Bureau of Land Management
Protest Resolution Report

Grand Staircase-Escalante National Monument Proposed Resource Management Plan and Final Environmental Impact Statement

January 6, 2025

This page intentionally left blank.

Contents

Acronyms

Term	Definition
ACEC	Area of Critical Environmental Concern
AIM	Assessment, Inventory Monitoring
AMS	Analysis of the Management Situation
APA	Administrative Procedure Act
AUM	animal unit month
BLM	Bureau of Land Management
BRC	Blue Ribbon Coalition
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
CRMP	County Resource Management Plan
CRS	Congressional Research Service
DEIS	Draft Environmental Impact Statement
DOI	Department of the Interior
DWQ	Division of Water Quality
EA	Environmental Assessment
EIS	Environmental Impact Statement
FEIS	Final Environmental Impact Statement
FLPMA	Federal Land Policy and Management Act
GIS	geographic information system
GSENM	Grand Staircase-Escalante National Monument
HM	head month
IDT	Interdisciplinary Team
LWC	Land with Wilderness Characteristics
MAC	Monument Advisory Committee
MSO	Mexican spotted owl
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NLCS	National Landscape Conservation System
NPS	National Park Service
NRHP	National Register of Historic Places
OHV	off-highway vehicle
PAC	Protected Activity Center
PRMP	Proposed Resource Management Plan
QTA	Quiet Title Act
R.S.	Revised Statute
RAP	Rangeland Analysis Platform
RMP	Resource Management Plan
RMPA	Resource Management Plan Amendment
ROD	Record of Decision
ROW	right-of-way
SITLA	State Institutional Trust Lands Administration
SRMA	Special Recreation Management Area
SRMP	State Resource Management Plan
SUWA	Southern Utah Wilderness Alliance
TCP	Traditional Cultural Property
TGA	Taylor Grazing Act
TMP	travel management plan
U.S.C.	United States Code

VRM	Visual Resource Management
WSA	Wilderness Study Area

This page intentionally left blank.

Introduction

The Bureau of Land Management (BLM) Paria River District Office released the Grand Staircase-Escalante National Monument (GSENM) Proposed Resource Management Plan (PRMP) and Final Environmental Impact Statement (FEIS) on August 30, 2024. The BLM received 19 unique protest letter submissions during the subsequent 30-day protest period, which ended on September 30, 2024.

The planning regulations at 43 Code of Federal Regulations (CFR) 1610.5-2 outline the requirements for filing a valid protest. The BLM evaluated all protest letters to determine which protest letters were complete and timely, and which persons have standing to protest. All 19 letters were complete and timely, and the protesting parties did have standing to protest. Of those, 14 letters contained valid protest issues. The BLM documents the response to the valid protest issues in this protest resolution report. The protest decision is recorded in writing along with the reasons for the decision in this protest resolution report.

After careful review of the report by the BLM's Assistant Director for Resources and Planning, the Assistant Director concluded that the BLM followed the applicable laws, regulations, and policies and considered all relevant resource information and public input. The Assistant Director addressed the protests and issued a Protest Resolution Report to protesting parties and posted the report on the BLM's website; no changes to the GSENM PRMP/FEIS were necessary. The decision was sent to the protesting parties by certified mail, return receipt requested. Consistent with the BLM Delegation of Authority Manual (MS-1203 Delegation of Authority), resolution of protests is delegated to the BLM Assistant Director for Resources and Planning, whose decision on the protest is the final decision of the U.S. Department of the Interior (43 CFR 1610.5-2(b))).

The report is divided into sections each with a topic heading, excerpts from individual protest letters, a summary statement of the issues or concerns raised by the protesting parties, and the BLM's response to the protests.

Protesting Party Index

Letter Number	Protester	Organization	Determination
PP-UT-GS-EIS-24-01	Terry Camp	Utah Farm Bureau Federation	Denied
	ValJay Rigby	Utah Farm Bureau Federation	
PP-UT-GS-EIS-24-02	William Weppner	--	Denied
PP-UT-GS-EIS-24-03	Jonathan Ratner	Sage Steppe Wild	Denied
PP-UT-GS-EIS-24-04	Jerry Taylor	Garfield County Commission	Denied
	Dave Tebbs	Garfield County Commission	
	Celeste Meyeres	Kane County Commission	
	Wade Heaton	Kane County Commission	
	Hayden Ballard	Great Western Resources	
PP-UT-GS-EIS-24-05	Kya Marienfeld	Southern Utah Wilderness Alliance	Denied
	Jackie Grant	Grand Staircase-Escalante Partners	
	Chaitna Sinha	Grand Canyon Trust	
	Laura Welp	Western Watersheds Project	
	Cory MacNulty	National Parks Conservation Association	
PP-UT-GS-EIS-24-06	Sindy Smith	State of Utah, Public Lands Policy Coordinating Office	Denied
	Redge Johnson	State of Utah, Public Lands Policy Coordinating Office	
PP-UT-GS-EIS-24-07	Morgan Drake	Washington County Water Conservancy District	Denied
PP-UT-GS-EIS-24-08	Simone Griffin	BlueRibbon Coalition	Denied
	Ben Burr	BlueRibbon Coalition	
PP-UT-GS-EIS-24-09	Clif Koontz	Ride with Respect	Denied
	Chad Hixton	Tails Preservation Alliance	
	Marcus Trusty	Colorado Off Road Enterprise	
	Scott Jones	Colorado Off-Highway Vehicle Coalition	
PP-UT-GS-EIS-24-10	William Brock	--	Denied
PP-UT-GS-EIS-24-11	Vance Riggins	--	Denied
PP-UT-GS-EIS-24-12	Tory Brock	--	Dismissed: Comments Only
PP-UT-GS-EIS-24-13	Kathrin Brock	--	Denied
PP-UT-GS-EIS-24-14	Jeff Knudsen	--	Dismissed: Comments Only
PP-UT-GS-EIS-24-15	James Brown	--	Dismissed: Comments Only
PP-UT-GS-EIS-24-16	April Crofts	--	Dismissed: Comments Only
PP-UT-GS-EIS-24-17	Brady Crofts	--	Dismissed: Comments Only
PP-UT-GS-EIS-24-18	Elaine Knudsen	--	Denied
PP-UT-GS-EIS-24-19	J. Mark Ward	Livestock Operators	Denied

Cooperating Agencies

Kane and Garfield County Commissioners

Issue Excerpt Text: Second, the Utah SRMP includes provisions advocating for the state to be part of the planning Interdisciplinary Team ("IDT"). However, no state representatives were included in the IDT for this process, which is inconsistent with the SRMP's expectations and procedural guidelines. Not only is this failure to work collaboratively with state and local governments and breach of the consistency requirement, but also undermines local involvement and respect for the final planning product.

Kane and Garfield County Commissioners

Issue Excerpt Text: The Counties indeed requested government-to-government coordination with the actual decision-maker in this process, sending requests to the BLM Utah State Director Greg Sheehan on multiple occasions. The Counties either received no response to these requests, or Mr. Sheehan declined to attend any kind of coordination, as he was of the opinion that any coordination would happen through the cooperating agency process. As such, true government-to-government coordination between the Counties and the BLM has never happened. The Counties firmly protest to the implementation of the Proposed RMP on this point and for the reasons stated.

Kane and Garfield County Commissioners

Issue Excerpt Text: Not only has the GSENM planning staff failed to engage in coordination, as described, they have wrote goals into the Proposed RMP explicitly recognizing the need to honor Tribal interests, but purposefully removed county interests from the same. Row 80 seems in concert with this new direction as well, which removes the directive from the 2020 GSENM RMP to work collaboratively with local governments to "identify, inventory, document, monitor, and develop and implement plans for the…protection…of appropriate sites and resources." Again, local communities and county governments deserve a seat at the table - but no place has been set for them.

Kane and Garfield County Commissioners

Issue Excerpt Text: The Counties have repeatedly requested that the BLM ensure that proper government-to-government coordination with the Counties occurs as prescribed to ensure that this GSENM RMP remain consistent with the Kane and Garfield RMPs. These requests have been repeated verbally in Cooperating Agency Meetings, as well as in writing in various formal comment letters and emails. Thus, the Counties firmly protest to the implementation of the Proposed RMP as written, as the Proposed RMP contains a multitude of examples of inconsistencies with the Counties' RMPs, said inconsistencies to be highlighted throughout the remainder of this Letter of Protest, and the BLM has failed to meet its statutory obligation to engage in government-to-government coordination with the Counties and has only partially met its regulatory obligations to engage in cooperation and consultation. If there is in fact one thing the BLM has remained consistent on, it is indeed their inconsistency.

Kane and Garfield County Commissioners

Issue Excerpt Text: For example, it is under the NEPA regulations cited prior that the Counties have offered comment as a Cooperating Agency throughout this RMP planning process. As the Counties have "special expertise" with respect to public land issues, the Counties indeed engaged with the BLM in Cooperation and to a limited extend, Consultation. In this instance, the BLM may

argue that it has fulfilled its regulatory obligations under NEPA. However, in addition to the failures to fully consult with the Counties, again and again, the Counties have requested, and been denied, the chance for the BLM to engage in Coordination and Consistency. These two C's are statutorily required, and the BLM has simply refused to engage. So while the BLM has partially fulfilled its regulatory functions, it refused to fulfill its statutory functions. As shown, statutory law takes precedence over regulatory law, and here the BLM cannot point to any "clear statement" abdicating them of this statutory requirement. Thus, even if the Counties were not Cooperating Agencies in the current GSENM RMP planning process (which they are), the BLM would still be required to make efforts in drafting land use plans that are consistent with state and local plans in this situation under the STATUTORY directives.

State of Utah, Public Lands Policy Coordinating Office
Sindy Smith

Issue Excerpt Text: FLPMA and regulations implementing it impose on the Interior and BLM the opportunity for meaningful involvement by the states and counties affected by resource management planning. E.g., 43 U.S.C. § 1712(c)(9); 43 CFR § 1610.3-1. Utah and the affected counties have repeatedly and throughout the planning process for the GSENM objected to BLM's failure to engage in meaningful coordination with Utah and the Counties within the planning area to address obvious problems with the various versions of the plan, with inconsistencies between those versions and State RMPs, and with BLM's obligations under federal law. Accordingly, Utah objects to the entirety of the Proposed RMP/Final EIS because the failure of coordination affects it systemically, but the State also objects to each other area discussed in this protest on coordination grounds because BLM failed to meaningfully coordinate to resolve those specific issues at earlier opportunities.

State of Utah, Public Lands Policy Coordinating Office
Sindy Smith

Issue Excerpt Text: The Proposed RMP/EIS fails to address and furthers another error, that the FLPMA coordination requirements are satisfied simply by designating Utah as a cooperating agency under NEPA. As discussed in the November 9 and December 22 letters, the requirements of FLPMA are legally distinct and generally more significant. Nevertheless, BLM repeats this error in Section 4.3. BLM's failure of coordination prejudiced Utah. For example, as described in the November 9 letter, when the BLM local office finally engaged with Utah, although it found the comments on revising the range of alternatives useful, BLM indicated that it could not change its decision making because that would delay the public comment period.

State of Utah, Public Lands Policy Coordinating Office
Sindy Smith

Issue Excerpt Text: BLM is required under FLPMA, NEPA, and the Dingell Act, among other legal authorities, to coordinate its resource management planning with Utah and the counties in the planning area. And BLM is required by the Constitution, FLPMA, NEPA, the APA, its regulations, other statutes, and a wealth of administrative law to engage in reasoned decision making that does not fail to consider relevant factors. Yet BLM necessarily cannot engage in proper reasoned decision making in creating the Proposed RMP/Final EIS because it does not even know what objects are to be protected. The entire purpose of the monument designation under the Antiquities Act is to protect objects.

State of Utah, Public Lands Policy Coordinating Office
Sindy Smith

Issue Excerpt Text: BLM's failure to allow the field office staff to draft the RMP as required by 43 C.F.R. § 1601.0-4, exacerbated the problems caused by a lack of coordination with Utah and the affected Counties and independently affected the content of the Proposed RMP in ways detrimental

to Utah and unnecessarily increased the inconsistencies with State RMPs. FLPMA regulations require that the field manager draft the resource management plan, with only "national level policy and procedure guidance for planning" coming from BLM headquarters. 43 CFR § 1601.0-4. As Utah has learned in discussions with BLM staff throughout the process and as expressed in its November 9 letter and other correspondence, BLM headquarters controlled the content of the plan. The Draft and Proposed RMP/EISs would have looked far different and been far more consistent with State RMPs if field staff knowledgeable about the concerns of Utah, the Counties, and the residents had driven the drafting process. This violation is prejudicial and affects the entirety of the Proposed RMP/EIS.

State of Utah, Public Lands Policy Coordinating Office

Sindy Smith

Issue Excerpt Text: NEPA imposes coordination requirements on a lead agency in dealing with cooperating agencies that overlap with, but are different from, those in FLPMA. For one, BLM, the lead agency, was to consider and "discuss all major points of view on the environmental effects of the alternatives, including the proposed action," in its Draft EIS. See 40 C.F.R. § 1502.9(b). Here, although Utah and the affected counties consistently provided comments in advance of the Draft EIS, BLM made no effort at all to represent or discuss their points of view. Also, NEPA requires a lead agency to meet with a cooperating agency at the latter's request. 40 C.F.R. §1501.7(h)(3). BLM consistently delayed or rejected such meetings and held them after they could have informed the next document or refused to substantively discuss or consider Utah's concerns and the concerns of the affected Counties.

Livestock Operators

J. Mark Ward, et al.

Issue Excerpt Text: We understand that the Counties in their roles as Cooperating Agencies in the RMP process and have respectfully and repeatedly demanded the right under FLPMA, NEPA and other authorities, to have a meaningful role in formulating and developing all components of the revised RMP and EIS of the GSENM. We understand there are numerous written letters and written comments in the administrative record, going back for approximately two years, too many to itemize here, evidencing their futile efforts to get the BLM to take seriously its coordination and cooperating agency obligations as referenced above. We understand the BLM has rejected their efforts to have a seat at the table to participate side by side in formulating the components of the RMP. We understand all the BLM has done is intermittently let the Counties look and comment on the next draft that the BLM had solely and exclusively produced. That is wrong, it is NEPA deficient and it tramples notions of Coordination. Our elected representatives the Counties should have had a hand in formulating, i.e., co-producing, those drafts and every component thereof. And they should have had a list of the objects to be protected, so that shoulder-to-shoulder, they and the BLM could have coordinated a product, which TO THE MAXIMUM EXTENT POSSIBLE, would have upheld their local plans and policies and protected the inventoried Monument objects.

Summary:

Protestors claimed that the BLM violated the Federal Land Policy and Management Act (FLPMA) and National Environmental Policy Act (NEPA) by failing to include State, county, and other local governments as cooperating agencies and as representatives of the IDT for the GSENM Resource Management Plan (RMP). Local counties also stated that the BLM did not engage with them on a government-to-government level or ensure that the GSENM PRMP/FEIS was consistent with local county and state plans.

Response:

The specific role of each cooperating agency is based on jurisdiction by law or special expertise, which the BLM determines on an agency-by-agency basis. Per Departmental regulation, the BLM works with cooperating agencies to develop and adopt a Memorandum of Understanding that includes their respective roles, assignment of issues, schedules, and staff commitments (43 CFR 46.225(d)).

Chapter 4, Section 4.3, *Consultation and Coordination*, outlines the BLM's coordination and consultation outreach and process throughout the GSENM PRMP/FEIS planning process. Cooperating agencies included Federal and Tribal entities including the State of Utah, Kane County Commission, Kane County Water Conservation, and Garfield County Commission. All cooperating agencies were provided opportunities to participate during various steps of the planning process, including regular briefings, identification of issues and data during scoping and during development of the GSENM PRMP/FEIS, and requests for input on draft alternatives and the administrative GSENM Draft RMP/Environmental Impact Statement (EIS).

Section 4.3 also outlines that, in addition to the meetings and outreach discussed above, the BLM attended, at the request of Kane and Garfield County Commissions and in compliance with 40 CFR 1501.7(h)(3), four additional coordination meetings in which the agendas were set by the counties and focused on topics related to consistency of the GSENM RMP/EIS planning effort with county RMPs (GSENM PRMP/FEIS p. 4-3).

This report addresses protests regarding consistency with other plans below under the *FLPMA: Consistency with State and Local Plans* section. A list of the local, State, and Tribal plans considered by the BLM during the planning effort can be found in Appendix O of the GSENM PRMP/FEIS. The agency will discuss why any remaining inconsistencies between the PRMP/FEIS and relevant local, State, and Tribal plans cannot be resolved in the Record of Decision (ROD).

The BLM properly involved all cooperating agencies in the development of the GSENM PRMP/FEIS in accordance with NEPA and FLPMA. Accordingly, this protest issue is denied.

Dingell Act

State of Utah, Public Lands Policy Coordinating Office
Sindy Smith

Issue Excerpt Text: BLM failed to provide a proper public notice. While in the Proposed RMP's new Section 4.3.4 BLM purports to explain its compliance with the Dingell Act, it did not comply. The Notice of Intent that BLM intermixed within the Notice of Availability for the Draft RMP/EIS did not contain any justification. Although Section 4.3.4 states that BLM issued press releases that "contained details and rationale on the proposed shooting closures," none of them contained any substance, much less a "rationale" or justification for the closures. To date, BLM has still not published a notice of intent that qualifies. It must do so, then have a subsequent comment period as the statute requires. Even then, BLM must fulfill its coordination obligations under the various statutes, which it has also failed to do.

State of Utah, Public Lands Policy Coordinating Office
Sindy Smith

Issue Excerpt Text: In addition to FLPMA and NEPA coordination requirements, the Dingell Act requires consultation with State agencies and a notice of intent to be published in numerous places describing the proposed closure and the justification for it, "including an explanation of the reasons and necessity for the decision to close the area to hunting, fishing, or recreational shooting," and then a 60-day comment period to be held on it. As discussed in its November 9 letter, BLM failed to satisfy these obligations. It did not meaningfully consult with Utah, including because BLM never

provided even a public justification for the closures and requested on July 10, 2023, that Utah simply agree that what it had shared so far (without explanation) was sufficient to meet the requirements of the Dingell Act.

Summary:

Protestors claimed that the BLM violated the Dingell Act by failing to provide a proper Notice of Intent containing details and rationale for the proposed shooting closures. Protestors noted that the BLM must issue a proper public notice and have a subsequent comment period, then fulfill its coordination obligations under various statutes.

In addition, protestors claimed that the BLM violated the Dingell Act by failing to adequately consult with Utah State agencies and not providing a public description and justification of the proposed closures.

Response:

The Dingell Act generally requires the BLM to consult with State fish and wildlife agencies and provide public notice and comment before closing public lands to hunting, fishing, or recreational shooting. The Dingell Act requires that the public comment period be initiated by a "notice of intent" that is published in the *Federal Register*, among other places. The notice must describe the proposed closure and the justification for the proposed closure, including an explanation of the reasons and the need for the proposed closure. The Dingell Act does not, however, prescribe the form that the notice must take.

In this instance, the BLM incorporated the notice of intent required by the Dingell Act into the Notice of Availability for the GSENM Draft RMP/EIS, which was published on August 11, 2023. The Notice of Availability satisfied the requirements of the Dingell Act, providing that the preferred alternative would close approximately 1,215,100 acres in the GSENM to recreational target shooting to protect the objects identified in Proclamation 10286. The Notice of Availability also explained that it was initiating a 90-day public comment period on the proposed shooting closure, which is 30 days longer than what the Dingell Act requires. In addition to publishing three press releases, the BLM provided notice regarding the proposed recreational shooting closures to the Utah Division of Wildlife Resources on August 10, 2023; Utah's Public Lands Policy Coordinating Office on July 10, 2023; and Federal Lands Hunting, Fishing, and Shooting Sports Roundtable signatories on August 7, 2023.

The BLM also consulted on the proposed recreational shooting closures with Tribes, Federal agencies, and State and local governments, including holding consultation meetings with the Utah Division of Wildlife Resources and Utah's Public Lands Policy Coordinating Office on September 15 and October 20, 2023.

In sum, the BLM has provided notification to the State of Utah's fish and wildlife agencies and the public concerning the proposed recreational shooting closure in accordance with the Dingell Act. The BLM also consulted with the State's fish and wildlife agencies, as required by the statute. Accordingly, this protest issue is denied.

FLPMA: Consistency with State and Local Plans

Kane and Garfield County Commissioners

Issue Excerpt Text: Additionally, both of the Counties RMPs have a livestock grazing section that articulates the Counties' concerns, history, considerations, findings, goals, objectives, and policies

regarding livestock grazing. Commonsense would dictate that a discussion between County officials and the BLM regarding this section of both the county and state plans and how it is or is not in harmony with the purpose and need of the GSENM should have occurred. It did not. Thus, similarly, to the agricultural section of the plan, the BLM developed alternatives that are unnecessarily inconstant with state goals, objectives, and polices regarding livestock grazing on public lands. For example in the Utah SRMP, Objective #1, Ensure that AUM's remain at or above current levels. Objective #2, Employ range improvements and forage restoration projects to return active AUMs to permitted levels (none of the proposed alternatives even consider allowing this objective). Objective #3, Oppose the relinquishment or retirement of AUM's. And Objectives 4, 5, 6, 7,8,9, and 12, are all unnecessarily inconsistent with the proposed alternative. Moreover, the formal policies of the state to support livestock grazing on public lands seem to have also not been considered in the development of alternatives as several policies are compatible with the protection of monument objects, yet the proposed alternatives are inconsistent with the policies. For example, the policies that the state play a constructive role rather than a reactionary role in alternative development and be part of the IDT team were both ignored without any justification. The state has a policy that the BLM supports multiple use, specifically with respect to livestock grazing, yet this plan seems to say that multiple uses are not supported, a blaring inconsistency.

