

Travis Brown

On Behalf of Montana Stockgrowers Association and National Cattlemen's Beef Association

Written Testimony on

H.R. 2192, the *National Monument Designation Transparency and Accountability Act*

Before the

United States House of Representatives Natural Resources Committee
Subcommittee on Public Lands and Environmental Regulation

June 6, 2013

Chairman Bishop, Ranking Member Grijalva, and Members of the Subcommittee:

On behalf of the Montana Stockgrowers Association (MSGA) and the National Cattlemen's Beef Association (NCBA), I appreciate the opportunity to voice to the Subcommittee on Public Lands and Environmental Regulation our strong support for H.R. 2192, the *National Monument Designation Transparency and Accountability Act*. By providing for congressional approval and public input, this bill would put much-needed limits on the President's unilateral power to designate national monuments

I am an active member of both MSGA and NCBA. MSGA is a non-profit membership organization that has worked on behalf of Montana's cattle ranching families since 1884. Its mission is to protect and enhance Montana ranch families' ability to grow and deliver safe, healthy, environmentally wholesome beef to the world. NCBA is the nation's oldest and largest national trade association for cattlemen and women, representing more than 140,000 cattle producers through direct membership and their state affiliates. MSGA and NCBA are producer-directed and work to preserve the heritage and strength of the industry by providing a stable business environment for their members.

I am the fourth generation to ranch on our family operation, LO Cattle Company, headquartered just west of Sand Springs, Montana. For over 50 years our family has managed this resource with the next generation in mind. Over five decades, we have steadily worked to improve the condition of our private land and Bureau of Land Management (BLM) allotments— and with great results. Not only have our cattle benefitted from this management, it has attracted a host of wildlife species, including sage grouse, pheasants, mule deer, whitetail, antelope, and elk. We very much enjoy and are happy to host this wildlife.

Our operation butts up against the Charles M. Russell National Wildlife Refuge. As every land manager knows, sound management of the entire landscape is crucial, because what happens on your neighbor's place impacts you. Management, or rather lack of management, of the CMR refuge and the adjacent Upper Missouri River Breaks (UMRB) National Monument has proven to be a difficult hurdle for us in our effort to improve range health and wildlife habitat.

Like most specially-designated lands, the CMR and adjacent monument are "managed" with a largely hands-off approach. By this I mean reduced livestock grazing, reduced timber management, and as a result, vegetation overgrowth causing a major reduction in water flow and increased threat of wildfire. Not surprisingly, another result has been a major migration of wildlife from the "refuge" to adjacent lands that are being well-managed—including both our private land and our BLM allotments. While we are happy to host abundant wildlife, we are seeing increased pressure on the forage resource as deer, antelope and elk migrate off the refuge. On BLM land, when utilization levels are reached, livestock—not wildlife—are the first to come off. Meanwhile, the reduction in water volume coming off the refuge is further contributing to the strain on the resources. In 2003 we saw a major fire, the Missouri Breaks Complex Fire, which caused catastrophic damage to wildlife, recreation, and ranching in our area.

My family is not the only one impacted by this special designation. In counties like Garfield, where ranching is the main driver of the economy and a quarter of the land is federally owned, when grazing is reduced on areas as large as the CMR refuge and the UMRB monument, the entire county's economy is impacted. Currently, an ongoing lawsuit is threatening to remove even more grazing from the Upper Missouri River Breaks Monument. This is no special case: a new lawsuit is underway to remove grazing on the Sonoran Desert National monument in Arizona, which already saw great reductions in grazing at the time of its designation. A third example, the Grand Stair-Case Escalante National Monument (GSENM) in Utah has seen major reductions in grazing, with more closures now being considered. History shows us that grazing is typically reduced on monuments even when it is supposedly "grandfathered in" at the time of designation. Over time the trend is undeniable: grazing numbers are reduced either by direct agency decisions, pressure from radical anti-grazing special interest groups, or because the cost of doing business in the designated area simply becomes prohibitive.

