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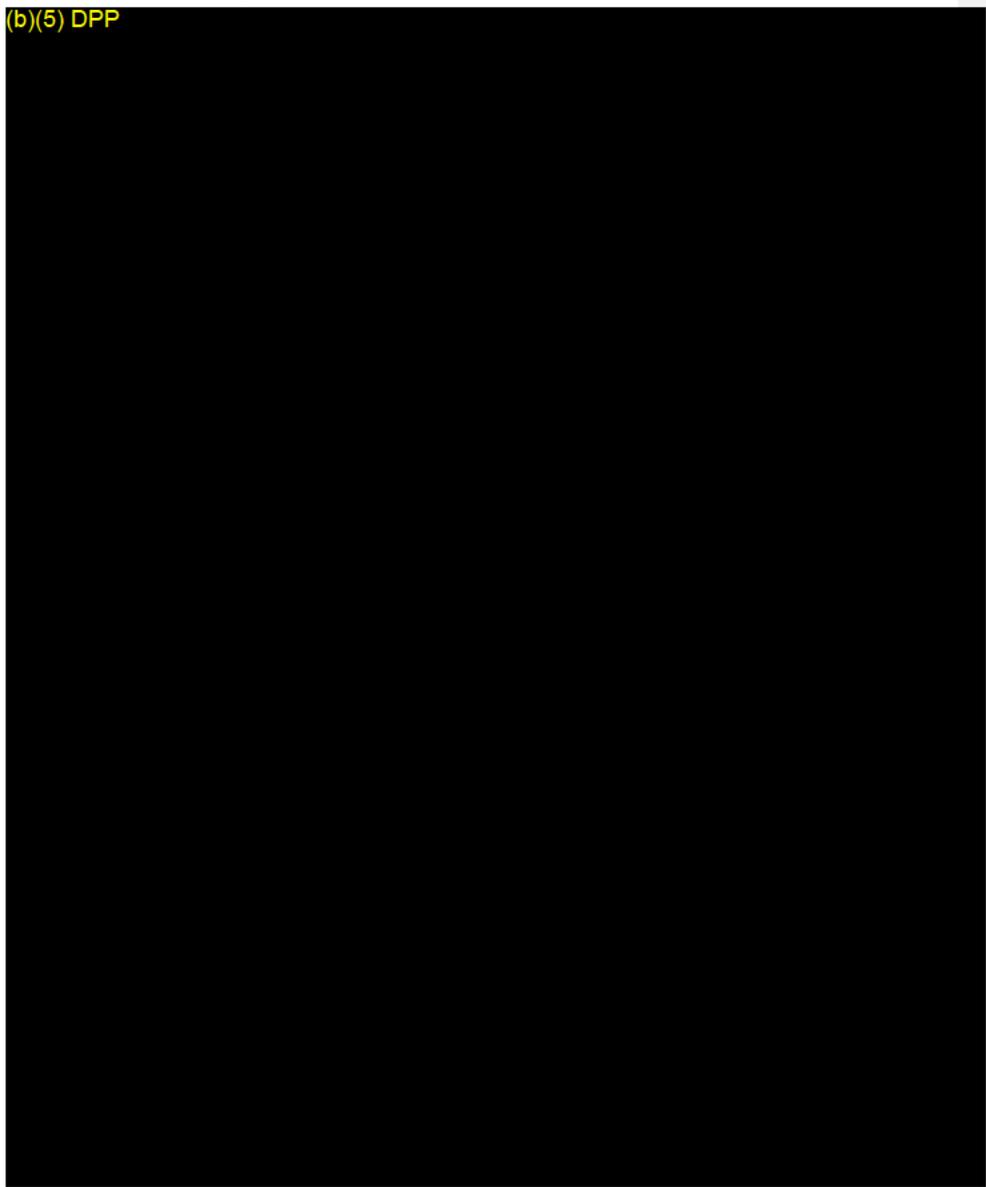
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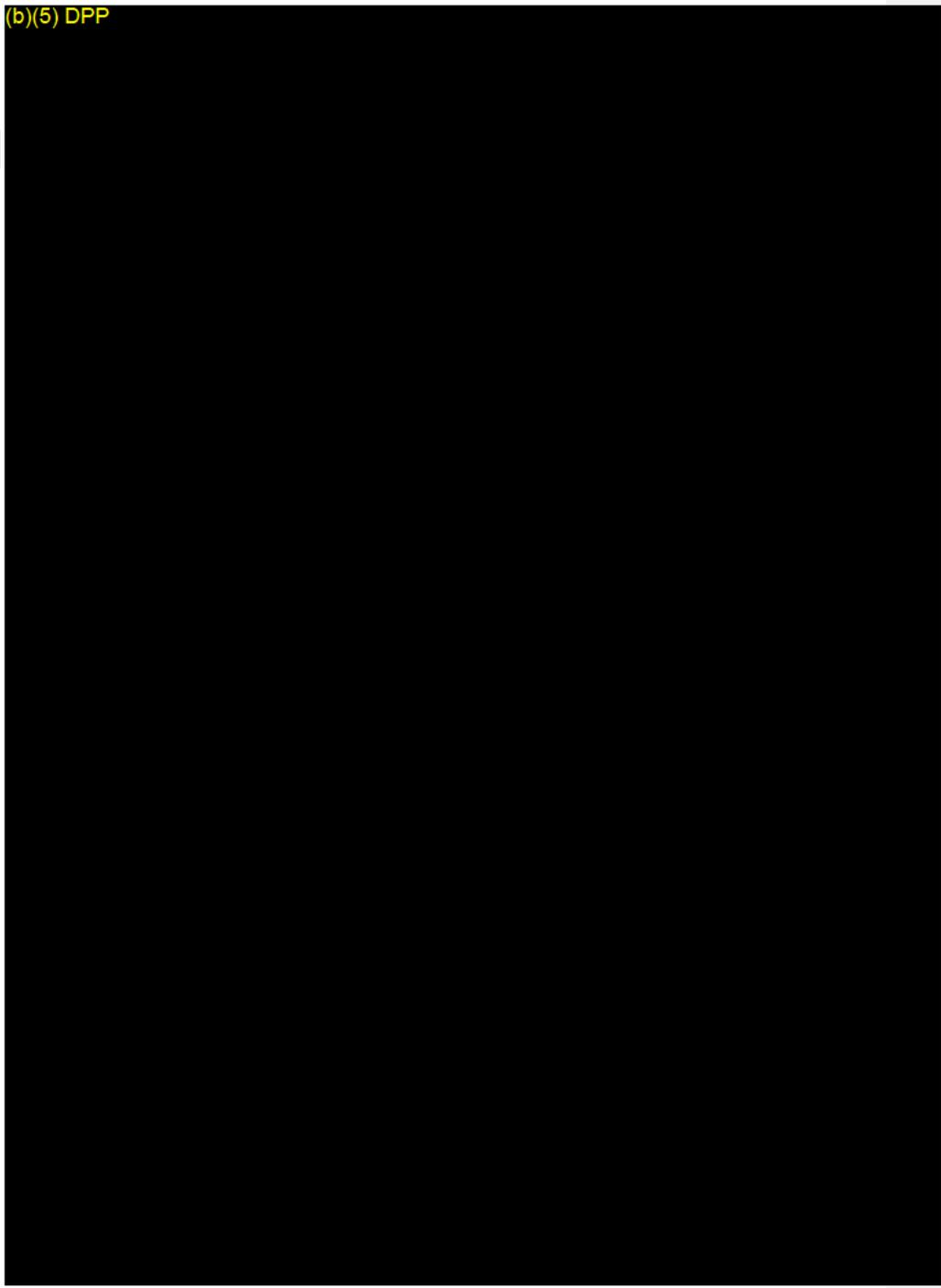
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**Draft Interim report on Monument Review Process**

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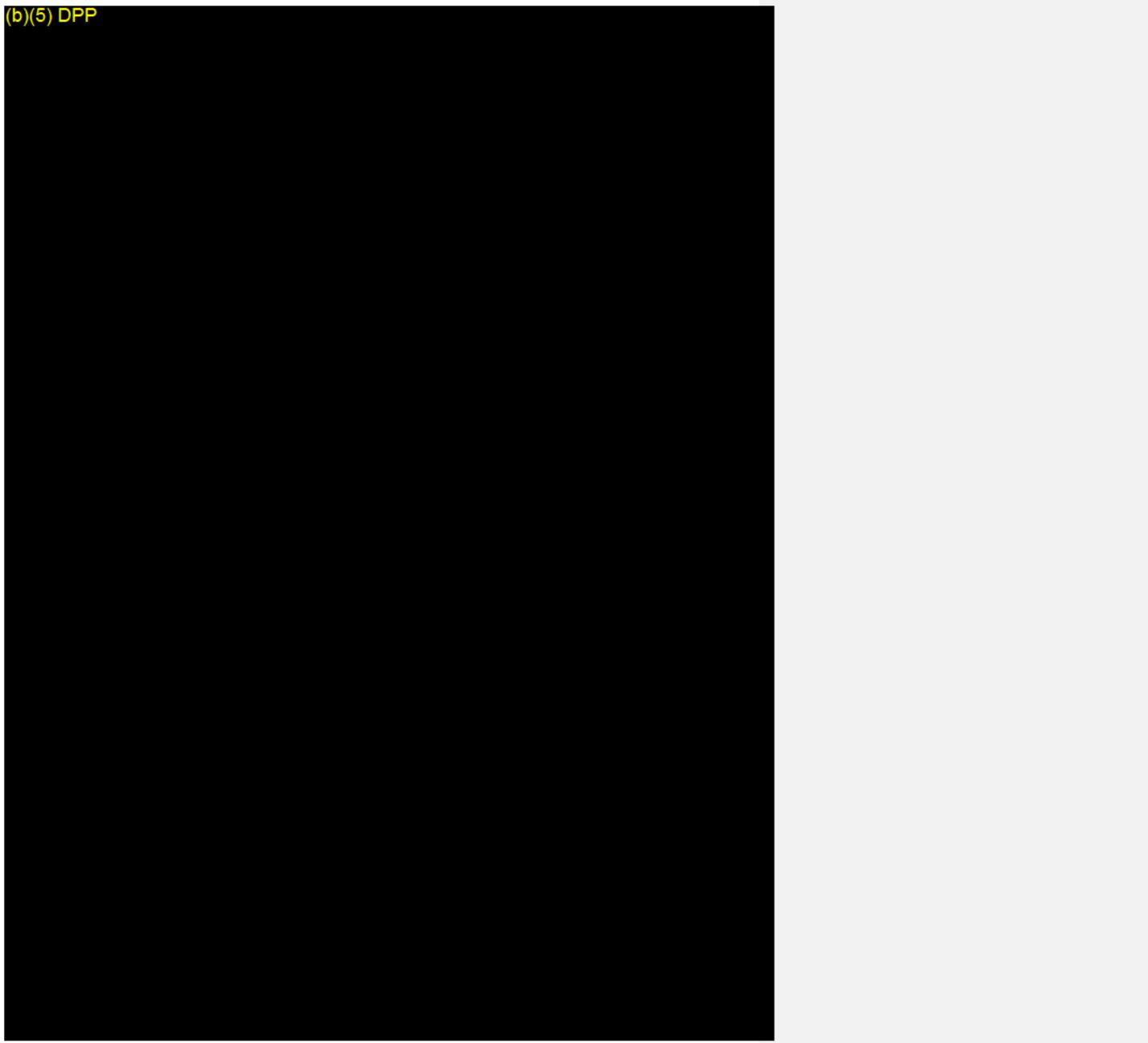
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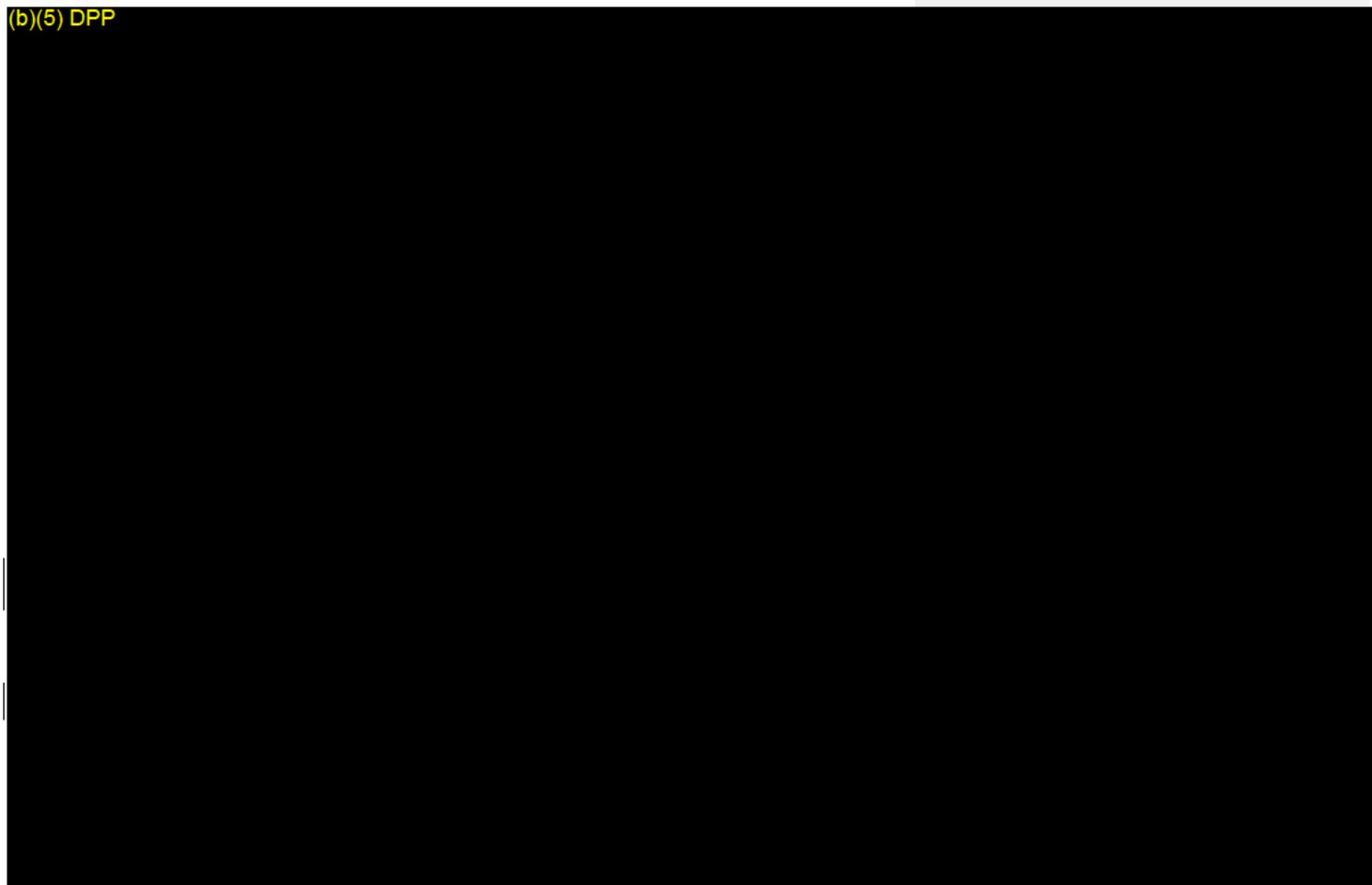
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# Bears Ears National Monument