Kane and Garfield County Commissioners

Issue Excerpt Text: Some specific laws and policies found in state code and state resource management plans regarding livestock grazing on public lands with which the GSENM is not being consistent, but could be and should be, are as follows. Utah Code 63J-8-105.8 established a Grazing Agricultural Commodity Zone in Garfield and Kane Counties. This zone includes the lands that have been designated as the GSENM. The purpose of these Zones are to preserve and protect the agricultural livestock industry; preserve and protect the history, culture, custom, and economic value of the agricultural livestock industry; and maximize efficient and responsible restoration, reclamation, preservation, enhancement, and development of forage and watering resources for grazing and wildlife practices and affected natural, historical, and cultural activities. The tone of these proposed alternatives, specifically the prescriptions or management actions that restrict nonstructural range improvements, make historical grass banks unavailable, make allotments (especially allotments where producers have applied for use) unavailable, and put unreasonable restrictions on water and range improvements, is as inconsistent with state code as possible. Absent some explanation as to why allowing for grazing to continue at current levels, to be expanded into new allotments, and have authorities to improve infrastructure, is inconsistent with federal law or the purposes of FLMPA, then the BLM is violating FLPMA 202(c)(9) and its consistency obligation. And surely, a simple explanation like "it is inconsistent with the protection of monument objects" doesn't suffice. The BLM must identify what objects are being harmed or would be harmed by continuing at current levels of grazing, and how no other mitigation is reasonably available. It must meet a similar standard of explanation for why the alternatives are making historical grass banks unavailable, and allotments where producers have applied for use unavailable, why nonstructural range improvements for livestock forage are unavailable, and why water and range improvements are so limited. Otherwise, the BLM is being arbitrary and not complying with FLPMA. A generic response that it is inconsistent with the protection of objects does not suffice.

Kane and Garfield County Commissioners

Issue Excerpt Text: Utah's agricultural goal in its RMP is to "support the development of Utah's agriculture industries by promoting, preserving and protecting agricultural production to ensure an abundant supply of locally produced foods and fibers for all Utahns." Utah State Resource Management Plan p.16. These alternatives and this plan fly in the face of that goal. This plan makes

the "development" of agriculture inside the monument boundaries impossible. It eliminates vegetation improvements for the purpose of agriculture, it burdens water and range improvements absent any rational explanation, it reduces acres available for agricultural uses again absent any sincere rationale. To be consistent with under FLPMA with County plans, the BLM should have developed an alternative that supports the development of Utah's agricultural industries except where there is a direct conflict with object preservation. The BLM has failed to give real honest and supported explanations as to why it can't both support agriculture in the plan and protect monument objects. The BLM has assumed, without justification, that the two are incompatible when in reality, they have been compatible and existing in harmony for more than 100 years.

Kane and Garfield County Commissioners

Issue Excerpt Text: Additionally, the unilateral reduction of AUMs violates Utah Code 63J - 8 - 105.8 (1) where the state of Utah established in Garfield County certain grazing agricultural commodity zones for the purpose of protecting and preserving the agricultural livestock industry from ongoing threat, to preserve and protect the history, culture, custom and economic value of the industry, and to maximize efficient and responsible restoration, reclamation, preservation, enhancement, and development of forage and watering resources for grazing and wildlife practices.

Kane and Garfield County Commissioners

Issue Excerpt Text: Firstly, if the BLM is proposing to make unavailable entire allotments and/or pastures, this would by implication reduce the overall number of available AUMs for that particular allotment. If indeed the BLM is reducing AUMs in this manner, this violates the State and Counties' "no net loss" of AUMs policy discussed above. Further, if the BLM is reducing AUMs in this manner, it violates Utah Code, and the Utah SRMP which dictates that "active AUMs/HMs within the state must remain at or above current levels unless a scientific need for temporary reduction is demonstrated to the satisfaction of state officials." Here, the BLM/USFS have not demonstrated a scientific need for reducing the AUMs on the GSENM via making multiple pastures/allotments unavailable. In fact, quite the opposite, the Counties, via the RAP Analyses contained herein has shown using remote sensing data that if anything, the AUM levels deserve to be kept at current levels (in line with stock-and-monitor principals and the RAP Analysis) with an analysis to determine if an increase is actually possible. With no scientific need demonstrated to the satisfaction of State or County officials, the Counties assert that making vast areas unavailable for grazing violates the no net loss of AUMs policy.

Kane and Garfield County Commissioners

Issue Excerpt Text: With these updated Utah SRMP policies in mind, the Counties express their overarching protest regarding the Livestock Grazing Matrices in the GSENM Proposed RMP that allows for ANY permanent net loss of AUMs on the GSENM, and assert that such a permanent net loss is a violation of State law. The conflict that currently exists between the State Resource Management Plan and the proposed GSENM management plan cannot be ignored. In principle, the Counties demand a plan under which livestock grazing can thrive, the rangeland health can be improved to benefit not only wildlife and vegetation but also livestock, and livestock producers in the state can grow and adapt to their needs and the needs of the state. This proposed plan offers none of these principles in any of the alternatives. The BLM should accordingly set aside the PRMP and coordinate closely with the State and Counties to develop new alternatives for livestock grazing with the objective of maximum consistency with the State Resource Management Plan and local resource management plans.

Kane and Garfield County Commissioners

Issue Excerpt Text: Given the seriousness of the impacts/implications of the GSENMs designation, the Counties have specifically requested that under the Coordination and Consistency requirements of FLPMA, that any and all actions taken by the BLM and DOI within the GSENM be consistent with the Utah State Code, the Utah SRMP, the Garfield CRMP, and the Kane CRMP to the greatest degree possible. These requests have been met with the same disregard time and again. Some brief examples of these consistency failures are as follows. First, according to page 95 of the Utah State Resource Management Plan ("Utah SRMP"), national monuments must "be confined to the smallest area compatible with proper care and management of the objects to be protected" - consistent with the language found in the Antiquities Act of 1906. Additionally, any formal designation - whether a monument or otherwise - greater than 5,000 acres must be coordinated with state and local government prior to its creation. This requirement applies not only to the GSENM itself but also to any Areas of Critical Environmental Concern (ACECs) larger than 5,000 acres. This requirement is also reflected in Utah Code § 63L-2-3(3). Clearly, this policy was never fully adhered to at any point in the current planning process.

Kane and Garfield County Commissioners

Issue Excerpt Text: The state's codified objective is to "Employ range improvements and forage restoration projects to return active AUM/HMs to permitted levels." However, the current plan has removed language from the 2020 plan that supported this objective and has reduced active AUMs in the monument. This reduction and the removal of supportive language are inconsistent with the state's goal of maintaining or increasing permitted levels of active AUMs through improvements and restoration projects. These failures to analyze future amounts of forage, while simultaneously prohibiting range improvements to actual increase forage, are inconsistent with State and County RMPs, and the Counties protest to their implementation on this basis.

State of Utah, Public Lands Policy Coordinating Office
Sindy Smith
Issue Excerpt Text: BLM has made no attempt to even identify inconsistencies with the State RMPs much less to reduce them to only those necessary. Utah will separately provide the Governor's consistency review promised by FLPMA regulations. It protests here the entire Proposed RMP/EIS, as well as every discrete feature mentioned herein, as inconsistent with its own RMP and because BLM has failed to act as required under FLPMA and FLPMA regulations to reduce or resolve those inconsistencies.

State of Utah, Public Lands Policy Coordinating Office
Sindy Smith
Issue Excerpt Text: Utah has commented throughout the planning process, including in its September 27, March 24, June 9, and November 9 letters, BLM has made no attempt to even identify inconsistencies with the State RMPs much less to reduce them to only those necessary. Utah will separately provide the Governor's consistency review promised by FLPMA regulations. It protests here the entire Proposed RMP/EIS, as well as every discrete feature mentioned herein, as inconsistent with its own RMP and because BLM has failed to act as required under FLPMA and FLPMA regulations to reduce or resolve those inconsistencies. There are many obvious inconsistencies with State RMPs and policies, including, merely for example, policies pertaining to grazing, range improvements, area management designations, water improvements, and road access. BLM's failure to take its responsibility to achieve consistency seriously is evident in the Proposed RMP.

Summary:

Protestors state the BLM violated the mandate in Section 202(c)(9) of FLPMA for consistency with State and local plans regarding land exchange and livestock grazing decisions on public lands that reduce agricultural opportunities and ignore policies that are designed for local interests.

Response:

FLPMA requires that "land use plans of the Secretary under this section shall be consistent with State and local plans to the maximum extent he finds consistent with Federal law and the purposes of this Act" (43 United States Code [U.S.C.] 1712(c)(9)). Furthermore, Section 202 of FLPMA states that land use planning decisions "shall be consistent with officially approved or adopted resource related plans, and the policies and programs contained therein" of State and local governments and Indian Tribes "so long as the guidance and resource management plans [of the State and local government and Tribe] are also consistent with the purposes, policies, and programs of Federal laws and regulations applicable to public lands" (43 C.F.R. 1610.3-2(a)). The BLM has interpreted this provision to mean that BLM land use plans may be inconsistent with State, local, and Tribal plans where it is necessary to meet the purposes, policies, and programs associated with implementing FLPMA and other Federal laws and regulations applicable to public lands (43 C.F.R. 1610.3-2(a)).

In accordance with this requirement, the BLM has considered State, local, and Tribal plans that are germane to the development of the GSENM PRMP/FEIS, as evidenced by Section 4.3 of the GSENM PRMP/FEIS, which describes coordination that has occurred throughout the development of the GSENM PRMP/FEIS, and Appendix O of the GSENM PRMP/FEIS, which addresses both consistencies and inconsistencies between the GSENM PRMP and State and local plans. The agency will discuss why any remaining inconsistencies between the GSENM PRMP/FEIS and relevant local, State, and Tribal plans cannot be resolved in the ROD for the GSENM planning effort.

Section O.2 in Appendix O (GSENM PRMP/FEIS pp. O-2 through O-14) describes in detail how the BLM considered State and local plans and policies regarding livestock grazing and other resources within the GSENM planning area. The GSENM PRMP/FEIS does not specifically address promotion of agricultural industries but does make decisions related to livestock grazing and allows for the continuance of agricultural practices. Specific attention and analysis are given to how livestock grazing management proposed in the GSENM PRMP/FEIS is or is not consistent with the Utah State RMP (GSENM PRMP/FEIS Section O.2.1, pp. O-2 through O-3), the Garfield County General Management Plan Resource Management Section (Section O.2.2, pp. O-7 through O-8), and the Kane County RMP (Section O.2.3, p. O-12).

The BLM recognizes that the PRMP, which would reduce the number of acres available for livestock grazing and congruously decrease animal unit months (AUM), would be inconsistent with State and local policies and plans that seek to ensure permitted AUMs remain at or above current levels. Such inconsistency is necessary because the "no net loss" directives in the State and local plans conflict with both Federal law and policy. As discussed more thoroughly in the *FLPMA: Livestock Grazing* section below, continued livestock grazing in certain areas of the Monument would negatively affect ecological and hydrological functions which, in turn, could adversely affect the BLM's ability to comply with the requirement (imposed by Section 302 of FLPMA and Proclamation 10286) to provide proper care and management to Monument objects. A reduction in livestock grazing is also necessary to achieve the BLM's policy of protecting and restoring biological resources in the GSENM.

It is important to note that the PRMP does not permanently close any livestock grazing allotments; rather, it includes land use planning decisions that would allocate lands as either available or not available for livestock grazing. These decisions are not permanent and may be revisited through a

future Resource Management Plan Amendment (RMPA) or revision process. To a similar point, AUMs could also be increased through a subsequent RMPA or revision. In addition, any alleged inconsistencies caused by the PRMP's restrictions on both structural and non-structural range improvements are likewise necessary to meet Federal law, regulation, and policy. The PRMP includes management direction that allows modifications to existing structural range improvements and the construction of new range improvements. However, such actions must be associated with documentation that the improvement or its modification would support the achievement of rangeland health standards (based on a land health assessment within the last 10 years) and is consistent with the protection of GSENM objects. This management direction is consistent with the BLM's grazing regulations at 43 CFR 4120.3-4 and 43 CFR 4130.3-1(c). It is also consistent with the BLM policy, stated in the July 29, 2022, Notice of Intent related to this planning effort, to protect the entirety of the GSENM landscape and its associated scenery. The PRMP also includes management direction that prohibits nonstructural range improvements with the primary purpose of increasing forage for livestock grazing. While the proclamation provides for continuing livestock grazing, that use must be "consistent with the care and management of the objects identified [in Proclamation 10286] and in Proclamation 6920." As demonstrated in the FEIS, increasing forage in the GSENM would not be consistent with the protection of GSENM objects, nor would it be consistent with the BLM policy of restoring natural biological processes in the Monument.

Finally, to the extent there is an inconsistency caused by the language in the PRMP addressing the retirement from future livestock grazing of lands that are covered by a voluntarily relinquished livestock grazing permit or lease, that inconsistency is required by law. The requirement that lands in the GSENM that are covered by voluntarily relinquished livestock grazing permit or lease be retired from future livestock grazing is a restatement of language in Proclamation 10286, which the BLM has no discretion to deviate from as part of this planning process.

The State of Utah's role in land management has been acknowledged and discussed throughout the GSENM PRMP/FEIS. Specific State plans were added as a result of public and cooperating agency feedback under Section 1.5.2 under *Other Federal, State, and Local Government, and Tribal Resource-related Plans* (GSENM PRMP/FEIS pp. 1-11 through 1-12). GSENM PRMP/FEIS Appendix O, as well as the BLM's November 22, 2024, letter responding to the Governor's Consistency review letter, provides additional detail on the BLM's consistency review to further show the BLM's support for working together with State and local partners.

The BLM satisfied FLPMA's requirement in preparation of the GSENM PRMP/FEIS to work with State and local planning authorities and ensure consistency with their policies and plans. Accordingly, this protest issue is denied.

FLPMA: Data and Inventories

Southern Utah Wilderness Alliance
Kya Marienfeld

Issue Excerpt Text: The DEIS and, subsequently, FEIS and proposed plan, does not account for approximately 5,541.99 acres of lands within the Monument that were former State Institutional Trust Lands Administration (SITLA) parcels in its wilderness characteristics inventory review process. Likely due to GIS error, these former SITLA parcels that are completely surrounded by wilderness study areas (WSAs) in the Monument and adjacent NPS recommended wilderness were not included in BLM's wilderness characteristics inventory review prior to the DEIS. In 2023, in preparation for release of the DEIS and public review and comment in the NEPA process, BLM conducted a wilderness characteristics inventory on 54,445 acres of former SITLA sections that are surrounded by WSAs in the Monument. See GSENM Lands with Wilderness Characteristics

Inventory Review, August 2023. BLM correctly points out in this review document (included in the DEIS) that this former-SITLA acreage was not included in previous wilderness character inventories and that BLM was under the obligation under Section 201 of FLPMA and BLM Manual 6310 to inventory these parcels for the presence of wilderness characteristics. However, likely due to a GIS error, several former SITLA parcels that should have been included in this 2023 inventory review process were erroneously excluded. Although these parcels fit BLM's stated inventory update criteria-former SITLA parcels traded out in the Utah Schools and Lands Exchange Act of 1998 that are surrounded by WSAs-they do not appear in BLM's detailed inventory documentation in the DEIS. As a result, these un- inventoried 5,541.99 acres do not appear as BLM-identified lands with wilderness characteristics (LWC) in the FEIS and proposed plan maps or GIS, although all 54,445 additional acres of these sections that BLM did inventory were found to possess wilderness characteristics and are now included in the proposed plan as LWC "managed to protect" this wilderness character over competing uses. Please see the map attached to this protest for specific locations of these parcels, highlighted in red. As stated in SUWA et al.'s comments during scoping and following the release of BLM's DEIS, these parcels still have not been properly inventoried by BLM, despite it being clear in the plain language of BLM's 2023 LWC inventory review that the agency actually intended to inventory all parcels of this nature. Because of this, BLM's duty under FLPMA and Manual 6310 during the current plan process remains incomplete. 43 U.S.C. § 1711(a); BLM Manual 6310.04(C)(1).

Summary:

Protestors stated that the BLM violated FLPMA by failing to include 5,541.99 acres of lands within the Monument, that were former SITLA parcels, in its wilderness characteristics inventory review process. Protestors stated that in 2023, the BLM conducted a wilderness characteristics inventory on 54,445 acres of former SITLA sections and found 5,541.99 acres to be LWCs but left them off inventories and maps for the Draft Environmental Impact Statement (DEIS).

Response:

As part of the current planning process, the BLM reviewed the existing wilderness characteristics inventories for GSENM and found that the existing inventories did not include former Utah Trust Lands Administration sections that the BLM acquired through the Utah Schools and Lands Exchange Act of 1998 (Public Law 105-335). In response, and consistent with Section 201(a) of FLPMA, the BLM completed a maintenance exercise to assess whether wilderness characteristics were present on those parcels. Details of this review process and the findings are presented in the August 2023 Lands with Wilderness Characteristics Inventory Review available on ePlanning.

The BLM's maintenance exercise was focused on those parcels obtained through the 1998 land exchange that were surrounded by WSAs and inadvertently failed to include the prior Utah Trust Lands Administration parcels that are not partially bounded WSAs, such as parcels adjacent to the Glen Canyon National Recreation Area. In total, the BLM's maintenance exercise failed to account for approximately 5,500 acres. To address this oversight, the BLM intends to perform the maintenance exercise on the approximately 5,500 acres after completing this planning process. The oversight does not constitute a legal error, and the BLM intends to update the inventory after the planning process, which is consistent with the direction in BLM Manual 6310. Accordingly, this protest issue is denied.

FLPMA: Livestock Grazing

Sage Steppe Wild
Jonathan Ratner

Issue Excerpt Text: The AMS and EIS clearly demonstrate the incompatibility of livestock grazing with the protection and restoration of objects and values yet ignore that incompatibility to preserve the status quo. This is the essence of arbitrary and capricious decision making that is disallowed by the APA. ...Livestock grazing is both discretionary and soil-disturbing yet it is permitted indefinitely, decade after decade, with no NEPA and no changes in permit terms and conditions, so the primary cause of soil degradation across the entire Monument is functionally exempt from any soil requirements. Further, the mandate of the proclamations, the Omnibus Public Lands Act of 2008 and all the NLCS directives do not talk of "minimizing" impacts to objects and values, the mandate is protection and restoration.

State of Utah, Public Lands Policy Coordinating Office
Sindy Smith

Issue Excerpt Text: BLM started from the faulty premise that it legally can and must follow the President's direction in Proclamation 10286 that if grazing permits or leases are voluntarily relinquished by existing holders, "the Secretary shall retire from livestock grazing the lands covered by such permits or leases pursuant to the processes of applicable law" and "[f]orage shall not be reallocated for livestock grazing purposes unless" it will "advance the purposes of" Proclamation 10286 and 6920. The Antiquities Act does not give the President authority to make specific land use decisions, much less the kind BLM asserts that Proclamation 10286 has made. The Antiquities Act allows only the declaration of objects to be protected and the reservation of land to care for and manage those objects. It nowhere suggests that the President may designate, with unreviewable discretion not subject to FLPMA, specific activities that may or may not occur on the land.

State of Utah, Public Lands Policy Coordinating Office
Sindy Smith

Issue Excerpt Text: Whatever determination to be made about how to protect those objects is subject to the constraints of FLPMA and other laws. Because Proclamation 10286 also stated that BLM was required to "manage livestock grazing as authorized under existing permits or leases, and subject to appropriate terms and conditions in accordance with existing laws and regulations," BLM was required to independently assess the appropriateness of expansions or contractions in the grazing allotments and the forage allocated to grazing under FLPMA, including under multiple use and sustained yield principles, subject only to the constraint of being consistent with protecting the (unidentified) objects. Utah repeatedly noted this, including in its June 7 email. Instead, the Proposed RMP/Final EIS did not consider any expansion.

State of Utah, Public Lands Policy Coordinating Office
Sindy Smith

Issue Excerpt Text: Alternative E adds the closures included in Alternative B, which consist of 11 allotments that were made available in the 2020 GSENM RMP yet have not been used for grazing yet. Section 3.16.2. Consistent with BLM's general policy of opposing grazing, these closures are not justified based on any environmental analysis or determination that grazing would be inconsistent with other uses or with protecting GSENM objects. Indeed, only two general allotments are listed as not meeting rangeland standards in Table I-27, and that is not specific to the pasture made unavailable, nor is this relied upon to close the allotments. In any event, that rangeland analysis is deficient for the reasons mentioned below. The closures therefore cannot be justified under FLPMA, NEPA, the Administrative Policy Act ("APA"), or the Antiquities Act.

State of Utah, Public Lands Policy Coordinating Office
Sindy Smith
Issue Excerpt Text: The decision to close areas to livestock grazing and otherwise restrict it in the Proposed RMP also violates the National Historic Preservation Act ("NHPA") because it authorizes an undertaking before considering the undertaking's effect on any historic property, namely livestock grazing lands that may qualify as Traditional Cultural Properties ("TCP"s). See 54 U.S.C. §306108; 36 C.F.R. §800.16(l), (y). Under the NHPA, the BLM is required to assess the effects of its undertakings on historic properties and give the Advisory Council on Historic Preservation a reasonable opportunity to comment before it authorizes such undertakings. Here, the Proposed RMP makes over 128,000 acres of land unavailable for livestock grazing. One type of historic property affected by the undertaking is livestock grazing TCPs. BLM has failed its Section 106 obligations at the second step of the NHPA's implementing regulations because it failed to "make a reasonable and good faith effort to carry out appropriate identification efforts," 36 C.F.R. §800.4(b)(1), especially regarding the livestock grazing TCPs. Because of this misstep, BLM incorrectly deemed it unnecessary to assess effects and resolve adverse effects to these historic properties.

State of Utah, Public Lands Policy Coordinating Office
Sindy Smith
Issue Excerpt Text: BLM's process, its response that insufficient information was provided, and its response to the Proposed RMP/EIS fall short of its legal obligations. Once BLM was made aware of the potential existence of the TCP, it was legally obligated to evaluate its historical significance. See 36 C.F.R. §800.4(c)(1)-(2). BLM had an affirmative duty under the NHPA to seek more information and conduct its research. The information presented in Utah's and Garfield County's NEPA and National Register Historic Place ("NRHP")ters demonstrates there is sufficient likelihood for a livestock grazing TCP in the GSENM to warrant further investigation. BLM's decision to make grazing allotments unavailable without completing a thorough Section 106 review creates the risk of adverse effects on historic properties that may have deep historical and cultural significance to local communities and indigenous groups. Closure will prevent ranchers from engaging in a cultural practice rooted in the community's centuries-long history and that is important to maintaining the community's continuing cultural identity. By proceeding with the closure of these livestock grazing pastures without a full and proper Section 106 review, the BLM is compromising the integrity of its decision-making process.

