptions.

- We propose: The following management action should be deleted: “Implementation-level travel planning would not designate non-motorized and non-mechanized trails in sensitive soils in locations where monitoring has shown degradation to these resources, unless necessary to ensure the protection of BENM objects, or unless there are no other feasible alternatives and those trails would be consistent with the protection of BENM objects.” *Id.*, p. 2-124. This management prescription is redundant and should be deleted. We have incorporated its provisions in other proposals.
- “Manage new or existing travel routes to protect habitat for culturally and ecologically important species. Prohibit new roads, trails, or other recreation development that might fragment or disturb nesting, fawning, calving habitat; winter range; or habitat necessary for other vulnerable life stages of culturally and ecologically important species.” *Id.* The final plan must clarify this management prescription to better protect wildlife and wildlife habitat and include collaboration with the BEC.

We propose: “**In collaboration with the BEC**, manage new and existing travel routes **and trails** to protect habitat for culturally and ecologically important species. Prohibit **the designation and development** of new **routes**, trails, or other recreation development that might fragment or disturb nesting, fawning, calving habitat; winter range; **migration routes**, **and** habitat necessary for other vulnerable life stages of culturally and ecologically important species.”

In addition to the above recommendations, the final plan should include specific prescriptions concerning the management of existing and new travel routes and trails relative to other Monument objects and values such as cultural sites and resources, soundscapes, and native vegetation.

Closing Summary

Alternative E, with our proposed improvements, are essential to moving the travel network towards conforming with the Proclamations by protecting Monument objects and values, to the protection of wilderness characteristics, and to cohesive cross-boundary management and prevention of trespass and unauthorized use.

Proposals

- Ensure collaboration with the BEC, incorporate TIK and TEK, and prioritize the protection of Monument objects.
- Strengthen, clarify, and consolidate the numerous management prescriptions related to the designation, development, maintenance, and improvement of motorized,

mechanized, and non-motorized routes and trails to make the plan less confusing, and ensure the protection and restoration of Monument objects and values.

- Ensure that the designation, development, maintenance, and improvement of non-motorized and mechanized trails and motorized routes will be in accordance with the relevant recreation management zone.

20. Livestock Grazing

Proclamations 10285 and 9558

Pursuant to Proclamation 10285, livestock grazing is not an object of historic and scientific interest designated for protection, and “[t]he Secretaries shall manage livestock grazing as authorized under existing permits or leases, and subject to appropriate terms and conditions in accordance with existing laws and regulations, consistent with the care and management of the objects identified above and in Proclamation 9558.” Thus, cattle grazing cannot be permitted in a manner that adversely affects the objects and values (identified in either proclamation) for which the Monument was designated.

Proclamations 9558 and 10285 identify many specific monument objects and values with the potential to be damaged by cattle grazing. This includes, but is not limited to: canyon bottom riparian communities and the wildlife dependent upon them; riparian vegetation in Dark, Arch, Fish, and Mike’s canyons, and Kane Gulch; North Cottonwood Canyon’s perennial creek; and Butler Wash, Fable Valley, Ruin Canyon, Tuerto Canyon, Trough Canyon, and Moqui Canyon. Cultural sites identified in Proclamation 10285 include, but are not limited to: surface sites in Fable Valley; Ancestral Pueblo sites in the area that encompasses Tuerto, Trough, Ruin, and North Cottonwood Canyons, with special significance to the Pueblos of New Mexico. Native animal species include, but are not limited to: Mexican spotted owl critical habitat, the Dark Canyon area’s known populations of Mexican spotted owls, and habitat for the endangered (and riparian-dependent) southwestern willow flycatcher along the San Juan River. Proper protection of these, and all other Monument objects and values, calls for management modifications to cattle grazing in specific circumstances, and we provide proposals to protect Monument objects and values from the impacts of grazing below.

Important Components from Alternative E

Grazing Permit Relinquishment Direction

We appreciate the BLM’s thoughtful approach to the implementation of grazing permit relinquishments in Alternatives B-E. We support the adoption of the language in Alternatives B-E compared to Alternative A, which only includes the language from the Proclamation. The detailed language in Alternatives B-E provides needed clarity regarding how the more general language of the Proclamation would be implemented.

Riparian Area Grazing and Trailing

Alternative E includes the following: “Prohibit livestock trailing and grazing along the full length of riparian areas. Rehabilitate riparian areas where damage has occurred.” DEIS, Vol. 1, p. 2-128, Table 2-21. This is necessary to protect canyon bottom riparian communities and the wildlife dependent upon them, which are Monument objects. Thus, we support the inclusion of this provision in the final plan.

Improvements to Alternative E that Protect Monument Objects and Values

Grazing Availability (BLM)/Suitability (FS)

Alternatives A, B, C, and E generally only include areas that are not currently grazed as unavailable (BLM) or not suitable (FS) for grazing, resulting in little on-the-ground change. However, there is a significant nexus of cattle grazing with Monument objects identified by the Proclamations, as we highlight above. Grazing unavailability/not suitable decisions should be guided by damage to Monument objects from livestock grazing, which is a discretionary use and must be consistent with the care and management of Monument objects. Below we highlight areas from Alternative D where we believe grazing is inconsistent with proper protection of Monument objects.

We propose: The areas below should be designated as unavailable/not suitable for grazing in the final plan. These areas are included in Alternative D except for two areas, *Indian Creek - Lower* and *Chicken Corners*, for which we propose modifications to the relevant GIS polygons based on ground-truthing and topography. DEIS, Vol. 1, Table 2-21.

Butler Wash - Perkins North allotment, Butler Wash pasture; Tank Bench Brushy Basin allotment, Butler Wash pasture

We propose that these two pastures from Alternative D be made unavailable for grazing in the final plan. Butler Wash its cultural sites are specifically identified in the Proclamations, as are canyon bottom riparian communities and the wildlife dependent on them across the Monument. The two pastures of Butler Wash specified above, while relatively small, contain an abundance of cultural resources and a crucially important riparian area, which are being negatively impacted by cattle grazing. See Appendix A, Butler Wash Condition Assessment. Accordingly, these pastures should be made unavailable to cattle grazing in order to protect Monument objects and comply with the Proclamations.

This ecologically and culturally important area is relatively easily accessed and is an appropriate location to provide for holistic management and cultural use. Alternatives B, C, and E propose to only make two very small discrete areas in lower Butler Wash unavailable for grazing. It appears that these polygons may have been drawn around sensitive resources, and it is unclear how these areas would be effectively closed to grazing on the ground. We are concerned about the attention drawn to these areas by these small polygons, and would be even more concerned about attention drawn to them if they would be protected from cattle by fencing.

Fencing just these isolated polygons is akin to the tree islands around archaeological resources in vegetation removal projects, a practice which BLM has moved away from because it recognizes the risks posed to the resources. Given the abundance of cultural resources and the important riparian area in these pastures, along with ongoing impacts from cattle, continuing grazing in this area is inconsistent with the protection of Monument objects and values.

