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Written Testimony on

"Ensuring Public Involvement in the Creation of National Monuments Act"* and *"Utah Land Sovereignty Act"

Before the

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

April 16, 2013

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

On behalf of the Public Lands Council (PLC), the National Cattlemen's Beef Association (NCBA), and Utah Cattlemen's Association (UCA), I appreciate the opportunity to voice to the Subcommittee on Public Lands and Environmental Regulation our strong support for the *Ensuring Public Involvement in the Creation of National Monuments Act* and the *Utah Land Sovereignty Act*. I am a fourth generation cattle rancher out of Snowville, Utah. I, my wife and our five children are permitted to run cattle on both BLM and Forest Service allotments, which are crucial to the viability of our operation and allow us to keep our private land in ranching.

I currently serve as Secretary and Treasurer of PLC, the only national organization dedicated solely to representing the roughly 22,000 ranchers operating on federal lands. PLC has as affiliates sheep and cattle organizations from thirteen western states, as well as three national affiliates: NCBA, the American Sheep Industry Association (ASI) and the Association of National Grasslands (ANG). NCBA, of which I am an active member, 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. UCA, of which I am the immediate past President, since 1890, has represented Utah's cattlemen in the legislative arena, educated producers and consumers alike, and provided a forum for producers to network. PLC, NCBA and UCA are producer-directed and work to preserve the heritage and strength of the industry by providing a stable business environment for their members.

Generally, special lands designations such as national monuments have a damaging impact on the public land grazing industry. Even though existing grazing practices are often "grandfathered in," over time the trend is undeniable: grazing numbers are reduced either by direct agency decisions, or because the cost of doing business in the designated area simply becomes

prohibitive. To begin, I feel it's important to highlight the importance of maintaining the viability of our industry. Public land ranchers 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. Wildlife depends on the habitat and water sources these ranchers provide. In the West, where productive, private lands are interspersed with large areas of rockier, less desirable public lands, biodiversity of species depends greatly on ranchland. Should these ranchers go out of business, their private lands would likely be converted to uses less hospitable to wildlife. Well-managed grazing encourages healthy root systems and robust forage growth—and reduces the risk of catastrophic wildfire, one of the West's biggest threats to wildlife, watersheds, property and human life.

Countless communities across the West depend upon the existence of the public lands rancher. 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, use of significant portions of state and private lands would necessarily cease, and our industry would be dramatically downsized—threatening infrastructure and the entire market structure. I know that many communities across the West depend just as mine does on the tax base, commerce, and jobs created by the public lands grazing industry.

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. 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." 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.

Take the GSENM in my home state as a case study: designated in 1996, the GSENM covers almost 2 million acres of Utah along the Arizona border. 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 (Politics, Economics, and Federal Land Designation: Assessing the Economic Impact Land Protection— Grand Staircase - Escalante National Monument). 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.

Congress must not allow such abuse by the executive branch to continue. This is why we support Rep. Rob Bishop's *Ensuring Public Involvement in the Creation of National Monuments Act.* In addition to requiring that all proposed monuments of 5,000 acres or larger undergo National Environmental Policy Act (NEPA) review, it also requires a study of the potential loss of Federal and State revenue; places limits on the number of monuments one President may designate in a given State during a four-year term (without congressional approval); and prevents the inclusion of private property in monument declarations without the prior approval of property owners. We believe the NEPA requirements of the Act are the crux of Rep. Bishop's legislation.

Enacted in 1969, NEPA requires that federal agencies include, in every "major federal action significantly affecting the quality of the human environment," a detailed statement on the environmental impacts of the proposed action; alternatives to the proposed action; the "relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity;" and "any irreversible and irretrievable commitments of resources" that would be involved with the proposed action's implementation. In other words, as stated by the Council for Environmental Quality (CEQ), NEPA's regulatory agency, "NEPA requires Federal agencies to consider environmental effects that include, among others, impacts on social, cultural, and economic resources, as well as natural resources" (http://ceq.hss.doe.gov/nepa/Citizens_Guide_Dec07.pdf). These findings are provided to the public for review and comment.

NEPA is not action-forcing; it rather compels the federal government to collect and disseminate information. However, NEPA regulations also allow for state and local agencies (via "cooperating agency status") to work side-by-side with the lead agency to identify important issues, determine what scientific data are needed for the analysis, help to form alternatives, analyze the impacts of the alternatives, and give input on selecting the final alternative (A Beginner's Guide to Cooperating Agency Status, 2012). NEPA requires agencies to document any inconsistencies with local land use plans, along with an explanation of how those inconsistencies would be reconciled.

We believe NEPA deliberations should be applied prior to the designation of national monuments. After all, if designating a monument of 5,000 acres or more does not constitute a "major federal action," then what is the purpose of making any designation at all? Surely it has meaning; the Antiquities Act calls for the "proper care and management of the objects to be protected." The President, in making the designation, therefore is asserting the need to "protect" objects, which also implies that current protections are not sufficient.

How would applying NEPA be beneficial in the national monument designation process? Currently, no considerations cultural, economic or environmental impacts are afforded to those designations. Local governments are not notified or consulted. The President wills a designation, and it is so. Though we believe (as might Rep. Bishop) that NEPA has been overused and implemented in situations that do not fall under the original intent, we also believe that allowing

for public review and comment and providing an analysis of the true impacts of a monument designation will improve the likelihood that beneficial decisions will be made.

As Congress asks the administration to consider the impacts of monument designations, we feel it is important to also shed light on the fact that despite NEPA's best intentions, "true" impacts are not always reflected in current NEPA analysis—especially with regard to economies. The agencies' persistent use of purposefully misleading "economic" data and tools provided by what we argue is a biased group, Headwaters Economics, has led to inaccurate NEPA analysis that has done much harm to local economies. Headwaters claims that special land designations have positive impacts on local communities. However, third parties have not been able to duplicate Headwaters' results. In fact, professors at Utah State University and Southern Utah University have found the direct opposite: wilderness designations, when compared to analogous non-wilderness counties, have overall lower per capita income, lower total payroll, and lower total tax receipts (The Economic Cost of Wilderness, 2011). Wilderness may be the designation that most closely resembles national monument status—only it is rightfully preceded by congressional deliberation.

The negative impacts of sweeping national monuments cannot be denied. This is why I, on behalf of UCA, am also testifying to the importance of the *Utah Land Sovereignty Act* to myself and fellow Utahans. This legislation would exempt Utah, similarly to the State of Wyoming, from the Antiquities Act, thereby preventing any future national monuments within its borders. PLC and NCBA support all states taking similar action to protect their citizens from overreach by the federal executive branch.

Thank you for your consideration of my testimony. Keeping ranchers in business is good policy for conservation of both private and public land. By preventing *de facto* wilderness designations by the executive branch, the *Ensuring Public Involvement in the Creation of National Monuments Act* and the *Utah Land Sovereignty Act* will promote greater stability for the livestock industry, which will allow for the continuation of the broad public benefits provided by ranchers, who are the caretakers of our public lands and providers of food and fiber for the nation.

Sincerely,

Dave Eliason

Public Lands Council
Utah Cattlemen's Association
National Cattlemen's Beef Association