State of Utah, Public Lands Policy Coordinating Office
Sindy Smith
Issue Excerpt Text: BLM started from the faulty premise that it legally can and must follow the President's direction in Proclamation 10286 that if grazing permits or leases are voluntarily relinquished by existing holders, "the Secretary shall retire from livestock grazing the lands covered by such permits or leases pursuant to the processes of applicable law" and "[f]orage shall not be reallocated for livestock grazing purposes unless" it will "advance the purposes of" Proclamation 10286 and 6920. The Antiquities Act does not give the President authority to make specific land use decisions, much less the kind BLM asserts that Proclamation 10286 has made. The Antiquities Act allows only the declaration of objects to be protected and the reservation of land to care for and manage those objects. It nowhere suggests that the President may designate, with unreviewable discretion not subject to FLPMA, specific activities that may or may not occur on the land. Whatever determination to be made about how to protect those objects is subject to the constraints of FLPMA and other laws. Because Proclamation 10286 also stated that BLM was required to "manage livestock grazing as authorized under existing permits or leases, and subject to appropriate terms and conditions in accordance with existing laws and regulations," BLM was required to independently assess the appropriateness of expansions or contractions in the grazing allotments

and the forage allocated to grazing under FLPMA, including under multiple use and sustained yield principles, subject only to the constraint of being consistent with protecting the (unidentified) objects. Utah repeatedly noted this, including in its June 7 email. Instead, the Proposed RMP/Final EIS did not consider any expansion. It excludes any grazing expansion alternative from analysis in Section 2.2.2 in reliance solely on the Proclamation. Utah objects to this decision everywhere it is found, including in Section 2.4.3 Rows 176 and 178. In illegally relying on Proclamation 10286, BLM also failed to consider a reasonable range of alternatives or ones consistent with multiple use and sustained yield principles under FLPMA and NEPA.

Sage Steppe Wild
Jonathan Ratner

Issue Excerpt Text: The AMS and EIS clearly demonstrate the incompatibility of livestock grazing with the protection and restoration of objects and values yet ignore that incompatibility to preserve the status quo. This is the essence of arbitrary and capricious decision making that is disallowed by the APA. ...Livestock grazing is both discretionary and soil-disturbing yet it is permitted indefinitely, decade after decade, with no NEPA and no changes in permit terms and conditions, so the primary cause of soil degradation across the entire Monument is functionally exempt from any soil requirements.

Livestock Operators
J. Mark Ward

Issue Excerpt Text: That is another fundamental NEPA violation. The BLM is statutorily, regulatorily, and case law bound to explore mitigation in every instance and make mitigation a go-to check off exercise throughout the planning process. That is the essence of the multiple use and sustained yield mandate of FLPMA. That is the essence of FLPMA's coordination and consistency mandates. That is the essence of NEPA's fair, open and transparent cooperating agency mandate. The PRMP/FEIS is a monument to the BLM's failure to follow and apply mitigation principles and best practices.

Livestock Operators
J. Mark Ward

Issue Excerpt Text: The Antiquities Act's authorization for the President to establish a national monument, does not license him to trample Federal Grazing Laws and Regulations. The President's Proclamation 10286 recognizes this by decreeing that the Secretary "shall manage livestock grazing…in accordance with existing laws and regulations…" Thus the Proclamation's naked dictate to retire grazing permits if voluntarily relinquished is baseless, invalid, and lawless. We protest any and all text, tables, figures, summaries and planning decisions of the PRMP/FEIS based on this dictate. Voluntarily relinquished grazing permits and leases throughout the GSENM are to be immediately and wholly put out for application by other qualified ranchers.

Livestock Operators
J. Mark Ward, et al.

Issue Excerpt Text: Making GSEM grazing allotments and pastures unavailable for grazing, whether through retirement or otherwise, is invalid and hereby protested for the additional reason that those allotments and pastures, and those contemporary and/or historic grazing practices on them, are intrinsically tied to local custom and culture, and are a vital economic and cultural practice that allowed Native American and immigrants to settle and live in this area for hundreds of years. Thus lands and the grazing practices on them are Traditional Cultural Properties ("TCP") eligible. They are also eligible for inclusion in the National Register of Historic Places ("NRHP") because they are associated "with cultural practices or beliefs of a living community that (a) are rooted in a community's past and history."

Kane and Garfield County Commissioners

Issue Excerpt Text: While there is a complete lack of data supporting the reductions and closures proposed as part of this PRMP, a glaring NEPA inadequacy arises due to the fact that the PRMP does not address one significant source of scientific information on livestock grazing that DOES currently exist on the monument. As briefly mentioned before, for the past 150 years or so, the stock and monitor technique has been used to study and adjust livestock numbers based on vegetation health and precipitation. This ongoing study continually refines and hones the estimates for optimal livestock numbers. Despite this method's extensive history and relevance, it comes as a surprise that this valuable data was never considered anywhere in the PRMP. The Counties protest to the implementation of the PRMP on this basis, namely that the current AUM numbers monument-wide were developed over decades and decades of this method, and have now been completely discarded and not evaluated under this PRMP.

Kane and Garfield County Commissioners

Issue Excerpt Text: The Counties have repeatedly addressed the need to analyze the positive socio- economic impacts of livestock grazing, the positive biological impacts, and the positive soil health and range health impacts. There is a growing body of scientific research in this regard, 94 and the Counties have encouraged the BLM to not just analyze the alleged negative effects of grazing (as the PRMP apparently only explores) but the positive ecological impacts as well (as arguably required by NEPA). As the PRMP is apparently devoid of any such analysis, the Counties protest to this PRMP as full consideration to these positive impacts has never occurred.

Kane and Garfield County Commissioners

Issue Excerpt Text: With these overarching concerns expressed, the Counties now turns to specific comments on four of the specific pasture closures that are new to Alternative E as compared to the previous draft of the RMP. Under Alternative E, the BLM is now proposing to close four specific pastures, namely the Gulch Pasture (Circle Cliffs Allotment), the Paria River Pasture and Paria Box Pasture (Cottonwood Allotment) and the Upper River Pasture (Upper Paria Allotment). All three of these allotments were slated for closure, but the specific pastures within them were never analyzed specifically as part of Alternative D, yet, now, the BLM is proposing to close these specific pastures while leaving the remainder of the allotment open. This failure to analyze at a pasture specific level until this time is arguably a NEPA deficiency and present information that was never made available for public comment until now. The Counties protest to the implementation of Alternative E on this basis.

Kane and Garfield County Commissioners

Issue Excerpt Text: Based on the overall lack of monitoring data (or data of any kind) justifying any changes from the baseline management directives (i.e., the 2020 RMP) the Counties protest the implementation of the Proposed RMP's grazing directives entirely. Because there is no data to justify any change, the best course of action is to refrain from implementing the Proposed RMP as it relates to grazing decisions, otherwise it quickly becomes apparent that the BLM's decisions in this regard are completely arbitrary, capricious, and wholly lacking a sufficient environmental analysis. On this basis, the Counties protest the implementation of the Proposed RMP and once again encourage the BLM to develop a separate Grazing Plan / EIS as contemplated under previous GSENM RMPs and give grazing the proper environmental analysis it deserves.

BlueRibbon Coalition
Simone Griffin
Issue Excerpt Text: The closures of specific allotments under Alternative E do not comply with the Federal Land Policy and Management Act (FLPMA) and the Taylor Grazing Act for several reasons: FLPMA mandates that public lands be managed under the principle of "multiple use and sustained yield," ensuring a balance between resource protection and economic uses such as livestock grazing. The designation of key grazing allotments as unavailable under Alternative E prioritizes resource protection over grazing without adequate demonstration of harm caused by grazing activities. This blanket reduction in grazing access contradicts the mandate for multiple-use management, as it significantly curtails an important economic activity without sufficient consideration of the multiple-use framework.

Vance Riggins

Issue Excerpt Text: In Alternative E, the BLM used outdated AIM (Assessment, Inventory Monitoring) Data (prior to 2000) and for that reason it did not give a correct analysis and it did not include all that data, therefore, for that reason it is misleading.

Summary:

Protestors claimed that the BLM violated the Administrative Procedures Act, NEPA, FLPMA, and the Antiquities Act by:

- Allowing for livestock grazing, which is incompatible with the protection and restoration of Monument objects and values, particularly soil resources, and failing to analyze the impacts of livestock grazing on cultural resources.
- Asserting that the President has the authority to designate specific land use decisions through Proclamation 10286.
- Failing to independently assess the appropriateness of expansions or contractions in the grazing allotments and forage allocations.
- Prioritizing resource protection and non-use over grazing without demonstration of harm caused by grazing activities, by designating key grazing allotments as unavailable under Alternative E, illegally relying on Proclamation 10286, and not considering any grazing allotment expansion alternative or analysis.
- Allowing for livestock grazing on National Landscape Conservation System (NLCS) Monument lands exempt from FLPMA's multiple-use mandate, which would not protect and restore the Monument's objects and values.
- Failing to justify livestock grazing closures based on any environmental or rangeland analysis.
- Failing to consider grazing allotments TCPs eligible for the NRHP.
- Failing to address data and scientific information on current livestock grazing at the Monument, such as decades of AUM numbers, in its implementation of the PRMP and failing to explore mitigation.
- Failing to analyze positive ecological and socioeconomic impacts associated with livestock grazing or analyze closure allotments at a pasture-specific level and failing to make that information available for public comment until the FEIS.
- Proposing grazing directives that are arbitrary, capricious, and lacking a sufficient environmental analysis or monitoring data to justify any changes from baseline management directives.
- Failing to use current AIM data.

Response:

NEPA requires the BLM to take a "hard look" at potential environmental impacts of adopting the GSENM PRMP/FEIS. The level of detail of the BLM's NEPA analysis must be sufficient to support reasoned conclusions by comparing the amount and the degree of change (impact) caused by the proposed action and alternatives (BLM Handbook H-1790-1, Section 6.8.1.2). The BLM need not speculate about all conceivable impacts, but it must evaluate the reasonably foreseeable significant effects of the proposed action and alternatives.

Section 302(a) of FLPMA directs the BLM to manage public lands on the basis of multiple use and sustained yield, unless otherwise provided by law (43 U.S.C. 1732(a)). "Multiple use" is defined as the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people. FLPMA grants the Secretary of the Interior the authority to make land use planning decisions, taking into consideration multiple use and sustained yield, ACECs, present and potential uses of the land, relative scarcity of values, and long-term and short-term benefits, among other resource values (43 U.S.C. 1711(a)).

FLPMA's multiple-use policy does not require that all uses be allowed on all areas of the public lands. Rather, the BLM may allocate the public lands to particular uses and employ the mechanism of land use allocation to protect for certain resource values, or, conversely, develop some resource values to the detriment of others, short of unnecessary and undue degradation. Through the land use planning process, the BLM evaluates and chooses an appropriate balance of resource uses, which involves tradeoffs between competing uses.

Per the BLM's grazing regulations at 43 CFR 4100.0-8, the BLM shall manage livestock grazing on public lands in accordance with applicable land use plans. Furthermore, the BLM may designate lands as "available" or "unavailable" for livestock grazing through the land use planning process (BLM Handbook H-1601-1, Appendix C).

In response to protestors' concerns regarding compatibility of grazing and the preservation of Monument objects and values, analysis of the existing conditions and potential impacts on livestock grazing within GSENM from implementation of proposed management under each alternative is found within Section 3.16 (pp. 3-218 through 3-233) and Appendix I Section I.16 (pp. I-92 through I-100) of the GSENM PRMP/FEIS. Analysis of impacts from livestock grazing on other resources including Monument objects and values is woven throughout the Chapter 3, *Environmental Consequences*, sections for each resource. The BLM uses the best available information and science to help inform land management decisions and will continue to do so during implementation-level planning efforts. The RMP's overall goal is the protection of GSENM objects and values. Additional impacts analysis including potential benefits associated with grazing would also be analyzed at the permit renewal level, where site-specific NEPA is completed on an allotment-level scale.

In response to protestors' concerns regarding the analysis and adjustment of grazing allotments and forage allocations, the availability of forage or areas made available/unavailable for livestock grazing is a BLM decision determined through the land use planning process pursuant to Section 202 of FLPMA. Proposed management, objectives, and goals under each alternative are provided in GSENM PRMP/FEIS Section 2.4.3 (pp. 2-99 through 2-116) and are consistent with all existing laws and regulations, including Proclamation 10286.

Regarding protestors' concerns related to the PRMP's closure of certain allotments currently available for grazing, the BLM determined the closure of these allotments was necessary to maintain desired rangeland health conditions in these areas. As discussed in Section 3.16.2, the PRMP identifies for closure 11 allotments or pastures that were unavailable prior to the 2020 RMP, have not been used for livestock grazing since prior to the establishment of GSENM, and are largely in a

natural state and do not currently have permits. Because these areas have not been used for livestock grazing since prior to the 1999 amendment, they have recovered to a substantial level of naturalness, which would benefit overall ecological and hydrological functions to better protect Monument objects.

Authorizing livestock grazing on these allotments would introduce new stressors on GSENM objects and other sensitive resources in the areas that have recovered to a substantial level of naturalness since grazing has occurred. Moreover, reintroducing livestock grazing in these areas could affect ecological and hydrological functions, which, in turn, could adversely affect the BLM's ability to comply with the requirement (imposed by Section 302 of FLPMA and Proclamation 10286) to provide proper care and management to Monument objects. Finally, reintroducing grazing in these allotments could conflict with the BLM policy, stated in the July 29, 2022, Notice of Intent for this planning effort, to protect and restore the BLM's biological resources. Nothing precludes the BLM from adjusting grazing use in areas where rangeland health is acceptable, and the BLM is permitted to employ its land use planning process to shift allowable uses on specific pastures or specific allotments. Moreover, these closures contribute to desired outcomes for the Monument, including protecting and restoring the entirety of the Monument and its biological resources.

As described in GSENM PRMP/FEIS Section 2.4.3, the proposed adaptive management framework under Alternative E (the PRMP) allows for "Adjusting livestock distribution, season of use, grazing duration, recovery periods, and stocking rate (i.e., changes to AUM)." These are typically handled during permit renewals at the implementation level. The PRMP does not increase AUM utilization. Rather, it carries forward permitted AUMs associated with available allotments; this number includes both active and suspended AUMs. A reduction or increase to the number of active or suspended AUMs per allotment would occur at the permit renewal processing level, subject to NEPA and informed by land health assessment determinations.

Table I-27 in Appendix I (GSENM PRMP/FEIS Appendix I, pp. I-96 through I-99) contains a list of grazing allotments that were not meeting rangeland health standards and the actions taken since 2006 by the BLM and grazing permittees to make progress toward meeting rangeland standards. Additional discussion is presented in Appendix I regarding the need to improve rangeland heath, with potential next steps to be taken. Additionally, updated analysis from the DEIS to the current FEIS for livestock grazing can be found in the blue text in Section 3.16 (pp. 3-218 through 3-233) of the GSENM PRMP/FEIS. The analysis in the FEIS provides clear information on how management direction will protect Monument objects regarding areas that would be available for grazing. Additional analysis would occur during implementation-level planning on future permit renewals on areas that are available for grazing.

In response to protestors' concerns regarding the four pastures identified as *unavailable – trailing only* in Alternative E (the PRMP), the BLM determined it was necessary to make certain pastures within or near departed watersheds unavailable to grazing in order to protect and improve the watersheds, given that proper riparian management and improvement continue to be a high priority. As explained in Appendix M of the GSENM PRMP/FEIS, the BLM reviewed lotic AIM data, along with past Proper Functioning Condition assessments (see Section 3.4.1 of the GSENM PRMP/FEIS) and State of Utah Division of Water Quality (DWQ) impairment assessments and remote sensing data, following guidelines in BLM Tech Note 453/455 and as further described in Appendix B of the GSENM PRMP/FEIS, to evaluate the condition of watersheds at the Hydrologic Unit Code-10 watershed scale. This analysis included data from 68 lotic AIM reaches and nine riparian and wetland AIM plots, with all data collected between 2013 and 2024. It also included a remote sensing analysis of trends in bare ground, annual forbs/grasses, perennial forbs/grasses, and shrubs from 1996 to 2023.

Data collected from lotic AIM reaches in or adjacent to the pastures identified as *trailing only* in Alternative E indicated departure from expected conditions. For example, data from most of the

relevant lotic AIM reaches indicated the underlying watersheds are experiencing low bank cover and high bank instability, as well as high fine sediment and issues with floodplain connectivity. In addition, remote sensing data showed the watersheds experiencing a net loss of important types of ground cover, which tends to exacerbate the conditions identified by the AIM data and is consistent with the significant loss in vegetation throughout the Monument. The BLM also considered applicable DWQ assessments from the 2022 reporting year, which show the relevant watersheds are experiencing impairment from high temperatures, turbidity, and macroinvertebrate composition.

In response to the data described in Appendix M of the GSENM PRMP/FEIS, and to prevent additional departure from existing watershed conditions, Alternative E makes four pastures unavailable to livestock grazing. As explained in the GSENM PRMP/FEIS, making pastures unavailable for livestock grazing would reduce any impacts grazing would have on watershed health, such as increased turbidity or sedimentation and decreased water quality. In addition, a reduction in livestock use is expected to improve the immediate physical habitat (for example, floodplain connectivity, bank cover and stability, and native riparian vegetation), which could subsequently assist with water quality and DWQ impairments. As discussed above, the impairments result from elevated total dissolved solids, temperature, and benthic macroinvertebrate assemblages (see Table I-14 of the GSENM PRMP/FEIS), which can be caused by livestock grazing. Livestock grazing may contribute to water quality impairment via direct effects, such as those of animal waste on dissolved oxygen or nutrients (nitrogen or phosphorus), or by indirect effects, such as by increasing erosion, which increases sediment loading (turbidity), total dissolved solids, and associated metals. Such effects may also impair benthic macroinvertebrate and fish habitat and result in low observed and expected bio-assessment scores. By limiting these pastures to trailing only, these impacts associated with livestock may be minimized, thereby benefiting the watersheds. This action is necessary to achieve the BLM's policy of protecting and restoring biological resources in the GSENM.

Moreover, the decision to allocate a few pastures within allotments in departed watersheds as trailing only was within the range of alternatives evaluated in the GSENM Draft RMP/DEIS. Under Alternative D, the BLM analyzed the impacts associated with closing the entire underlying allotments, which would include the pastures within. Impacts associated with closing individual pastures within an allotment would be similar to impacts associated with closing the entire allotment. As a result, in closing only individual pastures instead of allotments, the GSENM PRMP/FEIS does not present new information not previously analyzed.

In regard to these four pastures, the BLM intends to revise the management direction in the ROD. Specifically, in an effort to be more consistent with the State of Utah's RMP, the BLM intends to incorporate adaptive management into the management action that will allow each of the four pastures to become fully available for livestock grazing if the BLM determines that all land health standards are met. This change would allow the BLM to work with the permittees toward meeting all land health standards. However, until all land health standards are met, the pastures would remain available, but limited to trailing only. As a result of this intended change, the maximum permitted AUMs in the GSENM would increase to 105,452. Notably, the BLM does not view this intended change as a significant change because it was within the range of alternatives included in the Draft RMP/DEIS.

With respect to protestors' concerns regarding the retirement of lands subject to voluntary relinquishment of livestock grazing leases and permits from future livestock grazing, that is a requirement of Proclamation 10286, the legality of which is outside the scope of this planning process. The PRMP merely restates the proclamation language, which the BLM has no discretion to deviate from as part of this planning process. Questions concerning the legality of the voluntary relinquishment provision are properly addressed in a challenge to Proclamation 10286, not in a protest to the PRMP.

Regarding protestors' assertion that the BLM should consider livestock grazing allotments as TCPs, the BLM acted in accordance with *National Register Bulletin 38: Guidelines for Evaluating and Documenting Traditional Cultural Properties* (National Park Service 1998), which explains that the level of effort that should be allocated to identifying a TCP depends in part on whether the project under consideration is the type of project that could affect TCPs. The PRMP is not the type of undertaking that would adversely affect either livestock grazing uses in the GSENM or historic properties in the GSENM associated with livestock grazing. To begin with, no active livestock grazing permits apply to any of the lands that would be made unavailable to livestock grazing under the PRMP. Because these areas are not being actively grazed, making them unavailable to livestock grazing would have no impact on the amount of grazing that is currently occurring within those areas. Allocating those lands as unavailable to livestock grazing would also not adversely affect historic properties associated with grazing, because the management decision would merely allow those lands to rest. Moreover, the BLM could change the decision and make those lands available to livestock grazing through a subsequent land use plan amendment. Limiting certain lands to trailing only would similarly not have an adverse effect on livestock grazing use or historic properties, because it would merely prohibit more-intensive grazing use in those areas, not prevent the use altogether. Finally, the PRMP would not result in any ranchers losing a livestock grazing permit in the GSENM. All ranchers who currently hold a livestock permit in the GSENM would continue to do so. Therefore, even if the PRMP would reduce the AUMs allocated in the GSENM, it would not prevent anyone from engaging in the "traditional cultural practice" of livestock grazing in the GSENM. Because the PRMP would not adversely affect either livestock grazing uses in the GSENM or historic properties in the GSENM associated with livestock grazing, extensive efforts to identify a potential grazing-related TCP at this time were therefore unnecessary. Moreover, consulting parties did not provide sufficient information to identify a grazing-related TCP in the GSENM at this time. As National Register Bulletin 38 points out, a TCP must be tied to a tangible area or property and the traditional practice must be associated with a living community. In addition, the practice associated with the area or property must be important in maintaining the continuing cultural identity of that community. Consulting party input did not suggest a tangible area or property that might be associated with maintaining cultural identity, nor did it suggest a single community or group that may be associated with the practice and values of livestock grazing. Accordingly, the input provided did not include sufficient information for the BLM to identify, document, and evaluate a potential livestock grazing TCP at this time.

In consideration of the sections identified above, the proposed livestock grazing management and analysis for the GSENM as articulated in the PRMP/FEIS is in compliance with applicable law, including NEPA, FLPMA, and the NHPA. Accordingly, this protest issue is denied.