Moqui Canyon - Lower

We propose that Moqui Canyon be made unavailable to grazing in the final plan. Moqui Canyon is specifically identified as a Monument object, as are canyon bottom riparian communities and the wildlife dependent on them across the Monument. In addition, Proclamation 10285 identifies archaeological remains on Mancos Mesa dating back 2,000 years and spanning across the Basketmaker II and III and Pueblo I, II, and III periods. Moqui Canyon is home to a riparian area that is being degraded by cattle, including heavy browsing of woody riparian vegetation, trampled and eroding streambanks, cattle feces deposited directly in the water, and a proliferation of disturbance-induced non-native vegetation. See Appendix A, Moqui Canyon Condition Assessment. Moqui Canyon also contains abundant and significant cultural sites which grazing threatens to damage.

Additional information regarding the conditions of riparian vegetation in this area of Moqui Canyon is available through the BLM’s Assessment, Inventory, and Monitoring (AIM) Data Viewer.²⁹ The table below includes AIM Lotic Indicators data collected in 2018 and 2020 for two sites within this Lower Moqui polygon:

Attribute Label	Range of Values	Moqui - Lower, Main Canyon	Moqui - Lower, Side Canyon
PointID		MT-LS-16549	MT-SS-23717
StreamName		Moqui	Moqui Canyon
FieldEvalDate		10/20/2020	10/8/2018
PctOverheadCover	0-100%	37.8	40.4
PctBankOverheadCover	0-100%	44.4	52.1
VegComplexity	0-2.6 (.875 x 3)		0.89
VegComplexityWoody	0-2.6 (.875 x 3)		0.78
VegComplexityUnderstoryGround	0-2.6 (.875 x 3)		0.52
PctNoxiousWoodySpecies	0-100%	77	

²⁹ BLM’s Assessment, Inventory, Monitoring (AIM) Data. <https://blm-egis.maps.arcgis.com/apps/webappviewer/index.html?id=d96ef73e800749ba8e25443661ecc55c> (Accessed 6-7-2024)

PctBankCoveredMIM	0-100%	21	
PctBanksUndercut	0-100%	0	0

Percent overhead cover, which is measured mid-channel, and percent bank overhead cover, measured at the scour line on both sides of the creek, are relatively low for these sites, ranging from 38 to 52% out of a possible 100%. Vegetation complexity averages the vegetative cover of the canopy (>5m), understory (0.5-5m), and ground layers (<0.5m) on both sides of the creek; woody vegetation complexity averages the woody vegetative cover of the canopy, understory, and ground layers on both sides of the creek; and understory and ground layers vegetation complexity averages the vegetative cover of the understory and ground layers on both sides of the creek. Data for all of these is quite low, ranging from 0.52 to 0.89 out of a maximum of 2.6. Percent noxious woody species measures the percentage of plots with the priority noxious species present. 77% of plots in Moqui Canyon contained noxious woody species. Percent bank covered measures the percentage of 42 banks with >50% cover of vegetation, wood, or mineral substrate. The percent bank covered in Moqui Canyon is 21%, indicating a significant amount of bare streambanks. Percent banks undercut measures the percentage of 22 banks with angles less than 90 degrees. Undercut banks provide important habitat for fish and other aquatic organisms and are an indicator of a healthy stream system. Moqui Canyon contained no measured undercut banks (0%). These data show *significant* degradation of the Moqui Canyon canyon bottom riparian communities and associated wildlife habitat, which are Monument objects and values. This is confirmed by our on-the-ground observations summarized and in Appendix A cited to above.

Grazing in this area is not consistent with the protection of Monument objects. This is a relatively small area but making it unavailable for grazing would have a significant ecological benefit due to the outsized role of riparian areas in this desert ecosystem.

Slickhorn Canyon Pasture

We propose that the Slickhorn Canyon pasture and the upper part of the unnamed canyon in the Point Lookout pasture, both included in Alternative D, be made unavailable for grazing in the final plan. The upper part of Slickhorn Canyon proper is currently unavailable for grazing (included in Alternative A). However, the Slickhorn Canyon pasture, which is considered for unavailability in Alternative D, also includes other important canyons that drain into the San Juan River. Foremost amongst these is an unnamed canyon between Slickhorn Canyon and Point Lookout. This unnamed canyon contains a healthy riparian area and important cultural resources. This area should be made unavailable to cattle grazing in order to protect these important Monument objects and values and comply with the Proclamations. The upper part of this canyon is in the Point Lookout pasture, which is also analyzed in Alternative D, and is inaccessible to cattle. Based on our observations, Slickhorn Canyon pasture is not actively grazed. Thus, allocating these areas as unavailable for grazing would be in line with areas currently included in Alternatives B, C, and E.

John's Canyon

We propose that the John's Canyon area from Alternative D be made unavailable for grazing in the final plan. John's Canyon is home to canyon bottom riparian communities and the wildlife dependent on them, which are identified as Monument objects. John's Canyon is being damaged by cattle, including degradation of water quality by cattle feces, a proliferation of disturbance-induced non-native vegetation, and trampled biological soil crust along with large areas of bare ground. See Appendix A, John's Canyon Condition Assessment. John's Canyon is also being considered as an ACEC in Alternative E, with relevant and important values ranging from paleontological, cultural, scenic, fish and wildlife, to threatened species (Navajo sedge [*Carex specuicola*]). Grazing in this area is not consistent with the protection of Monument objects and values, or with the relevant and important values of the John's Canyon ACEC.

Dark Canyon upstream of Rig Canyon/Peavine Canyon

We propose that this area from Alternative D be allocated as not suitable for grazing in the final plan. Dark Canyon is identified as a Monument object, with its hanging gardens, springs, riparian areas, habitat for wildlife, and known populations of Mexican spotted owls specifically highlighted. The Dark Canyon area also contains many culturally significant plant species. Due to the steep walls of Dark Canyon and the lack of significant upland areas adjacent to its riparian areas, cattle grazing is concentrated in the sensitive riparian areas where its effects are intensified. Cattle are damaging the Dark Canyon riparian area, with substantial stream incision and excessive, ongoing erosion being a significant concern. See Appendix A, Dark Canyon Condition Assessment.

Monitoring data acquired from the Forest Service from 8/23/22, under "Describing 17 Indicators of Rangeland Health", notes that erosion is common and that there's active headcutting, and states: "Number of Plant F/S (Functional/Structural) Groups Slightly Reduced and/or Relative Dominance of F/S Groups has been Modified from that Expected for the Site and/or Number of Species within F/S Groups Slightly Reduced." Photos included with this data show heavy utilization of herbaceous species. See Appendix A. This constitutes significant degradation of wildlife habitat for species from pollinators to small mammals to Mexican spotted owls and other raptors. More generally, these conditions in Dark Canyon constitute degradation of its riparian area, wildlife habitat, and adverse modification of designated critical habitat for Mexican spotted owls. Allocating this area as not suitable for livestock grazing would allow recovery to begin, which could be helped along through active restoration projects. Over time incision could be reversed, with a healthy riparian area trapping sediment and raising the water table. Grazing in this area is not consistent with the protection of Monument objects and values.

Tuerto Canyon

We propose that Tuerto Canyon, which is included in Alternative D, be allocated as not suitable for grazing in the final plan. Tuerto Canyon is specifically identified as a Monument object, as are canyon bottom riparian communities and the wildlife dependent on them across the Monument. In addition, Proclamation 10285 identifies Ancestral Pueblo sites in the area with special significance to the Pueblos of New Mexico. Tuerto Canyon contains an important

riparian area, which as we understand is generally not grazed other than once in a while by a few animals. Tuerto Canyon should be allocated as not suitable for cattle grazing in order to protect the important Monument objects and values present there. Allocating Tuerto Canyon as not suitable for grazing would be in line with areas currently included in Alternatives B/C/E.

