



November 15, 2018

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VIA EMAIL ONLY TO:

blm_ut_monticello_monuments@blm.gov

Re: Comments on the Bears Ears National Monument Unit Draft Monument Management Plan & Draft Environmental Impact Statement

Dear Mr. Porter:

Thank you for the opportunity to comment on the Bears Ears National Monument: Draft Monument Management Plans and Environmental Impact Statement (DMMP/EIS). Of highest importance, Archaeology Southwest advises the Bureau of Land Management (BLM) and U.S. Forest Service (USFS) to select Alternative B, or a more conservation-focused variant thereof, because it is the only management alternative consistent with Presidential Proclamation 9558, as amended by Presidential Proclamation 9681. The other three alternatives analyzed in the DMMP/EIS, including the No Action Alternative, fail (1) to guide BLM and USFS management toward compliance with the stated intent of these presidential proclamations and (2) to meet the requirements of Public Law 111-11, wherein Section 2002 establishes the National Landscape Conservation System. Seven specific comments follow an overview of Archaeology Southwest and our organizational interests and concerns regarding Bears Ears National Monument (BENM or Bears Ears) and the DMMP/EIS.

Archaeology Southwest

For three decades, Archaeology Southwest has practiced a holistic, conservation-based approach to exploring the places of the past. We call this Preservation Archaeology. We pursue this mission by conducting innovative, big-picture research using methods that minimize the consumption of nonrenewable archaeological resources. Archaeology Southwest promotes, and operates in accord with, communications and collaborations with Native American communities. Our programs and activities are guided by our vision of: "A society where the places of the past are valued as the foundations for a vibrant future." Archaeology Southwest is an Arizona nonprofit based in Tucson and has 15 permanent staff members. We currently have over 1,750 members from across the United States, though the majority are from the U.S. Southwest, the area where our work is focused.



Archaeology Southwest’s mission requires us to collaborate with tribes, private partners, and federal, local, and state governments to explore and protect the places of the past. This mandate, together with our ethical obligations as cultural resource researchers and stewards, rivets our attention to two issues in public land and resource management: cultural resources and tribal consultation. Those issues are the focus of our comments on the DMMP/EIS.

The Legal Context of the DMMP/EIS

On December 28, 2016, President Barack Obama issued Proclamation 9558 to establish Bears Ears National Monument under the authority of the Antiquities Act of 1906. On December 4, 2017, President Donald Trump issued Proclamation 9681 that purports to remove 85 percent of the land area within the original national monument from presidentially proclaimed protective status. Legal scholars express a broad consensus that the radical downsizing attempted by Proclamation 9681 exceeds the authority that Congress delegated to presidents under the Antiquities Act. That issue will be decided in the federal courts, a process that will extend over months and potentially years.

As one of the plaintiffs in one of the lawsuits filed to challenge Proclamation 9681, Archaeology Southwest provides comments herein with the expectation that the boundaries of the original monument will be restored through the courts. However, there are important management issues that must be addressed immediately relative to the objects and values that BENM was established to safeguard. To that end, the present DMMP/EIS represents an essential first step toward defining management priorities and practices that will protect the important classes of objects defined in Proclamation 9558. The list of monument objects and values identified in the DMMP/EIS Appendix A is reasonably inclusive. Because Proclamation 9681 did not remove from protective consideration any of the classes of objects and values protected in Proclamation 9558, consideration and deployment of appropriate protection strategies for these objects and values must be initiated promptly. Protective interventions would then be expanded in response to increasing knowledge of the geographical distribution and significance of objects and values designated for protection and of the threats to their physical integrities.

Seven Comments

Comment 1: The use of the NEPA process to satisfy the requirements for Section 106 of the National Historic Preservation Act does not absolve BLM and USFS of obligations to conduct inclusive and good faith consultations, at a minimum to determine the area of potential effect for BENM establishment and to pin down recommended historic property identification and adverse effect avoidance/ reduction strategies and methods.