The abuse of presidential national monument designations under the Antiquities Act of 1906 has taken a heavy toll on multiple uses such as livestock grazing on federal lands. While the law was enacted as a response to concerns over theft from and destruction of archaeological sites, it has been used to put millions of acres essentially off-limits to multiple use – outside the normal, open congressional process by which special land designations should be made. This certainly was not the intent of the Act, which authorizes the President to proclaim national monuments on federal lands that contain "historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest" and requires him to reserve "the smallest area compatible with the proper care and management of the objects to be protected" (16 U.S.C. 431). It was never intended to create sweeping designations such as President Clinton's 1.9 million-acre Grand Stair-Case Escalante National Monument (GSENM) or President Obama's recent 243,000-acre Rio Grande del Norte National Monument in New Mexico.

The GSENM is a prime case study of the impacts monument designations have on grazing and local communities. Designated in 1996, the GSENM covers almost 2 million acres of Utah along the Arizona border. Grazing is just one of the multiple uses being negatively impacted by monuments. Communities in and around the monument have seen cultural and economic losses and school closures. According to research by Utah State University and Southern Utah University, per-capita income in counties within the GSENM in 2011 was \$1,799 below that of comparable counties.¹ The monument's impact on livestock grazing serves as a case study to explain this disparity. In 1999, land use plan amendments stemming from the designation closed four allotments and portions of four other allotments to grazing. More closures are being considered as we speak.

Untold new and inappropriate monument designations appear to be on the horizon. An Interior Department document leaked on February 14, 2010 indicated that the Obama Administration may be seeking to designate 14 new monuments under the Antiquities Act, amounting to more than 13 million acres of land, spanning from Montana to New Mexico. Judging by our past experience with monuments and other special designations, this would be devastating to our nation's federal lands ranchers and a burden to rural economies across the West.

Maintaining the viability of public lands grazing is paramount to local economies, the environment, and the overall production of red meat in the United States. The roughly 22,000 ranchers who utilize public lands own nearly 120 million acres and manage more than 250 million acres of land under management of the federal government. These ranchers provide food and fiber for the nation, protect open spaces and critical wildlife habitat, and promote healthy watersheds for the public. In order to continue providing these benefits, ranchers need business certainty. Currently, with the stroke of a pen, a sweeping monument designation could result in the curtailment of grazing—which causes extreme business uncertainty.

With the loss of ranchers in the West, the recent advances in range science and the longstanding environmental benefits of grazing will be lost as well. Wildlife depend on the habitat and range improvements provided by public land ranching. The improvements ranchers make to water sources – building, maintaining and protecting reservoirs and stock ponds, for example – can improve and, in some cases, create, wildlife habitats.² In the West, where productive, private lands are interspersed with large areas of arid, less desirable public lands, biodiversity of species depends greatly on rangeland. According to Rick Knight, a biology professor at Colorado State University, ranching on both public and private land “has been found to support biodiversity that is of conservation concern” because it “encompasses large amounts of land with low human densities, and because it alters native vegetation in modest ways.”³ Knight also noted that other uses – such as outdoor recreation and residential use – are not as conducive to the support of threatened or endangered species.

As we have experienced on our ranch, wild birds, animals and rodents seek out and thrive under conditions created by ranches. Large animals such as elk and deer are known to thrive in areas

¹ Simmons, R. and Yonk, R. *Grand Staircase-Escalante National Monument*. Biofuels: Growing in Different Directions. 2013.

² <http://cesantaclaru.ucdavis.edu/files/33367.pdf>

³ “Ranchers as a Keystone Species in a West that Works.” Richard L. Knight. *Rangelands* Oct. 2007.

where cattle graze.⁴ Again, this proves to be the case on our operation, where we have even been able to make game hunting part of our diversified operation. On our ranch, we host an abundant population of Greater Sage-grouse (GSG). On the poorly-managed CMR refuge, we see very few. Many ranchers across the West are purposefully implementing practices to improve GSG habitat and help prevent the addition of the species to the Endangered Species List. (According to the Natural Resources Conservation Service, ranchers have, among other efforts, invested approximately \$70 million in GSG conservation efforts and instituted improved grazing systems on over 2 million acres over that past three years, which is expected to increase GSG populations by 8 to 10 percent.⁵)