FLPMA: Multiple Uses

BlueRibbon Coalition

Simone Griffin

Issue Excerpt Text: Public lands are intended to be managed for the enjoyment of a wide range of recreational activities, including traditional uses such as target shooting. [comment:9-11; 193] By broadly prohibiting target shooting, the plan denies lawful recreational users' access to this historically permitted activity, violating the spirit of public land use for multiple purposes as mandated by the Federal Land Policy and Management Act (FLPMA).While the prohibition is aimed at preventing potential resource damage and conflicts with other recreational activities, the plan lacks clear, documented evidence that target shooting has caused widespread or irreparable harm to natural or cultural resources within GSENM. Target shooting, when conducted responsibly, can be managed through designated shooting areas and clear safety guidelines, rather than imposing an outright ban across large areas.

Kane and Garfield County Commissioners

Issue Excerpt Text: On this point, the Counties are aware of the BLM's internal guidance and regulations which direct them to consider lands with wilderness characteristics as part of the planning process. However, while "Section 201 of Federal Land Policy and Management Act (FLPMA) requires the BLM to maintain an inventory of all public lands and their resources and other values, which includes wilderness characteristics. It states that the preparation and maintenance of the inventory shall not, of itself, change or prevent change of the management or use of public lands." As discussed earlier in this Protest Letter, statutory law supersedes regulatory law when they conflict, and here, while the BLM's internal guidance and regulations direct that LWCs be accounted for in the resource planning process, that guidance cannot override the statutory directives that such an inventory will not change how those lands are managed. Here, the BLM runs afoul of this directive. On Row 153 of the Proposed RMP, the baseline analysis (the 2020 RMP) directed the BLM to "manage the lands with wilderness characteristics for multiple-use to the extent that doing so is consistent with the protection of GSENM objects." In short, while the Counties still assert that LWCs are in excess of the BLM's authority, at least this directive kept those lands in multiple-use, so that the inventory of those lands in and of itself did not change the management or use of the land, as directed above.

Kane and Garfield County Commissioners

Issue Excerpt Text: The Proposed RMP departs from this somewhat acceptable standard, and in the same Row 153 now directs that within LWCs, that those lands be "managed to minimize impact on wilderness characteristics"…including the severe restrictions on discretionary uses, which would only be allowed if those uses (which arguably would include just about all the uses, such as grazing, recreation, camping) only if the impacts could be minimized. Row 151 further provides that under the PRMP that 329,400 acres would be managed to protect LWCs, 224,100 acres would be managed to minimize impacts on LWCs, and 6,100 acres would be managed as LWCs but allow for discretionary uses. All said, this totals 559,600 acres that would have some sort of LWC management directive tied to it - or approximately 30% of the entire GSENM. These directives run afoul of the Utah SRMP, the County RMPs, and specifically FLPMA as the preparation and inventory of the LWCs is now changing the management of these lands - contrary to the authority cited above. For example, Row 152 of the PRMP closes routes in Lands with Wilderness Characteristics (LWCs) to off-highway vehicle (OHV) travel, which is problematic if the routes were in use at the time of the inventory. According to the Waddoups decision, discussed supra, vested rights support keeping these routes open. This is, however, a single glaring example of how the LWC designation is changing the management of those lands, contrary to the statutory directives in FLPMA.

Kane and Garfield County Commissioners

Issue Excerpt Text: Thus, the Counties firmly protest to the implementation of the Proposed RMP as written, as the creation of a separate designation for Lands with Wilderness Characteristics is in excess of the BLM's authority, creates management directives that are ultra vires, is a violation of State and County policy, and attempts to create de facto wilderness areas, in practice, without proper justification nor authority.

Sage Steppe Wild
Jonathan Ratner
Issue Excerpt Text: What is clear is that the BLM is treating NLCS lands, which FLPMA specifically exempts from typical BLM "multiple use" approach, as typical BLM "multiple use"

lands in direct violation of the proclamations, the Omnibus Public Lands Act of 2008 and NLCS directives.

Sage Steppe Wild
Jonathan Ratner
Issue Excerpt Text: At 2-15, the EIS states: The BLM will manage livestock grazing to meet the Standards for Rangeland Health and Guidelines for Grazing Management for BLM Lands in Utah (BLM 1997) in a manner that is consistent with the protection of GSENM objects.

But the regulations at 43 CFR 4180 were developed under BLM's "multiple use" agenda and do not apply to lands exempt under FLPMA from "multiple use". The Utah Standards and Guidelines do not protect and were not designed to protect, let alone restore the objects and values for which the Monument was designated. As such it is inappropriate for them to be applied to Monument lands.

State of Utah, Public Lands Policy Coordinating Office
Sindy Smith
Issue Excerpt Text: FLPMA provides that the Department of Interior must "manage the public lands under principles of multiple use and sustained yield," and it may do differently only if the land is "dedicated to specific uses according to any other provisions of law." 43 U.S.C. § 1732(a). Even assuming that Proclamation 10286 properly invoked the protection of the Antiquities Act for objects within the GSENM (which Utah rejects), BLM must still manage the land in the GSENM under principles of multiple use and sustained yield whenever possible consistent with preserving those objects. Instead, BLM has trampled on this obligation. It demotes uses other than the restrictive uses elevated for "protecting, maintaining, or restoring GSENM objects" to "discretionary uses," which BLM defines as uses "for which the BLM retains the discretion to authorize or decline to authorize." Glossary-6. BLM cites no legal authority for such "discretion," by which BLM apparently may permit or restrict use at will and without accountability or reason.

State of Utah, Public Lands Policy Coordinating Office
Sindy Smith
Issue Excerpt Text: Accordingly, Utah objects to the entirety of the Proposed RMP/Final EIS because this failure of BLM to respect the multiple use and sustained yield obligation affects it systemically, but Utah also objects to the specific substantive areas discussed below, each of which is affected by this error (grazing, travel, shooting, etc.).

State of Utah, Public Lands Policy Coordinating Office
Sindy Smith
Issue Excerpt Text: Additionally, the closure of these areas to such uses and of all non-designated and even some designated roads-and, as discussed below, the apparent elimination even of vested rights-is also contrary to law, including FLPMA and the Wilderness Act. Congress mandated that only roadless areas of over 5,000 acres could be designated WSAs; under FLPMA, other areas must be managed for multiple use and sustained yield. Yet the management area setup flips this on its head and makes more areas roadless with WSA-like restrictions (and even more restrictions) even though BLM has no authority to designate more areas as WSAs. Indeed, Alternative E makes the purpose for most of the GSENM to be non-use.

State of Utah, Public Lands Policy Coordinating Office
Sindy Smith
Issue Excerpt Text: BLM is prioritizing non-use; these huge, undifferentiated areas of land precluded from established uses like grazing or even recreation cannot be declared to have scientific, cultural, or other inconsistent uses throughout their entirety, much less ones that require ceasing BLM's disfavored uses. This falls even further short of BLM's obligation to promote sustained yield by increasing the number of resources, like livestock, available from the land. By

demoting established uses to "discretionary" and failing to recognize their competing value claims, BLM not only fails to maximize multiple uses and sustained yield as required, but it also engages in arbitrary and backward decision making. This error affects the entirety and validity of the Proposed RMP/EIS.

State of Utah, Public Lands Policy Coordinating Office
Sindy Smith
Issue Excerpt Text: Effectively, BLM is prioritizing non-use; these huge, undifferentiated areas of land precluded from established uses like grazing or even recreation cannot be declared to have scientific, cultural, or other inconsistent uses throughout their entirety, much less ones that require ceasing BLM's disfavored uses. This falls even further short of BLM's obligation to promote sustained yield by increasing the number of resources, like livestock, available from the land. By demoting established uses to "discretionary" and failing to recognize their competing value claims, BLM not only fails to maximize multiple uses and sustained yield as required, but it also engages in arbitrary and backward decision making. This error affects the entirety and validity of the Proposed RMP/EIS.

State of Utah, Public Lands Policy Coordinating Office
Sindy Smith
Issue Excerpt Text: The management areas should not impose even stricter requirements than those imposed by Congress for wilderness areas. Additionally, the closure of these areas to such uses and of all non-designated and even some designated roads-and, as discussed below, the apparent elimination even of vested rights-is also contrary to law, including FLPMA and the Wilderness Act. Congress mandated that only roadless areas of over 5,000 acres could be designated WSAs; under FLPMA, other areas must be managed for multiple use and sustained yield. Yet the management area setup flips this on its head and makes more areas roadless with WSA-like restrictions (and even more restrictions) even though BLM has no authority to designate more areas as WSAs.

Summary:

Protestors stated that the BLM violated FLPMA's multiple-use mandate, 43 CFR 4180 of the Taylor Grazing Act, the Omnibus Public Land Management Act of 2009, and the Wilderness Act by:

- Failing to manage LWCs for multiple use by failing to account for LWCs in the resource planning process and imposing severe restrictions on established discretionary use authorizations at will and without basis of legal authority, failing to recognize their competing value claims.
- Closing designated and non-designated roads and managing areas with wilderness or WSA-like restrictions, even though the BLM has no authority to designate more areas as WSAs.
- Creating a de facto wilderness area with designations of LWCs in the GSENM PRMP/FEIS.
- Prohibiting target shooting and travel without clear evidence that the recreational activity has caused harm to natural or cultural resources within the GSENM.

Response:

Section 302(a) of FLPMA directs the BLM to manage public lands on the basis of multiple use and sustained yield, unless otherwise provided by law (43 U.S.C. 1732(a)). Section 103(c) of FLPMA defines "multiple use" as the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people.

FLPMA's multiple-use policy does not require that all uses be allowed on all areas of the public lands. Rather, the BLM has wide latitude to allocate the public lands to particular uses and to employ the mechanism of land use allocation to protect for certain resource values, or, conversely, develop some resource values to the detriment of others, short of unnecessary and undue degradation. Through the land use planning process, the BLM evaluates and chooses an appropriate balance of resource uses, which involves tradeoffs between competing uses.

Proclamation 10286 directs that the GSENM shall be managed as part of the NLCS, which was established "to conserve, protect, and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations" under the Omnibus Public Land Management Act of 2009. Accordingly, the BLM is required to manage the GSENM "in a manner that protects the values for which the components of the system were designated" (16 U.S.C. 7202). This management mandate may be realized in various ways. The GSENM RMP must reflect the unique issues, management concerns, and resource conditions of the management area while reflecting the purposes set forth in Proclamation 10286.

All alternatives considered in the GSENM PRMP/FEIS, as described in Chapter 2 of the GSENM PRMP/FEIS, provide an appropriate balance of uses on the public lands. All alternatives allow some level of all uses present in the planning area in a manner that is consistent with applicable statutes, regulations, and BLM policy.

Regarding LWCs, the BLM's authority for managing lands to protect or enhance wilderness characteristics is derived directly from Section 202 of FLPMA, which gives the Secretary of the Interior authority to manage public lands for multiple use and sustained yield. FLPMA makes it clear that the term "multiple use" means that not every use is appropriate for every acre of public land, and that the Secretary can "make the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use" (FLPMA, Section 103(c)). Furthermore , FLPMA directs that the public lands be managed in a manner "that, where appropriate, will preserve and protect certain public lands in their natural condition" (FLPMA, Section 102(a)). FLPMA authorizes the Secretary of the Interior to use land use planning as a mechanism for allocating resource use, including wilderness character management, among the various resources in a way that provides for current and future generations.

The BLM's proposed LWC designations in the GSENM PRMP/FEIS are consistent with Sections 201 and 202 of FLPMA and BLM Manual 6320. Wilderness characteristics are included in the "resource and other values" the BLM is required to inventory on a continuing basis consistent with Section 201(a) of FLPMA (43 U.S.C. 1711(a)). As part of the land use planning process, FLPMA further provides the BLM with discretion to consider management of inventoried resources, including wilderness characteristics. Such discretion in analyzing potential management options for wilderness characteristics is neither prohibited nor constrained by the BLM's obligations under Section 603 of FLPMA (43 U.S.C. 1782), i.e., the statutory direction for the BLM, in the 15 years that followed the passage of FLPMA, to inventory for areas suitable for Congress to designate as wilderness and to manage these areas so as not to impair the suitability of such areas for preservation as wilderness until Congress acts. As a result, the BLM may utilize its authority under Section 202 of FLPMA to manage areas identified as having wilderness characteristics for the protection of those characteristics.

GSENM PRMP/FEIS Section 3.14 (pp. 3-208 through 3-213) and Appendix I, Section I.14 (pp. I-87 through I-88) provide detailed discussion on the current conditions of LWCs and potential impacts on these lands within GSENM from implementation of proposed management under each alternative. LWCs managed to minimize impacts would allow only discretionary uses that minimize impacts on wilderness characteristics and would not result in the elimination of the LWC unit or the manageability of the unit (BLM Manual 6320). GSENM PRMP/FEIS Section 2.4.3, rows 149 through 154 (pp. 2-90 through 2-93), provides proposed management under each alternative for

LWCs. Under Alternatives C and E (the PRMP), management direction for LWCs in the primitive, passage, and outback areas requires management to protect or minimize impacts on characteristics while allowing for compatible uses, while LWCs in the front county area would be managed for other uses while not protecting wilderness characteristics (GSENM PRMP/FEIS pg. 2-12). Under the Proposed Plan (Alternative E), of the 559,600 acres of LWC, 224,100 acres would be managed to minimize impacts on those characteristics while allowing for compatible uses (GSENM PRMP/FEIS pg. 3-212). A total of 6,100 acres would be managed for other compatible uses (GSENM PRMP/FEIS p. 3-213). Impacts of proposed management for LWCs under each alternative on other resources are discussed throughout Chapter 3 of the GSENM PRMP/FEIS in the *Environmental Consequences* sections including in Section 3.16.2, *Livestock Grazing*, Section 3.17.2, *Recreation*, and Section 3.18.2, *Travel Management*.

Under Sections 201 and 202 of FLPMA, the BLM has authority and discretion to identify and manage wilderness characteristics consistent with its multiple-use mandate. Wilderness characteristics are considered to be part of the "resource and other values" the BLM is required to inventory on a continuing basis consistent with Section 201(a) of FLPMA (43 U.S.C. 1711(a)). Utilizing FLPMA's authority under Section 202, the BLM has discretion to manage those areas identified as having wilderness characteristics for the protection of those characteristics. Additionally, a land use planning decision to manage for the protection of wilderness characteristics may be modified or changed through a future land use planning decision. The GSENM PRMP/FEIS does not consider designating new WSAs. Under all alternatives, the existing 16 WSAs and instant study areas would remain designated with no changes to their size (GSENM PRMP/FEIS p. 3-280).

Additionally, the travel management decisions in the GSENM PRMP/FEIS are intended to protect the GSENM objects, provide for appropriate access to the Monument, and, as required by 43 CFR 8342.1, minimize user conflicts and resource impacts. As noted on row 230 in Chapter 2 of the GSENM PRMP/FEIS, the OHV closed area designations in the PRMP align with the portions of the GSENM that would be managed as "primitive areas" and are intended to facilitate the GSENM remaining the high, rugged, and remote landscape that Proclamations 6920 and 10286 were designed to protect. By preventing OHV use in these areas, the PRMP would help preserve the GSENM's "frontier character" and provide "visitors with an opportunity to experience a remote landscape rich with opportunities for adventure and self-discovery" where "one can wander and ponder undisturbed and explore and discover at one's own pace" (Proclamation 6920). As described in the GSENM PRMP/FEIS, the primitive areas are largely composed of WSAs, instant study areas, and LWCs that are managed for the protection of wilderness characteristics. Prohibiting OHV use would "improve…apparent naturalness [in these areas] by preventing user-created route proliferation, route widening or braiding, and dispersed camping impacts" (GSENM PRMP/FEIS p. 3-210). It would also decrease conflicts with pedestrian users and enhance the solitude and opportunities for primitive recreation that the BLM is attempting to manage for in these areas. As such, the OHV closures would help the BLM ensure that the GSENM continues to contain the same type of rugged and remote landscapes that it was originally designated to protect.

Prohibitions on recreational shooting across alternatives are provided in Section 2.4.3 of the GSENM PRMP/FEIS row 219 (p. 2-129). Under the PRMP (Alternative E), recreational shooting closures are based on both public safety and administrative concerns. With the expected rise in visitation, conflicts between recreational shooting and other recreational uses would also increase, which would continue to result in the potential displacement of recreationists seeking other recreation opportunities. Furthermore, shooting activities in areas that are dry, especially in light of climate change factors and low seasonal precipitation, can increase the chance of wildfire ignition and increase the presence of trash and/or lead from bullets being left on public lands. Other use conflicts with recreational shooting can include livestock grazing, such as if/when fence posts are used as targets and the possibility of accidental damage to range improvements or injury to grazing animals. Impacts from

recreational shooting include noise generation that can affect both GSENM visitor experience of natural soundscapes and wildlife. In areas that are used consistently for recreational shooting, there is potential that some wildlife species may permanently avoid these areas. Additionally, the use of lead ammunition can result in unintentional exposure and be fatal for some wildlife species. Accordingly, the PRMP prohibits recreational shooting in the vicinity of residences, campgrounds, developed recreation facilities, and certain transportation routes. By imposing restrictions in the more crowded portions of the GSENM, the PRMP would be able to protect public safety and aid in administration of the Monument without having to impose restrictions on recreational shooting in more remote portions of the GSENM.

The PRMP also prohibits recreational shooting within 600 feet of locations with archaeological and historic resources in the passage, outback, and primitive areas to protect the Monument's "remarkable natural soundscape with infrequent human-caused sounds" as described in Proclamation 6920. These impacts, as well as recreational shooting impacts on wildlife through avoidance responses and exposure to lead ammunition, potential for human-caused wildfires, and conflicts between recreation types are described in the GSENM PRMP/FEIS in Sections 3.9, 3.12, 3.13, and 3.17, respectively. The prohibition on recreational shooting within 600 feet of archaeological and historic resources in the passage, outback, and primitive areas is therefore necessary for public safety and orderly management of the Monument, and to comply with applicable law, namely Section 302 of FLPMA and Proclamation 10286, which require the BLM to protection Monument objects in the GSENM.

The GSENM PRMP/FEIS satisfies FLPMA's multiple-use mandate and complies with 43 CFR 4180 of the Taylor Grazing Act, the Omnibus Public Land Management Act of 2009, BLM regulations, and the Wilderness Act. The BLM is within its legal authority to identify and manage areas as LWCs for the protection of wilderness resources and has not created de facto wilderness areas by doing so. Accordingly, this protest issue is denied.

NEPA: Best Available Science

Kane and Garfield County Commissioners

Issue Excerpt Text: Further, the Counties protest to the implementation of the PRMP because the PRMP is deficient in its NEPA analysis, as it has failed to consider any of the peer-reviewed science mentioned in this section when BLM staff are well aware of this "other science" that large ruminants such as domestic livestock actually benefit the rangeland health, which would in turn arguably benefit monument objects (if said objects had ever been inventoried).

Summary:

Protestors claimed that the BLM violated NEPA by failing to consider peer-reviewed science in PRMP analysis, specifically regarding domestic livestock grazing and rangeland health.

Response:

NEPA requires the BLM to "ensure the professional integrity, including scientific integrity, of the discussions and analyses in an environmental document" (42 U.S.C. 4332(d)). The Council on Environmental Quality's (CEQ) regulations implementing NEPA further require that agencies use information that is of "high quality" (40 CFR 1500.1(b)).

The BLM NEPA Handbook also directs the BLM to "use the best available science to support NEPA analyses and give greater consideration to peer-reviewed science and methodology over that which is

not peer-reviewed" (BLM Handbook H-1790-1, p. 55). Under the BLM's guidelines for implementing the Information Quality Act, the BLM applies the principle of using the "best available" data in making its decisions (BLM Information Quality Act Guidelines, February 9, 2012).

The GSENM PRMP/FEIS outlines goals, objectives, and management directions for livestock grazing in Section 2.4.3 of the GSENM PRMP/FEIS (pp. 2-99 through 2-116), and provides acreages and areas proposed to be available and unavailable to livestock grazing under each alternative. These alternatives were all developed with the overall goal of the protection of GSENM objects as stated in Proclamation 10286.

Positive impacts from targeted grazing are discussed in the GSENM PRMP/FEIS Chapter 3 analysis, particularly in Section 3.3, *Vegetation, Including Special Status Plants*. Here the BLM states that, "In some cases, the reduction in fine fuels caused by grazing could lower the fire hazard" (GSENM PRMP/FEIS p. 3-32). This section also notes that because proposed management under the action alternatives would ensure that grazing is managed to meet BLM standards for rangeland health and in a manner that is consistent with the protection of GSENM objects, "livestock grazing likely has a neutral effect on the potential to achieve terrestrial vegetation desired conditions at the broad scale; however, there is the potential for site-specific negative impacts to occur, especially on non-forested plant communities" (GSENM PRMP/FEIS p. 3-33).

Data were evaluated in comparison with existing BLM data sets, in addition to considering the impacts that closing pastures would have on current grazing management. Based on these considerations, the GSENM PRMP/FEIS includes four additional pastures that would be made unavailable to grazing; however, they would still allow active trailing. The pastures are specified under Livestock Grazing allocations in Section 2.4.3, and details on the evaluation of these areas is provided in Appendix M of the GSENM PRMP/FEIS. Site-specific issues will be addressed during the permit renewal process, which includes site-specific, implementation-level NEPA analysis.

The GSENM PRMP/FEIS includes a bibliography (Volume 1, *References*), which lists information considered by the BLM in preparation of the GSENM PRMP/FEIS. This information provides a holistic understanding of how livestock grazing can affect resources in the GSENM. It is not necessary to incorporate additional information about peer-reviewed science on domestic livestock and rangeland health into the GSENM PRMP/FEIS, because supplementary peer-reviewed science regarding domestic livestock and rangeland health would not provide additional information that would result in effects outside the range of effects already discussed in the GSENM PRMP/FEIS.

The BLM relied on high-quality information and the best available data in preparation of the GSENM PRMP/FEIS. Accordingly, this protest issue is denied.

NEPA: Impacts Analysis – Fuels

Kane and Garfield County Commissioners

Issue Excerpt Text: In the Proposed RMP, only did the BLM apply a blanket restriction in these PAC areas on any mechanical treatment, it failed to conduct a "landscape analysis" (as called for in the MSO Recovery Plan) to determine if such fire risk reductions and habitat enhancements were needed in the PACs. This failure to conduct a landscape analysis on the PACs is another example of why the choice of Alternative E arguably violates NEPA, as the BLM failed to take a "hard look" at whether these mechanical treatments for fire risk reductions and habitat enhancements were needed in these areas.

