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H.R. 5780, TO PROVIDE GREATER CONSERVATION, RECREATION, ECONOMIC DEVELOPMENT AND LOCAL MANAGEMENT OF FEDERAL LANDS IN UTAH, AND FOR OTHER PURPOSES, "UTAH PUBLIC LANDS INITIATIVE ACT"

LEGISLATIVE HEARING

BEFORE THE

SUBCOMMITTEE ON FEDERAL LANDS

OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTEENTH CONGRESS

SECOND SESSION

Wednesday, September 14, 2016

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LEGISLATIVE HEARING ON H.R. 5780, TO PROVIDE GREATER CONSERVATION, RECREATION, ECONOMIC DEVELOPMENT AND LOCAL MANAGEMENT OF FEDERAL LANDS IN UTAH, AND FOR OTHER PURPOSES, "UTAH PUBLIC LANDS INITIATIVE ACT"

Wednesday, September 14, 2016
U.S. House of Representatives
Subcommittee on Federal Lands
Committee on Natural Resources
Washington, DC

The subcommittee met, pursuant to notice, at 2:00 p.m., in room 1334, Longworth House Office Building, Hon. Tom McClintock, [Chairman of the Subcommittee] presiding.

Present: Representatives McClintock, Lummis, Westerman, Hardy, Bishop (ex officio); Tsongas, Lowenthal, Dingell, Polis, and Grijalva (ex officio).

Also Present: Representative Chaffetz.

Mr. MCCLINTOCK. The hearing will come to order.

The Subcommittee on Federal Lands meets today to hear testimony on H.R. 5780, the "Utah Public Lands Initiative Act."

Before we begin, I would ask unanimous consent that Representative Jason Chaffetz, the co-sponsor of this legislation, be allowed to join us on the dais and participate in today's hearing.

Hearing no objection, so ordered.

We will begin with 5-minute opening statements by myself, the Ranking Member of the Subcommittee, the Chairman and Ranking Member of the Natural Resources Committee, and without objection, Mr. Chaffetz.

STATEMENT OF THE HON. TOM MCCLINTOCK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. MCCLINTOCK. The subcommittee measures bills according to three over-arching objectives for Federal lands management: to restore public access to the public lands; to restore sound management practices to the public lands; and to restore the Federal Government as a good neighbor to those communities directly impacted by the public lands.

Of all the bills I have seen during this Congress, I believe no one has tried harder to adhere to these principles than Chairman Bishop in the bill before us today, the "Utah Public Lands Initiative Act."

Although the Federal Government owns only seven-tenths of 1 percent of the state of New York, 1.1 percent of Illinois, 1.6 percent of Massachusetts, and 1.8 percent of Texas, it owns

nearly half of my home state of California, four-fifths of Nevada, and two-thirds of Congressman Bishop's and Congressman Chaffetz's home state of Utah.

This creates enormous problems and economic distress on the communities that are impacted by Federal land ownership, and the bill before us is a result of many years of work, collaboration, and compromise by Chairman Bishop and Congressman Chaffetz that has produced a locally-driven solution to some of Utah's most daunting land management issues.

His bill promises to expand public recreational access, protect grazing, and ensure the continued use of off-highway vehicles. The PLI includes protections against Federal over-reach and ensures the state of Utah can have control over its own economic and energy future.

This bill is a give-and-take for all who were involved, but ultimately ensures certainty and resolution in land use policy in the state of Utah. And, by the way, to be clear, I would not support the compromises in this bill if they were stand-alone legislation. It designates millions of acres for wilderness that makes scientific land management nearly impossible. It confers 360 miles of new wild and scenic river designations that have proven disastrous at Yosemite, where the Merced River designation is now being used to remove long-standing visitor amenities, including bicycle and horse rentals, historic stone bridges, and lodging.

But these concessions were made in order to provide certainty and stability for other lands that are exchanged and consolidated for the beneficial use of the public, and inclusion of local and tribal governments in many land management decisions from which they were previously excluded.

Most importantly, this bill preempts arbitrary and capricious designations threatened in the final throes of the Obama administration. Mr. Obama's threatened national monument designations are focused on appeasing out-of-state interests at the expense of local people who are struggling to have good paying jobs and keep their public schools open after national monuments engulf their communities.

In contrast, this bill seeks to create a national monument that the people of Utah and its tribes actually support.