[Trailing] North Cottonwood Pasture and North Cottonwood Upper Pasture

We propose that these two pastures from Alternative D be limited to trailing only in the final plan. North Cottonwood Creek is specifically identified as a Monument object, as are canyon bottom riparian communities and the wildlife dependent on them across the Monument. In addition, Proclamation 10285 identifies Ancestral Pueblo sites in the area with special significance to the Pueblos of New Mexico. Cattle are damaging North Cottonwood Creek’s riparian area, including excessive browsing of woody riparian vegetation, trampled and eroding streambanks, heavily grazed understory vegetation, and excessive bare ground. See Appendix A, North Cottonwood Creek Condition Assessment.

Additional information regarding the conditions of riparian vegetation in North Cottonwood Creek is available through the BLM’s Assessment, Inventory, and Monitoring (AIM) Data Viewer. The first table below shows AIM Lotic Indicators data collected at the same general location (what we have called site 3) in 2014, 2018, and 2023:

Attribute Label	Range of Values	North Cottonwood Creek 3	North Cottonwood Creek 3	North Cottonwood Creek 3
PointID		CO-LS-9417	MT-LS-13106	MT-LS-13106
StreamName		North Cottonwood Creek	North Cottonwood Creek	North Cottonwood Creek
FieldEvalDate		7/18/2014	6/6/2018	5/28/2023
PctOverheadCover	0-100%	40.9	40.4	38.6
PctBankOverheadCover	0-100%	43.3	64.2	50.5
VegComplexity	0-2.6 (.875 x 3)	0.96	0.57	
VegComplexityWoody	0-2.6 (.875 x 3)	0.7	0.39	
VegComplexityUnderstoryGround	0-2.6 (.875 x 3)	0.58	0.29	
PctNoxiousWoodySpecies	0-100%			27
PctBankCoveredMIM	0-100%			26
InstreamHabitatComplexity	0-2.3	0.35	0.26	
PctBanksUndercut	0-100%	14	9	0

This unique set of data spanning 9 years allows one to look at change over time in this area. Percent overhead cover, which is measured mid-channel, and percent bank overhead cover, measured at the scour line on both sides of the creek, are relatively low for these sites, ranging from 39 to 64% out of a possible 100%. Vegetation complexity averages the vegetative cover of the canopy (>5m), understory (0.5-5m), and ground layers (<0.5m) on both sides of the creek; woody vegetation complexity averages the woody vegetative cover of the canopy, understory, and ground layers on both sides of the creek; and understory and ground layers vegetation complexity averages the vegetative cover of the understory and ground layers on both sides of the creek. Data for all of these is quite low, ranging from 0.29 to 0.57 out of a maximum of 2.6 when they were most recently collected (2018). Furthermore, each of these measures decreased drastically from 2014 to 2018, the two years for which there is data on these measures. In that time vegetation complexity decreased by 41%, woody vegetation complexity decreased by 44%, and understory and ground layers vegetation complexity decreased by 50%.

Percent noxious woody species measures the percentage of plots with the priority noxious species present. 27% of plots in North Cottonwood Creek contained noxious woody species when this data was collected (2023). Percent bank covered measures the percentage of 42 banks with >50% cover of vegetation, wood, or mineral substrate. The percent bank covered in North Cottonwood Creek is 26%, indicating a significant amount of bare streambanks. Instream habitat complexity averages the cover provided for stream fishes, measured at 11 plots. Data for this measure was quite low, ranging from 0.26 to 0.35 out of a maximum of 2.3. Furthermore, instream habitat complexity decreased by 26% from 2014 to 2018, the two years for which there is data on this measure.

Percent banks undercut measures the percentage of 22 banks with angles less than 90 degrees. Undercut banks provide important habitat for fish and other aquatic organisms and are an indicator of a healthy stream system. North Cottonwood Creek’s percentage of undercut banks went from 14% in 2014, to 9% in 2018, to 0% in 2023. For the large majority of measures for which data was collected across multiple years, the data demonstrates a significant decrease in the ecological integrity and functionality of North Cottonwood Creek.

The second table below includes AIM Lotic Indicators data collected at four other sites in North Cottonwood Creek, what we have called sites 1, 2, 4, and 5 (going downstream from south to north):

Attribute Label	Range	North Cottonwood Creek 1	North Cottonwood Creek 2	North Cottonwood Creek 4	North Cottonwood Creek 5
PointID		MT-LS-17381	MT-LS-17202	MT-LS-10290	MT-LS-26674
StreamName		North Cottonwood Creek	North Cottonwood Creek	North Cottonwood Creek	North Cottonwood Creek
FieldEvalDate		5/11/2023	9/12/2017	7/10/2022	9/2/2018

PctOverheadCover	0-100%	42.9	74.9	17.8	13.2
PctBankOverheadCover	0-100%	57	92	37.7	49.7
VegComplexity	0-2.6 (.875 x 3)		1.38		0.93
VegComplexityWoody	0-2.6 (.875 x 3)		1.11		0.76
VegComplexityUnderstoryGround	0-2.6 (.875 x 3)		1.11		0.61
PctNoxiousWoodySpecies	0-100%	4		73	
PctBankCoveredMIM	0-100%	14		38	
InstreamHabitatComplexity	0-2.3		0.59		0.14
PctBanksUndercut	0-100%	0	0	0	9

Percent overhead cover and percent bank overhead cover are relatively low for the majority of these sites. Vegetation complexity, woody vegetation complexity, and understory and ground layers vegetation complexity are also relatively low. Percent noxious woody species was 73% at one site, but only 4% at another. Percent bank covered measurements are 14% and 38%, indicating a significant amount of bare streambanks. The vast majority of North Cottonwood Creek contains no undercut banks; only one site out of 5 in North Cottonwood Creek contained undercut banks in the most recent data (Site 5), still with only 9% undercut banks.

The data presented above – BLM’s own data - show significant degradation of the North Cottonwood Creek canyon bottom riparian communities and associated wildlife habitat, which are Monument objects and values. This is confirmed by our on-the-ground observations summarized in Appendix A and cited to above. Grazing in this area is not consistent with the protection of Monument objects and values.

Indian Creek - Lower

We propose that a modified polygon be adopted as the “Indian Creek - Lower” area and be allocated as unavailable for grazing in the final plan.

This area is included in Alternative B, and our understanding is that this area was identified as not currently being grazed. We visited this area and found that a fence and natural topography prevent cattle from grazing a larger area than what is encompassed in the polygon included in the DEIS GIS data. We observed no evidence of cattle use in this larger area, such as recent or old cowpies. Thus, we are submitting a shapefile that includes a modified polygon of this area that encompasses the larger currently ungrazed area. This shapefile includes associated metadata that explain the modifications based on our observations.

Chicken Corners

We propose that a modified polygon be adopted as the “Chicken Corners” area and be allocated as unavailable for grazing in the final plan.