Summary:

Protestors stated that the BLM violated NEPA by failing to conduct a landscape-level analysis on areas with restrictions on mechanical treatments for fire risk reductions and habitat enhancements and by selecting Alternative E as the PRMP.

Response:

NEPA directs that data and analyses in an EIS must be commensurate with the importance of the impact (40 CFR 1502.15), and that NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail (40 CFR 1500.1(b), 1502.1). The BLM is required to take a "hard look" at potential environmental impacts of adopting the GSENM PRMP/FEIS. The level of detail of the NEPA analysis must be sufficient to support reasoned conclusions by comparing the amount and the degree of change (impact) caused by the proposed action and alternatives (BLM Handbook H-1790-1, Section 6.8.1.2). The BLM need not speculate about all conceivable impacts, but it must evaluate the reasonably foreseeable significant effects of the proposed action and alternatives.

A land use planning–level decision is broad in scope. For this reason, analysis of land use plan alternatives is typically broad and qualitative rather than quantitative or focused on site-specific actions. The baseline data provide the necessary basis to make informed land use plan–level decisions. As the decisions under consideration by the BLM are programmatic in nature and would not result in on-the-ground planning decision or actions, the scope of the analysis was conducted at a regional, programmatic level. This analysis identifies impacts that may result in some level of change to the resources, regardless of whether that change is beneficial or adverse.

As stated in GSENM PRMP/FEIS Appendix F, Section F.18, *Fire and Fuels Management*, the geographic analysis area is the decision area. Section 1.3, *Planning Area and Decision Area*, of the GSENM PRMP/FEIS describes the decision area in detail. As discussed, of the approximately 1,880,400 acres of land within the planning area, the PRMP will make decisions for approximately 1.87 million acres of public land managed by the BLM. The decision area does not include State, municipal, or private land. Figure 1-1 (GSENM PRMP/FEIS p. 1-6) shows the planning and decision areas for the GSENM.

GSENM PRMP/FEIS Chapter 2, Section 2.1.5, *Alternative E (Proposed RMP)*, summarizes the BLM's proposed approach to fire and fuels management. Under Alternative E, vegetation management efforts would involve preferential use of native vegetation, adaptive management, avoidance of riparian areas, and management area–based strategies (GSENM PRMP/FEIS p. 2-14). No management actions are proposed that would prohibit the use of mechanized vegetation treatments within Protected Activity Centers (PAC) or elsewhere within the GSENM. This would allow for the BLM to use mechanized vegetation treatments, as appropriate, subject to best management practices. Best management practices are described in GSENM PRMP/FEIS Appendix C and would restrict mechanized vegetation treatments for fire and fuels management only in suitable and occupied habitat (p. C-8) and would avoid disruptive activities seasonally (pp. C-3 through C-5). As discussed in Section 3.3, *Vegetation, Including Special Status Plants*, in many types of vegetation in the GSENM, prescribed fire is not an appropriate treatment until pre-fire mechanical fuels thinning is conducted (GSENM PRMP/FEIS p. 3-38).

GSENM PRMP/FEIS Chapter 3, Section 3.13.1, *Affected Environment*, discusses the current conditions of fire and fuels management in the GSENM. Prescribed fire has only been used on a total of 1,273 acres in the GSENM over the past 20 years. Typically, mechanical vegetation management is required to bring fuel conditions closer to historical conditions prior to implementing the use of prescribed fire. Management actions to reduce fire severity, including hazardous fuel reductions and

emergency stabilization and rehabilitation, could slow resource decline (GSENM PRMP/FEIS p. 3-189). Potential impacts associated with mechanical vegetation treatments proposed under each alternative are discussed in GSENM PRMP/FEIS Section 3.3.2, *Environmental Consequences*, of the *Vegetation* section. As discussed, Alternative E "would offer more protection to vegetation and special status species and reduce impacts associated with [rights-of-way]" (GSENM PRMP/FEIS p. 3-59).

GSENM PRMP/FEIS Section 3.13.2, *Environmental Consequences*, of the *Fire and Fuels Management* section discusses impacts common to all alternatives presented in the GSENM PRMP/FEIS. As discussed, regardless of the alternative, "the effects of climate change would likely combine with and exacerbate some effects that result from implementing the alternatives" (GSENM PRMP/FEIS p. 3-190). Where possible and where suppression would protect life and property, prevent uncharacteristic wildland fire in native habitats, and protect special status species habitat and GSENM objects from uncharacteristic wildland fire, the BLM could allow natural-caused wildland fire to function in its natural ecological role to protect, maintain, and enhance resources. Fire would be expected to reduce excess woody and fine fuels, stimulate growth of fire-adapted vegetation, and help maintain ecological conditions and functions. This would help maintain the fire regime groups and vegetation condition classes at or close to historical conditions (GSENM PRMP/FEIS pp. 3-190 through 3-191). All alternatives include fire and fuels management that reduces the likelihood of uncharacteristically severe wildfire (GSENM PRMP/FEIS p. 3-114).

GSENM PRMP/FEIS Section 3.13.2 also discusses the impacts of implementing the management proposed under each alternative on fire and fuels. Across all alternatives, "the BLM would manage 559,600 acres of lands with wilderness characteristics, but the management prescriptions would change under each alternative" (GSENM PRMP/FEIS p. 3-191). In general, managing for more conservative or protective allocations may reduce the number of human-caused fire ignitions and number of acres burned over time because there would be less recreation in these areas. When a fire burns in these areas, such protective allocations may make responses more complex or difficult. Conversely, allowing for multiple uses while not protecting LWCs may increase the number of human-caused ignitions and acres burned in these areas. This prescription may lower response complexity, as a full range of response options would likely be available (GSENM PRMP/FEIS p. 3-192).

Additionally, "maintaining and improving the biological integrity and connectivity of terrestrial and aquatic wildlife habitats and populations, including special status species and critical habitats for listed species, would incidentally maintain, and in some cases improve, fuel loading conditions, vegetation community climate resiliency, and fire response. This would happen because in most cases wildlife and special status species habitat-improvement projects would move vegetation conditions toward desired conditions; often, this would include reducing uncharacteristic fuel loading to improve habitat resilience, such as in sagebrush communities that have been encroached by pinyon and juniper trees" (GSENM PRMP/FEIS p. 3-196). Under Alternative E (the PRMP), the BLM would allow, rather than prioritize, certain wildfires to burn for the benefit of other resources and using wildland fire would not be a priority over other resources. The effects on fire and fuels from management directions under Alternative E for other resources and resource uses are also described in the section (GSENM PRMP/FEIS p. 3-205).

GSENM PRMP/FEIS Appendix F, Section F.18, *Fire and Fuels Management*, provides descriptions of the indicators, analysis areas, and assumptions used for the analysis described in GSENM PRMP/FEIS Section 3.13. As discussed in Section F.18, the PRMP analyzes how land use allocations and discretionary actions would affect fire and fuels and how vegetation management direction would affect fire and fuels (GSENM PRMP/FEIS Appendix F, pp. F-28 through F-29).The BLM complied with NEPA's requirement to analyze the environmental consequences of/impacts on fire and fuels management in the GSENM PRMP/FEIS. Accordingly, this protest issue is denied.

NEPA: Impacts Analysis – Travel and Transportation Management

State of Utah, Public Lands Policy Coordinating Office
Sindy Smith
Issue Excerpt Text: The Proposed RMP says, in a conclusory fashion and without evidence, that closure would "minimize adverse impacts to the adjacent WSA," even though the road is cherry stemmed out of it. Section 3.18.2. Yet since Proclamation 10286, BLM has actively monitored the V-road for degradation to the surrounding area and to better understand any impacts it might have on nearby resources, including WSAs. BLM staff has informed Utah that this monitoring has shown no negative impacts on the WSAs or other environmental resources. Yet the Final EIS fails to mention this monitoring or the data collected and reaches a conclusion at odds with the data. Relatedly, while BLM states that closure would "adversely affect recreation users by removing legal motorized access to a popular and widely known geologic formation" and to the Spencer Flats SRMA, the EIS does not provide any analysis of the reliance interests of current users or the necessity of closing it.

State of Utah, Public Lands Policy Coordinating Office
Sindy Smith
Issue Excerpt Text: The Proposed RMP also violates BLM's policies to conduct travel management planning as an implementation-level decision. It even fails to consider the possibility of leaving route closures to such planning. If BLM plans to postpone grazing permit and timber harvesting decisions to a later date for implementation-level NEPA analysis, the same should be true for travel management.

State of Utah, Public Lands Policy Coordinating Office
Sindy Smith
Issue Excerpt Text: The closure of approximately 1.2 million acres of the GSENM to motorized travel, effectively rendering hundreds of roads within these areas unavailable for public use, violates the NHPA by authorizing potential adverse effects to historical roads that may be eligible for the National Register of Historic Places without properly evaluating those impacts or conducting the required consultation process under Section 106 of the NHPA. See 54 U.S.C. § 306108. Many of these roads have been in use for decades. Utah identified some in previous comment letters and through the Section 106 consultation process that may be eligible for nomination to the NHRP. Closing these roads will change "the character of the property use or of physical features within the setting that contribute to its historic significance." 36 C.F.R. §800.5(a)(2)(4). Despite being made aware of these adverse effects, BLM has failed to adequately evaluate the historical or cultural significance of the majority of these roads before deciding to restrict motorized access. This failure violates the Section 106 Process. BLM has not made a reasonable and good-faith effort to identify the historic properties that may be affected by the closures much less resolve those adverse effects.

BlueRibbon Coalition
Simone Griffin
Issue Excerpt Text: The Agency Should Recognize Equity Action Plan. The BLM failed to respond to concerns we raised regarding persons with disabilities. The BLM did not analyze the RMP's compliance with the Equity Action Plan. In April 2022 the Department of Interior released its Equity Action Plan which states, "Public land visitation data collected from the Department's bureaus suggests that certain underserved communities are underrepresented as public land visitors, relative to their presence in the U.S. population at large." This includes persons with disabilities and limited physical access. This project proposal will help decrease access within this area for underserved communities.

BlueRibbon Coalition
Simone Griffin

Issue Excerpt Text: The BLM is therefore required by this executive order and others mandating that federal agencies consider "environmental justice" in NEPA proceedings to consider whether any route closures in the DEIS would disproportionately harm disabled users' ability to access public lands - especially disabled tribal members wishing to access sacred sites. Any approach to travel management that presumes the superiority of non-motorized forms of recreation like hiking over motorized recreation, or that justifies closing motorized access on the basis that people can still hike on those routes, is inherently discriminatory toward people with disabilities. Any large-scale closures of existing routes would unfairly and inequitably deprive people with disabilities of the ability to recreate in the area using the only means available to them. It is imperative that the BLM consider the access needs of disabled users, and it has failed to address them in the alternatives for this FEIS. This FEIS fails to comply with the Department of Interior Equity Action Plan.

Summary:

Protestors stated that the BLM violated NEPA by failing to provide evidence that OHV travel closures adjacent to WSAs, particularly the V-Road, would minimize impacts on the WSA, which is contradictory to the BLM's own monitoring information. Protestors also stated that the BLM should conduct travel management planning as an implementation-level decision. Protestors stated that making historic roads unavailable to motorized travel violates the NHPA. Protestors also claimed that the BLM violated the Department of the Interior's Equity Action Plan by failing to consider how large-scale closures of existing routes would be discriminatory toward underserved communities, specifically people with disabilities that rely on motorized forms of travel. Protestors noted that the BLM must address these access needs in the alternatives of the FEIS.

Response:

BLM regulations define OHVs as "any motorized vehicle capable of, or designed for, travel on or immediately over land, water, or other natural terrain," except, among other exceptions, any military, fire, emergency, or law enforcement vehicle while being used for emergency purposes, and any vehicle whose use is expressly authorized by the BLM or is otherwise officially approved. Pursuant to its OHV regulations, the BLM must designate all public lands as open, limited, or closed to OHV use. The BLM makes these "area designations" in land use plans. In OHV *open* areas, all types of vehicular use are allowed at all times, and the BLM need not designate certain routes as available for public OHV use through implementation-level travel planning. In *limited* areas, the BLM may restrict OHV use at certain times, in certain areas (e.g., designated routes), and/or to certain vehicular use. The BLM imposes such restrictions through implementation-level travel planning that occurs after it completes land use planning. Finally, in OHV *closed* areas, OHV use is prohibited regardless of whether a route exists on the ground. In the GSENM PRMP/FEIS, OHV area designations vary across alternatives and were developed based on the protection of the GSENM objects and values. In identifying area designations, the BLM applied OHV closures to areas within the GSENM that (1) would minimize damage to soil, watersheds, vegetation, air, and other resources; (2) would minimize harassment of wildlife or significant disruption of wildlife habitats; (3) would minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands, and to ensure the compatibility of such uses with existing conditions in populated areas, taking into account noise and other factors; and (4) would minimize potential adverse effects on primitive areas consistent with the intent of the area designation (GSENM PRMP/FEIS Appendix J, p. J-267). These OHV travel closures were designed to meet the purpose and need of the GSENM PRMP/FEIS. Section 3.18 of the GSENM PRMP/FEIS discusses the

affected environment and environmental consequences of travel and transportation management (pp. 3-247 through 3-255).

The proposed closure of the V-Road is the result of an OHV area designation that allocated the area in which the V-Road is located as OHV closed. The proposed closure of that area is based on BLM monitoring data documenting adverse impacts on the WSA that surrounds both sides of the V-Road. It was through this monitoring data that the BLM determined that the proposed OHV area closure would minimize impacts on the WSA. Closure of the V-Road is not an implementation-level action but is acknowledged in Section 2.4.3 of the GSENM PRMP/FEIS as closed by allocation of an OHV closed area. The evaluation and designation of routes, roads, and trails are implementation-level decisions that are not addressed at the planning level in the GSENM PRMP/FEIS. Implementation-level planning will be conducted by the BLM after the completion of the RMP and would be consistent with the management direction in the Approved GSENM PRMP/FEIS and Presidential Proclamation. Future travel management planning will consider route-by-route impacts on resources in areas designated as OHV limited through application of the OHV minimization criteria and the NEPA process.

The OHV area designations in the PRMP that make potentially eligible historic roads unavailable for OHV use do not violate the NHPA. The NHPA is a procedural statute. It outlines the process that Federal agencies must follow to consider the effects of their actions on historic properties, but it does not prohibit impacts on those properties. Rather, the NHPA requires agencies to try to avoid or minimize adverse effects through consultation and mitigation. The BLM has complied with the NHPA's Section 106 process with respect to this planning process. Moreover, through the Section 106 process, the BLM appropriately determined that the PRMP would not have an adverse effect on potentially eligible historic properties. To begin with, the PRMP would not affect the level of authorized OHV use on any potentially eligible historic road in the GSENM. Aside from the V-Road, which was determined to be ineligible for the NRHP, the PRMP would not prevent the public from engaging in authorized OHV use on any roads on which such use is currently allowed. Moreover, the PRMP would also not change the physical characteristics of potentially eligible historic roads in the GSENM, either through affirmative acts taken by the BLM or through neglect and reclamation. That is because the PRMP does not include management direction that would affect the physical characteristics of any routes, or potentially historic roads, in those portions of the GSENM that the PRMP would designate as OHV closed. Additionally, even if the PRMP did change the public's ability to use the potentially historic roads in the areas that the PRMP would designate as OHV closed, that change would not diminish the integrity of such roads through neglect. There are numerous examples of historic properties used as historic and indigenous trails and roads that, despite being in disuse for decades and in some cases over a century, still retain the integrity to convey their significance and eligibility for the NRHP. Finally, the notion that the area designations in the PRMP would adversely affect potentially eligible historic roads is inconsistent with direction in the *Programmatic Agreement Among The Advisory Council on Historic Preservation, The Bureau of Land Management – Utah, and The Utah State Historic Preservation Office Regarding National Historic Preservation Act Responsibilities For Travel and Transportation Management Undertaking*, which provides that "[d]esignating closed OHV areas in RMPs and RMP amendments, and closing routes to OHV use" are the types of travel and transportation management undertakings that will be considered exempt from the Section 106 identification and consultation process. Accordingly, the OHV area designations in the PRMP that make potentially eligible historic roads unavailable for OHV use do not violate the NHPA.

Regarding access, the PRMP is consistent with the Department of the Interior's Equity Action Plan, a strategic initiative aimed at advancing equity across the department's operations and engagements. The Equity Action Plan does not have the force and effect of law, nor does it prevent the BLM from prohibiting OHV use in certain areas in order to facilitate resource protection and other policy goals.

The evaluation and designation of routes, roads, and trails as well as the consideration of impacts on disabled persons are classified as implementation-level decisions that are not addressed at the planning level in the GSENM PRMP/FEIS. Implementation-level planning will be conducted by the agencies after the completion of the RMP and would be consistent with the management direction in the Approved RMP and Proclamation 10286.

The BLM complied with NEPA's requirement to analyze the environmental consequences of/impacts on travel closures and travel management in the GSENM PRMP/FEIS and did not improperly restrict access to any areas. Accordingly, this protest issue is denied.

NEPA: Public Participation

William Brock

Issue Excerpt Text: Also, all items mentioned in Alternative E have not been brought before the public for comment. For example, 36,000 additional acres were added to the Primitive Zone with no public notice or comment.

Vance Riggins

Issue Excerpt Text: Alternative E does not include only items from Alternatives A, B, C and D as stated by the BLM - many things are included in Alternative E that have not been brought in front of the public for comment.

Kathrin Brock

Issue Excerpt Text: Although, the BLM states that they included only portions of Alternatives A, B, C and D into Alternative E, this is false as Alternative E has information that has not been brought before the public for comment. This is unacceptable. Also, the Primitive Zone has also been expanded by an additional 36,000 aces which has not been commented on by the public.

Elaine Knudsen

Issue Excerpt Text: Alternative E has information that has not been brought before the public for comment. This is not acceptable. Also, BLM is misleading about access to private land properties in the GSENM. The Primitive Zone has also been expanded by an additional 36,000 aces which has not been previously been commented on by the public.

Kane and Garfield County Commissioners

Issue Excerpt Text: Here, it would seem that where all of the elements listed immediately above, and contained in the Proposed Alternative E were not included in the Draft RMP and available for public comment, that the BLM failed to provide adequate opportunity for public comment and is arguably "so different in substance from the alternatives considered in the draft EIS that the public could not have provided meaningful input on the proposed action before the final EIS." It seems that "failing to disclose certain aspects of a proposed action" until this time would make the Proposed Alternative E a prime candidate for a claim of insufficient consultation with the public, and thus, NEPA inadequate. Thus, the Counties protest to the PRMP as written on this basis.

Kane and Garfield County Commissioners

Issue Excerpt Text: In addition to the protest points raised hereto, it's important to highlight that the Proposed RMPs newly created Alternative E contains elements that were not previously

analyzed and are new to this Proposed RMP. Where they are newly introduced, clearly these elements were never put forth for public comment and review under the Draft RMP and arguably violate NEPAs directives to provide for thorough public input. According to one CRS report, in a claim situation regarding "insufficient consultation with the public" typically an allegation will be made: "…that an agency denied the public a meaningful opportunity to comment by (1) failing to give sufficient information about the project; (2) failing to disclose certain aspects of a proposed actions; or (3) failing to provide timely disclosures. For example, in State of California v. Block, California challenged the U.S. Forest Service's EIS for classifying roadless national forest management land into three management categories, arguing that the Service failed to provide adequate opportunity for public comment because it did not disclose all contours of the proposed action until the final EIS. The Ninth Circuit agreed, holding that the agency's final proposed action was so different in substance from the alternatives considered in the draft EIS that the public could not have provided meaningful input on the proposed action before the final EIS" (emphasis added). Here, it would seem that where many of the elements contained in the Proposed Alternative E were not included in the Draft RMP and available for public comment, that the BLM failed to provide adequate opportunity for public comment and is arguably "so different in substance from the alternatives considered in the draft EIS that the public could not have provided meaningful input on the proposed action before the final EIS." It seems that "failing to disclose certain aspects of a proposed action" until this time would make the Proposed Alternative E a prime candidate for a claim of insufficient consultation with the public.

Kane and Garfield County Commissioners

Issue Excerpt Text: By removing access to these pastures, the BLM is significantly reducing the resources available to these grazing operations, potentially forcing them out of business. None of this critical information-on the specific usage of these pastures or the economic implications for the permit holders-was presented or discussed with the public or the permit holders. This lack of transparency and dialogue is a significant procedural oversight that the Counties believe should have triggered an opportunity for public and state comment. The failure to allow for such a process is a violation of the principles of public participation and undermines confidence in the BLM's decision-making process.

Ride with Respect

Clif Koontz

Issue Excerpt Text: NEPA and FLMA require the BLM to invite meaningful public participation, and Executive Order 11644 as amended states "The respective agency head shall ensure adequate opportunity for public participation in the promulgation of such regulations and in the designation of areas and trails under this section." Accordingly 43 CFR § 8342.2(a) Public Participation states: The designation and redesignation of trails is accomplished through the resource management planning process described in part 1600 of this title. Current and potential impacts of specific vehicle types on all resources and uses in the planning area shall be considered in the process of preparing resource management plans, plan revisions, or plan amendments. Prior to making designations or redesignations, the authorized officer shall consult with interested user groups, Federal, State, county and local agencies, local landowners, and other parties in a manner that provides an opportunity for the public to express itself and have its views given consideration. For each of the 1,245,7000 acres that would become OHV Closed, the PRMP/FEIS doesn't provide analysis of the current and potential impacts of specific vehicle types on all resources and uses, which is needed for the public to meaningfully participate.