This President has relied on the Antiquities Act, originally written in 1906, to provide temporary protection for archeological sites from looting, to lock up 548 million acres of land and water on a whim. That is an area larger than the states of California, Texas, Oregon, Wyoming, Colorado, and New Mexico combined. This abuse of power means the public is largely forbidden from enjoying traditional recreational pursuits on the public lands, including snowmobiling, hunting, fishing, shooting, and off-highway vehicle use.

In my own district, these same special interests are trying to convert the Sierra National Forest into a 1.3 million acre Sierra National Monument, obliterating the last remaining timber jobs in our communities and making the management of our public lands impossible at a time of severe drought and beetle infestation. If successful, I think a more apt name for it would be the "Burnt

Forest National Monument," where schoolchildren can come to see what leftist environmentalism has done to the environment.

I am not sure who President Obama thinks he is accountable to, but here in Congress, we believe it is our constituents. Ultimately, it is up to our elected officials, such as Chairman Bishop, Congressman Chaffetz, and Commissioner Rebecca Benally, who is here today, to represent their local residents and be held accountable for their land use choices.

I hope the Administration officials here today pay close attention to the loud and resounding opposition to a unilateral national monument designation and let local elected officials decide the fate of local lands in Utah.

With that, I look forward to hearing testimony from today's witnesses.

[The prepared statement of Mr. McClintock follows:]

PREPARED STATEMENT OF THE HON. TOM MCCLINTOCK, CHAIRMAN, SUBCOMMITTEE ON FEDERAL LANDS

Good morning. Today, the Subcommittee on Federal Lands meets to hear testimony on H.R. 5780, the Utah Public Lands Initiative Act, brought to us by the Chairman of the Natural Resources Committee, Mr. Rob Bishop.

This subcommittee measures bills according to three over-arching objectives for Federal lands management: to restore public access to the public lands, to restore sound management practices to the public lands and to restore the Federal Government as a good neighbor to the communities directly impacted by the public lands.

Of all the bills we have seen during this Congress, I believe no one has tried harder to adhere to these principles than Chairman Bishop in the bill before us today, the Public Lands Initiative (PLI).

Although the Federal Government owns only .7 percent of New York, 1.1 percent of Illinois, 1.6 percent of Massachusetts, and 1.8 percent of Texas, it owns nearly half of California, four-fifths of Nevada and two-thirds of Congressman Bishop's home state of Utah.

This creates enormous problems and economic distress on the communities impacted by Federal land ownership, and the bill before us is the result of many years of work, collaboration and compromise by Chairman Bishop that has produced a locally-driven solution to some of Utah's most daunting land management issues.

His bill promises to expand public recreational access, protect grazing, and ensure the continued use of off-highway vehicles. The PLI includes protections against Federal over-reach and ensures that the state of Utah can have control over its own economic and energy future.

This bill is a give and take for all who were involved, but ultimately ensures certainty and resolution to the state of Utah.

To be clear, I would not support the compromises in this bill if they were stand-alone legislation. It designates millions of acres for wilderness that makes scientific land management nearly impossible. It confers 360 miles of new Wild and Scenic River designations that have proven disastrous at Yosemite, where the Merced River designation is now being used to remove long-standing visitor amenities including bicycle and horse rentals, historic stone bridges and lodging.

But these concessions were made in order to provide certainty and stability for other lands that are exchanged and consolidated for beneficial use by the public, and inclusion of local and tribal governments in many land management decisions from which they were previously excluded.

Most importantly, this bill preempts arbitrary and capricious designations threatened in the final throes of the Obama administration. Mr. Obama's threatened monument designations are focused appeasing out-of-state interests at the expense of local people struggling to have good paying jobs and keep their public schools open after monuments engulf their communities. In contrast, this bill seeks to create a national monument that the people of Utah and its tribes actually support.

This President has relied on the Antiquities Act—originally written in 1906 to provide temporary protection of archeological sites from looting—to lock up 548 million acres of land and water on whim. That's an area larger than the states of California, Texas, Oregon, Wyoming, Colorado, and New Mexico combined. This abuse of power means the public is largely forbidden from enjoying traditional

recreational pursuits on the public lands, including snowmobiling, hunting, fishing, shooting, and off-highway vehicle use.