This area is included in Alternative B, and our understanding is that this area was identified as not currently being grazed. We visited this area and found that natural topography prevents cattle from grazing a larger area than what is encompassed in the polygon included in the DEIS GIS data, especially along the Colorado River. Based on our on-the-ground observations of this area, the shore of the Colorado River surrounding the Goose Neck is not accessible to cattle. Thus, we are submitting a shapefile that includes a modified polygon of this area that encompasses this larger currently ungrazed area. This shapefile includes associated metadata that explains our suggested modifications.

Utilization

Alternative E should be improved to include a default utilization level of 30%, which is included in Alternative D, and that only native species will be used as key forage species when assessing utilization.

Appropriate utilization levels are necessary to ensure the ecological and cultural integrity of the Bears Ears landscape and associated monument objects. Alternative E defers establishing any utilization levels for two years. DEIS, Vol. 1, p. 2-127, Table 2-21. However, deferring action could entail degradation of the landscape in those two years, or for even longer if the two-year goal is not met. Thus, the plan should establish a default utilization level for the Monument based on the best available science.

The best available science indicates that 30% utilization is ecologically superior to higher utilization levels (particularly in dryland ecosystems like the Monument), and also economically superior.³⁰ 30% utilization leaves more plant material for the suite of wildlife that inhabit the Monument, from elk and deer to small mammals, insects, and pollinators. Providing 30% of the plant material for a single domestic species and 70% for all the native species on the Monument is still a generous allowance for a discretionary activity that is specifically not included as an object or value. 30% utilization may allow grazing operations to occur during a drought without destroying important components of the landscape.

In addition, we propose that only native species be used as key forage species when assessing utilization. This is because if non-native species are used as key forage species, utilization of native species could be much higher than the allowable level due to the sensitivity of many native species to grazing. For example, permitting 30% utilization on a non-native rhizomatous grass such as smooth brome could result in significantly higher utilization of native bunchgrasses, due to their different growth form and cattle grazing habits.

³⁰ Holecheck, J.L., Gomez, H., Molinar, F., & Galt, D. (1999). Grazing Studies: What We’ve Learned. *Rangelands* 21(2), 12-16; Carter, J. (2013). Utilization, Rest and Grazing Systems - A Review. 1-10; DeLong, D. (2015). Summary Basis for Building Wildlife Habitat-Needs & Protection into Forage Utilization Limits. 1-8.

Utilization levels do not, as a metric, necessarily indicate the presence or quality of habitat attributes necessary for the survival and recovery of threatened or endangered species. In occupied critical habitat, any livestock grazing may be incompatible with habitat conditions necessary for the survival and recovery of threatened and endangered species. In those instances, survival and recovery of threatened and endangered species should (and do, under the Endangered Species Act) take precedent.

We propose: The final plan include the following management actions from Alternative E, with the proposed improvements (**in bold**):

- Utilization levels of key forage species **will** be identified on an allotment-specific basis. **Only native species will be used as key forage species to assess utilization.** Utilization levels **will** be managed to meet the goals and objectives in this plan and implementation plans, as applicable. Utilization levels **will** be established within 2 years of the release of this RMP/EIS assessing appropriate utilization levels and baselines. **The default utilization level for the Monument is 30%, unless it can be demonstrated that a higher utilization level will benefit Monument objects.** Utilization levels **will accommodate** forage needs of **native** wildlife.

DEIS, Vol. 1, p. 2-127, Table 2-21.

Water Developments

We appreciate that water developments for domestic livestock will be prohibited unless necessary to protect Monument objects, and that natural water sources would be protected from livestock. *See above under Water Resources, Water Withdrawals* for additional rationale.

We propose that Alternative E be improved by incorporating the following proposed additions (**in bold**), and language from Alternative D (underlined):

- Prohibit new water source development for domestic livestock unless necessary to protect BENM objects **and it can be shown through tangible research that there are no alternatives to protect BENM objects. This research should be documented for the review of the BEC.** Existing water developments for livestock or wildlife **will** be removed unless they **are necessary to** protect BENM objects. Prohibit modifications to existing water developments for livestock grazing purposes, unless:
 - The primary purpose is to protect BENM objects; and
 - BLM-administered lands only: A current (within the last 10 years) land health assessment has been completed, and, if needed, a causal factor determination has been made for the allotment or applicable watershed. As informed by the land health assessment and causal factor determination, the modified water development will support the achievement of the BLM Utah Rangeland Health

Standards. An exception to this requirement could be approved for modifications to water developments to prevent imminent damage to BENM objects.

Livestock will be excluded from perennial surface water (except existing stock ponds). Enclosures or other physical barriers would be utilized to prevent livestock from directly accessing ~~or impairing~~ perennial surface water sources, such as springs, seeps, groundwater-dependent ecosystems, and ~~other sensitive~~ riparian areas.

Id., pp. 127-128.

Range Improvements

Alternative E includes general language that should be strengthened by including more specific language from Alternative B. In particular, requiring a current (within 10 years) land health assessment for new or modified range improvements is a logical first step in determining whether and what kind of improvements might be necessary. The language from Alternative B appropriately indicates that new/modified range improvements would be informed by the land health assessment and would support achievement of BLM Utah Rangeland Health Standards. Undertaking range improvements without a land health assessment would mean proceeding without relevant information necessary to inform those improvements. Such an approach is not appropriate in BENM, which should be a model for management best practices and should integrate land health assessments into all relevant aspects of management.

We propose that Alternative E be improved with the following management actions adopted from Alternative B (underlined):

- Prohibit new range improvements or modifications to existing range improvements, for livestock grazing purposes, unless:
 - The primary purpose is to protect BENM objects.
 - They support sustainable grazing practices and reduce impacts to the cultural landscape, including vegetation, wildlife, soil, and other important ecological and cultural resources.
 - BLM-administered lands only: A current (within the last 10 years) land health assessment has been completed, and, if needed, a causal factor determination has been made for the allotment or applicable watershed. As informed by the land health assessment and causal factor determination, the new/modified range improvements would support the achievement of the BLM Utah Rangeland Health Standards. An exception to this requirement could be approved for new/modifications to range improvements to prevent imminent damage to BENM objects.

Existing range improvements would be maintained only if they are consistent with the protection of BENM objects.

Existing range improvements that are not consistent with the protection of BENM objects **will** be removed.

Id., p. 2-128.

Timeframe for Processing of Permit Renewals

We are very concerned that Alternative E fails to include any time limits on completing land health assessments and BLM permit renewals.

Completing land health assessments and processing permit renewals is crucial to protecting monument objects, and to proper grazing management more generally. Alternative B includes completing land health assessments for four allotments within three years, and fully processing permit renewals for those allotments within six years of the signing of the ROD. *Id.*, p. 2-129. Alternative D includes completing land health assessments and fully processing all BLM permit renewals across BENM (19 allotments) within ten years of the signing of the ROD. *Id.* Alternative E does not include any provisions to complete land health assessments and process permit renewals within a certain timeframe. It only includes vague language to “prioritize the review and processing of grazing permits and leases.” *Id.*, p. 2-125. On this point, it is the weakest of all four action alternatives in terms of protecting Monument objects and values.