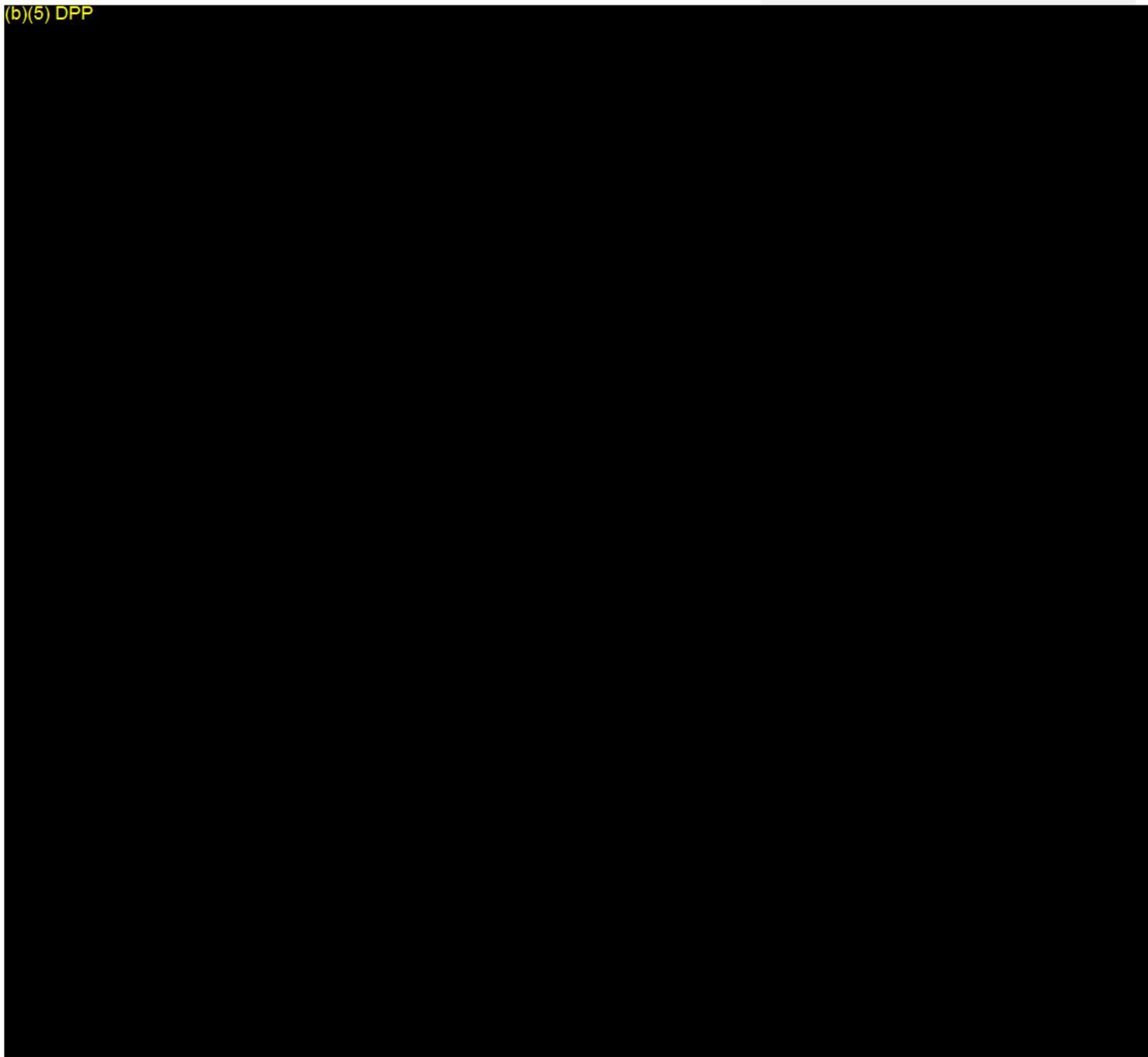
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Bears Ears National Monument