Not only does well-managed grazing encourage healthy root systems and robust forage growth, it also reduces the risk of catastrophic wildfire, and one of the West's biggest threats to wildlife, watersheds, property and human life.⁶ Other research suggests that livestock grazing helps prevent invasion by non-native grasses, which threaten plant biodiversity on the land.⁷ Ranchers' brush control also benefits wildlife, helping more grass to take root and decreasing the spread of cheatgrass, a highly flammable invasive weed. A study in the *Journal of Rangeland Management* concluded that "from an ecological standpoint we can argue that if we remove the grazing infrastructure from public rangelands, we would see some adverse consequences. We'd see less variety and too much ground cover, for example, as well as more cheatgrass and the potential for more range fires."⁸

A study by Mark W. Brunson and Lynn Huntsinger published in the journal *Rangeland Ecology Management* explained that "Saving ranches has become a focus not only of rural traditionalists and livestock producers but also of conservationists, who prefer ranching as a land use over exurban subdivisions."⁹

Meanwhile, countless communities across the West depend upon the continued existence of ranchers who hold public land grazing permits. Many communities across the West, where public lands account for roughly half of the landmass, depend just as we do on the tax base, commerce, and jobs created by the public land grazing industry. Indeed, the national-level statistics give light to the importance of public lands grazing. The latest available data show that there were over 8.9 million animal unit months (AUMs) of grazing authorized on BLM lands in 2012. This grazing was administered through roughly 18,000 permits and leases.¹⁰ In 2008

⁴ Texas A&M University-Kingsville (2005). *Cattle Management to Enhance Wildlife Habitat in South Texas*. Wildlife Management Bulletin of the Caesar Kleberg Wildlife Research Institute, Management Bulletin No. 6, 2005.

⁵ Natural Resources Conservation Service, USDA (2013). *Sage Grouse Initiative: Tracking Success*. Report. http://static.sagegrouseinitiative.com/sites/default/files/sgi-tracking_success-final_low_res-020613.pdf

⁶ Natural Resources Conservation Service, USDA (2004). *Environmental Benefits of Improved Grazing Management*. Illini PastureNet Papers. Hendershot, R.

⁷ Ranching as a Conservation Strategy: Can Old Ranchers Save the New West? Mark W. Brunson and Lynn Huntsinger. *Rangeland Ecology Management* 61:127-147 March 2008.

⁸ "Vegetation Change after 65 Years of Grazing and Grazing Exclusion." Barry Perryman. *Journal of Rangeland Management* Dec. 2004.

⁹ Ranching as a Conservation Strategy: Can Old Ranchers Save the New West? Mark W. Brunson and Lynn Huntsinger. *Rangeland Ecology Management* 61:127-147 March 2008.

¹⁰ Fact Sheet on BLM Management of Livestock Grazing, February 2013. Available at <http://www.blm.gov/wo/st/en/prog/grazing.html>.

(latest available data), the USFS issued more than 8,000 permits in the fifteen western, representing roughly 6.9 million AUMs.¹¹ While false data is often cited showing the relatively small amount of beef or lamb that is produced on public lands, such statements ignore the importance of these lands in an integrated ranching operation. Approximately 40 percent of beef cattle in the West and half of the nation's sheep spend some time on federal lands. Without public land grazing, grazing use of significant portions of state and private lands would necessarily cease, and the cattle and sheep industries would be dramatically downsized, threatening infrastructure and the entire market structure.

Of great importance to the economic viability of many western ranches is the stability of the federal lands grazing permits associated with the private base property. These permits are a valuable property interest of the ranchers who hold them. They represent a rancher's "grazing preference," which is exclusive, taxed, included in a ranch's deed, transferrable, and the subject of equitable protection (all attributes of a property right)¹³. Congress passed the Taylor Grazing Act in 1934, which led to the establishment of grazing allotments, giving preference rights to forage to ranchers who had a history of using the range and who owned private "base" property nearby. Grazing permits (much like building permits or water permits) are the mechanism through which this grazing preference right is administered. In order to ensure the continuation of the environmental and economic benefits of grazing, this valuable property interest, granted protection under the law, must be defended. Ranchers' ability to defend this property interest is weakened when—again, by the stroke of a pen—a President unilaterally creates a national monument.