In addition, we question why there is no provision to fully process permit renewals on Forest Service lands across any of the alternatives. Given that the standard timeframe for grazing permits is 10 years, this timeframe is also appropriate for completing a NEPA analysis for all permit renewals. Renewing permits under the same terms and conditions through a categorical exclusion is not appropriate given the Monument designation and the requirement to prioritize the protection of Monument objects and values over discretionary uses such as livestock grazing. Given the impairment of Monument objects as discussed above, it is evident that current grazing management is not adequately protecting Monument objects and values on allotments across BENM. Continuing the same management for another 10 years by renewing a permit without detailed analysis threatens to adversely affect Monument objects and values and violate the Proclamations.

We propose the final plan:

- Adopt the language from Alternative D with the following addition (**in bold**): “Within 10 years of the signing of the ROD, complete land health assessments and, if needed, causal factor determinations, and fully process all permit renewals across BENM **by completing a NEPA analysis.**” *Id.*, p. 2-129.
- Add the following language: “For FS-administered lands, within 10 years of the signing of the ROD, fully process all permit renewals across BENM by completing a NEPA analysis.”

NEPA Analysis for Permit Renewals and Allotment Management Plans (AMPs)

The Management Actions Common to All Alternatives section states that allotment management plans (AMPs) would be developed for all allotments during the scheduled permit renewal process, and that “this would include analysis of the allotment.” *Id.*, p. 2-125. Alternative D states: “Within 10 years of the signing of the ROD...fully process all permit renewals across BENM” *Id.*, p. 2-129. Neither of these is explicit about what exactly “analysis of the allotment” or “fully process all permit renewals” means. We believe these both refer to

completing NEPA analysis for allotments (i.e., not categorically excluding them from NEPA). This must be made explicit in the Final EIS for clarity as the plan is implemented.

We propose that the final plan adopt the following language from Management Actions Common to All Alternatives with the following additions (**in bold**):

- Develop and implement allotment management plans (AMPs) for all allotments within BENM during the scheduled permit renewal process and in collaboration with BEC. Development and implementation of AMPs **will be conducted pursuant to NEPA, and include** analysis of the allotment, including range improvements, and ensure consistency with protection of BENM objects.” DEIS, p. 2-125.

21. Environmental Justice and Social and Economic Values

Proclamations 10285 and 9558

Beyond environmental justice, BENM gives us the opportunity to practice restorative justice, which

acknowledges the interconnectedness of social, environmental, and economic factors, recognizing that true justice requires addressing root causes and repairing harm. In the context of environmental justice, this means centering the voices and experiences of impacted communities, holding polluters accountable, and implementing solutions that prioritize equity and sustainability.³¹

The enactment of the IGCG and the actualization of Alternative E in concert with the BEC is itself an act of restorative justice. Sustained collaboration and the deep involvement of the BEC in this decision, in implementation-level plans, and in day-to-day management of BENM can further restorative justice for tribes as envisioned in the Proclamations.

Though the DEIS defers consideration of EO 14096, Revitalizing Our Nation’s Commitment to Environmental Justice for All (enacted April 21, 2023) “until further guidance is provided regarding the implementation of the new EO” (DEIS, Vol, 1, p. 3-357), the agencies are advised to consider carefully that EO’s mandate: “Restoring and protecting a healthy environment — wherever people live, play, work, learn, grow, and worship — is a matter of justice and a fundamental duty that the Federal Government must uphold on behalf of all people.”³² This applies perfectly to the most noble vision for BENM and should be reflected in the final plan.

³¹ Braithwaite, X. (2-15-2024). Black History Month, Environmental Justice, and the Path to Restorative Justice. *Clean Water Acton*. <https://cleanwater.org/2024/02/15/black-history-month-environmental-justice-and-path-restorative-justice> (Accessed 6-3-2024)

³² Biden Jr., Joseph R (4-21-23). EO 14096, Revitalizing Our Nation’s Commitment to Environmental Justice for All. *The White House* <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/04/21/executive-order-on-revitalizing-our-nations-commitment-to-environmental-justice-for-all/> (Accessed 6-3-2024)

Reflecting a western scientific view, the analysis of social and economic values and environmental justice in the DEIS is, in some cases, skewed. In a plan that is written cooperatively with the tribes of the BEC, the analysis reflects some fundamental misunderstandings and disconnects that could affect the analysis. Particularly reflected in the document's analysis of "poverty" and "deep poverty" in San Juan County, Utah. DEIS, Vol. 1, p. 3-250 and Table 3-96. Cultural views of richness are discarded. Though "poverty rates for certain categories within the analysis area are markedly higher than for the State of Utah" (*Id.*, p. 3-305), and people may not have an income high in US dollars, richness can be reflected in cultural and traditional terms. A family unit that has richness in their subsistence lifestyle, their traditions, their livestock, and their religious and cultural practices is considered wealthy beyond the western view of dollars-based taxable income. In this way, equating "poverty" and "deep poverty" with such a sizable percentage of the population may not reflect the reality of living conditions, including personal and familial wealth.

Proclamation 9558 recognizes this richness in ways other than the western study of economics:

For thousands of years, humans have occupied and stewarded this land. ... The area's cultural importance to Native American tribes continues to this day. As they have for generations, these tribes and their members come here for ceremonies and to visit sacred sites. ... Traditions of hunting, fishing, gathering, and wood cutting are still practiced by tribal members, as is collection of medicinal and ceremonial plants, edible herbs, and materials for crafting items like baskets and footwear.

When national monuments are designated, the land's management focus changes to prioritize protection of the objects and values for which BENM was designated above other resources uses, including activities like mineral extraction, livestock grazing, and recreation. In this sense, economic analysis can also be skewed – those management activities which do not serve to protect or restore Monument objects and values are irrelevant in economic analysis – the Proclamations and designation prohibit or limit these conflicting uses. New mining claims and new oil and gas leasing are prohibited, and the dominant benefits of the monument shift to include new and less tangible values. Proclamation 10285 recognizes this, stating that "Protection of the Bears Ears area will preserve its spiritual, cultural, prehistoric, and historic legacy and maintain its diverse array of natural and scientific resources, ensuring that the prehistoric, historic, and scientific values of this area remain for the benefit of all Americans."

Important Components from Alternative E

Regarding social and economic values and environmental justice, Alternative E must be chosen because it offers the following benefits: "Collaboration with the BEC and Tribal Nations and implementing Traditional Indigenous Knowledge is prioritized the most under Alternative E. This integral collaboration could result in the least number of adverse impacts to Tribal Nations and their members, across the other alternatives." DEIS, Vol. 1, p. 3-371

Closing Summary

Beyond the western scientific definitions of social and economic values and environmental justice, BENM and the final plan, in close coordination with the BEC, offers an opportunity to practice restorative justice. Though the analysis states “A variety of groups and communities of shared interest use and are affected by management of BLM-administered and NFS lands, including Tribal and cultural resource communities, habitat and resource conservation communities, recreation communities, mineral development and production communities, visual resource communities, and local residents” (DEIS, Vol. 1, p. 3-348), the priority for management decisions in and about BENM should be weighted toward tribes and the Bears Ears Commission.

We propose: Because Proclamation 9558 specifically identifies the importance of TIK “...itself, [as] a resource to be protected and used in understanding and managing this landscape sustainably for generations to come,” restorative justice for BENM demands the adoption of Alternative E, which requires that lands be “...managed to protect and restore BENM cultural resources, which could increase the nonmarket value associated with traditional, cultural, and spiritual uses and resources, especially for the Tribes.” DEIS, Vol. 1, p. 3-370.