In my own district, these same special interests are trying to convert the Sierra National Forest into a 1.3 million-acre Sierra National Monument, obliterating the last remaining timber jobs in our communities and making the management of our lands impossible at a time of severe drought and beetle infestation. If successful, I would suggest naming it the "Incinerated Forest National Monument," where schoolchildren can come to see what the surface of the moon looks like.

I'm not sure who President Obama thinks he is accountable to, but here in Congress we believe it's our constituents. Ultimately, it is up to our elected officials, such as Chairman Bishop and Commissioner Rebecca Benally, to represent their local residents and be held accountable for their land use choices.

I hope the Administration officials here today pay close attention to the loud and resounding opposition to a unilateral monument designation and let local elected officials decide the fate of lands in Utah.

With that, I look forward to hearing testimony from today's witnesses and I now recognize the Ranking Member for her opening statement.

Mr. MCCLINTOCK. I now recognize the Ranking Member for her opening statement.

STATEMENT OF NIKI TSONGAS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS

Ms. TSONGAS. Thank you, Mr. Chairman.

Nearly 5 years ago, Chairman Bishop began the task of developing this bill. Along the way, he and his staff have conducted hundreds of meetings all over Utah. It is a worthy effort to develop a comprehensive blueprint for 18 million acres of land, roughly the size of Massachusetts and New Jersey combined, that are clearly so deeply cherished by all who live there; but this endeavor does not ultimately fulfill its potential of reaching a bipartisan solution.

Our Nation's public lands protect some of the places that have shaped and defined who we are as a people and a country, and would not have been protected without support from the Federal Government.

While necessarily resident in a particular state, states do not have the right to unilaterally set policy on these lands that belong to all Americans. Though state lands are often managed to maximize profitability, our Nation's public lands are managed for a wide range of activities and on behalf of all Americans.

As stewards of these lands, we must work to find a balance between compelling, yet sometimes competing, interests and make sure that the Federal Government is a good neighbor to local communities.

Unfortunately, instead of looking for bipartisan policy solutions to protect treasured natural resources and wild areas, promote recreation, and support responsible economic development, the legislation before us today fails to strike the appropriate balance between these priorities. In fact, a closer examination of the so-called conservation provisions demonstrates a clear pattern of loopholes, rolled back protections, and an undermining of Federal land management authority, all of which threaten the long-term conservation value of these areas. It could be said that this is a wolf in sheep's clothing.

For example, Title I of the legislation purports to designate over 1.6 million acres of wilderness, but contradicts the Wilderness Act

by indefinitely allowing motorized vehicle use and construction of new water infrastructure. This is a violation of the Wilderness Act's promise to preserve certain Federal lands, "for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness."

The National Conservation Areas and Special Management Areas in Titles II and IV have loopholes that allow for thousands of miles of off-road vehicle routes, mining, drilling, deforestation projects, and livestock grazing, activities that are inherently inconsistent with a Federal land manager's duty to protect the natural, cultural, educational, and scientific resources.

The National Conservation Area that is intended to protect Bears Ears, a Native American ancestral homeland, would allow motorized recreation, grazing in areas where it is currently prohibited, and block Federal agencies from protecting the wilderness quality of hundreds of thousands of acres of land. This puts the region's many Native American cultural and archeological sites at risk of permanent destruction.

The watershed management areas created under section 3 claim to protect water quality, but the bill also requires mandatory levels of grazing and snowmobile access, authorizes the construction of permanent roads, sets new requirements for water use, and allows for timber operations, severely limiting Federal land managers' ability to best protect water resources.

Even conservation designations that are more familiar to average Americans, such as national parks, national monuments, and wild and scenic rivers are not exempt from harmful policies in this legislation.

Sections of this bill related to these special areas are also ridden with loopholes that loosen rules for logging, allow motorized vehicle use, prohibit protections for air quality, and allow commercial activities without full and careful consideration of the impacts to natural resources, once again undermining their long-term conservation value to the American public.

All told, despite the many years of effort, this is not a legislative proposal that has a realistic chance of being passed by the Senate or signed into law by President Obama. Last month, Grant County in eastern Utah sent a letter to the Utah delegation expressing their opposition to the proposal, detailing nine significant departures from the recommendations they developed with the input of their stakeholders, partners, and citizens.

The *Salt Lake Tribune* wrote in an editorial that, "A negotiated settlement would have been better, but a Bears Ears monument declaration looks like the only viable solution at this point."