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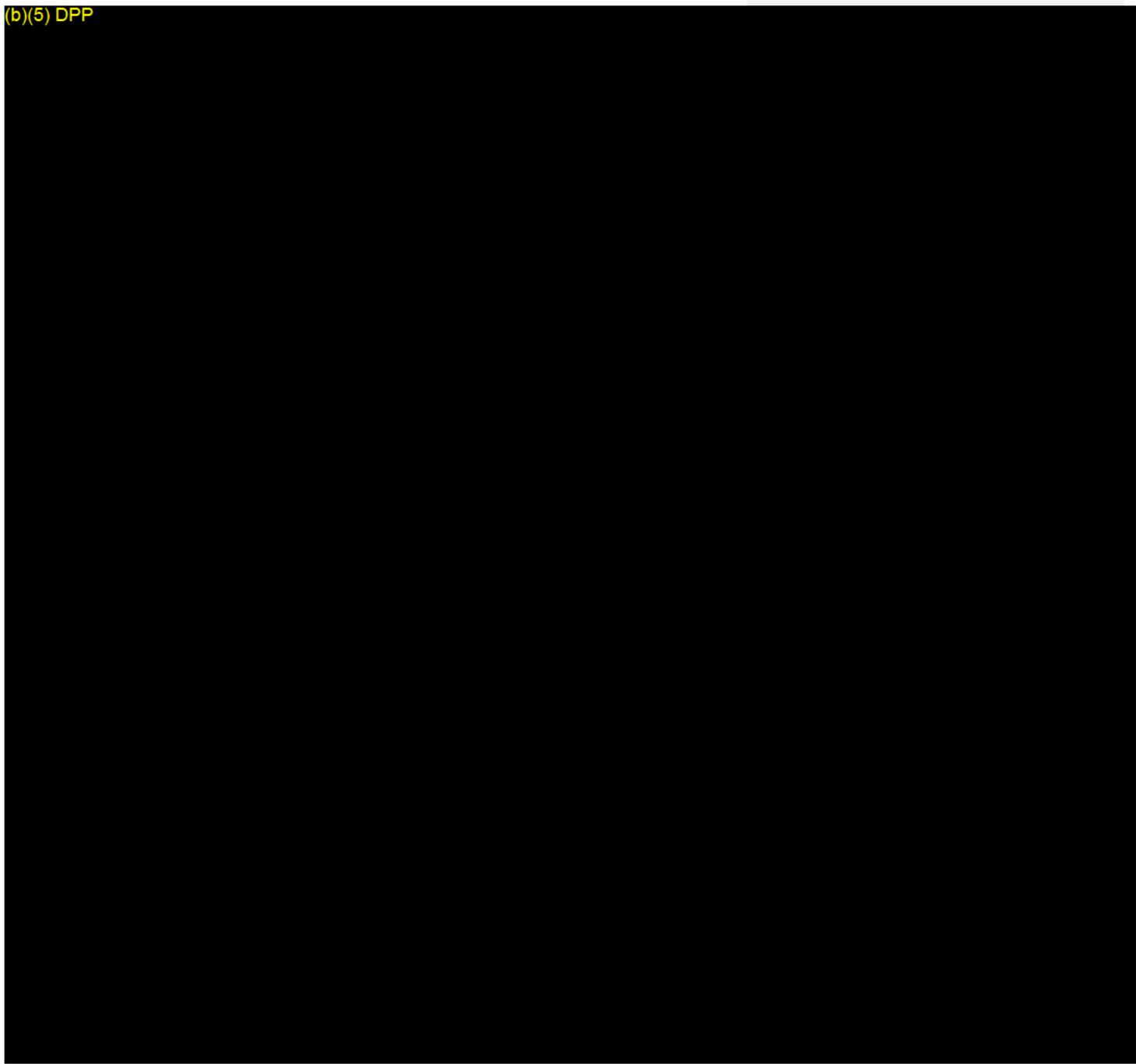
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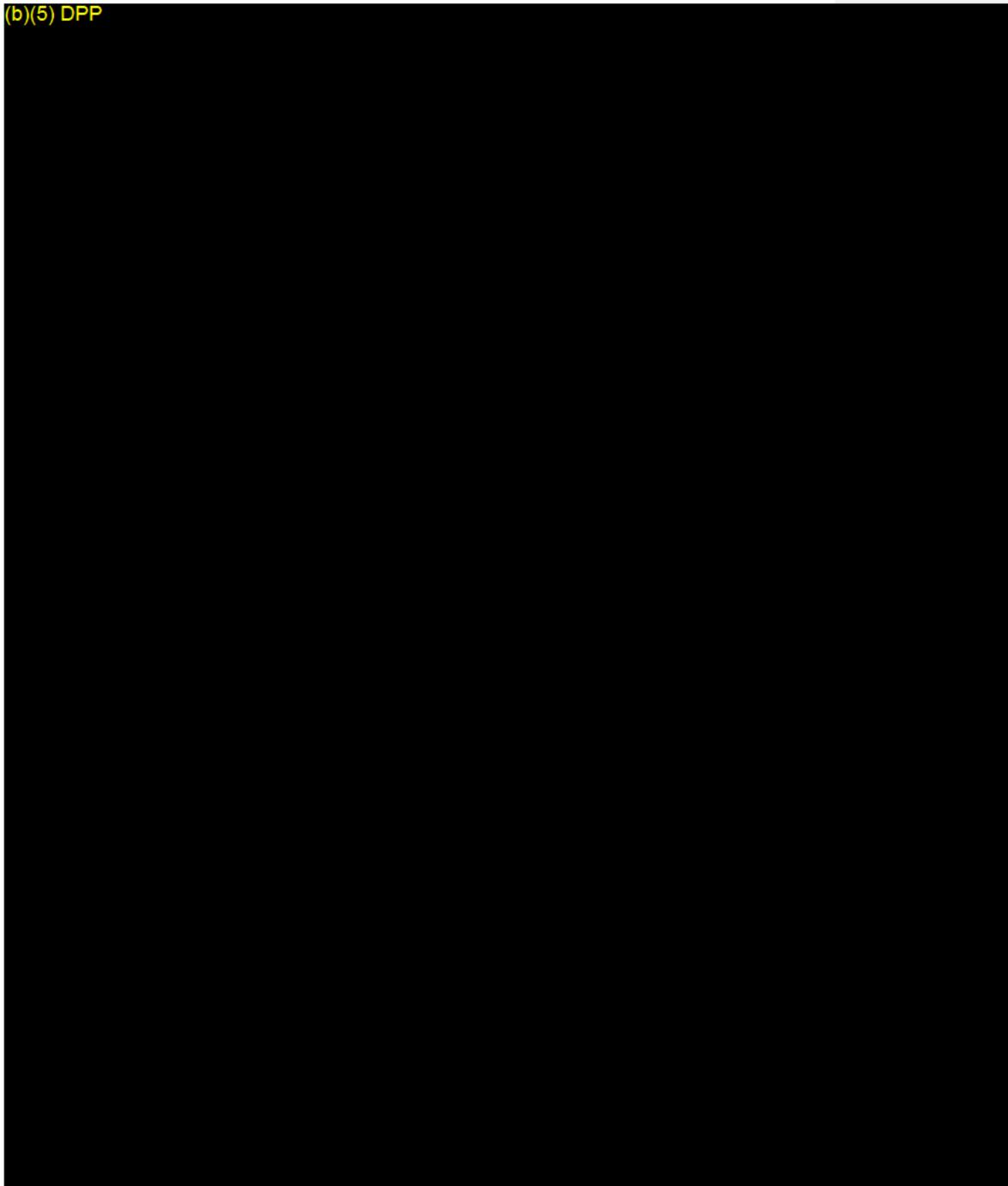
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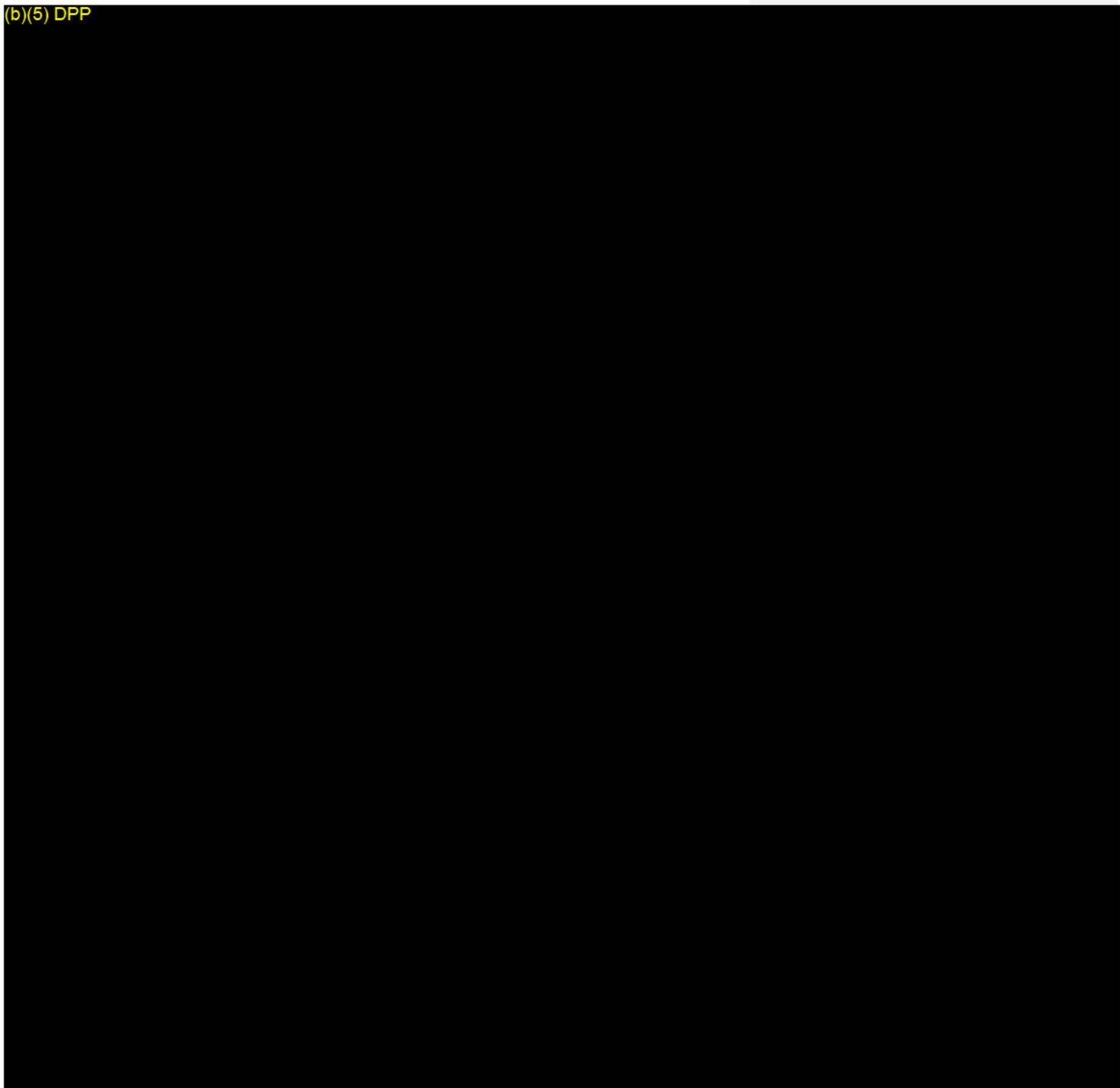
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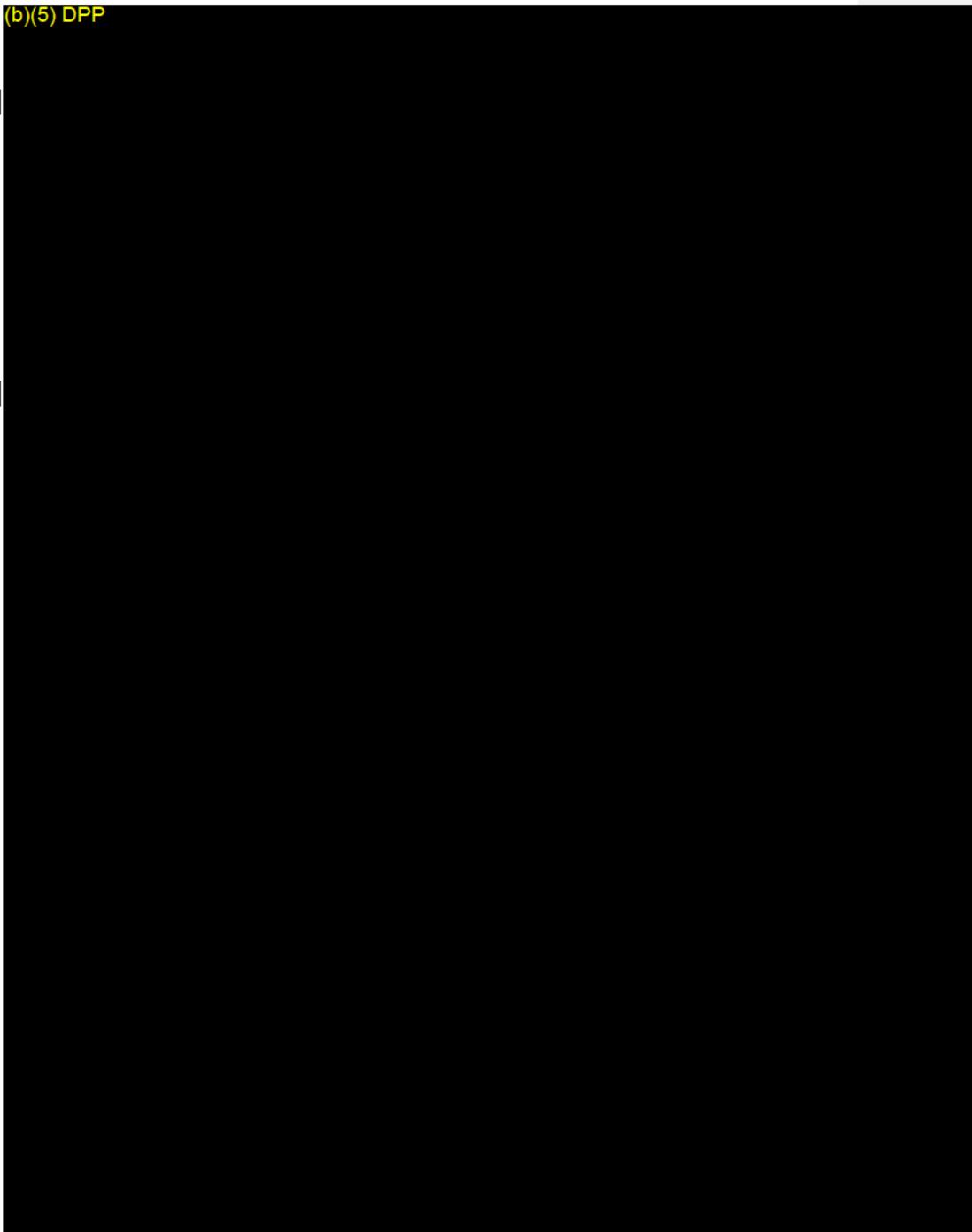
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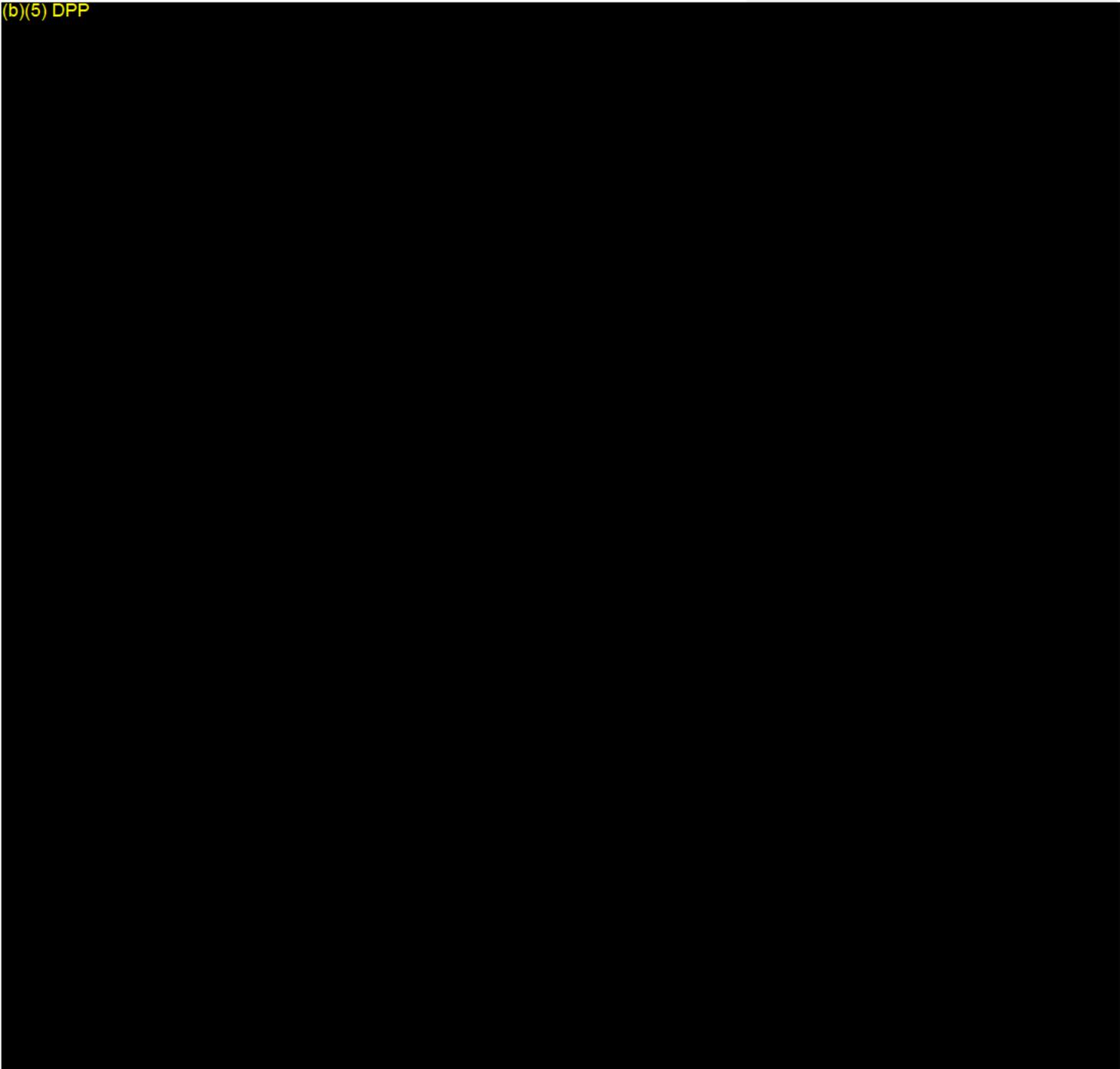
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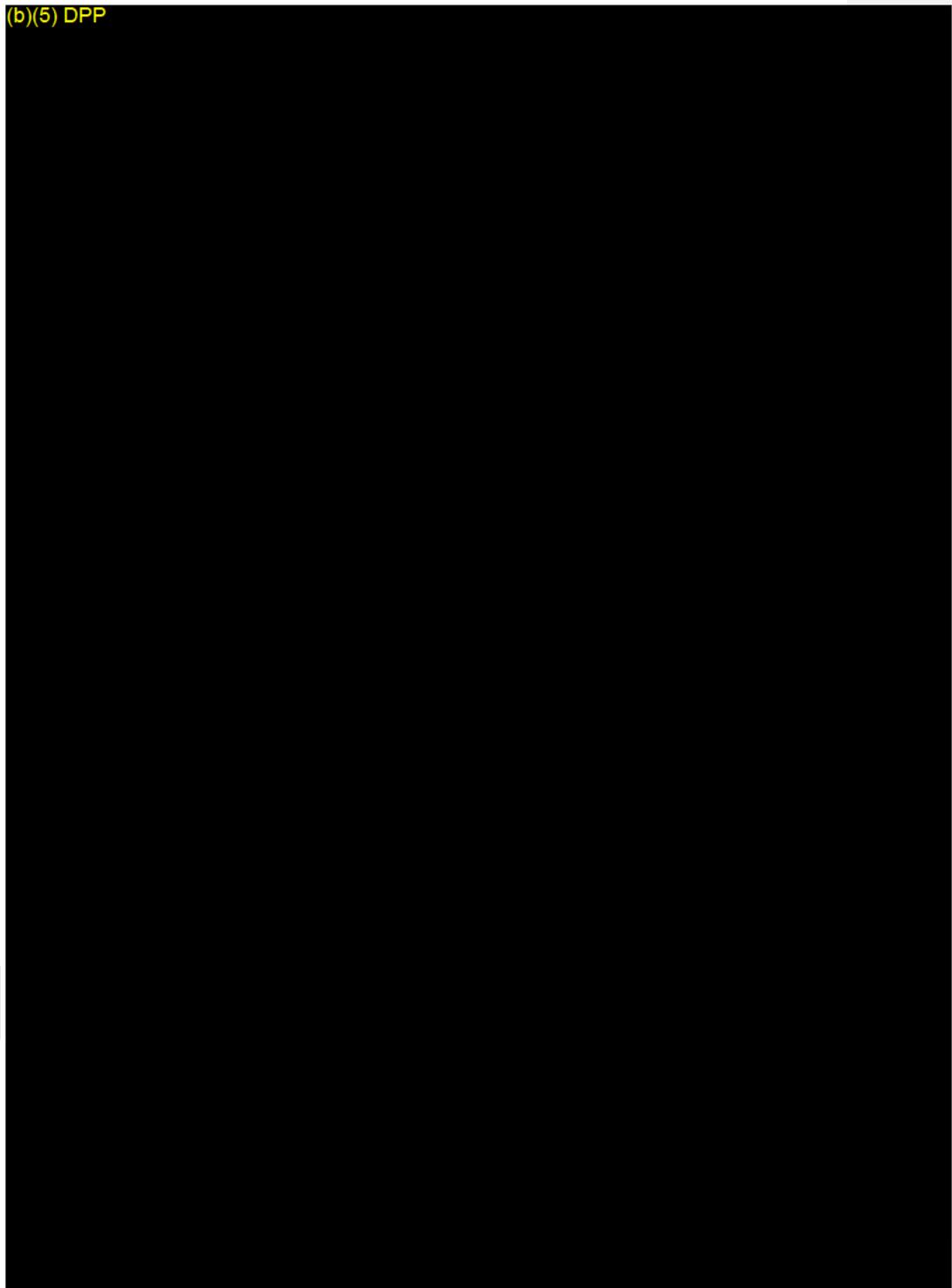
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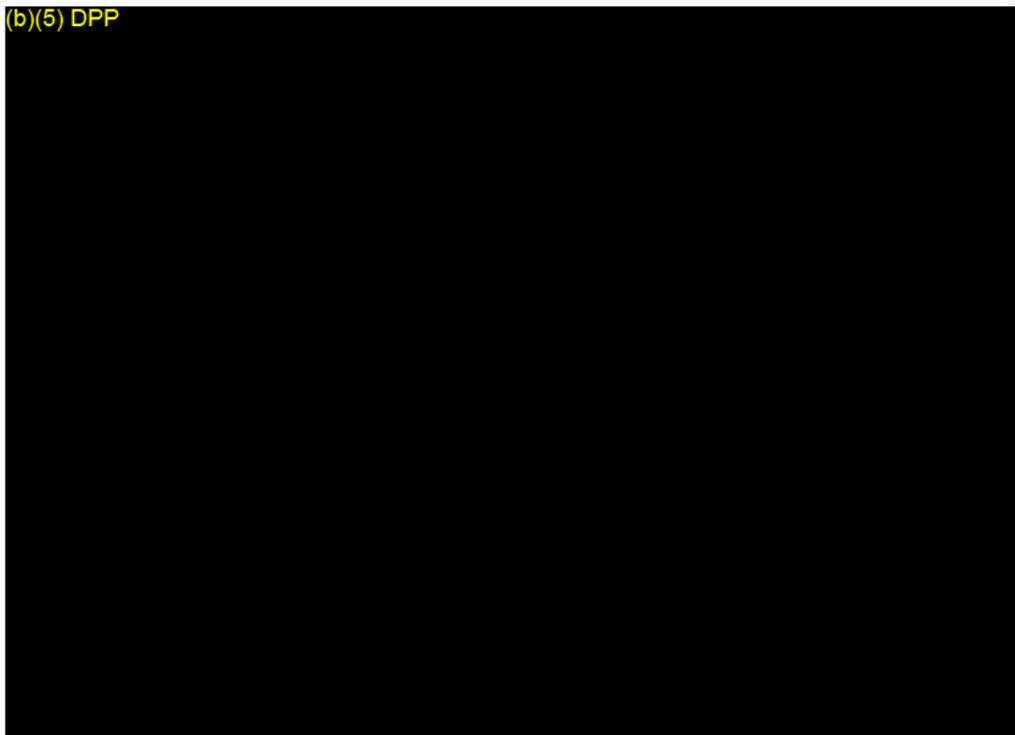
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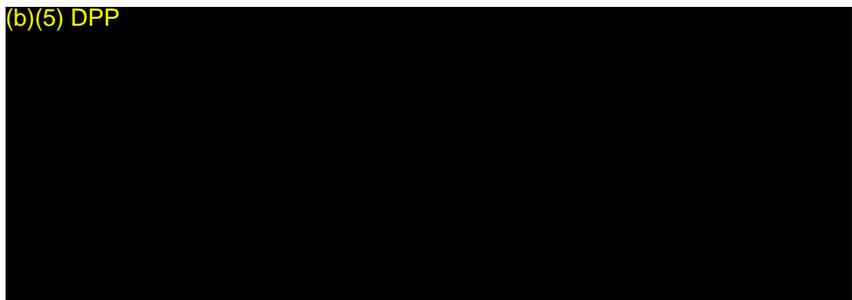
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**National Monument Review  
Department of the Interior  
1849 C St. NW  
Washington, DC 20240**

**COMMENTS OF  
THE HOPI TRIBE, NAVAJO NATION,  
UTE MOUNTAIN UTE TRIBE.  
UTE INDIAN TRIBE, AND ZUNI PUEBLO**

**May 25, 2017**

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### Introduction

The creation of the Bears Ears National Monument represents a landmark in the long history of the American public lands system. It is also a notable event in our Tribal histories. Together, we five Tribes took the lead in making this Monument a reality. We conceived of this Monument, helped build overwhelming support for it locally and nationally, and carried the many justifications for it to Washington DC. We earned this Monument every step of the way. It was well worth it, but it required a huge amount of work.

For us, Bears Ears is homeland. It always has been and still is. The culture is everywhere. The canyons and forests hold many sacred sites. Family gatherings, dances, and ceremonies are held at special places within Bears Ears. People go to Bears Ears to gather roots, berries, pinon nuts, weaving materials, and medicines. We go for healing. Stone cliff-dwellings and trails, testaments to the Old People, have survived thousands of years of wear and weather. Our ancestors are buried there. We can hear the songs and prayers of our ancestors on every mesa and in every canyon.