Section 4.1.3 of the DMMP/EIS states, “BLM and USFS notified the public that they would fulfill the public involvement requirements of the NHPA (54 USC 306108) through this NEPA process as provided for in 36 CFR 800.2(d)(3). During the scoping process, numerous commenters requested to be “consulting parties” under Section 106 of the NHPA. The BLM, in consultation with the SHPO, determined that this was not necessary because no findings or determinations of eligibility or effect are being made as part of this planning effort.”

There are at least two apparent ambiguities and inconsistencies in this assertion:

1. The term “this” in the last sentence would seem to refer to and dismiss any/all participation by consulting parties in agency consideration of effects of the MMP on historic properties. If this is the intended meaning, and if all potential consulting parties except Utah SHPO are being excluded from the Section 106 process, then BLM and USFS are called upon to explain and justify this unusual and restrictive approach to public involvement. Such exclusivity seems in conflict with 36 CFR 800.2(d)(3), which states, “The agency official may use the agency's procedures for public involvement under the National Environmental Policy Act or other program requirements in lieu of public involvement requirements in subpart B of this part, **if they provide adequate opportunities for public involvement consistent with this subpart**” (emphasis added).
2. The apparent rationale for excluding consulting parties from participation on the 106 side of the NHPA/NEPA interface—namely, that no determinations of eligibility or effect will result from the MMP—attempts to evade (i) the general intent of 36 CFR 800 to involve publics in general, and consulting parties (especially tribes) in particular, in considering effects on historic properties and, more specifically, (ii) consulting party consultations to determine the area of potential effects (APE) of the establishment and management of BENM and to plan and specify recommended historic property identification and adverse effect avoidance/ reduction strategies and methods.

APE delineation, historic property identification, and adverse effect assessment and avoidance/reduction are all vital to good and actionable MMPs; all warrant tribal consultations and public involvement. BLM and USFS have initiated the Section 106 process via communications with the Utah SHPO, and the process cannot be concluded in the absence of a clear determination by the agency official that the BENM has (i) no potential to cause effects, or (ii) no properties, or (iii) no effects, or (iv) no adverse effects. If there is a lawful basis for the apparent intention on the part of BLM and USFS to conclude Section 106 without participation by consulting parties “because no findings or determinations of eligibility or effect are being made” then this must be explicitly disclosed for public scrutiny and comment.

In reaching a determination on how to proceed, BLM and USFS should carefully consider the joint Council on Environmental Quality (CEQ) and Advisory Council on Historic Preservation (ACHP) NEPA-Section 106 *Handbook*, page 22 of which states, “Section 106 requires both public involvement and consultation with the SHPO and/or THPO and other consulting parties”.¹ The CEQ-ACHP *Handbook* confirms that any decision to exclude participation by 106 consulting parties must be complemented by wider opening of opportunities for public participation in the NEPA process, something we eagerly await. In particular, page 27 of the *Handbook* states, “An EIS includes the analysis of the environmental impacts of each reasonable alternative. The relative scope of this analysis depends upon the level of probable effects and the complexity of the proposed alternative, and should be informed by consultation with the SHPO/THPO,

¹ Council on Environmental Quality Executive Office of the President and Advisory Council on Historic Preservation (2013). *NEPA and NHPA: A Handbook for Integrating NEPA and Section 106*. https://www.achp.gov/sites/default/files/2017-02/NEPA_NHPA_Section_106_Handbook_Mar2013_0.pdf

affected Indian tribes, and Native Hawaiian organizations under Section 106, ***particularly with regard to the potential for large scale properties of religious or cultural significance***” (emphasis added). The controversial nature of proposed government actions (see Comment 6, below) is a commonsense basis for broadening and intensifying the level of NEPA analyses, of tribal and stakeholder consultations, and of public involvement. It is never, ever, a lawful basis for limiting or forestalling public participation.