State of Utah, Public Lands Policy Coordinating Office
Sindy Smith

Issue Excerpt Text: The Changes in the Proposed RMP Require a New Comment Period The protest process in which this protest is being submitted is itself legally insufficient within the context of the planning process for the GSENM RMP/EIS. Utah appreciates the candor in BLM's acknowledging that its Proposed RMP, referred to as "Alternative E" throughout, e.g., p.8, constitutes a new alternative and appropriately names it separately as one. Yet BLM is failing to follow through on the obligations that flow from creating a new plan not contained in the Draft RMP/Draft EIS rather than selecting the preferred alternative in that document, Alternative C. Alternative E makes numerous changes described more fully below, including the boundaries of the management areas and the attendant rules, watersheds protection, grazing closures and limitations, and even new management directions (e.g., 2-38) and new goals and objectives (e.g., 2-171 to 2-172). Proceeding without a new public comment period violates BLM's obligations under FLPMA, NEPA, and other statutes. For instance, in addition to the substantive coordination and consistency requirements of FLPMA and related requirements in NEPA that are thwarted by these significant late alterations, BLM regulations envision that the Field Manager will merely "select" a plan from the alternatives commented upon in the Draft RMP, 43 C.F.R. § 1610.4-8, not create a new one, and if there is any "significant change" from then on, "there shall be public notice and opportunity for public comment," 43 C.F.R. § 1610.5-1. Similarly, under these same statutes and regulatory schemes, BLM cannot select from outside the alternatives and finalize its Proposed RMP/EIS without considering new impacts from the revisions. Although BLM repeatedly states without justification that Alternative E is "within the range of alternatives" it considered in the Draft RMP/EIS (e.g., 1-13, 2-15), this is false. As discussed, BLM made numerous significant changes, the effects of which were not analyzed anywhere in that document. Especially where BLM increases restrictions in Alternative E over Alternative C, BLM cannot claim that it has analyzed them sufficiently. Alternative D, which (contrary to law) broadly disallowed many uses, was never a real option and cannot inform lesser additional restrictions contained in Alternative E. To be clear, BLM's protest process, limited as it is by regulation and by informal guidance, cannot suffice for the separate public comment period required for this new plan, much less for the substantive coordination and consistency required by FLPMA, NEPA, the Dingell Act, and other statutes and regulations.

Summary:

Protesters stated that the BLM violated NEPA because the public was not sufficiently engaged regarding proposed removal of grazing lands and OHV travel closures. Additionally, protestors stated that the BLM violated NEPA by not allowing for adequate opportunity for public review and comments on Alternative E, which was not included in the Draft RMP/DEIS.

Response:

Public involvement is an important part of the NEPA process. The level of public involvement varies with the different types of NEPA compliance and decision-making. The CEQ regulations require that agencies "make diligent efforts to involve the public in preparing and implementing their NEPA procedures" (40 CFR 1506.6(a)), but there is a wide variety of ways to engage the public in the NEPA process (BLM NEPA Handbook H-1790-1, pp. 62–63). The BLM's planning regulations require a minimum 90-day public review period (43 CFR 1610.2(e)) for Draft RMPs supported by an EIS. Pursuant to NEPA, the BLM must assess, consider, and respond to all substantive comments received (40 CFR 1503.4). Substantive comments are those that reveal new information, missing information, or flawed analysis that would substantially change conclusions (BLM Handbook H-1601-1, pp. 23–24).

The BLM followed all relevant public participation requirements in compliance with NEPA. The specific opportunities for public involvement that were provided for the GSENM Draft RMP/DEIS are described in GSENM PRMP/FEIS, Chapter 4, *Consultation and Coordination*, and Appendix J, *Draft EIS Public Involvement and Comment Response* (GSENM PRMP/FEIS pp. 4-1 through 4-2 and pp. J-1 through J-4). The BLM conducted five public scoping meetings in 2022 including three in-person and two virtual public scoping meetings during the public comment period in August and September 2022. The BLM released the GSENM Draft RMP/DEIS for a 90-day public comment period on August 11, 2023, and notified and involved the public and other agencies via *Federal Register* notices, public and informal meetings, individual contacts, media releases, and the effort's ePlanning website: https://eplanning.blm.gov/eplanning-ui/project/2020343/510 (GSENM PRMP/FEIS p. J-1). During the public comment period, the BLM hosted four in-person and two virtual public meetings in September and October 2023. All substantive comments received on the GSENM Draft RMP/DEIS are documented in GSENM PRMP/FEIS Appendix J, as are the BLM's responses to those comments.

The BLM made some changes between the GSENM Draft RMP/DEIS and the PRMP/FEIS, namely the inclusion of Alternative E. However, none of the changes made by the BLM, including the addition of Alternative E, constitute significant new circumstances or information relevant to environmental concerns or result in significant effects outside the range of effects analyzed in the DEIS. The management actions in Alternative E are either management actions that were included in the alternatives analyzed in the DEIS, or they are management actions, such as the decision to make certain pastures unavailable to livestock grazing, that were within the range of alternatives analyzed in the DEIS. Accordingly, the impacts associated with those management actions is within the scope of the impacts disclosed in the DEIS, and the BLM is not required to offer an additional public comment period.

CEQ regulations direct that an EIS "identify the agency's preferred alternative or alternatives, if one or more exists, in the draft statement and identify such alternative in the final statement unless another law prohibits the expression of such a preference" (40 CFR 1502.14(e)). The preferred alternative represents the alternative determined to best address the purpose and need and the issues considered at this stage of the process. While collaboration is critical in developing and evaluating alternatives, the final designation of a preferred alternative remains the exclusive responsibility of the BLM. However, identifying a preferred alternative does not indicate any final decision commitments from the BLM. In developing the GSENM PRMP/FEIS, the decision maker may select various components from each of the alternatives analyzed in the Draft RMP/DEIS. The PRMP/FEIS may also reflect changes and adjustments based on comments received on the Draft RMP/DEIS, new information, or changes in BLM policies or priorities. Alternative E (the PRMP) is based on Alternative C and would not result in significant effects outside the range of effects analyzed in the Draft RMP/DEIS (GSENM PRMP/FEIS p. 2-13). Accordingly, the BLM is not required to offer an additional public comment period or draft a supplemental EIS.

The BLM complied with NEPA's public participation process requirements. Accordingly, this protest issue is denied.

NEPA: Range of Alternatives

BlueRibbon Coalition

Simone Griffin

Issue Excerpt Text: Closure of the Little Desert Open OHV area was pre-decisional violating NEPA. Before a decision was ever issued-in 2023 signs were placed throughout the open OHV area informing the public to stay on existing routes which is not in alignment with Open OHV

management. BRC raised this concern with the monument manager and was told it was only a "suggestion" and would not be enforced. The signs placed by the BLM did not say it was only a suggestion. The public saw those signs and would assume the open OHV designation was already closed. Additionally, these signs show that the BLM was not waiting to complete NEPA and evaluate the environmental effects of an open OHV area designation to close this area. The importance of recreational opportunity in the planning area warrants the formation of a range of alternatives. NEPA imposes a mandatory procedural duty on federal agencies to consider a reasonable range of alternatives to Preliminary Proposals or preferred alternatives analyzed during a NEPA process. 40 C.F.R. § 1502.14; 40 C.F.R. § 1508.9. "[A]gencies shall rigorously explore and objectively evaluate all reasonable alternatives." 40 C.F.R. § 1502.14. The alternatives section is considered the "heart" of the NEPA document. 40 C.F.R. § 1502-14 (discussing requirement in EIS context). The legal duty to consider a reasonable range of alternatives applies to both EIS and EA processes. Surfrider Foundation v. Dalton, 989 F. Supp. 1309, 1325 (S.D. Cal. 1998) (citing Bob Marshall Alliance v. Hodel, 852 F.2d 1223, 1229 (9th Cir. 1988) ("Alternatives analysis is both independent of, and broader than, the EIS requirement."). A NEPA analysis must "explore and objectively evaluate all reasonable alternatives." 40 C.F.R. § 1502.14 (EIS); Id. at § 1508.9 (EA); Bob Marshall Alliance, 852 F.2d at 1225 (applying reasonable range of alternatives requirement to EA). A NEPA analysis is invalidated by "[t]he existence of a viable but unexamined alternative." Resources, Ltd. v. Robertson, 35 F.3d 1300, 1307 (9th Cir. 1993). We often see a "conservation alternative" there should also be a "recreation alternative" that expounds upon the current recreational opportunities.

Kane and Garfield County Commissioners

Issue Excerpt Text: One overarching qualm that the Counties would express in regard to these AUM Alternatives, is that they are not a reasonable range of alternatives as defined in Section III(2) of this letter. Given Section III(2)'s analysis of the definition of "reasonable alternatives" the Counties assert that the AUM Alternatives presented in the PRMP, in fact do not present a reasonable range of alternatives, and in many cases are inconsistent with this definition and therefore unreasonable alternatives. The BLM has presented a range of alternatives ranging from 43,970 - 107,995 AUMs, while the Counties' limited carrying capacity analysis shows that a more appropriate range would be somewhere along the proverbial lines of 51,518 - 242,515 AUMs. Further, given the analysis of the Overton Window, it appears the BLM's alternatives are presented in such a way as to artificially shift the "mean" and/or "median" position on AUM numbers, and move the "window" in a manner inconsistent with the Counties' policies, and create a moderate position that is intended to make the public forget that there is still a loss of 3,015 AUMs under the PRMP. Further, by presenting a range of alternatives that begins with a "window" beginning with a cut of almost 2/3rds of the total AUMs, the range of alternatives is not only unreasonable but also in violation of federal law. A reasonable range of alternatives must include an alternative that identifies future or potential forage increases based on weather (when there are good forage years) and implementation of the plan. The Proposed Alternative E does discuss improving rangeland health through range improvements (though they can't be for the purpose of benefiting livestock) but set the AUM allocation limit below the average. There is no alternative that allocates AUM's based on future and potential forage increases from good weather years and/or implementation of the plan.

Kane and Garfield County Commissioners

Issue Excerpt Text: None of the alternatives offer or consider incentives for responsible range management through opportunities for growth. In fact, every alternative expressly prohibits nonstructural range improvements for the purpose of improving livestock operations. If livestock

operations aren't allowed to adapt, grow, or improve, they will die. This "death" is the end result of the Proposed RMP due the prohibition on nonstructural range improvements for the purposes of improving livestock operations. The BLM has failed to analyze a reasonable range of alternatives by excluding any alternative that would improve livestock operations within the monuments. This is particularly egregious because neither any laws, the proclamations, nor any BLM manuals disallow improving grazing in national monuments. Responsible range management is essential to preserving the land and ensuring the long-term sustainability of cattle operations.

Kane and Garfield County Commissioners

Issue Excerpt Text: The BLM has not shown a scientific need for ANY reduction in AUMs (temporary or permanent) on the GSENM. To the contrary, the Counties have provided a RAP analysis showing that AUMs are at or near proper carrying levels. As such, the BLM's Proposed RMP reducing available grazing allotments and reducing AUMs across the GSENM is inapposite to the State and Counties' no-net-loss policy, and the Counties flag the grazing alternatives as an unreasonable range of alternatives under NEPA, particularly in light of the glaring lack of data to justify any reductions and/or closures.

Kane and Garfield County Commissioners

Issue Excerpt Text: To summarize up to this point, in developing an EIS, the federal agency must (1) objectively evaluate a reasonable range of alternatives that are (2) technically and 1economically practical or feasible, and (3) if an alternative is flagged as inconsistent with this definition it should not be analyzed in detail, but (4) before its elimination the agency should collaborate to attempt to resolve the inconsistent alternative. Lastly, under NEPA caselaw and practice, it is reasonable for the federal agency to dismiss alternatives that are (among other things) "speculative", "lack evidence to support their relevance/efficacy" or are "duplicative." Given this analysis of the definition of "reasonable alternatives" the Counties are concerned that the BLM has not presented a "reasonable range" of alternatives as part of the Proposed RMP and the preceding process. Many of the alternatives in fact do not present a reasonable range of alternatives, and in many cases are inconsistent with this definition and therefore unreasonable alternatives. One glaring example, as will be examined in depth below, are the alternatives related to livestock grazing. The BLM is required to "objectively evaluate" a reasonable range of alternatives. Given the utter lack of any data and/or evidence of any kind to justify the allotment closures and AUM reductions in Alternative E, it is clear that the BLM was anything but an objective evaluator in this regard. On this point alone, the Counties protest to the implementation of the grazing related management directives, as all of them are in violation of the BLM's regulatory responsibility to objectively evaluate a reasonable range of alternatives.

State of Utah, Public Lands Policy Coordinating Office
Sindy Smith

Issue Excerpt Text: The Proposed RMP considers the effect of each alternative in terms of its current AUM permits and for other competing considerations, such as forage for wildlife, the failure to consider Utah's estimates shows that BLM failed to consider a reasonable range of alternatives and failed to consider an important factor in its decision making. And because BLM has already interpreted Proclamation 10286 as effectively foreclosing new grazing, and the Proposed RMP/EIS appears to set the total AUMs allocatable (Section 2.4.3, Row 178), this purported future implementation-level flexibility is also illusory. Under the Proposed RMP/EIS, no new additional AUMs will be available to permit.

Utah Farm Bureau Federation

Terry Camp

Issue Excerpt Text: BLM failed to present a reasonable range of alternatives as required by the National Environmental Policy Act (NEPA). The alternatives presented in the PRMP/FEIS do not adequately consider options that would maintain or increase grazing opportunities within GSENM. We protest BLM's failure to analyze an alternative that would increase grazing animal unit months (AUMs) through improved range management practices. Alternative E, the Proposed RMP, "carries forward the four management areas that are similar to those used in the 2000 Monument Management Plan: the front country area, passage area, outback area, and primitive area". However, this approach does not sufficiently explore options to enhance grazing opportunities.

Summary:

Protestors stated the BLM violated NEPA by failing to consider a reasonable range of alternatives. Specifically, protestors stated their concern over the analysis of livestock grazing allotment decisions in Alternative E, and that the BLM failed to provide an alternative that would increase grazing AUMs through responsible range management practices within the GSENM. Additionally, a protestor stated the BLM engaged in pre-decisional activities by closing the Little Desert Open OHV prior to completion of the NEPA process.

Response:

The BLM must analyze a reasonable range of alternatives, but not every possible alternative to a proposed action: "In determining the alternatives to be considered, the emphasis is on what is 'reasonable' rather than on whether the proponent or applicant likes or is itself capable of implementing an alternative. 'Reasonable alternatives include those that are practical or feasible from the technical and economic standpoint and using common sense, rather than simply desirable from the standpoint of the applicant'" (BLM NEPA Handbook H-1790-1, p. 50 [citing Question 2a, CEQ, Forty Most Asked Questions Concerning CEQ's NEPA Regulations, March 23, 1981]; see also 40 CFR 1502.14).

The BLM developed a reasonable range of alternatives that meet the purpose and need of the GSENM PRMP/FEIS and address resource issues identified during the scoping period. The GSENM PRMP/FEIS analyzed five alternatives, which are described in Section 2.1 (GSENM PRMP/FEIS pp. 2-1 through 2-14). The alternatives analyzed in the GSENM PRMP/FEIS cover the full spectrum by varying in (1) degrees of protection for each resource and use; (2) approaches to management for each resource and use; (3) mixes of allowable, conditional, and prohibited uses in various geographic areas; and (4) levels and methods for restoration.

The BLM analyzed a reasonable range of alternatives for livestock grazing in the GSENM PRMP/ FEIS. All five alternatives analyzed varying degrees of impacts on and from livestock grazing (GSENM PRMP/FEIS pp. 2-99 through 2-116). Additionally, three alternatives related to grazing were considered but eliminated from detailed analysis: to discontinue livestock grazing from the entirety of the GSENM (GSENM PRMP/FEIS Section 2.2.1, p. 2-14), to make the entirety of the GSENM available for livestock grazing (GSENM PRMP/FEIS Section 2.2.2, p. 2-15), and to phase out grazing in all areas not compatible with protection of GSENM objects (GSENM PRMP/FEIS Section 2.2.3, p. 2-15). As discussed in Section 2.2.2 of the GSENM PRMP/FEIS, the BLM considered an alternative that would make the entire GSENM available for livestock grazing. The BLM eliminated this alternative from detailed analysis because it is substantially similar in design to and would have substantially similar effects to those of Alternative A. Under Alternative A, the vast majority of the GSENM is available for livestock grazing, with the exception of two areas where grazing is either legally or physically prohibited: (1) the allotment that has been retired from livestock

grazing as the result of a grazing permittee voluntarily relinquishing their permit, in accordance with Proclamation 10286; and (2) No Mans Mesa, a sky island that is generally inaccessible to livestock. Specifically, when those two areas where grazing is either legally or physically prohibited are excluded, Alternative A makes approximately 99 percent of the GSENM available for livestock grazing. As such, analyzing an alternative that would allow grazing on the entirety of GSENM where it is not legally or physically prohibited would have substantially similar effects to those of Alternative A. Accordingly, the BLM's decision to not consider a range of alternatives that included expanded livestock grazing opportunities in GSENM was reasonable.

Detailed analysis of potential impacts on livestock grazing that could occur from implementation of each alternative can be found in Section 3.16 (GSENM PRMP/FEIS pp. 3-218 through 3-233), which discusses how the BLM will conduct rangeland health assessments as well as when or where the BLM will issue determinations for allotments in the GSENM. The rangeland health evaluation and determination process will identify causal factors to inform future management decisions on livestock grazing and permit renewals, which will be subject to NEPA to ensure all discretionary actions are consistent with the protection of GSENM objects. For a discussion on AUMs, see Section 3.16 (GSENM PRMP/FEIS pp. 3-218 through 3-233); Appendix I, Section I.16.1 for the analysis on current conditions, trends, and forecasts for livestock grazing across the planning area (GSENM PRMP/FEIS pp. I-92 through I-100); and Section 2.4.3 for the range of livestock management directions across all alternatives (GSENM PRMP/FEIS pp. 2-99 through 2-116). Changes to AUMs for individual grazing permits are not within the scope of the RMP.

Additionally, the GSENM PRMP/FEIS does consider an alternative that allows nonstructural range improvements. Under the PRMP, only nonstructural range improvements whose primary purpose is increasing forage for livestock grazing are prohibited. Other nonstructural range improvements that are consistent with the proper care and management of Monument objects could be allowed. Accordingly, the BLM did consider a reasonable range of alternatives with respect to range improvements.

Regarding OHV areas, OHV area designations vary across alternatives and were developed based on the protection of resources and GSENM objects. Alternatives related to recreation management, including OHV areas, were designed to meet the purpose and need of the planning effort (GSENM PRMP/FEIS pp. 1-1 through 1-3). Specifically, Alternative A includes 100 acres of land within the Little Desert Recreation Management Area as open to cross-country OHV use (GSENM PRMP/FEIS p. 2-120). As discussed in Appendix I, in 2022 the BLM published a notice requesting that the public *voluntarily* remain on existing routes within the Little Desert OHV area to minimize impacts on native vegetation in the area, but the BLM did not close the area in a pre-decisional activity (GSENM PRMP/FEIS Appendix I, p. I-105).

The BLM considered a reasonable range of alternatives in the GSENM PRMP/FEIS in compliance with NEPA. Accordingly, this protest issue is denied.

NEPA: Response to Public Comments

State of Utah, Public Lands Policy Coordinating Office
Sindy Smith

Issue Excerpt Text: BLM has also failed to substantively respond to these objections to the failure to coordinate even in the Proposed RMP/Final EIS. In the comments matrix, BLM refers to Section 1.6 as addressing "Coordination and Consistency" in response to only some of Utah's comments concerning coordination in its November 9 letter. See, e.g., Appendix J, LG-136. Yet Section 1.6 is titled "Consistency with Local Land Use Plans" and, regarding coordination, states in only a conclusory manner that "BLM established regular opportunities for interaction with state, local, and

tribal officials. State, county, and municipal officials have participated in regular informational meetings." BLM does not even state that these meetings involved substantive discussions in which it was open to change.

Summary:

Protestors stated that the BLM failed to substantively respond to the full extent of comments and only selectively responded to parts of the whole comment.

Response:

The BLM is required to assess, consider, and respond to all substantive comments received during the public comment periods in the planning process for an RMP (40 CFR 1503.4). Substantive comments are those that reveal new information, missing information, or flawed analysis that would substantially change conclusions (BLM Handbook H-1601-1, pp. 23–24).

In compliance with NEPA, the BLM considered all public comments submitted on the GSENM Draft RMP/DEIS. The BLM complied with 40 CFR 1503.4 by performing a detailed comment analysis that assessed and considered all substantive comments received on the GSENM Draft RMP/DEIS. Appendix J, *Draft EIS Public Involvement and Comment Response*, of the GSENM PRMP/FEIS presents the BLM's responses to all substantive comments. Within Table J-5, the BLM summarized the issues raised by each comment letter and provided a meaningful response. The BLM's response identifies any modifications to the alternatives, improvements to the impact analysis, or factual corrections made in the GSENM PRMP/FEIS. The BLM's responses also explain why certain public comments did not warrant further agency response. The BLM's response process does not treat public comments as if they were a vote for a particular action but does ensure that every comment is considered at some point when preparing the GSENM PRMP/FEIS. Notably, the BLM made several changes to the EIS in response to public comments. The agency also considered public comments when formulating Alternative E. For example, in response to comments received during the public comment period, the BLM modified management direction in the *Lands and Realty* section that would allow the BLM on a case-by-case basis the ability to authorize additional necessary access to existing rights-of-way (ROW) for the purposes of maintenance, widening of existing ROWs, and replacement of existing ROW facilities with new adjacent ROW facilities in ROW exclusion areas outside of WSAs. Revisions in the GSENM PRMP/FEIS are indicated by blue text throughout the document and summarized in Section 1.7, *Summary of Key Changes from the Draft RMP/EIS* (pp. 1-12 through 1-15).

The protestor states the BLM failed to adequately coordinate with State, local, and Tribal officials. Section 1.6, *Consistency with Local Land Use Plans*, of the GSENM PRMP/FEIS provides a summary of coordination efforts between the BLM and Native American Indian Tribes, other Federal departments, and agencies of the State and local governments. These coordination efforts satisfy the requirements of Section 202 of FLPMA. Additional information regarding consistency with other land use plans is outlined in GSENM PRMP/FEIS Appendix O, *Consistency with State and Local Land Use Plans*. This appendix outlines consistency with the Utah State Resource Management Plan including livestock grazing–specific management. The appendix also outlines consistency with the Garfield County General Management Plan Resource Management Section and the Kane County RMP.

Chapter 4 of the GSENM PRMP/FEIS, *Consultation and Coordination*¸ outlines the BLM's coordination and consultation with cooperating agencies, Tribal Nations, the Monument Advisory Committee and Resource Advisory Council, other agencies, and Dingell Act–specific coordination.

Table 4-1 of this chapter includes a list of consultation, coordination, and public involvement meetings held during the GSENM RMP/EIS planning process.