Attempting to eliminate or reduce the boundaries of this Monument would be wrong on every count. Such action would be illegal, beyond the reach of presidential authority. Bears Ears enjoys overwhelming popularity nationally—and extensive and passionate support in the State of Utah as well. It would be a travesty to leave this landscape vulnerable to the wounds inflicted by uranium and fossil-fuel mining, and excessive off-road vehicle use. Additionally, there has been ghastly looting and grave robbing that continues to this day, which was a major impetus for the Monument status. Citizens of America and the world would lose the opportunity to enjoy the wonders of one of the most remote and wondrous landscapes found anywhere. They would lose,

as well, the opportunity for Bears Ears to become home to a world-class institute on indigenous Traditional Knowledge.

The radical idea of breaking up Bears Ears National Monument would be a slap in the face to the members of our Tribes and an affront to Indian people all across the country. We did not bring forth grievances. We brought a solution: the permanent protection of a great natural and cultural landscape. When the President of the United States created the Monument, he accepted our solution and promised that the lands within the Monument would be protected for us and the generations that come after us. Bears Ears is too precious a place, and our cultures and values too dignified and worthy, to backtrack on the promises made in the Presidential Proclamation.

#### The Nature and Validity of This Review of Monument Designations

On April 26, 2017, President Trump called for an unprecedented review of national monument designations made since January 1, 1996, where the designation covers more than 100,000 acres, or where the Secretary of Interior determines that the designation or expansion was made without adequate public outreach or coordination with relevant stakeholders. The review is purportedly to determine whether the designations conform to the objectives of the Antiquities Act. However, there is no statute authorizing any such review of monuments, nor statutory authority for any public comment period, and certainly no authority—statutory or otherwise—to diminish or revoke any monument. Any such presidential action would be ultra vires and unconstitutional. Therefore, although we have no choice but to respond, the public process created by this order is unauthorized and void.

Pursuant to President Trump's executive order, the Department of the Interior is reviewing monument designations and seeking comments as part of the review. 82 Fed. Reg.

22016 (May 11, 2017). As part of the review, the Secretary is purportedly considering several factors. *See* 82 Fed. Reg. 20429-20430 (May 1, 2017). We are confused by the inclusion of factors outside of the statutory text of the Antiquities Act, as they are irrelevant to whether or not Bears Ears was properly designated. As such, any recommendation by the Secretary to the President that is based on information outside the scope or authority of the Secretary or President under the Antiquities Act would be improper. The President has authority to designate national monuments, but does not have authority to eliminate, shrink, or move the boundaries of them.

As will be seen below, Bears Ears easily fits within the objectives of the Antiquities Act, and was the product of extensive public outreach, coordination with relevant stakeholders, and substantive research.

#### Bears Ears: A Tribal Homeland Since Time Immemorial

Our Tribes came to the Bears Ears landscape at different times. Some of us have been there forever, and some came later. We inhabited, hunted, gathered, prayed, and built civilizations. Our presence, much in evidence today, covered the whole region and is manifested in migration routes, ancient roads, great houses, villages, granaries, hogans, wickiups, sweat lodges, corrals, petroglyphs and pictographs, tipi rings, and shade houses. Bears Ears holds more than 100,000 Native American cultural sites and is widely recognized as one of the world's premier areas for archaeological resources.

By the mid-19<sup>th</sup> century, the United States became determined to open the American Southwest to homesteading. This meant moving Indian people off many traditional lands and that included Bears Ears. Utes and Navajos were force-marched to reservations. For the Navajo, this was the Long Walk to Bosque Redondo in New Mexico. In particular, the White Canyon region of Bears Ears remains a significant historical site because of its many *Nahonidzho*, or

escaping places, used by Navajos to protect themselves from the soldiers. The Zuni and Hopi were spared the violence of the forced removal because, after thousands of years of residence in Bears Ears, they had relocated to their current pueblos to the south and southeast.

For generations, federal policy required Indian people to remain on their reservations and pueblos. The sense of homeland and the ancestors, however, was too strong. People avoided their federal overseers and found ways to return to Bears Ears for hunting, gathering, and ceremonies. In the late 19<sup>th</sup> and early 20<sup>th</sup> centuries, as federal policy relented, the non-Indian residents of San Juan County regularly forced Native Americans out of Bears Ears, sometimes violently. Yet our people continued to find ways to return.

As Tribes became more active after World War II, we began talking about Bears Ears. The looting and grave robbing had been intensifying ever since the 1890s, causing widespread destruction. In 1968, Robert Kennedy came to the Navajo reservation during his presidential campaign. He held a meeting in Bluff and Navajo people urged him to protect the Ancient Puebloan villages and other archaeological resources.

#### The Origins of the Monument: Defining the Boundaries of the Cultural Landscape

The push for Bears Ears began in earnest in 2010 with the creation of the grassroots non-profit organization, Utah Diné Bikéyah (UDB). UDB was formed with a primary objective of protecting Bears Ears. Looking back, we can see that the formation of UDB was an important step on the road to the Bears Ears National Monument.

Early on, UDB set out on a project that was ambitious in the extreme. People were already discussing the possibility of creating a wilderness area, national park, national monument, or other appropriate classification. UDB defined its goal as establishing conclusively the proper boundaries, defined scientifically, culturally, and historically, necessary to protect the

Bears Ears homeland. After much deliberation, it settled upon a methodology, one which would require a prodigious amount of work. The interdisciplinary effort was based on thorough ethnographic research featuring an intensive interviewing regime; research by academic experts in ecology, biology, anthropology, archaeology, and public policy; Traditional Knowledge; extensive data on wildlife species obtained from Utah state wildlife officials; and data analysis.

The ethnographic data resulted in sophisticated and highly reliable cultural mapping. See generally Bears Ears Inter-Tribal Coalition, *Protecting the Whole Bears Ears Landscape: A Call to Honor the Full Cultural and Ecological Boundaries* (2016). Seventy cultural interviews were conducted by a Navajo traditionalist fluent in English and the Diné languages and possessing ethnographic training. The resulting ethnographic data was captured and organized on a fine scale. Maps were then prepared using that information to show why 1.9 million acres should be set aside as a cultural landscape.

This ethnographic mapping process benefited from Traditional Knowledge, which is increasingly recognized by western sciences and scholarship and used by federal agencies in land management and planning. Traditional Knowledge is derived from keen observation carried out and passed down over hundreds or thousands of years. It represents another way of knowing the social and ecological landscape. It is invaluable to scientists in places where it remains intact—places such as Bears Ears. The Presidential Proclamation rightly refers to Traditional Knowledge several times and emphasizes its critical place in future land management at the Bears Ears National Monument.

This intensive work began in 2010 and continued for 6 ½ years. It was a joined enterprise of Traditional Knowledge and western sciences. It reflected the careful, dedicated, and knowledgeable work of hundreds of Native people and dozens of academics. Their work shows

that the Bears Ears landscape is one discrete unit, bound together in numerous ways, and it blends perfectly with other protected federal and Tribal lands.

UDB released its Bears Ears proposal in April, 2013. The Proposal called for a 1.9 million acre protected area that could be designated as a national monument, wilderness area, national recreation area, or other classification under federal law. The carefully-considered, data-driven boundaries developed by UDB quickly became accepted as a serious proposal that deserved serious attention. While Utah public officials were generally noncommittal or negative, the boundaries were praised by conservation groups and many federal officials. We Indian people were inspired by the Proposal and the hard work that went into it, especially the cultural mapping that UDB developed that so fully represented Native American values.

For its part, UDB was disappointed and frustrated by the opposition or disinterest of Utah federal, state, and county politicians. In 2014, UDB turned to the Tribes to support and carry the Proposal. This was only logical. Federal Indian policy is based on the federal-tribal relationship and the Tribes would be the appropriate advocates to carry the Proposal forward. As a result, protecting Bears Ears increasingly became a major subject in the minds of the Tribes of the Southwest during 2014 and 2015.

#### The Tribal Proposal

We held many meetings, large and small, and made conference calls to discuss the alternatives. It became clear to us that there were two broad considerations. As a legal matter, what were the pros and cons of the different land classifications—wilderness, national monument, national recreation area, and others? At least as important, though, was the question of which would be the best forum—legislation controlled by the Utah delegation or a national monument proclamation developed by the administration and signed by President Obama?

In 2013, the Utah delegation was developing the so-called Public Lands Initiative (PLI). This was an initiative, led by Congressmen Bishop and Chaffetz, with the professed goal of reaching a consensus agreement among all stakeholders over the public lands of Eastern and Southern Utah, an area of great cultural value, beauty, and mineral potential. The general idea was that an agreement would lead to congressional legislation putting some federal lands in wilderness and other protected status and allowing multiple-use development to proceed on most of the other lands. We wanted to develop an agreement through the PLI process, but also wanted to ensure that Bears Ears was properly protected. As a result, we analyzed the options of PLI and national monument status, among others.

We were very apprehensive about entering into discussions on the PLI. Up to that time, the Utah leaders had never taken us seriously. This was in spite of the fact that we worked tirelessly on the PLI process, putting in as much or more effort than any party involved in the process. We made at least 25 presentations at PLI meetings, complete with maps, a two-page summary of the UDB proposal (the precursor to the later and more comprehensive Coalition Proposal), and substantial oral presentations. Congressional staff were present at approximately a dozen of these meetings. We also made four separate trips to Washington DC to meet with the Utah delegation; at each of those meetings, we made extensive statements complete with maps and a summary of the Proposal. At all of these meetings, both in the field and in Washington DC, we asked for comments on our proposal. It was to no avail.

In spite of our extensive and unwavering efforts, in no instance did anyone from the Utah delegation or the PLI make a single substantive comment, positively or negatively, on our proposal. Our painful experience with attempting to make an inroad into the PLI process was

epitomized by our dealings with the San Juan County Commission. Although the proponents of the PLI described the process as “open” and “ground-up,” PLI leaders said that they were relying heavily on the county commission. Indeed, we were told to present our proposal to the San Juan County Commission.

As part of the PLI process, the San Juan County Commission conducted a public comment survey on PLI in 2014 to gauge support for various land use proposals for Bears Ears. The UDB proposal was initially identified as “Alternative D” and the County Commission staff agreed to include Alternative D in the list of alternatives on the survey. Then, the staff broke that promise and refused to include Alternative D on the list for the formal comment process.

Supporters of Alternative D (Bears Ears) waged a write-in campaign. Despite being omitted from the list, the Bears Ears proposal received 300 positive comments, 64% of the 467 total comments received in the County. The Commission then completely rejected the results of its own survey—and the wishes of the Indian people who constitute nearly 60% of the population of San Juan County—and selected the heavy-development, low conservation “Alternative B.” Alternative B had received just two comments, one half of 1% of the total.

In spite of the extraordinary unfairness of this proceeding—the kind of raw, heavy-handed political overreaching rarely seen in America today—at no time has San Juan County, the PLI, or the Utah delegation ever seen fit to acknowledge it, much less apologize and disown it.

In 2015, the Tribes decided to hold a special meeting to decide what the strategy should be. The meeting was held in Towaoc at the Ute Mountain Ute Reservation on July 15-17, 2015. The third day, Friday, was reserved for a meeting with federal officials from Washington, D.C.

The day before, at the Thursday meeting in Towaoc, Tribal leaders had made a series of critical decisions that energized the already enthusiastic Bears Ears movement.

UDB and the Navajo Nation had always wanted this effort to be headed up by a multi-Tribal organization comprised of the Tribes that used the Bears Ears area the most. Thus, on that day at Towaoc, to unite formally in furtherance of protecting the sacred Bears Ears landscape, Tribal leaders from Hopi, Navajo, the Ute Indian Tribes, Ute Mountain Ute, and the Pueblo of Zuni agreed to create the historic Bears Ears Inter-Tribal Coalition to protect and preserve the homeland area they all care so deeply about. All of the Tribes passed resolutions on the subject before the meeting or shortly after it. The five Tribes then adopted an MOU setting forth the mission, function, and procedures for the Coalition. (The Coalition continues to exist and is dedicated to grassroots organizing and public outreach. The Bears Ears Tribal Commission, was created by the Presidential Proclamation as a land management entity for the National Monument.)

The newly-formed Bears Ears Inter-Tribal Coalition, recognizing the significance of the creation and management of a Bears Ears National Monument, decided to craft a comprehensive, detailed proposal, to be submitted to the President by a self-imposed deadline of October 15, 2015. Submission by this date would allow the President ample time to consider, and hopefully sign, a proclamation under the Antiquities Act, before the end of his term. This would also allow time for the Bishop-Chaffetz PFI process to review our proposal and include all or part of it in its proposed legislation, if so inclined.

During the late summer of 2015, the Tribes held four more well-attended, intensive day-long meetings, hosted at the reservations of the Coalition members, to review draft proposals in depth. These meetings, combined with UDB's work since 2010, allowed us to become well-

informed in all of the issues related to achieving and carrying out a complex federal land management program.

The Proposal had many aspects to it, but two were the most fundamental to the Tribes. We strongly recommended the 1.9 million acre national monument with the boundaries developed by UDB's comprehensive, in-depth research and analysis. In addition, we discussed Collaborative Management often and in-depth, and unanimously put forth a strong version of Collaborative Management between our Tribes and the federal agencies in which Traditional Knowledge would play an essential role.

Our Proposal reflects our intimate connection with Bears Ears, a cultural landscape densely inhabited by the stories, histories, prayers, and practices of people and place over millennia. Tucked among the canyons, folds, meadows, and promontories of Bears Ears rest an estimated 100,000 archaeological sites, regarded by researchers as world-class objects of scientific inquiry. Kivas, granaries, hogans, rock art panels, graves, and many more historic and prehistoric markers—all the work of our ancestors—are found throughout this area, preserved relatively undisturbed for centuries by the Colorado Plateau's arid climate and rugged terrain.

The supplemental report, Bears Ears Inter-Tribal Coalition, *Protecting the Whole Bears Ears Landscape: A Call to Honor the Full Cultural and Ecological Boundaries* October 18, 2016, includes both maps and narrative descriptions of the importance and significance of the five geographic regions that comprise the whole of the Bears Ears National Monument: The Confluence, White Canyon, Indian Creek, Headwaters, and Cedar Mesa. *Id.* Each of the Bears Ears regions stand as significant historic and cultural landscapes deserving of a national monument designation in its own right. Taken as a whole, these five regions interlace to tell a

compelling story of ancient cultures—even reaching into the present day with dwellings established as recently as the 1920s.

In all, our proposal represented the true voice of these Tribes and our determination to present to the United States a program that is workable in the real world of land management. We believed then and now that our proposal, as now mostly embodied in the Presidential Proclamation, will add even more luster to the proud American system of conservation lands and, as well, bring justice to Tribes and this sacred landscape.

The Coalition submitted its comprehensive proposal to the Obama Administration on October 15, 2015. *See* Bears Ears Inter-Tribal Coalition, *Proposal to President Barack Obama for the Creation of Bears Ears National Monument* 18 (Oct. 15, 2015),

<http://www.bearsensecoalition.org/wp-content/uploads/2015/10/Bears-Ears-Inter-Tribal-Coalition-Proposal-10-15-15.pdf>.

The Administration's Extensive Public Outreach and Thorough Analysis of Legal Requirements

The Obama Administration put in an inordinate amount of time and expertise in conducting comprehensive research, reaching out to the public, and developing its position on Bears Ears. It was a big issue. Opposition was small in numbers but very loud—although there was a magnificent outpouring of public support for the Monument, the Utah congressional delegation and various state officials all were extremely active in pressing their positions with administration officials. But, from top to bottom, the administration developed and analyzed a tremendous amount of scientific, historical, economic, cultural, and legal material. On our trips back to Washington, we never failed to be amazed by the number of dedicated administration people who actively responded to the public and were deeply familiar with all or some of the issues.