And perhaps most significantly, last week, Governor Gary Herbert, a Republican, announced in a press conference that he may soon bring forth his own proposal to the Obama administration regarding the long-term protection of the Bears Ears region, further indication that the legislation before us today has little chance of successfully becoming law.

I would like to thank all of the witnesses for their participation, many of whom have traveled across the country to be with us today, and I look forward to your testimony.

Thank you, and I yield back.

[The prepared statement of Ms. Tsongas follows:]

PREPARED STATEMENT OF THE HON. NIKI TSONGAS, RANKING MEMBER, SUBCOMMITTEE ON FEDERAL LANDS

Nearly 5 years ago, Chairman Bishop began the task of developing this bill. Along the way, he and his staff have conducted hundreds of meetings all over Utah. It is a worthy effort to develop a comprehensive blueprint for 18 million acres of land, roughly the size of Massachusetts and New Jersey combined, that are clearly so deeply cherished by all who live there, but this endeavor does not ultimately fulfill its potential of reaching a bipartisan solution.

Our Nation's public lands protect some of the places that have shaped and defined who we are as a people, and a country, and would not have been protected without support from the Federal Government. While necessarily resident in a particular state, states do not have the right to unilaterally set policy on these lands that belong to all Americans. Though state lands are often managed to maximize profitability, our Nation's public lands are managed for a wide range of activities and on behalf of all Americans. As stewards of these lands, we must work to find a balance between compelling yet sometimes competing interests and make sure that the Federal Government is a good neighbor to local communities.

Unfortunately, instead of looking for bipartisan policy solutions to protect treasured natural resources and wild areas, promote recreation, and support responsible economic development, the legislation before us today fails to strike the appropriate balance between these priorities. In fact, a closer examination of the so-called conservation provisions demonstrates a clear pattern of loopholes, rolled back protections, and an undermining of Federal land management authority, all of which threaten the long-term conservation value of these areas. It could be said that this is a wolf in sheep's clothing.

For example, Title I of the legislation purports to designate over 1.6 million acres of wilderness but contradicts the Wilderness Act by indefinitely allowing motorized vehicle use and construction of new water infrastructure. This is a violation of the Wilderness Act's promise to preserve certain Federal lands "for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness."

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The watershed management areas created under section 3 claim to protect water quality but the bill also requires mandatory levels of grazing and snowmobile access, authorizes the construction of permanent roads, sets new requirements for water use, and allows for timber operations, severely limiting Federal land managers' ability to best protect precious water resources.

Even conservation designations that are more familiar to the average American, such as national parks, national monuments, and wild and scenic rivers are not exempt from harmful policies in this legislation. Sections of this bill related to these special areas are also ridden with loopholes that loosen rules for logging, allow motorized vehicle use, prohibit protections for air quality, and allow commercial activities without full and careful consideration of the impacts to natural resources, once again undermining their long-term conservation value to the American public.

All told, despite the many years of effort, this is not a legislative proposal that has a realistic chance of being passed by the Senate or signed into law by President Obama. Last month Grand County, in eastern Utah, sent a letter to the Utah delegation expressing their opposition to the proposal, detailing nine significant departures from the recommendations they developed with the input of stakeholders, partners, and citizens. The *Salt Lake Tribune* wrote in an editorial, that, "A negotiated settlement would have been better, but a Bears Ears monument declaration looks like the only viable solution at this point."

And perhaps most significantly, last week Governor Gary Herbert, a Republican, announced in a press conference that he may soon bring forth his own proposal to the Obama administration regarding the long-term protection of the Bears Ears

region, further indication that the legislation before us today has little chance of successfully becoming law.

I would like to thank all of the witness for their participation, many of whom have traveled across the country to be with us today. I look forward to hearing your testimony.

With that, I yield back.

Mr. MCCLINTOCK. And, without objection, we will go out of order to the Ranking Member, Mr. Grijalva.

STATEMENT OF THE HON. RAÚL M. GRIJALVA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

Mr. GRIJALVA. Thank you very much, Mr. Chairman. I appreciate it.

As Ranking Member Tsongas already indicated, and I associate myself with her comments, this is a grand bargain for public lands in Utah that has been a priority for Chairman Bishop for almost 5 years now. I would like to acknowledge the tremendous amount of work that went into drafting this legislation. The holdings of hundreds of meetings and attempting to bring diverse stakeholders together to craft a compromise is never an easy task.