Comment 2: Alternative B must become the preferred alternative, as it is the only alternative that enables and prioritizes fulfillment of existing BLM and USFS legal responsibilities. The Federal Land Policy and Management Act (FLPMA), affirms that BLM “shall manage the public lands under principles of multiple use and sustained yield ... ***except*** that where a tract of such public land has been dedicated to specific uses according to any other provisions of law it shall be managed in accordance with such law” (FLPMA, 43 U.S.C. § 1732 (a), ***italics*** added). This provision in FLPMA is directly relevant to the DMMP/EIS because presidential proclamations established BENM to protect specific objects and values. Proclamation 9558 further affirms that BLM lands within BENM “shall be managed as a unit of the National Landscape Conservation System.” The act establishing that system states that the Secretary (of the Interior) “shall manage the system—in a manner that protects the values for which the components of the system were designated.”

The Bears Ears DMMP/EIS offers only one alternative, Alternative B, that prioritizes protection for the objects of the national monument in developing management guidelines and practices. Alternative C, calls only for “monitoring of resource impacts” that might then lead to “implementation of more restrictive management actions if resource impacts exceeded acceptable thresholds.” Rather than prioritizing monument objects, it requires underdefined but presumably substantial levels of sacrificial loss before triggering intervention planning.

Alternative D, the currently preferred alternative, is even less protective than Alternative C. It would allow for “the continuation of multiple uses of public lands and maintain similar recreation management levels while protecting Monument objects and values.” Alternative D fails to provide any meaningful framework for monitoring the condition of BENM objects and values or for interventions to protect those. In its attempt to displace the protective focus of Proclamations 9558 and 9681 in favor of “multiple use” management, Alternative D runs afoul of FLPMA’s exception to mandates, cited above.

BLM and USFS legal obligations require designation of Alternative B or an alternative that provides the same or greater protection for the BENM objects and values as the preferred alternative.

Comment 3: Consideration of the well documented impacts of livestock grazing on cultural resources is inadequate. A program for baseline documentation, monitoring, and application of scientific evidence and recommended practices is required as the basis of changes to or continuation of livestock grazing in BENM. Section 2.4.5 of the DMMP/EIIS fails to adequately consider available evidence for the adverse effects and significant impacts of livestock grazing

on cultural resources. Neither Alternative C nor Alternative D include the reasonable and necessary constraints on grazing needed to harmonize livestock management with the cultural resource protections required pursuant to Proclamations 9558 and 9681. In its reliance on natural topographic boundaries and features, rather than fencing, to manage the location, intensity, and duration of grazing, Alternative B provides only modest and indirect protections for cultural resources. Active livestock management is unambiguously required to protect the objects and values referenced in Proclamations 9558 and 9681.

While grazing is already established within portions of the reduced BENM, the DMMP/EIS must incorporate available and relevant scientific evidence into management decision making regarding the negative effects of grazing on cultural resources. Scientific research on the effects of livestock on cultural resources is not abundant, but its findings are consistent: all available evidence indicates that livestock can and do damage most types of cultural resource sites. Livestock grazing also alters vegetation, soils, and drainage conditions, usually for the worse and always to the detriment of cultural landscapes centered, as BENM's are, upon Native American use and occupancy.

BLM reports confirm that livestock and livestock permit programs have significant adverse effects on cultural resources. For example, pages 4-92 of a BLM EIS concludes:

Livestock use impacts on cultural resources include: displacement (vertical and horizontal) and breakage of artifacts, and the mixing of depositional associations through trampling; destruction or enhanced deterioration of structures and features through rubbing; and an acceleration of natural erosional processes. Plants valued by Native American traditionalists could be trampled or consumed by livestock, adversely affecting plant availability at some locations. For purposes of analysis it is assumed that the impacts of livestock use are distributed in proportion to the actual distribution of livestock, with the most intensive impacts occurring at livestock use concentration areas. Cultural Resources located on lands having erosional or other types of watershed deterioration problems attributed to livestock use impacts are assumed to receive high impacts. Cultural resources are non-renewable, and impacts of livestock use on cultural resources are cumulative.²

Additional adverse effects from grazing include soil compaction, toppling of architectural features, creation of movement corridors, and degradation of springs and streams, all or most of which are themselves cultural resources from the perspective of tribal cultural representatives and others.

