

Congressional Testimony from

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before the

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Introduction

Chairman, Members of the Committee; I am honored to be here and thank you for this opportunity.

In my experience, the best public land conservation always happens at the ground level with many stakeholders coming together to identify issues and solve problems. Only through a process of inclusion and transparency can resource plans be crafted that achieve a true balance between conservation, recreation, and responsible development of natural resources and that produce durable results.

Subtitle O of the 2009 Omnibus Public Lands Management Act, also known as the Washington County lands bill (hereinafter “lands bill”) is a true example of such an effort. The lands bill brought people together from across the political spectrum: environmentalists, ranchers, private land owners, developers, recreationists, republicans, and democrats. Ultimately the compromise won bi-partisan support in a divided Congress and was signed by President Obama.

The provisions in the lands bill are designed to enhance the enviable quality of life found in the St. George area. This quality of life stems from the pristine environment and the dynamic economy, both of which are enriched by provisions in the lands bill. The lands bill protected thousands of acres of wilderness in fifteen different wilderness areas. It established two national conservation areas. It committed the remaining BLM land in the County to other public uses. It protected historical uses such as grazing in the Beaver Dam Wash. And it made sure that planning for the critically important northern transportation route could proceed to the next stage.

The backbone of special land management legislation such as the lands bill is formed through compromise, the negotiation, the balancing and the mutual trust that brings such an agreement together.

When a piece of special legislation is passed by the Congress, it may direct an agency to do something outside of the ordinary, something different than what is stated in their policies and guidance documents. Examples of this arise in the lands bill we are considering at this hearing.

The Draft Resource Management Plan for Beaver Dam Wash National Conservation Area and Red Cliffs National Conservation Area (hereinafter “Draft RMP”) now under review by the BLM fails to honor key provisions of the lands bill – provisions that were foundational to passage of the bill and are crucially important to Washington County today.

Both the State and the County signed up early to be Cooperating Agencies and also requested full coordination as mandated by law in the development of the Draft RMP’s alternatives. Regrettably, they were left out of critical deliberations and were not invited to the table to discuss the challenges the BLM wrestled with or the decisions that followed. When the alternatives in the Draft RMP were released, the County was stunned, finding that many of the promises in the lands bill had no place in Alternative B, the BLM’s “Preferred Alternative.”

In its official comments, the State sought to have the BLM initiate a Supplemental Environmental Impact Statement to allow the State and the County to have their full rights to participation and partnership with the BLM. Although the BLM appears to not be headed in that direction, they did grant an extension of time for comments, and more importantly began a series of in-depth meetings with County and State officials to consider their many issues and concerns with the Draft RMP. These meetings have been productive and thanks are due to Field Office Manager Brian Tritle for his hard work in facilitating essential dialogue and cooperation between the parties.

Northern Transportation Route

Of major concern is the matter of the northern transportation route. The northern transportation route is a key part of the compromise that allowed the lands bill to exist. The City of St. George, the County, and other local interests wanted to plan for a northern transportation route, and were willing to make compromises to get there. It’s part of why local interests supported the creation of 15 different wilderness areas and two NCAs. The idea was to balance conservation in some areas so that planning for the route could proceed.

The lands bill clearly states that the BLM must identify one or more potential routes for a northern transportation route in the County’s travel management plan. The RMP should therefore include a right-of-way corridor within which the BLM can identify a specific route in the upcoming travel management plan, because the travel management plan will be constrained by the RMP. Unfortunately, there is significant disparity between what the lands bill says and what the BLM has proposed.

Alternative B, the “Preferred Alternative,” and Alternative C in the Draft RMP do not designate any right-of-way corridors within which a northern transportation route could be built. Only Alternative D designates a right-of-way corridor for a northern transportation route.

Notwithstanding, the lands bill states that a route must be identified in the travel management plan. If BLM selects Alternative B or Alternative C from the Draft RMP, there will not be any right-of-way corridors available for the route in the travel management plan. The

Draft RMP should have included a right-of-way corridor under every alternative so that planning for the route can proceed as directed by law.

We have heard from the BLM that a travel management plan is not the right planning document to identify a route for a highway; that BLM regulations do not provide for route identification in travel management planning. We have even heard from the BLM that Congress made a mistake by calling for the identification of the route in the travel management plan.

But BLM regulations can and must be adjusted to follow the will of Congress because federal law trumps agency regulations. If route identification does not usually happen during travel management planning, the BLM must make a one-time adjustment to their travel management planning process.

Designating a right-of-way corridor in the RMP will not authorize construction of a highway. It will not jeopardize any endangered species. The designation will only involve drawing lines on a map so that planning for the northern transportation route can proceed to the travel management plan stage. The northern transportation route itself will require its own approval process and its own NEPA documentation. But at this point BLM is required by law to allow the planning process move to the next level.

Wilderness Study Areas

The BLM has also disregarded the express intent of Congress with regard to wilderness study areas. The lands bill, which designated over 250,000 acres of the County as wilderness, clearly says that all remaining BLM land in the County has been adequately studied for wilderness designation and should be released from wilderness consideration under FLPMA Section 603(c). This was another important compromise made by local interest groups in Washington County when agreeing to 15 new wilderness areas under the lands bill.

Despite this direct statement in the statute, under Alternative C the BLM proposed to manage over 18,000 acres as lands with wilderness characteristics.

Proposals like this, even when they are only found in one alternative, foster distrust in the federal government and dismay among local residents.

Insufficient Range of Alternatives

The purpose of a Draft RMP is for the BLM to provide the public and cooperating agencies with a range of management alternatives, and to then solicit feedback on which alternatives are preferable. However, there are many instances in the Draft RMP where there is no range of alternatives; where all three alternatives contain identical proposals. This is not how NEPA is supposed to work, and it renders local input meaningless if there is only one option presented in a Draft RMP.

One example is the BLM's proposal for California Condors. Alternatives B, C, and D all proposed to "authorize the reintroduction, translocation, and supplemental releases of California condors." There is no variety in the alternatives for this very significant management action, nothing from which cooperating agencies or BLM decision makers can make a selection. The

Draft RMP should have included three distinct proposals for each alternative, with meaningful differences between each.

Another example is from the water resources section of the Draft RMP. Every alternative states that the BLM will “not authorize land uses that would export water from the NCA.” Again the BLM proposes a management action with serious consequences for the public and cooperating agencies, but does not provide any range of alternatives. Provisions such as this ignore the role of cooperating agencies, as if a decision has already been made. Other examples of proposals without a sufficient range of alternatives are found throughout the Draft RMP. Cooperation with State and local government requires real alternatives for each management actions and substantive discussions between parties over which alternatives are best.

Removal of “Cooperation and Coordination” Language

Let me mention briefly an issue I find both troubling and perplexing. The existing RMP for the St. George field office frequently says that the BLM should cooperate, collaborate, or coordinate with local governments.

This language about has been removed from Alternatives B, C, and D of the Draft RMP. Cooperation with state and local government is fundamental to good stewardship and conservation. While laws and regulations directing the BLM to cooperate with state and local government will still be valid regardless of the text of the RMP, we request that the BLM include language about cooperation, collaboration, and coordination in the new RMP.

Conclusion

I appreciate the efforts of the people of Washington County to work together towards good stewardship of their public lands, and for the efforts of Congress to craft balanced and individualized land conservation laws in Utah. I urge continuing cooperation between the BLM and local government officials as the BLM moves to finalize these important land management plans.

Thank you.