22. Consultation and Coordination

Proclamation 10285 recognizes that “the entire Bears Ears landscape is profoundly sacred to sovereign Tribal Nations and Indigenous people of the southwest region of the United States.” Taken together, Proclamations 9558 and 10285 set out a new and historic directive to manage the Monument in collaboration with the five associated tribes. Alternative E has many elements that fulfill this objective, including development of several implementation plans in coordination with the BEC, identification of resources, and incorporation of TIK and TEK when developing site-specific management prescriptions. However, there are also areas where Alternative E must be improved to fully implement the requirements of the governing proclamations. Accordingly, we propose the following improvements to Alternative E regarding continued Tribal engagement.

Closing Summary

We propose: The final plan must include a process for continued BEC collaboration, including communication and review of implementation-level plans and projects. This is essential for facilitating meaningful Tribal input. For all alternatives, “at least 15 days prior to initiating an implementation-level project in BENM, the agencies would provide initial notification to the BEC and provide an opportunity to collaborate via email.” DEIS, Vol. 1, p. 2-11. However, this raises two significant issues. First, it is important to have clarity about what this provision covers. Would this cover all projects or just implementation-level plans? If it does not cover all projects, then the BLM should clarify when it would be applicable and what types of projects could commence without BEC input.

We propose: The final plan should include a process for stated deadlines to be reviewed and revised upon request of the BEC. We are concerned that the deadlines proposed will not facilitate meaningful Tribal engagement. We recognize the need for deadlines, but also think that this process should be subject to review to ensure that it facilitates meaningful input and is not just a “check the box” exercise. Additionally, there is a significant risk that meeting these deadlines could be hampered by a lack of sufficient human and financial resources. The BLM acknowledges that federal funding is potentially available to support continued Tribal engagement. “At the discretion of Authorized Officer (BLM)/Responsible Official (USDA Forest Service), funding may be provided to Tribes to facilitate their participation in the NEPA and NHPA processes under several circumstances.” DEIS, Appendix C, p. C-9. Not only should the Agencies use their discretion to authorize funding for continued Tribal engagement, but they should also use every other available resource and mechanism to support the tribes meaningful and ongoing involvement in the management of Bears Ears, including IPA agreements, reverse IPA agreements, cross-deputization agreements, and 638 contracting. The Agencies should clearly make this commitment as part of the land management plan. Bears Ears started out as a historic revisioning of public land management as a federal-tribal partnership. “Presidential Proclamation 10285 envisions a new way of working together”. DEIC, Appendix C, p. C-1. Whether this new vision is fully realized will largely depend on the continued financial and technical support for tribes.

We propose: The final plan require the development of dispute resolution mechanisms between the Agencies and the BEC. While Appendix C does lay out a detailed framework for collaboration, we notice that the Agencies asks that the BEC commit to developing internal dispute resolution mechanisms, but there is no language around the collaborative development of dispute resolution mechanisms between the Agencies and BEC. As there will inevitably be times when BEC and the Agencies differ in their recommendations, we propose that the three co-managing bodies work together to develop a more detailed process for dispute resolution and incorporating input from the BEC as it is received.

23. Manti-La Sal National Forest LRMP Amendment

The Manti-La Sal LRMP is currently undergoing revision. Begun in 2016, a final decision on a new LRMP is likely months or years behind the BENM plan. In the DEIS for the revised Manti-La Sal LRMP released in August 2023, numerous management prescriptions are contemplated for lands within BENM that to our knowledge and to date have not been brought before the Bears Ears Commission as required under the IGCA. The Forest Service must present the Bears Ears National Monument, Elk Ridge Geographic Area, special management areas, timber potential harvest, visual quality objectives, and other designations and management prescriptions within BENM to the Bears Ears Commission for their approval or modification in order to comply with the IGCA.

In the absence of a revised LRMP and because lands managed by the USDA Forest Service are currently also covered by the 1986 Manti-La Sal National Forest LRMP, a plan amendment is required to comply with Proclamations 9558 and 10285 by superseding the LRMP with the final

BENM plan. The DEIS Volume 2, Appendix M deals with this plan amendment. Appendix M states the requirement to:

1.2 Replace Plan Components Applicable to the Bears Ears National Monument
Designated Area

Desired Condition

Existing Desired Condition:

BENMDA-DC-01: The objects of antiquity and the objects of historic or scientific interest, as identified by Presidential Proclamation 9558, as modified by Presidential Proclamation 9681, are protected.

Replace with following Desired Condition:

BENMDA-DC-01: The objects of antiquity and the objects of historic or scientific interest, as identified by Presidential Proclamation 9558, as modified by Presidential Proclamation 10285, or most current proclamation, are protected.

The language of the proposed replacement Desired Condition BENMDA-DC-01 is both problematic and inappropriate. Proclamations 9558 and 10285 are applicable and in effect. It is improper to speculate about a potential future proclamation (“or most current proclamation”) in plan amendment language. For this reason, the following strikethrough must be applied in the 1986 M-LS LRMP amendment, Desired Condition 01:

“BENMDA-DC-01: The objects of antiquity and the objects of historic or scientific interest, as identified by Presidential Proclamation 9558, as modified by Presidential Proclamation 10285, ~~or most current proclamation,~~ are protected.”

Closing Summary

The Forest Service must correct its violation of the IGCA by bringing all management prescriptions within BENM’s boundaries that are contemplated in the LRMP revision before the Bears Ears Commission as soon as reasonably practicable. To avoid improper speculation about a potential future proclamation for BENM, “or most current proclamation” must be stricken from the proposed LRMP amendment under Desired Condition 01. Finally, the Standard found in the plan amendment as well as the statement finding timber production unsuitable within BENM are correct and should be included in the final documents for this plan.

24. Connectivity and Consistency with Contiguous NPS Management

Proclamations 9558 and 10285

Proclamations 9558 and 10285 both state: “The Secretaries, through the USFS and the BLM, shall consult with other Federal land management agencies in the local area, including the National Park Service, in developing the management plan.”

President Biden clearly intended to restore the connection between BENM and the national parks in the broader landscape in Proclamation 10285 by enumerating the objects and values to be protected in lands adjacent to the parks including but not limited to: Beef Basin and Fable Valley “nestled between the Needles District of Canyonlands National Park, the Dark Canyon Wilderness area, and the Glen Canyon National Recreation Area”

Important Components from Alternative E

We emphasize the importance of ensuring management of Monument lands that are adjacent to the national parks complement and are compatible with park management in addition to protecting Monument objects and values, and aligned with priorities and perspectives of the BEC and Tribal Nations. We highlight the following in addition to the recommendations above.

Water Resources: Water Withdrawals

Including the adoption of management actions in the Natural Bridges National Monument (NBNM) Groundwater Protection Zone (GPZ) plan for portions of BENM within the GPZ will help to ensure that water resources are protected for visitors, wildlife and ecological integrity in NBNM. DEIS, Vol. 1, p. 2-18. Protection of the “moist canyon habitats” of Natural Bridges National Monument and its “natural hydrological processes” are critical to achieving the park’s purpose and maintaining its significance.³³

Visual Resource Management, Night Skies, and Soundscapes

Visual Resource Management

Alternative E best reflects the direction of Proclamation 10285, and visual resources would be most protected under this Alternative, including national park viewsheds. As Chapter 3 states, “Because Alternative E would only allocate VRM Class I and VRM Class II, it would further protect viewsheds from the adjacent NPS units, including Glen Canyon, Canyonlands National Park, and NBNM relative to all other alternatives.” DEIS, Vol 1., p. 3-250.