Anderson's 2007 research on links between grazing and cultural resources includes data and conclusions relevant to BENM management planning. Anderson assessed cattle grazing effects

² U.S. Bureau of Land Management (1982). Final Environmental Impact Statement for the proposed domestic livestock grazing management program for the Bodie-Coleville Planning Units. Bishop Resource Area, Bishop, Ca.

on 47 cultural resource sites located on diverse grazing allotments on two national forest ranger districts. Fieldwork at each cultural resource site included documentation of artifacts and features and assessment of six interrelated variables: (1) the density of cattle excrement; (2) the depth and length of cattle trails; (3) the depth and extent of cattle wallows at sites with surface water; (4) the condition of all riparian areas or springs associated with the sites; (5) the condition of fences established to exclude livestock from sites; (6) the types and levels of livestock effects on artifacts and features. Less than nine percent of the sites assessed (4 of 47) showed low or no signs of adverse effects from grazing. Sites associated with riparian areas and surface water had the greatest and most diverse adverse effects.³

No studies available to Archaeology Southwest show that livestock grazing in dry uplands serves to conserve, protect, or enhance cultural resources, riparian areas, springs, seeps, or any other object of historic or scientific interest protected pursuant to the BENM proclamations. Additional peer- or faculty-reviewed research, including high-resolution baseline studies followed by monitoring of cultural resource artifacts and features in sites subjected to grazing at various levels of duration and intensity, could contribute relevant scientific evidence. In the meantime, however, any alternative selected in any MMP would need to require such studies to guide any livestock grazing in BENM. Any site-specific and landscape-level livestock impacts and effects would then need to be balanced against the financial and administrative costs of management treatments necessary to protect BENM riparian areas, cultural resources, and other protected objects and values from the damaging and often enduring effects of livestock.

Because no scientific evidence indicates livestock grazing does anything except damage and degrade riparian areas and all types of cultural resource sites, BLM and USFS are encouraged and obliged to exclude grazing from all protected objects and sensitive areas of the BENM until a combination of cultural resource inventories and baseline studies, vegetation studies, and tribal consultations result in the identification of pastures where grazing will assist in achieving BENM's object and value protection priorities. If BLM and USFS are able to provide credible scientific evidence that grazing is consistent with mandates to protect BENM objects and values then the final MMP would need to specify in detail how the agencies will work with grazing permit holders to manage seasonality, duration, intensity, and distribution of livestock grazing through collaborative, short- and long-term monitoring of resource and range conditions, including threatened and endangered plant and animal populations and habitat, surface waters and adjacent soil surfaces, rangeland health, forage use, fuel loads, and of course cultural resources.⁴ Grazing must be managed conservatively and monitored carefully until that threshold of scientific evidence is reached.

³ Anderson, S.R. (2007). Assessing Cattle Grazing Impacts on Archaeological Sites in the Humboldt-Toiyabe National Forest. Paper Submitted in Partial Fulfillment of Requirements for the MA in Anthropology, Northern Arizona University.

⁴ More U.S. government agency studies showing livestock damage to cultural resources. Haas, D. (2006). Summary of Livestock Grazing Impacts on Archaeological Sites Located on BLM-Administered Lands in Colorado, A Study of Cultural Resource Assessments for Grazing Permits from Fiscal Years 1998 to 2003. Bureau of Land Management, Colorado State Office, Denver; Horne, S., and McFarland, J. (1993). Issue Paper: Impacts of Livestock Grazing on Cultural Resources. On file, Los Padres National Forest, 6755 Hollister Avenue Suite 150 Goleta, CA 93117; Todd,

Comment 4: Any addition of new roads, opening of new ATV areas, or the re-opening of roads that were previously closed would increase threats to cultural resources rather than serve to protect them. Proclamation 9581 refers to Bears Ears as “one of the most intact and least roaded areas in the contiguous United States.” This lack of roads and the persistence of landscape integrity are defined as positive attributes of BENM. DMMP/EIS Section 2.4.12.2 states, “Any additional roads or trails designated for OHV use as part of implementation-level travel planning must be for the purpose of public safety and the protection of Monument objects and values.” As is true for grazing, so it is for roads: all available scientific evidence indicates that roads increase threats to, not protections for, cultural resources. The modified monument is served by a network of passable roads. No new roads or substantial road improvements are needed for public safety. There is no scientific evidence or commonsense basis for claiming that building or improving roads or enabling ATV could help protect BENM’s objects or values.