Despite the broadening acclaim for public lands livestock grazing's environmental and economic benefits, today's public land livestock industry faces challenges unlike ever before, making the aforementioned goals of a stable business environment and long-term grazing plans increasingly difficult to achieve. Private ranchland values in the west have skyrocketed based on competing uses—primarily rural subdivision development. Increasing land values render the estate tax a bigger threat than ever, making succession planning an ominous prospect for future generations of ranching families. Enhanced livestock genetics and current market prices for sheep and cattle have combined with the rising land prices to dramatically increase the need for operating capital—and at the same time, agricultural lenders are demanding greater long-term certainty in livestock operations. Burgeoning government regulation and the resulting litigation demand ever-greater investment of both financial and human resources. Extreme, predatory "environmental" groups wage a constant, partly taxpayer-funded war against public lands grazing.¹² Adding to these factors the ever-present threat of a national monument designation, we face a business environment that is less stable than ever.

Countless ranching families like mine stand to be impacted should more monument designations go forward. This is why Representative Nunes' *National Monument Designation Transparency*

¹¹ USDA – USFS, Annual Grazing Statistical Report, Grazing Season 2009

¹³The Right to Graze Livestock on the Federal Lands: The Historical Development of Western Grazing Rights, Idaho Law Review, Spring, 1994

¹² Budd Falen, K. (2005). *Environmental Organization's use of NEPA to Eliminate Land Use and Obtain Attorneys' Fees Under the EAJA*. Legal Memorandum, November, 2005.

and Accountability Act is so important. The bill would apply the benefits of congressional deliberation to all potential monuments, and make sure that the voices of those of us impacted on the ground are heard, both through local hearings and comments and through our elected representatives. It would further prevent sweeping designations by allowing the President to designate only “the smallest area *essential to ensure* the proper care and management of the objects to be protected” (emphasis added) and by requiring restrictions on land rights to be very narrowly tailored to ensure the objects’ protection. By requiring the President to follow up with economic analysis of the impact of his designation, H.R. 2192 would provide a great opportunity for us to study the true effects of special designations on our federal lands.

Several other bills take a positive approach to reform. Chairman Bishop’s H.R. 1459 (the *Ensuring Public Involvement in the Creation of National Monuments Act*) would require that National Environmental Policy Act (NEPA) review be applied to proposed monument designations. This would provide transparency and opportunity for public input, and allow us to take a look at the economic costs before making massive designations. As a Montanan, I am particularly supportive of Representative Daines’ H.R. 1434 (the *Montana Land Sovereignty Act*), which would ensure no new monuments are designated in Montana without congressional approval.

From a producer’s perspective and from a land and wildlife management perspective, I would greatly appreciate the opportunity for input in monument designation decisions. It is in the best interest of supporters of conservation to keep ranchers in business. Ranchers are the ones keeping private land as open space rather than housing developments. We are on the ground day in and day out, watching over the land and resources, because our livelihoods depend on it.

In my opinion, the best way to leave a legacy and protect these truly special places is by leaving them in the hands of the responsible stewards on the local level who have carefully managed this resource for generations. This legislation will help protect these national treasures from a quick designation out of Washington in the 11th hour, without regard to the impacts the designation will have on the lands being considered, the wildlife being affected, and the people that live there. Objectives and agendas for land use planning can change with administrations and agency staff personnel; family ranchers manage for their grandkids, with future generations in mind.

Thank you for your consideration of my testimony. The *National Monument Designation Transparency and Accountability Act* and the abovementioned legislation currently under consideration by this Subcommittee will promote greater stability for the livestock industry, which will allow for the continuation of the broad public benefits provided by ranchers—the caretakers of our public lands and providers of food and fiber for the nation.

Sincerely,

Travis Brown
Montana Stockgrowers Association
National Cattlemen’s Beef Association