We strongly oppose Alternative A which identifies a number of management areas adjacent to Glen Canyon NRA, Natural Bridges NM, and Canyonlands NP as VRM Class III and IV, and as the agencies acknowledge, would be “incompatible with visual management on adjacent lands...[and] could allow for adverse impacts to these NPS landscapes.” *Id.* p. 3-246.

Night Skies

NPS has recognized dark night skies as an important resource that plays a critical role in natural resource processes and the evolution of species, as well as contributing to the national park visitor experience. NPS Management Policies 2006, § 4.10. Management actions under Alternative E that would prohibit permanent lighting within the entire BENM and preserve the

³³ Natural Bridges National Monument Foundation Document, available at https://www.nps.gov/nabr/learn/management/foundation-document.htm#CP_JUMP_5755806. (Accessed 6-7-2024)

dark night skies of the Monument would also enhance and preserve natural darkness in adjacent national parks and NBNM.

Designated in 2007, NBNM was the first ever International Dark Sky Park. Rainbow Bridge National Monument, adjacent to Glen Canyon NRA, is a designated International Dark Sky Sanctuary, “the first of its kind in the National Park Service and distinguishes Rainbow Bridge National Monument for the quality of its naturally dark night skies and the site’s cultural heritage.”³⁴ Circling BENM, Canyonlands NP, Hovenweep NM, and Goosenecks and Dead Horse Point State Parks are all designated International Dark Sky Parks. Accreditation of BENM as an International Dark-Sky Associated International Dark Sky Place would preserve and recognize this landscape scale sanctuary of darkness amidst a rising surge of light pollution and add to the highest concentration of Dark Sky Places designated by the International Dark-Sky Association in the world.

Natural Soundscapes

Applying BMPs designed to protect natural soundscapes to the entire BENM would add management practices to the lands adjacent to national parks and preserve natural quiet on both sides of the boundaries. Limiting aircraft to the two airstrips and prohibiting drones except through formal permitting processes will further protect shared soundscapes with neighboring national parks and eliminate the risk of drone trespass over NPS land, which is also prohibited but difficult to monitor and enforce within a backcountry environment.

Recreation and Visitor Services

It is critical for BLM, FS, and NPS to work across their jurisdictions to manage visitor access and recreation to ensure that “recreation spillover” is managed in a coordinated, thoughtful, and sustainable way. We support the approach in Alternative E to delineate management zones for the entire monument that emphasize certain types of management and experiences – compatible with management goals and objects for adjacent national parks and Tribal recommendations and TIK, and consistent with protecting Monument objects and values.

Improvements to Alternative E that Protect Monument Objects and Values

Where they align with Proclamation 10285, protection of BENM’s objects, values and ecological integrity and support BEC and Tribal Nation priorities, perspectives, TIK and TEK, we offer the following proposals to enhance protection of lands and resources adjacent to and within Canyonlands NP, Natural Bridges NM, and Glen Canyon NRA:

Aquifer Protection ACEC

As stated above, we support the adoption of the Aquifer Protection ACEC boundaries specified in Alternative D. In addition to being far more protective of Monument objects and values

³⁴ International Dark Sky Places, available at <https://www.darksky.org/our-work/conservation/idsp/> (Accessed 6-7-2024)

within BENM, extending the ACEC to surrounding national park boundaries also offers meaningful protections for shared resources including groundwater, viewsheds and natural systems and processes.

While the NPS places a high priority on managing the fundamental water resources inside park boundaries, they are obviously part of a much larger system. All watersheds in the Monument planning area eventually flow into the Colorado River inside either Canyonlands National Park or Glen Canyon NRA. Indian Creek, which flows through BENM, and its tributaries flow into the Colorado River just inside Canyonlands National Park. Portions of Comb Wash, Butler Wash, and their tributaries flow into the San Juan River, which then flows into the Colorado River and Lake Powell within Glen Canyon. Therefore, water resource management within BENM, including water withdrawals, grazing, OHV use, rights of way, vegetation treatments, timber management, and wildfire management can have significant impacts on water quality and quantity as well as soils, riparian vegetation, and fish and other wildlife downstream.

Visual Resource Management, Night Skies and Soundscapes

We propose: the final plan add collaboration with NPS, where appropriate, in the management of visual resources, soundscapes, and dark night skies and when developing a night skies management plan and soundscapes management plan, as well as education programming. DEIS, Vol. 1, p. 2-57.

The Colorado Plateau is a vast, wide, open landscape that affords incredible views across the mosaic of public lands, in some cases 360-degree views for a hundred miles without any visual intrusion from development. Public land management boundaries are indistinguishable to most visitors so cross-boundary collaboration among federal agencies is imperative to protecting viewsheds, dark night skies and natural quiet across the landscape. Furthermore, including NPS expertise with that of BLM, FS and BEC and Tribal Nations will enhance protection of these sensitive, highly valued and diminishing resources.

Air Quality

We appreciate that Alternative E requires the Agencies to “collaborate with the BEC, Tribal Nations, the NPS, and other state and federal agencies to develop air quality assessment protocols to address cumulative impacts of haze and other airborne pollutants on dark night skies and regional air quality.” *Id.*, p. 2-67, Table 2-15.

We propose: To ensure protection of clean air in mandatory Class I and II areas under the Clean Air Act, Alternative E should include the following from Alternative A: “Manage all BLM and BLM-authorized activities to maintain air quality to meet Prevention of Significant Deterioration Class II standards, and protect the Class I airshed of the national parks (e.g., Arches and Canyonlands National Parks).” *Id.*, p. 2-68.

Canyonlands National Park has been designated as mandatory Class I areas under the Clean Air Act.³⁵ Class I areas are places where the law requires the air quality to be at its most pristine, virtually unaffected by human-made or human-caused pollutants. Congress “declare[d] as a national goal the prevention of any future, and the remedying of any existing, impairment of visibility in mandatory class I Federal areas which impairment results from manmade air pollution.”³⁶ Glen Canyon is a Class II area for air pollutants.³⁷ Class II areas, like Class I, are established to prevent any significant deterioration of the air quality standards set by the Clean Air Act but allow a moderate increase in certain air pollutants.

Travel and Transportation Management

To respect the shared acoustical environment and prevent illegal incursions into the national parks, we recommend closing the shared boundaries with Canyonlands NP, Natural Bridges NM and Glen Canyon NRA as proposed in Alternative D from existing and future OHV use. This would ensure consistent and compatible management across boundaries and help prevent incursions into the parks along with impacts to park resources and visitor experience. The agencies should also carefully oversee the use of OHV’s and should subject proposed group access to review to ensure that soundscapes within the Monument and on adjacent national park lands are protected.

Finally, we encourage the agencies to complete sound modeling to assess noise impacts from OHV use to monument and national park visitors as well as wildlife. Having better data on soundscape impacts from OHV use can help determine appropriate use levels and locations during travel management planning.