The DMMP/EIS fails to adequately consider the negative impacts—direct, indirect, and cumulative—of existing roads. Among other things, the DMMP/EIS must consider scientific evidence indicating positive correlations between vehicle access and cultural resource losses. An independent, peer-reviewed study conducted circa 2010 on Tonto National Forest lands confirms what cultural resource managers have long-surmised: the likelihood of looting and vandalism to cultural resources increases with proximity to roads and vehicular travel routes.⁵ This evidence is sufficient basis for advising and encouraging BLM and USFS are to carefully and consistently link all BENM transportation and access to cultural resource inventories, assessments, and affirmative protections. BLM and USFS are further advised and encouraged to build systematic monitoring of cultural resource conditions—and the completion of cultural resource damage assessments, as needed—into transportation planning and assessment. The final MMP should explicitly (1) require intensive and comprehensive cultural resource field inventories and associated tribal consultations for any and all areas exposed to greater visitation or use (or grazing) as a result of any change in management or public access, including ATV travel, and (2) set specific criteria for road and ATV travel route closures as immediate and substantial responses to the discovery of any cultural resource impact resulting from the use of roads or ATV travel routes, most especially the use of any road or travel route in the commission of any cultural resource crime.

Comment 5: More attention is required to current visitor management; the apparent DMMP/EIS plan to wait 2 or 3 years before assessing visitor impacts is ill-conceived and inadequate. Visitation is a critical and immediate threat to BENM objects and values. Visitation has been increasing, and monument establishment has boosted public interest in the BENM

L.C., Burnett, P.C., Burger, O., and Rapson, D.J. (2003). Assessing Grazing Impacts on the Upper Greybull: A Conceptual and Methodological Framework. Laboratory of Human Paleoecology, Colorado State University, Ft. Collins, Colorado.

⁵ Hedquist, S.L., L.A. Ellison, and A. Laurenzi (2014). Public Lands and Archaeological Resource Protection: A Case Study of Human Impacts to Archaeological Sites on the Tonto National Forest, Arizona. *Advances in Archaeological Practice* 2(4): 298–310.

region.⁶ BLM Policy Manual 6220, Section 1.6.G.6 states: “Within six months of approving a Monument or NCA plan, subject to available staffing and funding, managers will begin preparing a plan implementation strategy. At a minimum, the implementation strategy must outline the work to implement the plan over its first three to five years and the priority and timing of this work. All approved Monuments and NCAs must also complete an implementation strategy.”

Escalating visitation, existing BLM policy, and common sense all indicate that the MMP/EIS must document and analyze existing visitation and establish a framework for monitoring visitation and assessing the effects of visitation on BENM objects and values, especially cultural resources. At a minimum the MMP/EIS should address obvious needs for providing new signs, for limiting group sizes and other potentially destructive behaviors, and for informing and enlisting visitors as regards legal and ethical mandates for respectful and low-impact ways to experience BENM cultural resources and other BENM objects and values.

Comment 6: The DMMP/EIS fails to meet the landscape-scale planning and management requirements of the National Landscape Conservation System (NLCS). Multiple federal government statutes and executive policies require BENM to be managed at a landscape scale. Proclamation 9558 employs “landscape” a dozen times before stating that BLM lands within BENM “shall be managed as a unit of the National Landscape Conservation System.” The 2009 National Landscape Conservation System Act established the NLCS within the BLM “to conserve, protect, and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations.”