The BLM adequately responded to public comments on the GSENM Draft RMP/DEIS in the GSENM PRMP/FEIS. Accordingly, this protest issue is denied.

National Monument Objects and Values

Southern Utah Wilderness Alliance
Kya Marienfeld
Issue Excerpt Text: This omission, not accounted for in Section 1.7 of the Final Environmental Impact Statement (FEIS) Vol. 1, "Summary of Key Changes from the Draft RMP/EIS," removed an entire comparative row of potential management direction, not only from BLM's new proposed alternative in the FEIS (Alternative E), but from BLM's final NEPA analysis entirely, as if it had never existed or been proposed for inclusion in the new Monument plan at all. With this omission from the FEIS and proposed plan, BLM has failed to establish a credible or adequate management strategy to protect old-growth forests generally within the Monument,4 and, specifically, fails to protect old-growth pinyon-juniper communities-an identified monument object in Proclamation 6920.

Southern Utah Wilderness Alliance
Kya Marienfeld
Issue Excerpt Text: Despite the fact that Grand Staircase-Escalante National Monument was established to protect its "pinon-juniper communities containing trees up to 1,400 years old" (Proclamation 6920), following the omission of the management direction contained in DEIS Row 161, the proposed management plan no longer provides any specific strategy for their management. The management direction formerly contained in the DEIS and its preferred alternative in Row 161 would have actively protected this monument object and associated values from a variety of management activities including vegetation treatments, noncommercial harvest of forestry and woodland products, recreation, and other potential activities which may directly contravene BLM's duty under Proclamation 6920 and the Antiquities Act to protect this resource. The arbitrary nature of this omission is particularly glaring considering this same management direction was present in all of the DEIS's action alternatives, including the agency's own preferred alternative, and the FEIS contains no discussion or analysis whatsoever to explain the basis for its removal in the final stages of planning.

Southern Utah Wilderness Alliance
Kya Marienfeld
Issue Excerpt Text: The current language would allow for widespread seeding of persistent nonnative species in nearly any "restoration" project, potentially resulting in vegetation communities being dominated by nonnative species indefinitely into the future. This could permanently alter the diverse components of the ecosystem, including the monument objects listed above. The BLM has not meaningfully analyzed the potential for this type of large- scale vegetative change. Monument objects and values cannot be adequately protected as required by the Proclamations and the Antiquities Act under the proposed plan's current direction regarding the use of nonnative vegetation.

Southern Utah Wilderness Alliance
Kya Marienfeld
Issue Excerpt Text: The proposed plan violates the Antiquities Act because it fails to adequately ensure monument objects, such as cultural resources, will not be destroyed by recreational shooting

- as required by the Proclamations. It also violates NEPA because it fails to adequately consider, analyze, and disclose how opening the vast majority of the Monument to recreational shooting would impact monument objects, like rock art panels and other cultural resources, and take the required "hard look" at whether the proposed shooting prohibitions would be effective. Cultural resources are recognized as monument objects by the Proclamations. They occur throughout the Monument and are vulnerable to damage from recreational shooting.

Southern Utah Wilderness Alliance
Kya Marienfeld

Issue Excerpt Text: The plan also fails to comply with NEPA because it contains no meaningful analysis of how opening up 91% of the Monument to recreational shooting would impact monument objects and values and whether the prohibition on target shooting within 600 feet of archaeological and historical resources will mitigate the potential harms to these or other monument objects and values. A court previously found that BLM's failure to evaluate the effectiveness of measures implemented to reduce the harms of recreational shooting in national monuments is a violation of NEPA. The Final EIS for the Grand Staircase-Escalante Management Plan suffers from the same deficiencies because it does not adequately assess how it will enforce 600 feet buffer zones over 91% of the Monument.

State of Utah, Public Lands Policy Coordinating Office
Sindy Smith

Issue Excerpt Text: BLM's approach is illegal in many ways. For one, if the President has failed to "declare" objects to be protected by the national monument in Proclamation 10286-which he did by not designating them-BLM lacks the power under the Antiquities Act to do so itself. Yet regardless of that legal infirmity, BLM also cannot engage in the planning process without first having a list of those objects. Accordingly, Utah objects to the entirety of the Proposed RMP/Final EIS because this failure affects it systemically, but Utah also objects to the approach BLM describes concerning objects throughout and in Appendix J, including about each of the issues also protested herein.

State of Utah, Public Lands Policy Coordinating Office
Sindy Smith

Issue Excerpt Text: Throughout the planning process, every aspect (including coordination) has been frustrated by-and Utah has repeatedly and thoroughly objected to-the failure to identify and describe the "objects" that BLM is seeking to protect under Proclamation 10286 and the Antiquities Act. The Proclamation itself fails to provide clear answers that are not self- contradictory. Indeed, BLM admits as much in the Proposed RMP/EIS: "Proclamation 10286 discusses an abundance of resources located within GSENM, . . . but not all[] of those resources constitute objects of historic and scientific interest protected by the designation of the GSENM." E.g., Appendix J, PN-01. While BLM has acknowledged since 2021 that it must create an "inventory" that "catalogs the objects and values in the monument that can be incorporated into the management plan," it has not yet done so. Utah previously objected to this lawless and arbitrary decision making, including in its September 27, December 22, February 9, March 24, May 10, June 9, and November 9 letters, as well as orally in all eleven cooperating agency meetings.

William Weppner

Issue Excerpt Text: From Proclamation 10286: "The Secretary, through the BLM, shall maintain an advisory committee under the Federal Advisory Committee Act (5 U.S.C. App.) with the specific purpose of providing information and advice regarding the development of the management plan and, as appropriate, management of the monument, including scientific research that occurs therein." The U.S. Department of the Interior, Bureau of Land Management, GSENM Advisory Committee Charter (Section 4, Description of Duties) clearly involves the MAC in all aspects of the science plan, as it is to be an integral part of the management actions. Therefore, the GSENM MAC

has the duty and responsibility to collectively be involved in the development and implementation of a GSENM science plan. Unfortunately, at the expense of the American public, there is no science plan after 28 years of the GSENM. Proclamation 10286 clearly references the science plan as an important part of the administrative process for the GSENM, citing that all decisions are to be science based.

Sage Steppe Wild

Jonathan Ratner

Issue Excerpt Text: Manual 6220 that should have formed the foundation of this process as it is directly applicable to the writing of RMP's for NLCS units, was ignored. … Nowhere in the RMP or EIS are the objects and values in the designating proclamations clearly identified. This is the first and most critical step, laid out in G 4. A., in the planning process, and the BLM failed to comply with it. This has vitiated the entire planning process.

Livestock Operators

J. Mark Ward, et al.

Issue Excerpt Text: It is a challenge to address the BLM's failure to provide for mitigating impacts to Monument objects to be protected, for the simple reason that the BLM has failed in the first place to identify those objects! This is a fundamental NEPA violation. The primary mission of National Monument management is to identify and protect Monument objects, not foist an obfuscated, ill defined collective notion of objects, as a pretext to cut back on grazing and other traditional uses in order to appease the anti-cow lobby.

Summary:

Protestors claimed that the BLM violated the Antiquities Act, NEPA, and Presidential Proclamations 10286 and 6920 by:

- Imposing standards inconsistent with Proclamations 10286 and 6920 that do not ensure the protection of designated objects.
- Failing to provide an inventory of, yet providing management decisions for, objects of historic and scientific interest.
- Failing to develop and integrate a GSENM science plan as stated in the GSENM Advisory Committee Charter.
- Failing to provide analysis and adequate management direction to protect the old-growth pinyon-juniper communities identified as Monument objects under the proclamation, including protection from nonnative vegetation.
- Allowing for widespread seeding of persistent nonnative species in nearly any restoration project.
- Failing to adequately consider how opening much of the Monument to recreational shooting would affect Monument objects and values.
- Failing to adequately analyze whether the prohibition on target shooting within 600 feet of archaeological and historical resources will mitigate potential harms to these or other Monument objects and values or outlining how this buffer will be enforced.

Response:

The Antiquities Act of 1906 grants the President authority to designate National Monuments to protect "historic landmarks, historic and prehistoric structures, or other objects of historic or scientific interest" (16 U.S.C. 431–433). The GSENM was established on September 18, 1996, through Presidential Proclamation 6920, which designated approximately 1.7 million acres of BLM-administered lands for the protection of scientific, biological, archaeological, geological, cultural, and historic objects outlined in the proclamation. The boundaries of the GSENM were subsequently

altered on December 14, 2017, through Presidential Proclamation 9862, which reduced the overall GSENM by approximately 1 million acres. Then, on October 8, 2021, Presidential Proclamation 10286 restored the boundaries and management conditions of the GSENM to those that existed prior to Presidential Proclamation 9682 and directed the BLM to "prepare and maintain a new management plan for the entire monument" for the specific purposes of "protecting and restoring the objects identified [in Proclamation 10286] and in Proclamation 6920." The purpose of Proclamation 10286 is to "ensure that this exceptional and inimitable landscape filled with an unparalleled diversity of resources will be properly protected and will continue to provide the living laboratory that has produced so many dramatic discoveries in the first quarter century of its existence."

The BLM developed the management under each action alternative with the purpose of protecting Monument objects and values as described in the purpose and need for the GSENM PRMP/FEIS (see Section 1.2, pp. 1-1 through 1-3). Based on the impacts analysis conducted, the BLM included measures in the GSENM PRMP/FEIS that protect Monument objects and values and contribute to meeting the goals and objectives for each object and value as set forth in the GSENM PRMP/FEIS. The BLM recognizes that BLM Manual 6220 provides that a land use plan should clearly identify Monument objects designed in the designating proclamation. However, that policy direction does not have the force and effect of law, and no statute or regulation requires the BLM to prepare an inventory of Monument objects before adopting a land use plan for a National Monument. Moreover, BLM Manual 6220 was issued at a time when proclamations designating National Monuments tended to be drafted in more general terms, and it was frequently necessary for the BLM to identify the specific resources that fell within the broad categories (e.g., scenic, ecological) of resources described in the proclamation. Proclamation 10286 took a different approach. Instead of describing broad categories of resources, Proclamation 10286 discussed specific resources within the GSENM in great detail. While not every resource discussed in Proclamation 10286 is necessarily a Monument object, the detail provided in Proclamation 10286 makes it unnecessary for the GSENM RMP to include a standalone inventory of Monument objects. By developing and adopting an RMP that is consistent with the protection of all the resources described in Proclamations 10286 and 6920, the BLM will inherently be selecting an alternative that is consistent with the protection of the subset of resources described in the proclamation that qualify as Monument objects. Accordingly, the current planning process has not been hindered by the lack of a finalized inventory of GSENM objects.

Similarly, the BLM is not required to complete a science plan for the GSENM prior to approval of the GSENM PRMP/FEIS. However, the GSENM PRMP/FEIS does include management direction in Section 2.4.3 that states that the BLM will "maintain a GSENM Science Plan that will guide the administration of a science program that is informed by indigenous knowledge" (GSENM PRMP/FEIS p. 2-174).

With respect to the protection of old-growth pinyon-juniper communities, the BLM realized that the management direction in row 161 of the GSENM Draft RMP/DEIS prohibiting the felling or destruction of old-growth and mature trees was inadvertently deleted from the PRMP, despite being included in the Draft RMP/DEIS. The BLM intends to include that management direction in the Approved RMP, which will ensure the protection of old-growth pinyon-juniper communities. Notably, this does not constitute a significant change made to the RMP as a result of action on a protest. In addition to the public having had an opportunity to comment on this management action in the Draft RMP/DEIS, the entirety of the GSENM would be closed to commercial timber harvest under the PRMP. As a result, the felling and destruction of old-growth and mature trees was already largely prohibited.

Regarding the use of nonnative seeds for restoration efforts, the BLM analyzed a full range of alternatives regarding the use of nonnative seeds in Management Action 37 (GSENM PRMP/FEIS p. 2-34). Under Alternative E (the PRMP), "nonnative vegetation may be used in restoration efforts as consistent with project and site-specific consideration and rationale, to best support recovery of site

integrity and resiliency" (GSENM PRMP/FEIS p. 2-34). Analysis of the potential direct, indirect, and cumulative impacts on vegetation from implementation of each alternative is provided in Section 3.3.2 (GSENM PRMP/FEIS p. 3-32 through 3-62) and an analysis of potential impacts related to noxious weeds and invasive, nonnative plants is provided in Section 3.5.2 (GSENM PRMP/FEIS pp. 3-91 through 3-99). Additionally, future site-specific NEPA analysis would be required for the use of nonnative seed for restoration purposes.

The BLM properly concluded that the PRMP's management of recreational shooting would be consistent with the protection of Monument objects, particularly cultural resources. To begin with, there is relatively little dispersed recreational shooting occurring in the GSENM. Because developed shooting ranges exist near population centers outside the GSENM, few people tend to engage in dispersed recreational shooting in the Monument itself. Moreover, under the PRMP, recreational shooting would be entirely prohibited within the Front Country area, prohibited within 600 feet of archaeological and historic resources within the entire Monument, and prohibited within 600 feet of residences, campgrounds, developed recreation facilities, and certain routes within the passage, outback, and primitive areas. Therefore, to the extent that recreational shooting does occur in the GSENM, it would be limited to those areas where people are least likely to visit. That, too, will limit the likelihood of recreational shooting affecting Monument objects. Finally, unlike other National Monuments where the BLM has prepared a suitability analysis related to recreational shooting, the BLM is not in possession of monitoring data indicating that dispersed recreational shooting is adversely affecting Monument objects. In light of the foregoing, the BLM properly concluded that the PRMP's management of recreational shooting would be consistent with the protection of Monument objects.

The GSENM PRMP/FEIS adequately protects GSENM objects and values as outlined in Presidential Proclamations 10286 and 6920. Accordingly, this protest issue is denied.

Revised Statute 2477

BlueRibbon Coalition
Simone Griffin
Issue Excerpt Text: Broad landscape restrictions that fail to recognize or protect Utah's R.S. 2477 routes could invite legal challenges under both state and federal precedents. Such restrictions might be seen as undermining local government authority to manage roads vital to the state's infrastructure and economic development. As the courts have consistently affirmed, state law governs the establishment, scope, and use of R.S. 2477 rights-of-way, meaning the BLM must be cautious not to curtail these rights through overbroad policies (Sierra Club v. Hodel, 848 F.2d at 1080; Southern Utah Wilderness Alliance v. Bureau of Land Management, 425 F.3d at 757).

BlueRibbon Coalition
Simone Griffin
Issue Excerpt Text: Consequently, [this RMP/TMP] did not take into consideration R.S. 2477 evidence. The BLM bases travel management planning on purpose and need related to resource uses and associated access to public lands and waters given consideration to the relevant resources. At such time as a decision is made on R.S. 2477 assertions, the BLM will adjust its travel routes accordingly." In 2008 Kane County filed a lawsuit to quiet title over specific RS2477 roads within Kane County. On August 9, 2024, the court denied the United States' motion to dismiss this case (Kane County, Utah v. United States, No. 2:11-cv-01045-CW, D. Utah Aug. 9, 2024). On August 22nd the Final GSENM RMP was released. The Kane County motion to dismiss further established that any effort to close RS2477 roads through an RMP or TMP is an assertion against the validity of those roads. In order to be consistent with the findings of this very recent court activity in the Kane

County case, BLM Manual 1626 needs to be updated to indicate that BLM's default position on RS 2477 roads should be to keep them open unless the validity of the ROW is effectively contested. The Kane County motion to dismiss is a substantial rollback of administrative discretion that is violated by the GSENM RMP. The V road which is being closed through this RMP is an RS2477 road and therefore should not be closed as a result of this planning process. The V road provides valuable access to historically and culturally significant areas.

BlueRibbon Coalition

Simone Griffin

Issue Excerpt Text: The BLM should not impose broad landscape restrictions under this FEIS that could violate the state's rights to R.S. 2477 routes. Under Revised Statute 2477 (R.S. 2477), enacted in 1866, states and counties were granted rights-of-way for the construction of highways over public lands not reserved for public use (Sierra Club v. Hodel, 848 F.2d 1068, 1080 (10th Cir. 1988)). Although R.S. 2477 was repealed by the Federal Land Policy and Management Act of 1976 (FLPMA), existing rights-of-way established before 1976 were explicitly protected (Southern Utah Wilderness Alliance v. Bureau of Land Management, 425 F.3d 735, 740 (10th Cir. 2005)).

Kane and Garfield County Commissioners

Issue Excerpt Text: Further, many of the maps included in the Proposed RMP are either inconsistent with R.S. 2477, or fail to acknowledge them. For example, the Swallow Park Road is one of the roads that has had title fully adjudicated to the state and Kane County as an RS2477 road. Yet, as can be seen below in Figure 9 showing the Proposed RMPs Figure 2-36 and Figure 2-41, it never appears in its full length on either map, compared to the Counties map on the right. On map 2-36 (top left snip, Travel and transportation Management map Alt E) the top half of The Swallow Park Road is listed as open but the bottom half isn't shown at all. In Figure 2-41(Bottom left snip, Routes Claimed under RS 2477 with OHV designations) the top half isn't shown at all, and the bottom half is closed. Again, the BLM has no authority to close this road as the state and county have adjudicated title to the road. To reflect this legal status, both maps must show the entire road and leave it open. To become compliant, Map 2-36 should include the full length of the Swallow park road, and mark the entire road as open. Map 2-41 should include the North Swag Road and have it designated as open as well. Additionally, it should include the full length of the Swallow park and have it labeled as open as well.

Kane and Garfield County Commissioners

Issue Excerpt Text: It's true, the RMP does give lip service to RS2477 ROWs. For example, in Footnote 17 on page 3-248, the Proposed RMP states: "The State of Utah and its counties may hold valid existing ROWs in the Planning Area pursuant to Revised Statute 2477 (R.S. 2477), Act of July 28, 1866, Chapter 262, 8,14; Stat. 252, 253, codified at 43 USC 932. Congress repealed R. S. 2477 through passage of FLPMA. R. S. 2477 rights are determined through a process that is entirely independent of the BLM's land use planning process. This planning effort is not intended to provide any evidence bearing on or addressing the validity of any R. S. 2477 assertions and does not adjudicate, analyze, or otherwise determine the validity of claimed ROWs. Nothing in this BLM RMP is intended to extinguish any valid existing ROW or alter in any way the legal rights the state and counties may have to assert and protect R. S. 2477 rights." Firstly, the Counties take issue with this statement as it says that R.S.2477 was repealed through FLPMA. While that statement is true, it is only a half-truth, because all valid existing rights (including RS2477 ROWs) were "grandfathered in". So while RS2477 was repealed (meaning no new RS2477 ROWs) any existing ROWs under that law were protected valid existing rights. Secondly, this statement states that nothing in this Proposed RMP "is intended to extinguish any valid existing ROW or alter in any way the legal rights the state and counties may have to assert and protect R.S. 2477 rights." This may be true, yet,

the management directives contained in other places of the Proposed RMP seem to contradict this overarching statement. Thirdly, the BLM purports that nothing is meant to extinguish any valid existing ROWs, yet the Proposed RMP's Travel and Transportation section lacks any goal or objective focused on respecting and honoring pre-existing Rights-of-Way (ROWs) within the monument boundaries. For example, Row 249 designates all Primitive Areas as exclusion zones for Rights- of-Way (ROWs), effectively making 1.2 million acres off-limits for ROWs. This restriction is excessive, especially when it's possible that a ROW would not impact any of the identified objects in these areas. This row excludes hundreds of thousands of acres from ROW (Right of Way) grants, which limits Utah's potential for infrastructure development and expansion. This restriction could hinder future growth and management opportunities in the state and counties and hinders the ability to properly maintain the very RS2477 ROWs the Plan purports to not hinder. Another example of failure is found in Row 227, which explicitly calls out for closure of the V-Road, a highly important RS2477 Road that the Counties have repeatedly pointed out as an important route for locals. Instead of listening and honoring this RS2477 ROW, the BLM specifically calls it out for closure.

Kane and Garfield County Commissioners

Issue Excerpt Text: R.S. 2477 rights. See Kane Cnty., Utah v. Salazar, 562 F.3d 1077, 1090 (10th Cir. 2009) (Henry, J., concurring) (stating "[t]he federal agency is not entitled, under the FLPMA and the Administrative Procedures Act (APA), to close existing county roads asserted to be R.S. 2477 rights-of-way without a reasoned and nonarbitrary basis for doing so, such as . . . substantial evidence that the asserted right-of-way is invalid")." In short, the Counties are indeed holders of vested ROWs in both Counties, and some in the GSENM (aside from those involved in the Bellwether case) have already had title adjudicated in favor of the Counties, (e.g., Skutumpah Road). While the issue of whether title has been "perfected" remains open, as Judge Waddoups pointed out, any challenge to the Counties title is to be done through a QTA action, and not through an informal policy meant to circumvent R.S. 2477 rights, and even in that case, must be done in a reasoned and nonarbitrary way with substantial evidence that the ROW is invalid. In short, given this background information, the Proposed RMP does not respect the State and Counties vested RS 2477 ROWs in roads.

State of Utah, Public Lands Policy Coordinating Office
Sindy Smith

Issue Excerpt Text: One of the biggest errors in simply closing large portions of the GSENM to OHV travel and instituting large areas of ROW exclusions or avoidance, Section 2.4.3, Rows 230, 231, 249, 250, is that those actions conflict with Utah's and the Counties' vested rights and rights under R.S. 2477 and effect an unlawful Fifth Amendment taking. As a District Court recently ruled, in explicitly rejecting the federal government's policy of not accepting or recognizing these rights until adjudicated, Utah and the counties must be treated as vested title holders under R.S. 2477 because such rights are "vested property rights." See Mem. Decision and Order, Dkt. No. 792, Kane Cnty. v. United States, No. 2:11-cv-1045, at *32 (D. Utah Aug. 9, 2024). The opinion recognized that the 2000 GSENM RMP failed to do this. The State and County rights exist regardless of whether "claimed," Section 3.18. The State and Counties as R.S. 2477 holders have the right to manage and maintain the ROWs without federal consultation, the right to regulate activities on these ROWs (such as posting signage), and the right to assert police powers over them. BLM's unilateral and categorical decision to close or restrict these ROWs disregards these vested rights and constitutes unlawful interference with State and County property. Although the Proposed RMP states that nothing in it "is intended to extinguish any valid existing ROW or alter in any way the legal rights the state and counties may have to assert and protect R.S. 2477 rights," Table 2-1 n.4; Section 3.18.1 n.17, the Proposed RMP does not say that it respects those rights or will not interfere

with them. And it must, absent substantial evidence that asserted ROWs are invalid, which it does not even attempt to muster. Instead, the Proposed RMP all but promises to do the opposite, as BLM consistently has in the past. The Proposed RMP designates large areas as "closed" to OHV travel on undesignated routes, and though it recognizes that "1,313 miles of existing and undesignated routes claimed under R.S. 2477 would be within OHV limited areas," it still states that its decision "limits OHV travel to designated routes" and that "341 miles of existing and undesignated routes claimed under R.S. 2477 would be within areas closed to OHV travel." Section 3.18.2. This effectively promises to treat those routes as closed regardless of any claim, and even if a claim is perfected and recognized by BLM (which is in any event not necessary to obligate BLM to respect it).