For our part, beginning with the presentation of our Proposal, we began a 14-month period in which we had numerous meetings and conference calls with officials in the Interior Department, Forest Service, and Council on Environmental Quality. Most of our people live in remote areas in the Southwest, and travel to the East Coast is grueling, but we made many, many trips to Washington DC.

We established a substantial public relations program and reached out locally and nationally through public meetings, op-ed articles, and television and radio presentations. Gradually, support for Bears Ears and our proposed collaborative management regime rose across the country. The only place where there was opposition was in the state of Utah, but public opinion polls showed that the Utah citizenry was about equally divided. Opponents blithely stated that “the people of San Juan County” oppose Bears Ears, ignoring the fact that the Native American population in the county is nearly 60%.

Virtually every major newspaper in the country supported the national monument. Especially notable is the Salt Lake City *Tribune*, with the largest circulation in Utah. The *Tribune* invested more resources in reporting on the issue than any other media outlet in the country, editorialized in favor of the Monument several times, and often exposed misinformation being released by the Utah delegation.

The Obama Administration welcomed and received the views of the public. The Antiquities Act does not require any specific procedures, other than the entry of a proclamation by the President. But the President directed that this be an open process. The administration received all manner of written opinions by letters and email. Meetings were arranged with countless organizations and individuals. Utah public officials, for example, had ongoing

meetings and communications with the President, high White House officials, the two secretaries, heads of agencies, and career staff. As late as December 21, 2016, just one week before the Proclamation was signed, the Governor of Utah's office complimented the staff to the Department of the Interior on the time and attention that they devoted to this issue.

In an exceptional display of reaching out to the public, Secretary Sally Jewell, accompanied by top Interior and Agriculture officials, traveled to Bluff, Utah and held a day-long open public hearing in which more than one hundred citizens, drawn by lot, made two-minute statements. *See* <http://bluffutah.org/secretary-jewell-to-discuss-protection-of-bears-ears-at-public-meeting>. Every perspective was represented. The overflow crowd was estimated at approximately 2,000; the largest gathering ever held in Bluff.

The Committee on Oversight and Government Reform has documented the timeline of events that led up to the Bears Ears Proclamation. The timeline and the documentation reveal repeated contacts, meetings, coordination, and outreach by the Obama Administration with the Utah delegation, governor, and local communities prior to the Monument Proclamation. *See Documents Obtained by Oversight Committee Refute Republican Claims That Obama Administration Did Not Consult on Bears Ears Monument Designation*, Committee On Oversight and Government Reform (April 13, 2017), <https://democrats-oversight.house.gov/news/press-releases/documents-obtained-by-oversight-committee-refute-republican-claims-that-obama>. To show the extensive public outreach and coordination in the creation of the Bears Ears National Monument, we incorporate by reference the timeline and documentation of the Committee on Oversight and Government Reform.

In addition to attending to public outreach, the President and the administration gave long and careful attention to two provisions in the Antiquities Act that were especially relevant to the

creation of this Monument. The statute allows presidents to create national monuments to protect “objects” of historic or scientific interest. While the legal definition of “objects” is very broad and calls for extensive discretion by presidents, the designation of such objects is critical to the creation of any monument. In this case, administration officials gave the matter continuing consideration. The result can be seen in the Proclamation, which identifies a great many objects and places them in context. The other provision is that, under the Antiquities Act, national monuments “shall be confined to the smallest area compatible with the proper care and management of the objects to be protected.” While uniform case law gives very broad authority to presidents—Congress delegated authority to create national monuments to the President, “in his discretion” in the Antiquities Act—agency officials scrutinized this issue at length. State of Utah and mining company executives pressed for reducing the acreage. Finally, the Proclamation made a major reduction from the Tribes’ proposal of 1.9 million acres down to 1.35 million acres, a cut of nearly 30%. This action, which we strenuously opposed, brought the size of the Monument down nearly to the acreage allocated for protection under the Bishop-Chaffetz proposal in the PLI. Certainly, however, the current acreage is easily supported as “the smallest area compatible with the proper care and management of the objects to be protected.”

#### The Presidential Proclamation

The Presidential Proclamation of December 28, 2016 reflects the long and hard work that the administration put into it. The new Monument is tailor-made for coverage under the Antiquities Act of 1906, which Congress passed in response to the destruction of the kind of exquisite Southwestern archaeological resources that are so abundant at Bears Ears. Every part of the Monument holds “historic landmarks, historic and prehistoric structures, and other objects of historic and scientific interest,” the core requirement of the Antiquities Act and the evocative

Proclamation identifies such archaeological objects in great detail. The Proclamation is equally expansive with objects that are historical, geological, anthropological, paleontological, ecological, hydrological, botanical, and biological. Proclamation No. 9558, 82 Fed. Reg. 1139-43 (Dec. 28, 2016). These objects exist everywhere within the Monument.

The Proclamation recognizes the “[a]bundant rock art, ancient cliff dwellings, ceremonial sites, and countless other artifacts [that] provide an extraordinary archaeological and cultural record.” While the area is important to all Americans, the Proclamation recognizes that “the land is profoundly sacred to many Native American Tribes, including the Ute Mountain Ute Tribe, Navajo Nation, Ute Indian Tribe of the Uintah Ouray, Hopi Nation, and [Pueblo of] Zuni.”

The Proclamation notes that the earliest Native people—from the Clovis to the Ancestral Puebloans—utilized the Bears Ears region for millennia. *Id.* “The remains of single family dwellings, granaries, kivas, towers, and large villages, and roads linking them together, reveal a complex cultural history. ‘Moki steps,’ hand and toe holds carved into steep canyon walls by the Ancestral Puebloans, illustrate the early people’s ingenuity and perseverance and are still used today to access dwellings along cliff walls.”

The “petroglyphs and pictographs capture the imagination with images dating back at least 5,000 years and spanning a range of styles and traditions. From life-size ghostlike figures that defy categorization, to the more literal depictions of bighorn sheep, birds, and lizards, these drawings enable us to feel the humanity of these ancient artists.”

We were disappointed by the Obama Administration’s reduction of the Monument from our proposal of 1.9 million acres down to 1.35 million acres. Virtually all of the changes were made to accommodate mining interests. We were saddened because those areas are all culturally

important to us and now may well be developed in disruptive ways that detract from the values of the Monument lands themselves.

But, otherwise, the Proclamation achieved our goals. The provisions for collaborative management vary somewhat from our proposal but the end result is truly exciting in that it calls for deep involvement—not just “consultation” or “advice”—of our tribal Commission as a “partner” in management of the Monument. The Proclamation leaves no doubt about the central importance of our Traditional Knowledge in management of this Monument: “The traditional ecological knowledge amassed by the Native Americans whose ancestors inhabited this region, passed down from generation to generation, offers critical insight into the historic and scientific significance of the area. Such knowledge is, itself, a resource to be protected and used in understanding and managing this landscape sustainably for generations to come.” 82 Fed Reg. at 1140.

As an overarching matter, the Proclamation alludes to, and honors, Indian people in the way we would wish. It describes our cultural practices in terms that are accurate, neither demeaning nor romantic. The Proclamation is not locked in the past: it acknowledges contributions of both our ancestors and Native Americans today. Traditional Knowledge, for example, is correctly recognized as being possessed by us both historically and contemporarily. In the past, monument proclamations made only passing references to Native Americans. In this case, about one-quarter of the text is dedicated to our people and our relationship to all that is the Bears Ears landscape. In reading the Proclamation, one can see—and it means a great deal to us—that President Obama created the Bears Ears National Monument to honor Indian Tribes (both past and present), the land, and the relationship between the Tribes and the land.

#### Conclusion

As can be seen from these comments, there was extensive public outreach and coordination with relevant stakeholders and the Bears Ears National Monument easily conforms to the objectives of the Antiquities Act. Under the Antiquities Act, presidents have authority to create new national monuments, but not to extinguish or diminish existing monuments. An attempt to do either one would be struck down by the courts as executive overreaching. We are attaching a short, recent article in which distinguished scholars address this matter entitled, .

Leaving the Monument fully intact is also the correct result as a matter of right and wrong. The wonderful Bears Ears National Monument is a gift to the citizens of the United States and the world. Once experienced, the physical beauty of the red-rock terrain and the cultural power of the Old People stay with visitors forever. As for us, we personally have received a great gift also, but most of all we think of our ancestors. They gave us everything we have and this Monument honors them, their wisdom, and their way of life. As President Theodore Roosevelt said in proclaiming the 800,000-acre Grand Canyon National Monument under the Antiquities Act, "Leave it just as it is. You cannot improve upon it."

**THE NAVAJO NATION**

A handwritten signature in black ink, appearing to read "Russell Begaye". The signature is written in a cursive, flowing style.

Russell Begaye, *President*

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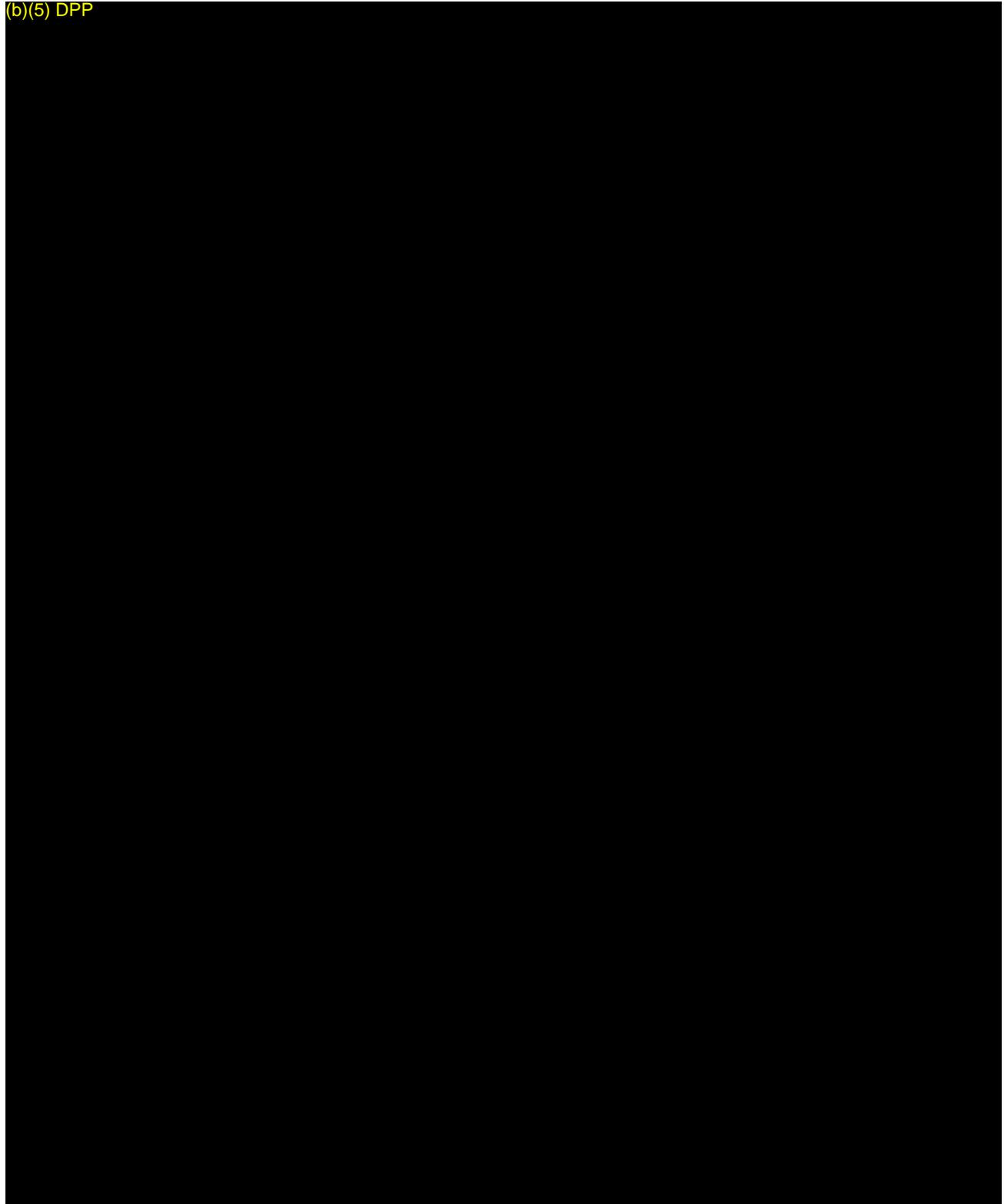
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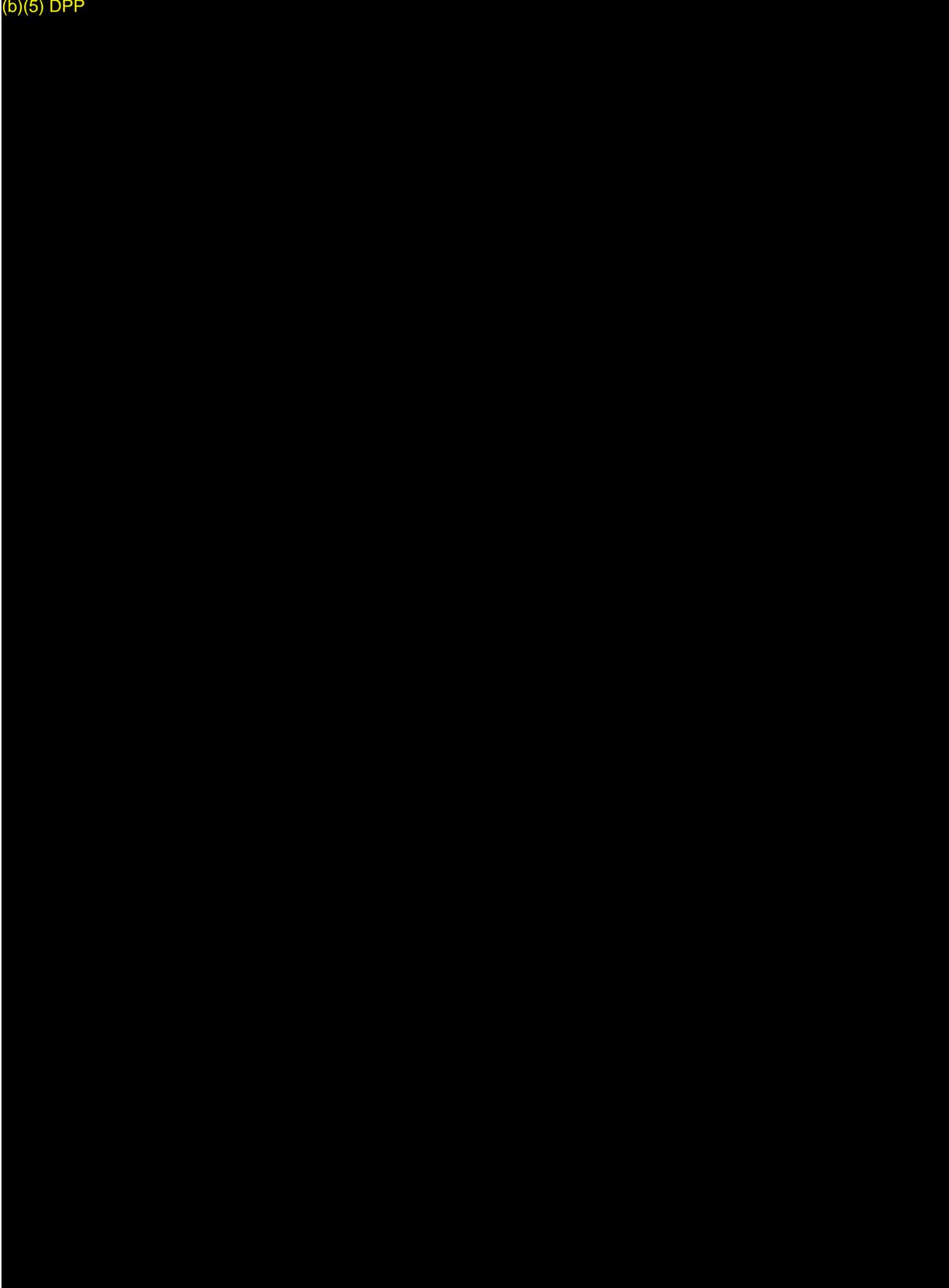
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## **Draft Interim report on Monument Review Process**