In 2010, then Secretary of Interior, Ken Salazar, issued a Department of Interior Policy Memorandum No. 3308, requiring that NLCS lands “shall be managed as an integral part of the larger landscape...” and that “components of the National Conservation Lands shall be managed to offer visitors the adventure of experiencing natural, cultural and historic landscapes through self-directed discovery.” The BLM responded in 2011 with the publication of *National Conservation Lands 15 Year Strategy*, which puts forward BLM intentions “to be a world leader in conservation by protecting landscapes.” One of the four Themes in the 2011 *Strategy* is “Collaboratively managing the NLCS as part of a larger landscape.” Among the goals within this Theme is (1) for cultural resources to be managed “in the context of the cultural landscape and adjoining lands to provide the greatest conservation benefit” and (2) for BLM to “Adopt a cross-jurisdictional community-based approach to landscape-level conservation planning and management.” BLM’s 2017 Manual 6220 re-affirms BLM mandates to manage national monuments to “conserve, protect and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations” (section 1.1).⁷

⁶ *San Juan Record* (2018). “Visitation to BLM areas in San Juan, including Bears Ears sites, increased by 35 percent in 2017.” April 10, 2018, http://www.sjrnews.com/view/full_story/27560345/article-Visitation-to-BLM-areas-in-San-Juan--including-Bears-Ears-sites--increased-by-35-percent-in-2017?instance=news_roundup

⁷ U.S. Bureau of Land Management (2017). Policy Manual 6220 – National Monuments, National Conservation Area, and Similar Designations (Public).

In keeping with these mandates, in 2015 the BLM collaborated with the Society for American Archaeology (SAA) to incorporate archaeological resource management issues and objectives in regional land-use plans.⁸ The resulting peer-reviewed study assessed various approaches to incorporate cultural resource data in landscape-scale planning and outlined follow-up research directions.⁹ Another asset for guiding a cultural landscape approach to understanding and taking care of the BENM region emerged from a 2017 gathering of 30 experts, all with previous professional archaeological experience in the BENM region.¹⁰ One result of the gathering included in the online report is a series of maps that display past population “intensity” over ten millennia to convey the dramatic changes in land use and occupancy within the BENM region and broader geographic contexts.

The DMMP/EIS Appendix A lists cultural landscapes under “Values” and identifies a number of specific, spatially restricted cultural landscapes as “Objects.” A broader consideration of cultural landscapes is required to facilitate integrated management across spatial and jurisdictional scales, resource specialties, and tribal consultation and public engagement and interpretation of BENM. The archaeological experts report cited here notes: “one of the most powerful elements of the landscape approach that a national monument such as Bears Ears offers: the opportunity for tribes and other stakeholders to collaboratively manage and interpret a rich and living tapestry of interrelated places.”

The DMMP/EIS fails to meet NLCS requirements for landscape-level planning, impact and effect assessment, avoidance, and reduction. Public interest and awareness is bringing visitors to the current monument, the reduced monument, and to the entire “Greater Bears Ears Cultural Landscape.” Indirect and cumulative effects and impacts to cultural resources and other objects and values must be considered on spatial scales much larger than that referred as the Planning Area [DMMP pages 1-2, 3-4]. BLM has access to cultural resource data such as that used to derive the model for predicting and comparing cultural resource sensitivity in the two BENM units [page 3-6], so it is clear that BLM and USFS have the capability to address cultural resources on larger landscape scales. Proclamation 9681 used the existence of several types of special land use areas, such as Wilderness Study Areas (WSAs) and Areas of Critical Environmental Concerns (ACECs) as part of the rationale for diminishing the size of the original Bears Ears. The final MMP/EIS should integrate those areas using a landscape scale that more reasonably approximates the spatial extent of indirect and cumulative impacts from the unmistakably increasing visitation to the BENM region.

⁸ Altschul, J. H. (2016). The Society for American Archaeology's Task Forces on Landscape Policy Issues. *Advances in Archaeological Practice* 4(2):102-105.

⁹ Doelle, William H., Pat Barker, David Cushman, Michael Heilen, Cynthia Herhan, and Christina Rieth (2016). Incorporating Archaeological Resources in Landscape-Level Planning and Management. *Advances in Archaeological Practice* 4 (2):118-131.