Summary:

Protestors state the BLM violated Revised Statute (R.S.) 2477 by being inconsistent with the statute or failing to acknowledge it at all, stating that the restriction or closing of 1.2 million acres to ROWs or OHV travel across all primitive area designations does not align with the RMP's goals or objectives. Additionally, protestors state that the BLM violated the statute by closing existing county roads that are important routes for locals and that hold historical and cultural significance, and noted that ROWs that were established prior to the adoption of FLPMA in 1976 were explicitly protected.

Response:

The BLM manages travel and transportation through its Comprehensive Travel and Transportation Management program, which aims to provide reasonable and varied transportation routes for access to public lands and provide areas for a wide variety of both motorized and non-motorized recreational activities. Through this program, the BLM conducts comprehensive planning to determine the best ways to manage roads, trails, and associated areas on public lands. This includes evaluating access needs and protecting natural and cultural resources. Each route on BLM-administered lands is evaluated and designated for specific uses, such as OHVs, hiking, biking, or horseback riding. While the RMP provides a broad framework for land use and designates areas for specific activities, the BLM also engages in more detailed travel and transportation management planning at the local level. For specific travel management plans, the BLM undergoes additional NEPA analysis outside of the RMP process to evaluate the potential environmental impacts of proposed travel routes and designations. This process includes public comment periods and revisions based on feedback. By conducting detailed travel management planning outside the RMP process, the BLM can more effectively manage access and use of public lands while protecting natural and cultural resources.

R.S. 2477, part of the Mining Act of 1866, granted ROWs for the construction of highways across Federal public lands. In 1976, FLPMA repealed R.S. 2477 but preserved existing ROWs. R.S. 2477 rights are determined through a process that is entirely independent of the BLM's land use planning process. The GSENM RMP/EIS effort was initiated for an independently determined purpose and need that is based on resource uses and associated access to public lands and waters.

The PRMP does not violate R.S. 2477 and respects valid existing rights. Of the claimed R.S. 2477 ROWs in areas designated by the PRMP as OHV closed, all but the V-Road have been closed to public OHV use since 2000. As a result, pursuant to 28 U.S.C. 2409a(b), the United States is and has been exercising full possession and control over the roads that have been closed since 2000 and consistent with 28 U.S.C. 2409a(b) and, unless and until title over those roads is perfected in the State or counties' favor, the State and counties may not disturb the United States in its possession and control over the closed roads. Therefore, while the BLM does not concede that the recent district court rulings in *Kane County v. United States* are correct, it is nevertheless the case that under the logic of those rulings, the BLM retains authority to issue an RMP containing OHV area designations

that result in claimed R.S. 2477 ROWs remaining unavailable to public OHV use. As such, the PRMP's treatment of those does not violate R.S. 2477 and respects valid existing rights.

The PRMP's treatment of the V-Road is also consistent with R.S. 2477. As evidenced by the fact that the United States exercised full possession and control of the V-Road from 2000 through 2020, a dispute exists as to Garfield County's claimed title to the V-Road. Unlike the Class B roads that were the focus of the court's recent rulings, the BLM has no reason to believe that Garfield County has vested title to the V-Road under the logic of the court's recent decisions. As noted in those decisions, a mere assertion of title does not afford one the status of a holder and, given that the V-Road was constructed by an oil and gas company in association with a permitted project sometime between 1969 and 1971, it is not clear that the county can show that it was expending time and money to maintain that road prior to 1976. Accordingly, the area closure in the PRMP that has the effect of closing the V-Road does not contravene a valid existing right and is not inconsistent with R.S. 2477. Moreover, designating the area in which the V-Road is located as OHV closed is consistent with the BLM's authority under FLPMA to regulate an area to protect sensitive resources, including the adjacent WSA that use of the V-Road has adversely affected.

Additionally, the State claims that the BLM failed to recognize the entire length of the adjudicated R.S. 2477 ROW for Swallow Park Road. The BLM respectfully disagrees with the State's finding based on review of the legal description of the adjudicated portion of the Swallow Park/Park Wash Road as provided in the 2013 Findings of Fact/Conclusions of Law issued by Judge Waddoups. Figure 2-36 in the GSENM PRMP/FEIS correctly shows the adjudicated portions of Swallow Park/ Park Wash as open. The referenced portion of Swallow Park Road that is not shown on Figure 2-36 was not adjudicated in the Kane 1 trial; therefore, the unadjudicated portion of this road is instead shown on Figure 2-41, which depicts all unadjudicated routes claimed under R.S. 2477, their current BLM route designation, and the OHV area designations proposed in the PRMP. The State suggests that the BLM should add the Adjudicated Roads to Figure 2-41, but that would be inconsistent with the intent of the map because they are no longer in "claimed" status; rather, they have been adjudicated to the State.

The BLM complied with NEPA and BLM travel management guidance in its management of OHV and did not violate R.S. 2477 or restrict access to R.S. 2477 ROWs. Accordingly, this protest issue is denied.

Taylor Grazing Act

BlueRibbon Coalition

Simone Griffin

Issue Excerpt Text: Both FLPMA and the Taylor Grazing Act require that any changes to grazing permits or the availability of grazing lands be based on formal assessments of land health and consultation with affected permit holders. Under Alternative E, allotments are being preemptively closed without completing the necessary land health assessments or providing clear evidence that grazing is incompatible with resource protection. This process fails to meet the procedural requirements outlined in these laws, which require transparent and science-based decision-making before restricting grazing rights.

Kane and Garfield County Commissioners

Issue Excerpt Text: As a reminder, presidential executive orders do not supersede congressional statutes such as the Taylor Grazing Act. As such, the retirement of these allotments is in violation of existing state and federal laws and regulations, and as such, should not be allowed. Lastly, because the "chiefly valuable for grazing" determination establishes grazing as the "primary" use of lands

within a TGA District, the retirement of grazing allotments is not permanent (absent an act of Congress) and can always be revisited in NEPA planning processes and in essence be reversed.184 The acknowledgement of this fact was never included in the PRMP, and the County protests the implementation of the Grazing Retirement Clause implementing directives on this point.

Kane and Garfield County Commissioners

Issue Excerpt Text: Further, current federal law does not allow for the permanent retirement of grazing allotments unless a detailed environmental analysis shows that those lands are no longer "chiefly valuable for grazing." In 1934, with the passage of the Taylor Grazing Act, almost the entirety of the federal estate in the western United States was divided into Taylor Grazing Districts and into smaller units of grazing called "grazing allotments." To be included in a Taylor Grazing District, the Secretary of the Interior was required to make a determination that those lands were "chiefly valuable for grazing" which established that grazing was the "primary" use of those lands. According to the BLM's National Data ArcGIS website, the entirety of the GSENM is within Utah Taylor Grazing Act ("TGA") District No. 11. See Figure 7 below. Figure 7 Because the grazing allotments within the GSENM are all within Utah TGA District 11, this means that in 1934 all of those lands received, from the Secretary of the Interior, a "chiefly valuable for grazing" determination. To reiterate, federal law does not allow for the permanent retirement of grazing allotments unless a detailed environmental analysis shows that those lands are no longer "chiefly valuable for grazing." Such an environmental analysis has not been done here for any of the allotments slated to become "unavailable" under the current PRMP. The shift from the 2020 plan to this proposed plan, particularly Row 182, is significant. The 2020 plan required the BLM to follow its relinquishment policy for voluntarily relinquished permits, whereas the new plan mandates that permits must be retired. The Counties question the legality of this new provision, arguing that it exceeds the authority of the executive office since Congress has mandated that grazing must occur and this practice threatens the Counties' cultural heritage and economy by removing grazing operations that are integral to local communities. The final part of Row 182 notes that retiring land from grazing doesn't require changing the classification of areas established as grazing districts under the Taylor Grazing Act. Under the analysis contained above, the Counties firmly disagree with that assessment.

Kane and Garfield County Commissioners

Issue Excerpt Text: The Counties have previously raised concerns they have with the BLM's attempts to retire grazing on the GSENM under Proclamation 10286, and noted that while the Grazing Retirement Clause found in the GSENM Proclamation directs the Secretary to retire grazing permits/leases if voluntarily relinquished by the existing holder, the same Proclamation also states that the Secretary "shall manage livestock grazing…in accordance with existing laws and regulations…" The Grazing Retirement Clause is extremely concerning to the Counties, and the Counties protest the implementation of this Proposed RMP, and any subsequent "step-down" planning land use planning decisions based on this clause, particularly the implementation of Row 182 of the PRMP. Further, current federal law does not allow for the permanent retirement of grazing allotments unless a detailed environmental analysis shows that those lands are not "chiefly suitable for grazing." Such an analysis has not been done here for any allotments. As such, the retirement of grazing allotments is in violation of existing state and federal laws and regulations, and as such, should not be allowed.

Kane and Garfield County Commissioners

Issue Excerpt Text: This same directive also says that permit renewals will be done in five years for allotments within "departed watersheds" which are defined as "watersheds with extreme

conditions that deviate from historic conditions." Section 3 of the Taylor Grazing Act of 1934 dictates that the grazing permits first created by the Act itself, "shall be for a period of not more than ten years." The BLM's implementing regulations state that "the term of grazing permits or leases…shall be 10 years unless" one of four specific variables occur. Thus, unless the BLM can show a justified reason for why a permit should not be renewed for a full 10-year term, then that timeframe is the default under the TGA and the implementing regulations. However, if a permit is in place and the BLM attempts to cut short that permit before the 10-year term (cancellation) it can only be done for the reasons such as a failure to comply with the provisions of the permit and or regulations. Here, in the Proposed RMP, the BLM has painted with broad strokes to assert that there are "departed watersheds" (which is a questionable assertion given the lack of data the BLM has on these watersheds, see Section III(5.7) herein) to justify mandating that all allotments within those watersheds come up for permit renewal within 5 years. Given the above discussion, if those allotments currently have a 10-year permit in place, and if more than 5 years are left out of the total 10-year term, and if the BLM forces those allotments to come up for renewal before that 10-year timeframe has ran, then the BLM is arguably running afoul of the TGA and its implementing regulations. This would certainly be the case unless the BLM can point to a specific violation under 43 CFR §4300.71 to force a permit renewal process before the 10-year term has ran. In order to remain within the TGA and its implementing regulations, the BLM should reconsider this "hard-and-fast" 5-year renewal requirement. In short, the Counties protest to the 5 year timeline directive as written, for the same reasons for which they protest the implementation of the 2-year timelines (above) in addition to the arguable TGA violations noted.

Utah Farm Bureau Federation

Terry Camp

Issue Excerpt Text: Violation of Federal Law Regarding Grazing Allotment Retirement The PRMP/FEIS proposes to permanently retire certain grazing allotments and pastures within GSENM. This action violates the Taylor Grazing Act of 1934, which does not allow for the permanent retirement of grazing allotments unless a detailed environmental analysis shows that those lands are no longer "chiefly valuable for grazing". As grazing allotments within GSENM are located within Utah Taylor Grazing Act District 11, they have been previously determined to be chiefly valuable for grazing. This determination is a key legal requirement for managing grazing on public lands. The PRMP/Final EIS does not explicitly address or provide evidence of conducting a formal "chiefly valuable for grazing" determination for the areas where it proposes changes to grazing management or potential retirement of grazing allotments. The document states that it will manage discretionary uses, including livestock grazing, "in the context of protecting, maintaining, or restoring GSENM objects", but does not demonstrate that it has followed the legal process to justify permanent retirement of these allotments.

State of Utah, Public Lands Policy Coordinating Office

Sindy Smith

Issue Excerpt Text: Because the President has not determined that grazing is currently inconsistent with protecting GSENM objects, there is no rationale under the Antiquities Act to gradually reduce grazing allotments through the vagaries of relinquishments. BLM should be able to reallocate allotments freely; instead, the Proclamation imposes a standard inconsistent with the Antiquities Act-that the reallocation vaguely "advance the purposes of" Proclamations 10286 and 6920-rather than solely ensuring that designated objects are protected, the only legitimate standard under the Antiquities Act. BLM instead adopts Proclamation 10286's standard wholesale. Section 2.4.3, Rows 176, 178. BLM was required to analyze that standard and reject it under FLPMA, but it did not do that. Similarly, under the Taylor Grazing Act, BLM cannot permanently retire grazing permits in the GSENM because the land remains in a district designated "chiefly valuable for grazing." The Proposed RMP/EIS fails to consider this in Section 1.5 (despite comment responses

stating that the section addresses the issue, Appendix J, LG-124). BLM's simple assertion that re-classification is not a requirement for permanent retirement after a voluntary relinquishment, Section 2.4.3, Row 182, is baseless.

Summary:

Protestors stated that the BLM violated the Taylor Grazing Act and FLPMA by:

- Preemptively closing lands to livestock grazing without completing required land heath assessments.
- Permanently retiring grazing allotments and pastures within the GSENM, failing to comply with existing laws and regulations for livestock grazing set forth by the county, and failing to provide clear evidence to support the permanent retirement of lands previously determined to be "chiefly valuable for grazing."
- Failing to provide sufficient data to classify "departed watersheds." Protestors noted that the lack of analysis does not justify the BLM decision to require 5-year livestock grazing permit renewals.

Response:

The BLM is not required to prepare land health assessments when making planning-level allocation decisions related to livestock grazing. To the extent a subsequent grazing decision is necessary to align existing grazing permits or leases with the applicable RMP, those decisions may require preparation of a land health assessment and would need to comply with whatever consultation, cooperation, and coordination obligations attached under the BLM's livestock grazing regulations. In the case of the allotments in the GSENM that the PRMP would make unavailable to livestock grazing, no implementation-level decision would be required, because there are no active livestock grazing permits associated with those allotments. For the four pastures that would be limited to trailing only under the PRMP, the BLM would have to issue implementation-level decisions that change the terms and conditions of those permits to effectuate the trailing-only management action in the PRMP. While those implementation-level decisions may require land health assessments and consultation, cooperation, and coordination, the allocation decision being made at the land use planning level does not. Accordingly, the livestock grazing allocation decisions in the PRMP comply with applicable law.

Protestors expressed concerns about language in the PRMP regarding the requirement that lands in the GSENM subject to a livestock grazing permit or lease that is voluntarily relinquished be retired from future livestock grazing and the forage associated with the relinquished permit or lease not be reallocated for livestock grazing purposes unless doing so would advance the purposes of Proclamations 10286 and 6920. That requirement, however, does not stem from the PRMP. It stems from Proclamation 10286, the legality of which is outside the scope of this planning process. The PRMP merely restates the proclamation language, which the BLM has no discretion to deviate from as part of this planning process. Concerns regarding the legality of the voluntary relinquishment provision are properly addressed in a challenge to Proclamation 10286, not in a protest to the PRMP. Additionally, even if the relinquishment language did not stem from Proclamation 10286, the PRMP would still comply with the TGA. The retirement of lands from grazing following a voluntary relinquishment of the grazing permit or lease associated with those lands does not require the BLM to change the classification of any area within such lands that has been established as a grazing district under the TGA. Establishment of a grazing district under the TGA makes those lands available for grazing permits but does not require grazing to occur or prohibit other uses. Although a process exists under the TGA to identify lands for other uses, that process has been largely supplanted by FLPMA's land use planning process. And because the land use planning process, as opposed to the

classification process, establishes grazing use, it is neither required nor appropriate to determine whether Federal land remains chiefly valuable for grazing when establishing grazing levels. That is particularly true here, where the voluntary relinquishment provision at issue leaves discretion to the Secretary to reallocate the forage associated with the voluntarily relinquished permit or lease where doing so would advance the purposes for which the GSENM was designated. Accordingly, the BLM is not obliged to make a determination about whether the lands in the GSENM remain chiefly valuable for grazing as part of this planning process.

In response to protestors' concerns regarding "departed watersheds" and 5-year livestock grazing permit renewals, the PRMP would direct the BLM to complete land health assessments for identified departed watersheds and, if applicable, issue causal factor determinations for the allotments within those watersheds within 2 years after the ROD for the Approved PRMP is issued. Additionally, the PRMP would direct the BLM to process permit renewals for those allotments within the following 3 years. Once permit renewals have been processed for those allotments within the identified departed watersheds, the BLM would then within the following 5 years complete land health assessments and, if applicable, issue causal factor determinations that would inform permit renewals for the remaining allotments within the GSENM (GSENM PRMP/FEIS p. 2-26). FLPMA Section 402 (a) states "permits and leases (...) shall be for a term of ten years subject to such terms and conditions the Secretary concerned deems appropriate and consistent with the governing law, including, but not limited to, the authority of the Secretary concerned to cancel, suspend, or modify a grazing permit or lease, in whole or in part, pursuant to the terms and conditions thereof, or to cancel or suspend a grazing permit or lease for any violation of a grazing regulation or of any term or condition of such grazing permit or lease." That section provides the BLM with the authority to process renewals of existing grazing permits and leases when appropriate. In sum, the management direction in the PRMP does not modify or direct the BLM to issue livestock grazing permits and leases for less than a term of 10 years, and the BLM would issue livestock grazing permits and leases consistent with FLPMA Section 402.

For the reasons identified above, the BLM is in compliance with both the TGA and FLPMA in regard to retiring livestock grazing allotments within the GSENM through the PRMP/FEIS. Accordingly, this protest issue is denied.

Visual Resource Management

Washington County Water Conservancy District

Drake Morgan

Issue Excerpt Text: As federal law, this utility corridor has supremacy over federal land use planning. A congressionally designated utility corridor does not merely authorize use of federal land for utility development (which could occur on most federal multiple-use land) but prioritizes use of that federal land for utility development. Thus, restrictions in the RMP that would hinder utility development within the corridor are inconsistent with Public Law 105-355. The district appreciates the BLM designating the corridor as a ROW open area under Proposed RMP Alternative E. However, the district has concerns about visual resource management (VRM) classifications the BLM has placed upon the corridor. The BLM should classify the entirety of the congressionally designated utility corridor as VRM Class IV. VRM class designations should be based on management considerations and priorities for land uses. Congress has expressly told the BLM on what management considerations and priorities to base this designation by passing Public Law 105-355.

Washington County Water Conservancy District
Drake Morgan

Issue Excerpt Text: Requiring utilities to retain the existing character of the landscape in a congressionally designated utility corridor conflicts with the intent of Congress. The BLM cannot inhibit the priority use of the congressionally designated utility corridor for utility development through land use planning.

Summary:

Protestors claimed that the BLM violated Public Law 105-355 by misclassifying Visual Resource Management (VRM) designations within a congressionally designated utility corridor and requiring utilities to retain the existing character of the landscape. Protestors assert that a congressionally designated utility corridor takes priority over land use planning.

Response:

The BLM has a responsibility under FLPMA to manage lands in a manner that will protect the quality of the scenic values. Per BLM Manual 8400, the BLM is responsible for identifying and protecting visual values on all BLM lands. A Visual Resources Inventory was completed for the GSENM in 2018 (GSENM PRMP/FEIS Appendix I, p. I-75). Almost 50 percent of the GSENM was inventoried as high scenic quality and less than 1 percent was inventoried as low scenic quality.

GSENM PRMP/FEIS Section 3.10 and Appendix I, Section I.10, provide an explanation of the methodology used for developing the GSENM Visual Resource Inventory (GSENM PRMP/FEIS pp. 3-170 through 3-178 and pp. I-75 through I-77). The BLM considered a range of alternatives regarding VRM classes throughout the field office, visualized on Figure 2-3 through 2-7 in Appendix A (GSENM PRMP/FEIS pp. A-12 through A-16).

Section 202 of Public Law 105-355, which designates a utility corridor along U.S. Route 89, does not limit the BLM's discretion to place limitations on development within the utility corridor. Section 2.4.3, *Lands and Realty*, of the GSENM PRMP/FEIS addresses management direction on utility corridors (p. 2-82). Under the PRMP (Alternative E), the BLM would maintain the congressionally designated utility corridor along U.S. Highway 89 (Public Law 105-355) (GSENM PRMP/FEIS row 248, p. 2-149) and this corridor would be open for ROW location (GSENM PRMP/FEIS row 252, p. 2-151). Under the PRMP (Alternative E), a 4-mile segment within this congressionally designated utility corridor would be managed as VRM Class II and the remainder of the corridor would be managed as VRM Class III (GSENM PRMP/FEIS row 126, p. 2-82). As discussed in Section 3.10, *Visual Resources*, of the GSENM PRMP/FEIS, the BLM would allocate VRM Class II objectives to the lands within the BLM foreground and middle ground distances of the 4-mile segment within the designated utility corridor along Highway 89 near the Cockscomb formation, which is adjacent to the Cockscomb WSA (GSENM PRMP/FEIS Appendix A, Figure 2-48 and Figure 2-54). The remaining portions of the designated utility corridor along Highway 89 and all other utility corridors would be managed as VRM Class III to allow development within the corridor while retaining the existing landscape character (GSENM PRMP/FEIS p. 3-177). Analysis of potential impacts on ROW corridors from implementation of management under all alternatives is provided in Section 3.19.2 (GSENM PRMP/FEIS pp. 3-255 through 3-261).

The BLM complied with NEPA and FLPMA in its analysis of the environmental consequences of/ impacts on visual resources in the GSENM PRMP/FEIS. Accordingly, this protest issue is denied.

References

National Park Service. 1998. *National Register Bulletin 38: Guidelines for Evaluating and Documenting Traditional Cultural Properties.* https://www.nps.gov/subjects/nationalregister/upload/NRB38-Completeweb.pdf.