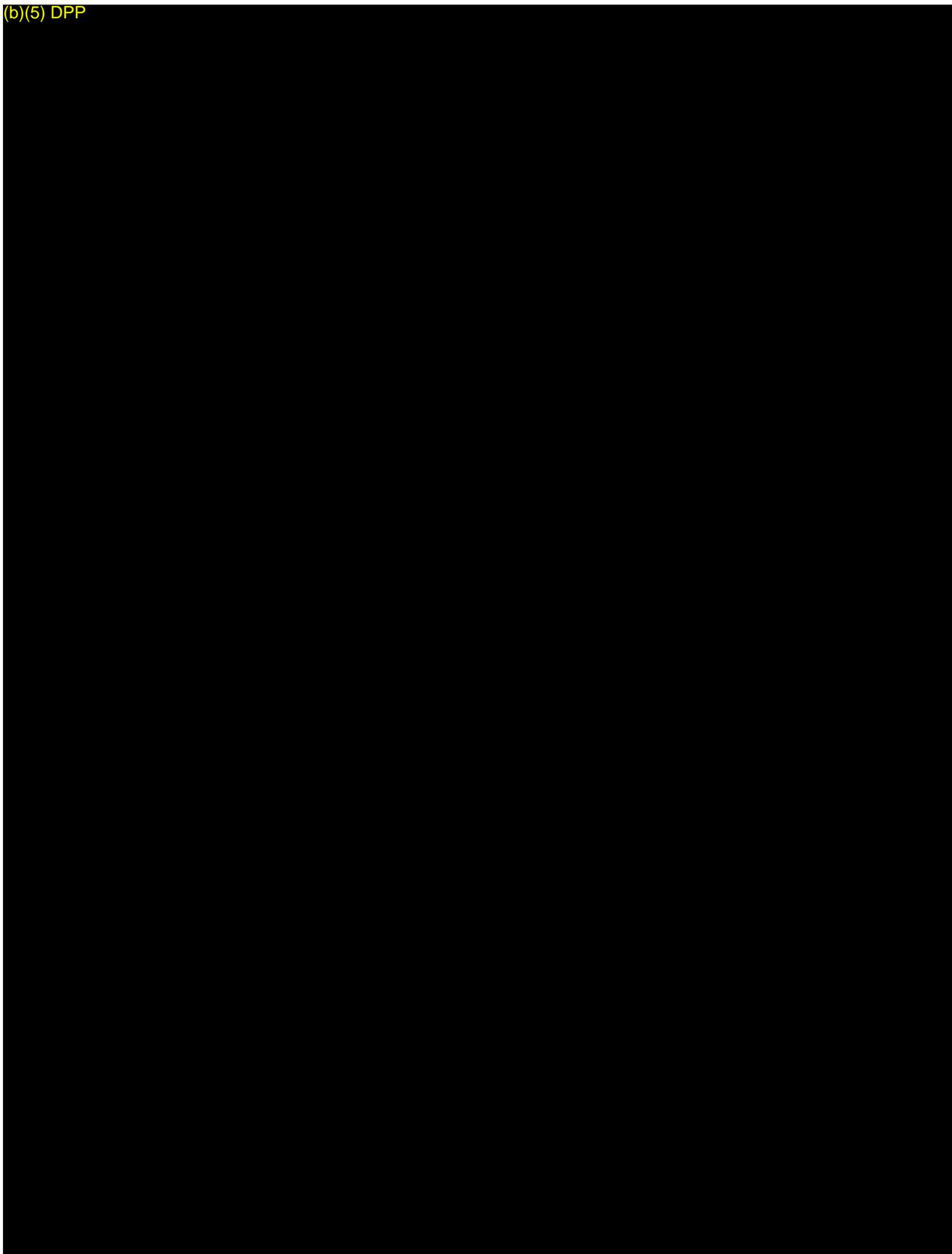
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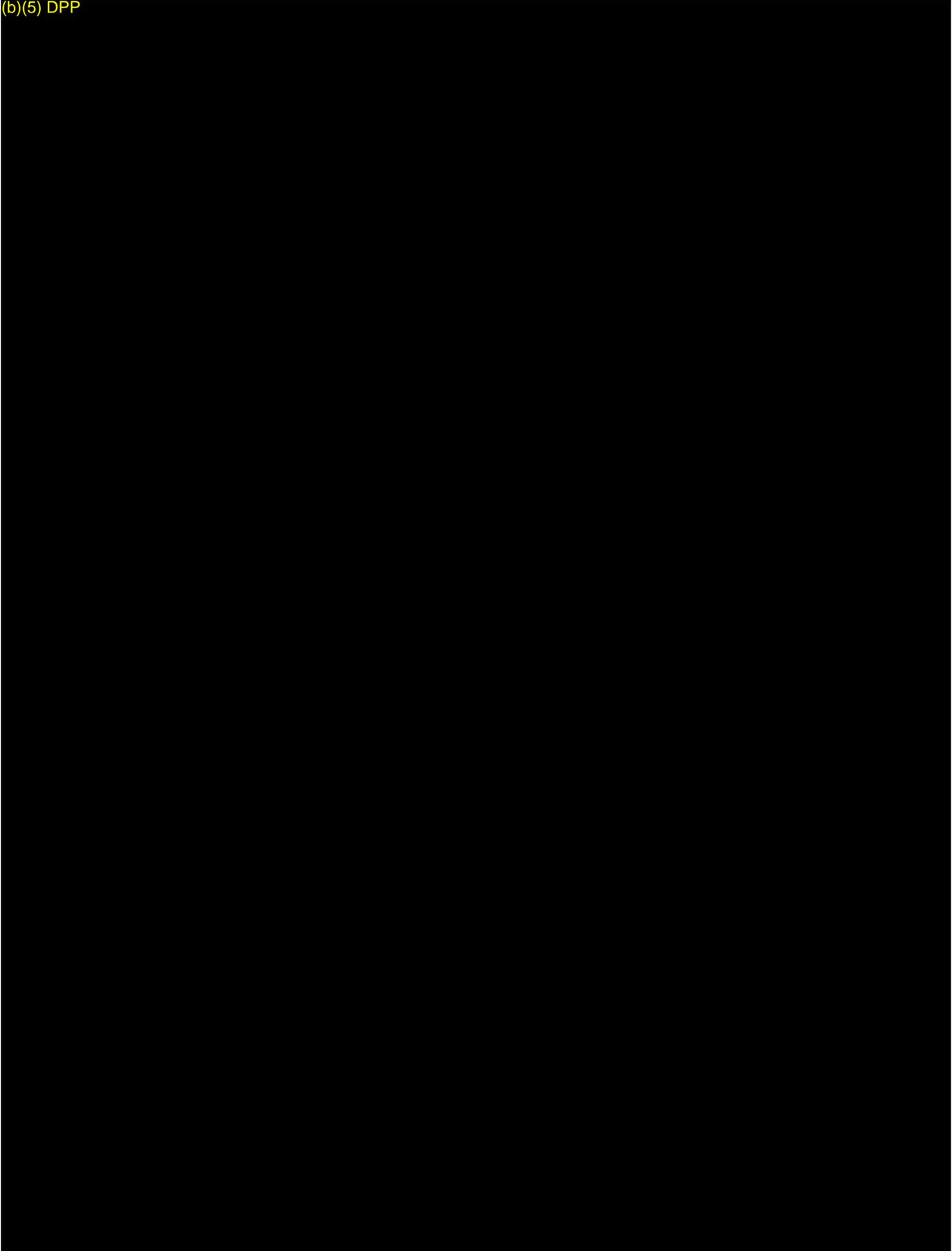
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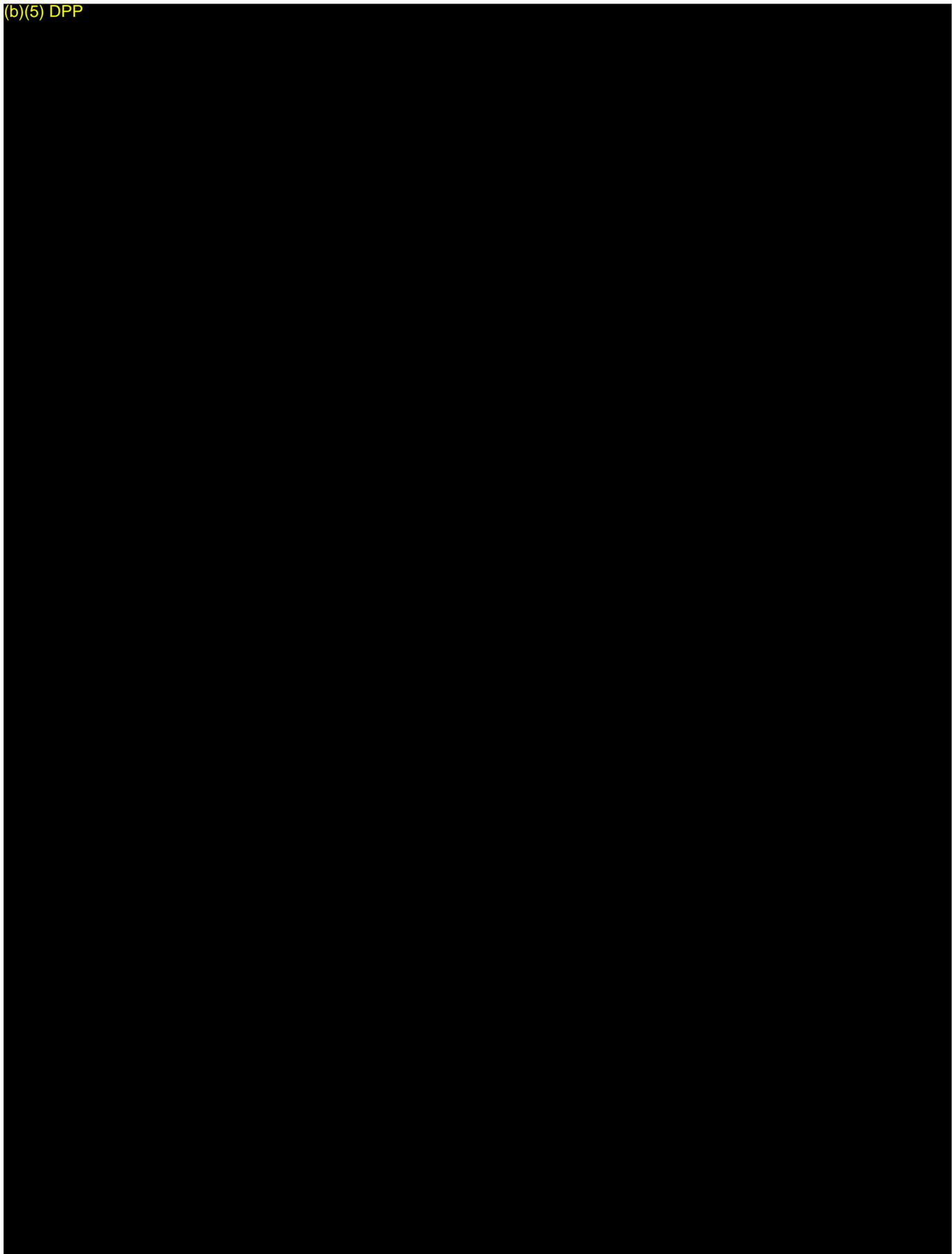
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**TRIBAL LISTENING SESSION**

**THURSDAY, MAY 25, 2017**

**3:15 P.M.**

**DOUBLE TREE HOTEL**

**1000 NORTHEAST MULTNOMAH BOULEVARD**

**PORTLAND, OREGON 97232**

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**TRIBAL LISTENING SESSION**

**REVIEW OF DESIGNATIONS UNDER THE ANTIQUITIES ACT**

**MAY 25, 2017**

**3:15 P.M.**

**MR. RODMAN:** We're going to go ahead and get started with the second listening session. This listening session is regarding Executive Order 13792, which was issued on April 26, 2017. And the title is Review of Designations under the Antiquities Act.

I'm Morgan Rodman. I'm with the Office of the Assistant Secretary for Indian Affairs in Osage. And we have some colleagues on the panel as well, but before we get too far, I would like to ask Councilperson Valerie Switzler from Warm Springs, would you mind providing an opening for us, please

**MS. SWITZLER:** (Speaking Native American.)

Thank you Heavenly Father for bringing us here today. I ask that you pour down your blessing upon each and everyone. When we put you first, Lord, we will not get lost. For you, Lord, I offer this one song.

**(Singing.)**

1 Thank you, Lord, in your name we pray, Amen.

2 **MR. RODMAN:** Thank you so much,  
3 Councilperson.

4 Why don't we go ahead and start with the  
5 introductions.

6 **MS. FORTMANN:** Hi, I'm Tracy Fortmann,  
7 representing the National Parks Service. And I'm  
8 the Superintendent, Fort Vancouver National Historic  
9 Site. I have the privilege and honor of working  
10 government-to-government with 26 federally-  
11 recognized tribes tied to my site, and I think this  
12 is a wonderful opportunity to hear from you in this  
13 listening session.

14 **MS. BLANCHARD:** Good afternoon, I'm Becky  
15 Blanchard here representing the U.S. Forest Service.  
16 My job is the wilderness, wild and scenic rivers and  
17 congressionally-designated program -- areas Program  
18 Manager for Region 6, which is Oregon and  
19 Washington. I'm honored to be here with you and to  
20 hear you and to carry back to the agency your input.

21 **MS. WEIL:** My name is Jody Weil. I'm the  
22 Acting State Director for the Bureau of Land  
23 Management, and I'm looking forward to hearing your  
24 comments and concerns about all the monuments that  
25 we manage across the country.

1           **MR. LOUDERMILK:** Good afternoon,  
2 everybody. Some of you were in our earlier session.  
3 My name is Bruce Loudermilk. I'm the Director for  
4 the Bureau of Indian Affairs. I'm an enrolled  
5 member of the Fort Peck Sioux Tribe, Northeastern  
6 Montana.

7           **MR. AIKIN:** (Speaks Native American) My  
8 name is Scott Aikin. I'm the National Native  
9 American Programs Coordinator of the U.S. Fish and  
10 Wildlife Service, and here to answer questions  
11 regarding the alliance we have with the services  
12 jurisdiction.

13           **MR. RODMAN:** Thank you, Scott.

14           So, again, this is the listening session  
15 for Executive Order 13792, Review Designations under  
16 the Antiquities Act. And for those that were in the  
17 preceding listening session, I'm going to go into  
18 kind of the logistics of how the listening session  
19 will work so it may be a repeat for you, but I'll be  
20 quick.