¹⁰ Doelle, William H. (2017). Bears Ears Archaeological Experts Gathering: Assessing and Looking Ahead. Archaeology Southwest and Friends of Cedar Mesa. Online publication: https://www.archaeologysouthwest.org/wp-content/uploads/Bears_Ears_Report.pdf

It also bears mention that the joint CEQ-ACHP *Handbook* (see Comment 1) states, on page 23:

Agencies should take particular care when the proposed undertaking will affect types of historic properties whose ***boundaries might not be well defined or include natural features***. The intensity of the action's effect on a property such as a cultural landscape or historic property of religious and cultural significance to Indian tribes or Native Hawaiian organizations might not be as immediately apparent as it would be when considering effects on a discrete structure or archaeological site. The intensity of the proposed action in these situations is likely to affect the more intangible aspects of the property, such as "feeling" as this term is used in the criteria for evaluating properties for the National Register. ***Consultation with Indian tribes and Native Hawaiian organizations to identify the character-defining features of such a cultural landscape is vital*** (emphases added).

The *Handbook* further notes, on page 27, that cultural resources that must "be identified and assessed as part of the affected environment include a broader array of properties than "historic properties," as defined in Section 106" (CEQ-ACHP 2013:27).

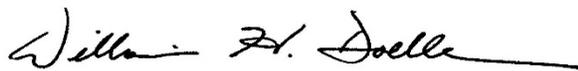
Comment 7: Consultation with Native American tribes regarding the DMMP/EIS is inadequate. Proclamation 9558 explicitly honors Native American tribal interests and calls for the establishment of a Bears Ears Commission "to provide guidance and recommendations on the development and implementation of management plans and on management of the monument." Pages 2–4 of the DMMP/EIS list 11 Cultural Resources Goals and Objectives, five of which obligate collaboration with tribes or priority attention to tribal interests. The DMMP/EIS includes an initial "framework" for American Indian tribal collaboration (Appendix F), but much more and more specific guidance regarding consultation and collaboration needs to be provided to assure tribes and concerned members of the public that tribal participation will be commensurate with tribal knowledge, interests, and preferences. Here, too, Archaeology Southwest recommends adoption of a landscape-scale approach as a vehicle to re-open and facilitate constructive communications in the wake of the insults to tribes and American Indian peoples contained in Proclamation 9688.

Summary

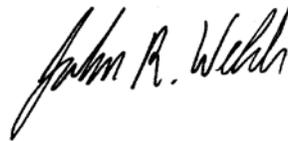
The DMMP/EIS was obviously assembled hastily by a hard-working team assigned a patently difficult task. Recognizing that the DMMP/EIS was a hurry-up effort to advance apparent interests in limiting resource protections and expanding industrial uses on a regional scale, and that there is a high likelihood that Proclamation 9681 is unlawful and will be stuck down by the courts, the DMMP/EIS provides an initial planning and impact assessment framework. Nevertheless, there are many deficiencies in this document that are highlighted in seven comments offered above and summarized below.

- Comment 1: The use of the NEPA process to satisfy the requirements for Section 106 of the National Historic Preservation Act does not absolve BLM and USFS of obligations to conduct inclusive and good faith consultations to determine the area of potential effect for BENM establishment and to pin down recommended historic property identification and adverse effect avoidance/ reduction strategies and methods.
- Comment 2: Alternative B must become the preferred alternative, as it is the only alternative that enables and prioritizes fulfillment of existing BLM and USFS legal responsibilities.
- Comment 3: Consideration of the well documented impacts of livestock grazing on cultural resources is inadequate. A program for baseline documentation, monitoring, and application of scientific evidence and recommended practices is required as the basis of changes to or continuation of livestock grazing in BENM.
- Comment 4: Any addition of new roads, opening of new ATV areas, or the re-opening of roads that were previously closed would increase threats to cultural resources rather than serve to protect them.
- Comment 5: More attention is required to current visitor management; the apparent DMMP/EIS plan to wait 2 or 3 years before assessing visitor impacts is ill-conceived and inadequate.
- Comment 6: This DMMP/EIS fails to meet the landscape-scale planning and management requirements called for by the National Landscape Conservation System (NLCS).
- Comment 7: Consultation with Native American Tribes regarding the DMMP/EIS is inadequate.

Respectfully submitted,



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