We have consistently raised concerns with OHV use outside park boundaries that cross illegally into national parks, which can intrude on natural quiet, negatively impact wildlife, crush fragile desert soils, plant life and sensitive cultural sites, and increase wind and water erosion. OHVs, including street legal ATVs, are not allowed on any roads inside Canyonlands NP and Natural Bridges NM and only on designated routes and areas inside Glen Canyon NRA. Therefore, we continue to urge the agencies in collaboration with the NPS to assess routes that cross

³⁵ 42 U.S.C. § 7472; 40 C.F.R. § 81.430. In 1977, Congress amended the Clean Air Act to deem all “national parks which exceed six thousand acres in size” to be mandatory Class I areas (i.e., areas that “may not be redesignated”). 42 U.S.C. § 7472(a)(4). Both Bryce Canyon and Capitol Reef were greater than 6,000 acres and were therefore designated as class I areas under this statute. Congress also instructed the Administrator of the Environmental Protection Agency (“EPA”), after consulting with the Secretary of the Interior, to “promulgate a list of mandatory Class I Federal areas in which he determines visibility is an important value.” 42 U.S.C. § 7491(a)(2). Bryce Canyon and Capitol Reef are both among the Class I areas in which the Administrator determined that “visibility is an important value.” 40 C.F.R. § 81.430 (adopted at 44 Fed. Reg. 69,122, 69,126 (Nov. 30, 1979)).

³⁶ 42 U.S.C. § 7491(a)(1). NPS has a statutorily mandated “affirmative responsibility to protect the air quality related values (including visibility) of any such lands within a class I area” that NPS manages, “and to consider, in consultation with the Administrator [of the EPA], whether a proposed major emitting facility will have an adverse impact on such values...” 42 U.S.C. § 7475(d)(2)(B).

³⁷ See Glen Canyon National Recreation Area Off-Road Vehicle Management Plan/Final Environmental Impact Statement at 18 (Jan. 2017).

jurisdictions or are near park boundaries to identify appropriate OHV closures to minimize trespass and further preserve natural soundscapes, views, clean air and water, and wildlife habitat.

Overall Rationale for Cross Boundary Collaboration with the National Park Service

Because national parks and monuments share both boundaries and resources and are to considerable extent interdependent, in addition to close collaborative stewardship with the five sovereign nations of the BEC, it is important for land managers to engage with sister agencies. We urge the BLM and FS to maintain ongoing communication and strong coordination with NPS managers of adjacent parks. Their expertise and cross-boundary management experience can help positively shape the management of the BENM.

NPS has strong authority to protect its resources from harmful impacts on nearby lands. The significance of park resources, including scenic values, at our national parks and the responsibility of NPS to protect them was clearly articulated in the Organic Act of 1916: "... to the fundamental purpose of the said parks, monuments, and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations."

Further, because national parks are not islands of protection, and their scenery and fundamental resources are more often at risk from adverse impacts originating outside national park boundaries, the NPS Management Policies 2006 (§ 4.1.4) outline well the responsibility of NPS to engage with other agencies and decision-makers:

... the Service will seek the cooperation of others in minimizing the impacts of influences originating outside parks by controlling noise and artificial lighting, maintaining water quality and quantity, eliminating toxic substances, preserving scenic views, improving air quality, preserving wetlands, protecting threatened or endangered species, eliminating exotic species, managing the use of pesticides, protecting shoreline processes, managing fires, managing boundary influences, and using other means of preserving and protecting natural resources.

Closing Summary

Key components of Alternative E will ensure management of Monument lands adjacent to the national parks complement and are compatible with park management, particularly adherence to the Natural Bridges National Monument Groundwater Protection Zone (GPZ) plan, establishing recreation zones compatible with cross-boundary management and management actions for protecting visual resources, dark night skies and natural soundscapes.

Proposals

- Adoption of the Aquifer Protection ACEC Boundaries specified in Alternative D, extending protections to surrounding national park boundaries.

- Add collaboration with NPS, where appropriate, in the management of visual resources, soundscapes, and dark night skies and when developing a night skies management plan and soundscapes management plan, as well as education programming.
- Carry forward the applicable language, “Manage all BLM and BLM-authorized activities to maintain air quality to meet Prevention of Significant Deterioration Class II standards, and protect the Class I airshed of the national parks (e.g., Arches and Canyonlands National Parks)” from Alternative A (DEIS, Vol. 1, p. 2-68, Table 2-15) to Alternative E.
- Close the shared boundaries with Canyonlands NP, Natural Bridges NM, and Glen Canyon NRA to existing and future OHV use as proposed in Alternative D.

25. Conclusion

The Bears Ears Cultural Landscape is a place of superlatives, and it can be described in many different languages endemic to the region across numerous Indigenous cosmologies going back hundreds of generations. English, one could argue, cannot do this place justice because it is a language formed and shaped in other places. The Indigenous languages of Bears Ears that are employed to describe what has happened, what is happening, and what will happen here are but one example of Traditional Indigenous Knowledge. Language is but one indication of the fundamental importance of this knowledge—knowledge that encompasses everything, and it begins with even mere description of this singular place.

There is no place in this world exactly like Bears Ears, no arrangement of federal/inter-tribal collaborative management exactly like this exists anywhere, and this place deserves a plan that can meet superlatives. By its nature, a plan places limitations on management, but it also opens new opportunities. Something new and exciting is happening here: capturing the Native worldview, Traditional Indigenous Knowledge, and Indigenous Science within the framework of a western land management plan written in a western language. The land here does not speak English, western worldviews are latecomers to the management of this place, and important concepts and ideas will always get lost in translation. It is vital that even despite these limitations, the Bureau of Land Management and the Forest Service get this plan right. Arguably, nothing that is happening in public lands management in the United States at this moment is more important than the Bears Ears plan.

There have been, are, and will continue to be many pressures to fall short of high expectations for this plan. Politics, bureaucratic inertia, resistance to new and different ways of doing things, and even indolence threaten to dilute or derail this process, but it is vital that decision makers—you—resist these ignoble forces. Bears Ears and this management plan are unique, they are historic, and they must be transcendent. Above all, we urge you as decision makers not to give in, not to give up, and not to be diminished. It has been, is, and will be difficult. But this is a challenge that must be met. Live up to the promise of Bears Ears National Monument. Protect in perpetuity the land and water, plants and animals and birds, the minerals and the soils and the landforms, the cultural importance, the ceremonial magnitude, and everything that is Bears Ears—earth to sky. Honor the Obama and Biden Proclamations, honor the tribes

with whom you have entered into a cooperative agreement, and honor the people inextricably tied to this place.

Before the final plan is issued, land managers—you—can correct decisions that were made in the draft plan that do not honor the proclamations, the cooperative agreement, and the sovereign Tribal Nations to whom you are duty-bound to give heed. This plan can be a measure of the greatness of your endurance. To endure the political pressure that is surely felt and that must be resisted in order to honor best what matters most: Traditional Indigenous Knowledge and the permanent protection of Bears Ears. With good intentions, open hearts, and clear minds, you are called to get this plan right. There is nothing more important or worthwhile that you can do here, in this singular place, at this singular moment in history. The world is watching, and you must rise to meet the moment.

We thank you for the opportunity to submit these comments.

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