21           So we do have the Executive Order to  
22 discuss today. You should have a copy of that with  
23 your packet and also a handout to go with that. If  
24 you don't, please let us know and we'll get that to  
25 you. Regina will help with that. And we're all

1 senior-level career employees on the panel today,  
2 and many of us have worked along side you for many  
3 years, and we're here to listen to you and work  
4 with you on your comments, your recommendations or  
5 your concerns that you may have about the Executive  
6 Order. For the implementation, we need your  
7 guidance, your leadership and your wisdom.

8           The Executive Order, again, is 13792.  
9 Today's listening session is designed primarily for  
10 tribal leader input and for comments as part of the  
11 nation-to-nation relationship between tribes and the  
12 federal government. We're here primarily to listen  
13 to your views and make sure they're considered as  
14 part of the record for the Administration as it  
15 moves forward. Today is not the only listening  
16 session. There will be a total of four on the  
17 National Monument listening sessions, and those are  
18 in the packet as well.

19           Today's listening session will be recorded  
20 and transcribed, and the transcriptions will be made  
21 available at [www.bia.gov](http://www.bia.gov). The transcripts and all  
22 written comments that are submitted will be analyzed  
23 and recommendations will be made to the Assistant  
24 Secretary for Indian Affairs and to the Secretary of  
25 the Interior. And the Secretary will then make

1 reports and recommendations to the White House.

2           So for the Executive Order for today's  
3 listening session, it's titled Comprehensive Plan --  
4 excuse me, I have the wrong one here -- Review  
5 Designations under the Antiquities Act. And this

6           Executive Order was issued by President Trump  
7 on April 26, 2017. And it requires that the  
8 Secretary of the Interior review national monuments  
9 that have been designated or expanded since January  
10 1, 1996, where the designation covers more than  
11 100,000 acres or where the Secretary determines that  
12 the designation or expansion was made without an  
13 adequate public outreach and coordination with  
14 relevant stakeholders. 27 monuments have been  
15 identified by DOI for review and they are listed in  
16 the handouts provided. Three of those monuments are  
17 in the Northwest area: The Cascade Siskiyou  
18 National Monument in Oregon, the Hanford Reach  
19 National Monument in Washington, and Craters of the  
20 Moon National Monument in Idaho.

21           The Secretary must use several factors in  
22 evaluating the national monuments to determine  
23 whether each designation or expansion conforms to  
24 the policy of the Executive Order. And the policy  
25 is described in Section 1 of the Executive Order.

1 And the factors that the Secretary is to use are  
2 also in there -- in the Executive Order and the  
3 Federal Register notice.

4           There's some key deadlines that I'd like  
5 to underscore. The Secretary must make  
6 recommendations to the President on any Presidential  
7 actions, legislative proposals or other appropriate  
8 actions necessary to carry out the policy of the  
9 Executive Order. The Secretary's interim report to  
10 the President is due by June 10, and must make  
11 recommendations on Bears Ears and other designations  
12 the Secretary deems appropriate. The Secretary's  
13 final report is due to the President by August 24,  
14 2107, and that will summarize the findings of the  
15 review and provide recommendations.

16           Written comments are also being accepted  
17 for the national monument discussion. The deadline  
18 for the Bears Ears comments is May 26 and for all  
19 other monuments until July 10. Tribal leaders can  
20 send their written comments to [consultation@bia.gov](mailto:consultation@bia.gov)  
21 and tribal leaders and the general public can also  
22 submit online at [www.regulations.gov](http://www.regulations.gov). And there's  
23 some guidance, I think, in the handouts that have  
24 been provided, too.

25           So some of the questions to help with the

1 conversation today, but not limited to these  
2 question, are there any other monuments in addition  
3 to the 27 being reviewed that should also be  
4 reviewed because they were designated after January  
5 1, 1996, without adequate public outreach and  
6 coordination with the relevant stakeholders? And  
7 what are your comments or views on the application  
8 of the seven factors listed in the Executive Order  
9 that the Secretary is to use in reviewing the 27  
10 monument designations? Are there other factors that  
11 should be considered?

12           So we'll have -- we'll open it up now for  
13 comments and Annette will help us with microphone in  
14 the back as well, so, please. And please state your  
15 name and tribal affiliation when providing comments,  
16 please.

17           **MR. LOUDERMILK:** This going to be a short  
18 meeting.

19           **MR. SALUSKIN:** I guess I'll start out.  
20 Thank you again. My name is Delano Saluskin. I'm  
21 the -- I'm the Vice-Chairman for the Yakama Nation.  
22 And first of all, I have a question in my mind. Why  
23 is the President trying to undesignate these  
24 landmarks? To the Native people all of these -- all  
25 lands are sacred to us and this is just a small step

1 in helping preserve the sacredness of the lands.  
2 And I don't understand what his objective is. He  
3 wants to turn it over to corporations again for  
4 economic development. That doesn't make sense to  
5 me. I mean, we've got -- we've got to preserve  
6 something for our future generations yet unborn so  
7 that they have and they can understand the  
8 importance of these designations.

9           Again, it's my understanding that -- I  
10 don't believe the President has the authority to  
11 undesignate these -- these lands, these monuments.  
12 I don't think the law affords him that opportunity.  
13 He can -- you know, they can be designated, but I  
14 truly question whether he has that authority to do  
15 away with those designations. And it just seems as  
16 though that if he's going to make any issues, it  
17 should be for those lands that might be considered  
18 for -- those designations into the future. These  
19 should be grandfathered in. They should not -- he  
20 should not be messing with these lands. So we want  
21 to make sure that these designations are intact and  
22 we just question whether -- you know, why is he  
23 trying to do this. I mean, it just seems to me that,  
24 you know, our government has -- you know, as I heard  
25 the other day, has been hijacked by corporations and

1 this is just another step in that direction. So  
2 those are my first general comments. I may have  
3 others later. Thank you.

4 **MR. RODMAN:** One thing to maybe help  
5 prompt some of the thoughts out there, in the  
6 Federal Register notice, there are the seven factors  
7 that Secretary is supposed to consider when making  
8 the determinations about the national monuments.

9 The first is the requirements and original  
10 objectives of the Act, including the Act's  
11 requirement -- the Antiquities Act -- including the  
12 Act's requirement that reservations of land not  
13 exceed "The smallest area compatible with the proper  
14 care and management of the objects to be protected."

15 The second consideration is whether  
16 designated lands are appropriately classified under  
17 the Act as, "Historic landmarks, historic and  
18 prehistoric structures or other objects of historic  
19 or scientific interest."

20 The third factor is the effects of the  
21 designation on the available uses of designated  
22 Federal lands, including consideration of the  
23 multiple-use policy of Section 102.A7 of the Federal  
24 Land Policy and Management Act, as well as the  
25 effects on the available use of Federal lands beyond

1 the monument boundaries.

2 The fourth is the effects of a designation  
3 on the use and enjoyment of non-Federal lands within  
4 or beyond monument boundaries.

5 The fifth is concerns of state, tribal and  
6 local governments affected by a designation,  
7 including the economic development and fiscal  
8 condition of affected states, tribes and localities.

9 The sixth is the availability of Federal  
10 resources to properly manage designated areas, and  
11 the seventh is such other factors as the Secretary  
12 deems appropriate. So that's what will be used in  
13 consideration.

14 **MS. SWITZLER:** Well, I concur with my  
15 elder's view on, you know, why are we looking at  
16 these lands. And I look at the one that's affected  
17 in Oregon, the Cascade Siskiyou, and how -- you  
18 know, how many acres that there is set aside to  
19 protect these natural monuments, these lands where  
20 our people had once dwelled for thousands and  
21 thousands of years. And, you know, at one point  
22 every place had a name and every -- every formation  
23 had a story that was linked to it. And so, you  
24 know, although the -- some of the stories have now  
25 faded away with some of the elders that are gone,

1 but there are still plenty of places where our  
2 people still consider these places sacred and that  
3 they can -- that they venture to, that they go to,  
4 that they travel to to get in touch not only with  
5 their own -- their own being, but to get in touch  
6 with their creator as well.

7           And so I'm -- you know, it worries me when  
8 there's just a across-the-board "we're going to look  
9 at all of these places." And it worries me when  
10 there is -- there isn't consideration for what these  
11 things mean to our people.

12           **MR. KUTZ:** Again, for the record, my name  
13 is Steven Kutz, Tribal Council Member for the  
14 Cowlitz Indian Tribe in Washington State. First,  
15 before I add my comments regarding the monuments  
16 themselves, I would like to answer some of the  
17 questions about the factors of consideration.

18           Number one, I don't like the designation  
19 or the wording in there "such other factors as the  
20 Secretary deems appropriate." I think that is an  
21 open-ended loop that you could walk anything through  
22 under -- under anybody's circumstances. So I think  
23 that that means, then, that anything is possible  
24 when you have that language in there.

25           Secondly, whether designated lands are

1 appropriately classified under the Act as historic  
2 landmarks, historic and pre -- historic structures  
3 or other objects of historic or scientific interest.  
4 Who makes that determination? Do we as a tribe have  
5 the ability to -- to make that determination and not  
6 be overruled?

7           So we look at the constant pressure, for  
8 example, that's going on up and down the Columbia  
9 River. Hanford Reach is up a little bit further up  
10 the Columbia River, but look at what's going on in  
11 the Gorge and the -- and there's -- there's a  
12 designation there in the Gorge and people are trying  
13 to overwhelm that and overcome that so they can  
14 encroach on that and do things that they want to do  
15 from a commercial nature. And all of that is  
16 detrimental to the landscape, to all of our  
17 important places and to the fish and wildlife that  
18 use that that are so important to us. And so whose  
19 opinion? So if we -- if federal government says we  
20 don't see anything and we say we do, then are we  
21 going to be overridden in that?

22           Secondly, I want to go to the first one;  
23 smallest area compatible with the proper care and  
24 management of the objects to be protected. Mount  
25 St. Helens is in one of those categories. The whole

1 perimeter of Mount St. Helens is under constant,  
2 constant pressure and we're fighting that constant  
3 pressure. We have Canadian interest coming down  
4 wanting to open up copper mines around the perimeter  
5 just outside the boundaries of that because it's not  
6 within the boundaries. So in my estimation, the  
7 boundary was constructed too small and so -- and so  
8 what happens when you do that? Look at Butte,  
9 Montana, where you have the biggest Superfund site  
10 in the nation probably. Although, I don't know how  
11 they could consider that worse than Hanford, where  
12 you have all of the waters coming out of that open  
13 mine, copper pit going into the headwaters of the  
14 Clark fork, coming down into the Columbia River  
15 bringing all that contamination down through there.  
16 And yet, here, the Canadians want to start another  
17 one right -- further down along Mount St. Helens.

18           And so -- so this -- so the thing here  
19 about the smallest area compatible with the proper  
20 care and management of the objects to be protected,  
21 who makes that determination? Is it going to happen  
22 under such other factors as the Secretary deems  
23 appropriate? Should a tribal government who wants  
24 to pollute the waters, pollute the air and bring all  
25 of these -- these industrial activities along areas

1 that are so important, should they be allowed to  
2 overcome our wishes?

3           We had some conversations today -- up and  
4 down the Columbia River here there's -- there's huge  
5 pressure in five or six areas and the Mayor of  
6 Portland this morning, if you were in the room and  
7 heard his words, what did he call it? Colonial  
8 exportation or exploitation or something like that.  
9 That's what it is. So -- so the availability of  
10 Federal resources to properly manage a designated  
11 areas, some of these areas just need to be left  
12 alone or minorly managed and not -- and not taken  
13 advantage of.

14           So having -- having properties in the  
15 inventory of the federal government, I don't think  
16 turning them over to the state is -- is sometimes  
17 appropriate because -- because they can undo some of  
18 the stuff that's so important.

19           So looking down through that, those are  
20 just some of the comments that I have around the  
21 rules because if they're allowed to go through the  
22 way they're written, anything could happen.

23           The other -- the other concern that I have  
24 now going back to the list is I look through that  
25 list and I haven't been to all of those places, but

1 I've been to some of them. And when I -- when I go  
2 to different tribes and I ask them where are your  
3 important -- you know, you come there and you want  
4 to go and you want to pray, and you want to go to --  
5 to a place that has significance. And we, as the  
6 Cowlitz Tribe, and all of the tribes here, we have  
7 many of those areas that are out in the public  
8 sector. They're not even -- they're not even under  
9 government control. They're under -- they're under  
10 the public sector control, and yet there are places  
11 sacred to us. We have places that have been sacred  
12 to us that have just been razed to the ground and  
13 demolished historically because we've been ignored.

14 So as I -- as I look at this list, I think  
15 that they ought to be left the way they are. I  
16 think some of them are probably too small. I think  
17 probably some of them are too small because the  
18 pressure is up around the edges of those. And the  
19 pressure isn't -- is to commercialize and utilize  
20 all of that ground and a lot of these places are in  
21 -- are in places that are irreplaceable. That's why  
22 -- that's why they were placed on this list because  
23 once they're gone or once they're damaged, you can  
24 never repair them and we've had too much of that.

25 Lastly, I want to talk about Hanford Reach

1 because that's right there next to Hanford and we  
2 all know that. And the President just removed how  
3 many millions of dollars out of -- out of the  
4 cleanup there where they just had these spills and  
5 continued contamination. And they're -- they're  
6 already years behind in the project of cleaning that  
7 up. So he has a responsibility -- and the Hanford  
8 Reach is one of the few areas in the upper river  
9 where the fish can go and spawn and be taken care  
10 of. And, I mean, I'll defer over here to my Vice-  
11 Chairman, but that's one of the few places where  
12 they can go and act in a natural state for a long  
13 period of time along the river and not be affected  
14 by all of the dams and the things that have gone on.  
15 And so it's an important place for all of us. So to  
16 some people it's just a place; to us it has effects  
17 on the larger landscape and I think all of these  
18 really do so thank you very much.

19 **MR. DOSSETT:** Well, I'll join in if nobody  
20 else is ready to go yet. Hi, my name is John  
21 Dossett. I'm with the National Congress of American  
22 Indians. I guess I wanted to first say that the --  
23 you know, the original purpose of the Antiquities  
24 Act was to protect cultural resources for Native  
25 people. That was a -- it was -- you know, when they

1 opened the southwest, it was Chaco Canyon and Mesa  
2 Verde. Those were the areas that were under a great  
3 deal of pressure. There was a lot of looting going  
4 on and President Theodore Roosevelt and others in  
5 the Administration at that time thought that -- that  
6 that wasn't right. That they shouldn't just be  
7 looting the antiquities and historic structures and  
8 cultural resources of Native people in those areas.  
9 So they came up with the Antiquities Act and gave  
10 the President the authority to set aside these areas  
11 and protect them out of the rest of the public  
12 domain. And that was -- you know, that was the  
13 original -- I mean, these days, I don't think many  
14 people think about that, but that is the original  
15 purpose of the statute was to protect cultural  
16 resources of Native people. So I think it's  
17 entirely appropriate that it's still continued to  
18 used that way -- to be used that way.

19 I think today is the deadline for  
20 submitting comments on Bears Ears. Is that right or  
21 maybe it's tomorrow? But anyway, I thought I'd at  
22 least say something about Bears Ears. NCAI has a  
23 resolution very much in support of Bears Ears. We  
24 are submitting comments. You'll be getting them.  
25 And we'll also be submitting comments on the rest of

1 the review. But, you know, Bears Ears is an area  
2 that's sacred to five of the tribes in those  
3 regions. Those are five tribes -- I work at NCAI --  
4 those tribes don't get along with each other very  
5 well most of the time, but somehow those five tribes  
6 have managed to get their act together and cooperate  
7 entirely on protecting the Bears Ears area because  
8 it's so important to all of them. And they've come  
9 up with a management plan that is not only, you  
10 know, to protect the area, but involves the tribes  
11 co-managing the area with the federal government.  
12 And that's a -- I think a really significant step  
13 forward in the -- in the program for protecting  
14 Native cultural resources is to involve the tribes  
15 themselves in the process. And so it's a real step  
16 forward and, you know, I hope you continue to  
17 protect that.

18 In addition, I think one of the things  
19 that's interesting about it, it's not just looking  
20 at -- at, you know, artifacts and cultural  
21 resources, but also the current use of the land for  
22 ongoing cultural uses and ceremonies and activities  
23 of the people in that area and protecting those  
24 going forward, which is also a really important  
25 purpose.

1 I wanted to -- you know, one of your  
2 questions was about whether -- I guess moving away  
3 from Bears Ears and moving towards the other things  
4 in this area, like the Hanford Reach, like the  
5 Siskiyou, one of the questions in this was whether  
6 these fit the criteria in the Act. It seems to me  
7 that all of these are historic landmarks. I mean,  
8 that's pretty straightforward, right? The -- at  
9 least what we've heard from other folks that tribes  
10 have known these areas as historic landmarks for --  
11 for millennia. So the very first criteria is it --  
12 if it's a historic landmark, it fits the criteria of  
13 the Act, and that's -- and that's a pretty easy one.

14 Lastly, I just, you know, wanted to  
15 mention, you know, once again, the three in this  
16 area, the Hanford Reach, the Cascade Siskiyou, and  
17 the Craters of the Moon in Idaho, all of them -- you  
18 know, we've started summaries of all of these areas  
19 and the connection to the Native people and they all  
20 have very strong histories. So those are -- I've  
21 got some of that written down, I'll share that with  
22 you, but I thought -- I mean, on behalf of NCAI,  
23 we'd like to encourage maintaining those  
24 designations into the future. Thanks very much.

25 **MR. KUTZ:** This is Steve Kutz with the

1 Cowlitz Tribe again. So we have high places, and we  
2 have sacred places, and places where we go for  
3 ceremonies, places where some of our families go,  
4 not just the whole tribe sometimes. And we  
5 shouldn't have to sit and put on a point -- pinpoint  
6 a GPS point on a map and say that is the specific  
7 place that we use for that purpose, because we don't  
8 want to do that. We don't want people to know that  
9 there's a place up in the mountains that's sacred to  
10 us under the Weyerhaeuser family where there was --  
11 where there was an ancient medicine wheel. And old  
12 man Weyerhaeuser gave a promise and said he would  
13 protect it. He didn't protect it, he bulldozed it  
14 when he found out about it. He bulldozed it. And  
15 so we don't -- we don't want to tell everybody why  
16 and where and for some of these things are so  
17 important to us.

18           The other thing that I want to note on  
19 this document, it says initial list. It doesn't say  
20 the list. It says initial list, which means there's  
21 more to come. And so there are -- there are huge  
22 areas that we have in this state, whether it's  
23 national -- the national forest that you're  
24 responsible for that could be harmed, there's the  
25 berry fields that we have up in the mountains that

1 can be harmed. If there is any kind of restrictions  
2 or opening up or things allowed to happen there by  
3 the general public, they still -- they still go and  
4 use those places with us but there's -- there's some  
5 protected areas up there.

6           And there are some of things that are very  
7 important to us around the National Park systems and  
8 things like that are under constant pressure for --  
9 from people who have come here lately and want to  
10 now re-utilize and re-purpose some of these areas,  
11 and diminish our access to those, and diminish the  
12 importance of those to us. And so I'm worried about  
13 that initial list and so I don't know where that  
14 100,000 -- that 100,000 acre factor was put in. I  
15 don't really know other than you start with the  
16 bigger ones and work your way down, and maybe next  
17 time it's 50,000. I don't really know.

18           So that's a concern that I have that is  
19 that this -- this is just going to be a continued  
20 assault on places that are important to us for  
21 reasons that we shouldn't have to particularly  
22 identify. Thank you.

23           **MR. GUNN:** Oh, hi. Brian Gunn from the  
24 Powers Law Firm on behalf of the Colville Tribe.  
25 Just some comments on the Antiquities Act generally,

1 not with respect to these designations, but to the  
2 extent that any kind of recommendations are going to  
3 make -- the Department may come up with -- may come  
4 up with are going to make recommendations to  
5 Congress or others about changes to the Antiquities  
6 Act.

7 I would like to, you know, communicate one  
8 issue that Colville has encountered in the past few  
9 years. For a number of years, there have been  
10 organizations and groups that have been interested  
11 in designating wilderness and parts of the Colville  
12 National Forest, which were directly adjacent to the  
13 northern reservation boundary. And this is an area  
14 that is currently Forest Service land but was  
15 previously part of the undivided reservation. The  
16 tribe has a number of sacred sites as the exclusive  
17 regulator of hunting and fishing in those areas.  
18 And the tribe has had concerns with some of those  
19 proposed designations simply because the underlying  
20 laws don't provide guarantees of existing uses and  
21 access, like hunting and fishing, like law  
22 enforcement for fish and game, and even access to  
23 sacred sites. In some cases for motorized uses if  
24 you've got elders and such that aren't able to  
25 access those sites.

1           So more recently, a few years ago, there  
2 was some discussion about designating instead of  
3 wilderness one of these areas to be a national  
4 monument and I think it's something that the tribe  
5 would have been maybe more interested in if there  
6 were safeguards in the Antiquities Act itself that  
7 safeguarded those access, those preexisting uses,  
8 especially access to sacred sites because I think  
9 there was just generally concern that with as open  
10 ended as the law is that if folks were to agree with  
11 designation, that there may not be a guarantee that  
12 they would be able to continue to access those sites  
13 in the manner that they currently do. So for  
14 whatever that's worth, and to the extent that the  
15 Department is looking at recommendations to the  
16 Antiquities Act generally. Thank you.

17           **MR. LOUDERMILK:** We have up until about  
18 4:50, 5:00, and I'm not sure if we have more  
19 comments from folks.

20           Did anybody have anything else they wanted  
21 to add that they didn't get a chance to yet?

22           Anybody have anything you want to say or -  
23 - okay. Well, unless anybody is opposed, then we  
24 can just -- go ahead, sir.

25           **MR. KUTZ:** So I think that -- this is,

1 again, Steve Kutz with the Cowlitz Tribe. I think  
2 we need to throw our rope out a little bit further.  
3 So we don't know -- in our -- in our  
4 earlier discussion, some of the people talked about  
5 the -- the lack of -- lack of enough fish. And you  
6 start looking out at some of the Pacific remote  
7 islands, the northeast canyons and sea mouths along  
8 the Atlantic coast. Some of these places where --  
9 where they're, like, islands where not just for --  
10 not just islands of land, but islands of places  
11 where fish can go propagate and live and move  
12 around. And so there's a lot of places that are  
13 important, we don't necessarily know where all of  
14 our fish go to live and grow and those type of  
15 things. And so having a place that protects them  
16 also is important. And so -- so I don't necessarily  
17 know that there's any Indian people out there in  
18 American Samoa, but we sure know there's some  
19 Samoans. We know that there's a bunch of Hawaiians  
20 that married into our tribes here that are worried  
21 about Hawaii and those type of things. And so I  
22 just want to speak on their behalf also, because the  
23 Native people there that the federal government does  
24 not recognize have grave concerns about the same  
25 things that we have concerns about. Thank you.

1           **MR. RODMAN:** Again, we have the online and  
2 -- online option and email option for written  
3 comments on this Executive Order for tribal leaders.  
4 That's at consultation@bia.gov, and for the general  
5 public and tribal leaders, that's regulations.gov.  
6 And for Bears Ears, the comments are due tomorrow.  
7 And for all other monuments, that is until July 10.

8           Thank you. I think a lot of us will be  
9 maybe hanging out for a few minutes if people have  
10 other questions, but thank you very much.

11           **MR. LOUDERMILK:** Thank you.

12           **(Session concluded at 3:50 p.m.)**

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CERTIFICATE

I, Kimberly R. McLain, do hereby certify that the proceeding named herein was professionally transcribed on the date set forth in the certificate herein; that I transcribed all testimony adduced and other oral proceedings had in the foregoing matter; and that the foregoing transcript pages constitute a full, true, and correct record of such testimony adduced and oral proceeding had and of the whole thereof.

IN WITNESS HEREOF, I have hereunto set my hand this 1st day of June, 2017.



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Kimberly R. McLain

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**Explanation of Animal Unit Months and Head Count  
Manti-La Sal National Forest**

June 6, 2017

The Forest Service charges grazing fees for each **head month** (HM) of occupancy (grazing) by a mature animal. For purposes of determining the grazing fee, an animal is classified as “mature” as soon as it reaches six months of age. A “mature” animal is one that is weaned, at least 6 months old upon entry onto National Forest System lands, or will become 12 months old during the permitted period of use. A HM is the occupancy of a mature animal for one month. (R4 FSH 2209.13 §81.2 and 36 CFR 222.50(c)).

**Head Months.** Head months is a simple way of calculating grazing use by simply assigning a dollar value for each “head” of animal. It is derived by calculating the number of “head” per month. For example, 20 mature cows (DRY) for 3.85 months would be 76 head months. The value of a head month varies for each class of livestock (cow in FY16 \$2.11).

**Example: 20 head x 3.85 months = 77 head months (HM)**

**Example: At \$2.11/HM your total revenue is \$2.11 x 77 HM = \$162.47**

**See Meyer Family Trust Billing for West Mountain allotment for actual bill**

One month’s occupancy is determined by dividing the total days livestock occupy National Forest System administered rangelands by 30.41667 (the average days in a month – 365 days/12 months). This is the calculation used in NRM Range INFRA for generating grazing bills.

**Example: Grazing season 6/17-10/11 = 116 days/30.41667= 3.85 HM**

An animal unit month (AUM) is the amount of dry forage required to sustain a 1000 lb. cow for one month. (standard definition as described by the Society of Range Management in Bedel, Thomas E. 2005. Glossary of terms used in Range Management, 4th Ed. Society for Range Management. Denver CO. p. 2.). Note that SRM uses 30 days to define the month and the FS uses 30.41667 days.

AUMs are calculated by multiplying the HMs by an animal unit conversion factor. This converts occupancy of NFS administered lands by livestock to the amount of forage which these livestock use during this occupancy.

**Animal Unit Months.** AUMS were developed in the early 1960s as a way to standardize measuring grass consumption for grazing animals. The basis for an AUM starts with a single 1000 lb cow. A single AUM is the amount of grass this 1000 lb cow eats in one month. We know that cattle will eat 3% of their body weight or in this case, 30# per day. The AUM rate is then based on the value of this pile of grass the cow ate in one month, or 900 lbs (30lbs of grass in 30 days). When grazing more than just a cow, you modify the AUM by the type of animal that you are grazing: a pair, a bull, a horse, and even elk, sheep and deer. This “modifier” is called an “Animal Unit”. For example, the AU conversion for a cow/calf pair is 1.32. So, a cow/calf pair will eat 1.32 AUM’s in one month. This equates to 1.32 x 30lbs of grass each day x 30 days – 1188 lbs of grass. Calculating the total AUMs grazed is a matter of multiplying the number of head, the AU conversion, and the months grazed together.

**Example: 77 HM X 1.32 (MATURE COW W/NURSING CALF conversion factor) =100.72 AUM**

**Conclusion: HM is an occupancy (grazing) by a mature animal for billing purposes and AUM is standardize consumption for grazing animals related to range capacity.**

AUM CONVERSION FACTOR FROM NRM RANGE INFRA		
LIVESTOCK_KIND	LIVESTOCK_CLASS	AU_FACTOR
BISON	BISON	1
CATTLE	BULL	1.5
CATTLE	MATURE COW	1
CATTLE	MATURE COW W/NURSING CALF	1.32
CATTLE	WEANER CALF	0.5
CATTLE	YEARLING (9-18 MONTHS)	0.7
DONKEY AND BURRO	BURROS AND PONIES	0.6
GOATS	EWE W/LAMB OR NANNY W/KID	0.3
GOATS	MATURE SHEEP OR GOAT	0.2
HORSE	HORSE OR MULE	1.2
MULE	HORSE OR MULE	1.2
SHEEP	EWE W/LAMB OR NANNY W/KID	0.3
SHEEP	MATURE SHEEP OR GOAT	0.2

Permitted animal unit months (AUM) and head months (HM) by allotment and animal kind within Bears Ears Monument			2012-2016 authorized animal unit months (AUM) and head months (HM) by allotment and animal kind within Bears Ears Monument		
Row Labels	Sum of AUM	Sum of HM	Row Labels	Sum of AUM	Sum of HM
<b>BABYLON</b>	<b>1,246</b>	<b>946</b>	<b>BABYLON</b>		
CATTLE	1,218	923	2012	0	0
HORSE	28	23	2013	0	0
<b>BEARS EARS</b>	<b>1,210</b>	<b>746</b>	2014	0	0
CATTLE	1,191	902	2015	0	0
HORSE	19	16	2016	0	0
<b>BLUE CREEK*</b>	<b>984</b>	<b>944</b>	<b>BEARS EARS</b>		
CATTLE	1,239	939	2012	1,210	918
HORSE	6	5	2013	1,210	918
<b>CAMP JACKSON*</b>	<b>430</b>	<b>326</b>	2014	1,210	990
CATTLE	1,593	1,207	2015	1,206	1,062
<b>COTTONWOOD</b>	<b>2,317</b>	<b>1,757</b>	2016	1,209	1,009
CATTLE	2,299	1,742	<b>BLUE CREEK*</b>		
HORSE	18	15	2012	745	1,062
<b>GOOSEBERRY</b>	<b>1,211</b>	<b>919</b>	2013	740	1,058
CATTLE	1,189	901	2014	758	1,073
HORSE	22	18	2015	758	1,073
<b>HARTS DRAW*</b>	<b>50</b>	<b>38</b>	2016	930	1,318
CATTLE	1,435	1,087	<b>CAMP JACKSON*</b>		
<b>TWIN SPRINGS</b>	<b>2,713</b>	<b>2,059</b>	2012	384	291
CATTLE	2,670	2,023	2013	415	314
HORSE	43	36	2014	314	882
<b>WEST MOUNTAIN</b>	<b>900</b>	<b>682</b>	2015	344	238
CATTLE	900	682	2016	388	294
<b>Grand Total</b>	<b>11,061</b>	<b>8,417</b>	<b>COTTONWOOD</b>		
			2012	2,218	1,682
			2013	2,091	1,585
			2014	2,030	1,539
			2015	2,180	1,653
			2016	2,218	1,777
			<b>GOOSEBERRY</b>		
			2012	0	0
			2013	0	0
			2014	0	0
			2015	0	0
			2016	0	0
			<b>HARTS DRAW*</b>		
			2012	39	56

				2013	37	53
				2014	39	56
				2015	93	99
				2016	97	105
				TWIN SPRINGS		
				2012	2,690	2,041
				2013	2,690	2,041
				2014	2,690	2,041
				2015	2,567	2,042
				2016	2,647	2,122
				WEST MOUNTAIN		
				2012	650	492
				2013	679	532
				2014	697	575
				2015	840	665
				2016	904	710
				Grand Total	38,707	34366
Blue Creek only 79% of allotment in monument - multiply .79 X sum of AUM and HM						
Camp Jackson only 27% of allotment in monument - multiply .27 X sum of AUM and HM						
Harts Draw only 3.5% of allotment in monument - multiply .035 X sum of AUM and HM						