Chairman Bishop and all of those who participated in the PLI process in good faith deserve our thanks. Unfortunately, this bill, which resulted from that process, is a non-starter. H.R. 5780 falls far short of what it would take to reach a legitimate compromise and leaves many of the stakeholders, including the region's Native American communities, no choice but to oppose the legislation.

This legislation impacts the administration of 18 million acres of public land. In doing so, it undermines bedrock conservation laws, like the Wilderness Act, the Endangered Species Act, the National Environmental Policy Act, and the Federal Land Policy and Management Act, just to name a few.

In too many instances, rather than seeking appropriate management of Federal lands in Utah, H.R. 5780 seeks to resolve the management conflicts by simply giving Federal land away.

Time and time again, the proposal tilts the scales dramatically in favor of development and motorized vehicle use, and away from responsible conservation.

H.R. 5780 also includes proposals with significant impacts on Indian land, including the transfer of 100,000 acres of the Ute Indian Tribe's reservation to the state of Utah. This is an unprecedented give-away of Native American assets that every member of this committee should oppose and question.

This and other provisions impacting tribes forced the National Congress of American Indians to oppose the draft of this legislation, and unfortunately, the bill we are considering still contains this devastating provision. Furthermore, the bill leaves out significant acreage included in the proposed Bears Ears National Monument.

At a minimum, H.R. 5780 merits a second hearing in the Indian, Insular and Alaska Native Affairs Subcommittee so that we can hear from the Bureau of Indian Affairs and others in the Native American community to truly assess the bill's overall impacts.

There are representatives from the Navajo Nation and the Ute Indian Tribe here in the audience today. The Ute are the only tribe in the Chairman's district and in the bill that have significant impacts on their land. It is unfortunate that they were unable to testify today.

Finally, it is important to note that this is not the only public lands bill that deserves our attention. There are Members on and off this committee with bills developed from the ground up that deserve a hearing and consideration from this committee. We may disagree on the merits of a particular designation or the specifics of management language, but just like this bill, they deserve the consideration of a hearing. We should not go this entire Congress without considering even one Democratic wilderness bill.

In closing, I respect the process used to attempt to reach agreement on a Public Lands Initiative in Utah, but I join NCAI and others in opposing the final product.

Mr. Chairman, I yield back and thank you.

[The prepared statement of Mr. Grijalva follows:]

PREPARED STATEMENT OF THE HON. RAÚL M. GRIJALVA, RANKING MEMBER, COMMITTEE ON NATURAL RESOURCES

Thank you, Mr. Chairman.

A grand bargain for public lands in Utah has been a priority for Chairman Bishop for almost 5 years. And I would like to start off by acknowledging the tremendous amount of work that went into drafting this bill. Holding hundreds of meetings and attempting to bring diverse stakeholders together to craft a compromise is no easy task.

Chairman Bishop and all those who participated in the PLI process in good faith deserve our thanks.

Unfortunately, the bill which resulted from that process is a non-starter. H.R. 5780 falls far short of what it would take to reach a legitimate compromise and leaves many of the stakeholders, including the region's Native American communities, no choice but to oppose the bill.

This legislation impacts the administration of about 18 million acres of public land. In doing so, it undermines bedrock conservation laws like the Wilderness Act, the Endangered Species Act, the National Environmental Policy Act, and the Federal Land Policy and Management Act, just to name a few.

In too many instances, rather than seeking appropriate management of Federal lands in Utah, H.R. 5780 seeks to resolve management conflicts by simply giving Federal land away.

Time and again, the proposal tilts the scales dramatically in favor of development and motorized use, and away from responsible conservation.

H.R. 5780 also includes proposals with significant impacts on Indian land, including one that would transfer 100,000 acres of the Ute Indian Tribe's reservation to the state of Utah. This is an unprecedented giveaway of Indian assets that every member of this committee should oppose.

This and other provisions impacting tribes forced the National Congress of American Indians to oppose the draft of this legislation and unfortunately, the bill we are considering still contains this devastating provision. Furthermore, the bill leaves out significant acreage included in the proposed Bear's Ears National Monument.

At a minimum, we should have a second hearing in the Indian, Insular and Alaska Native Affairs Subcommittee so that we can hear from the Bureau of Indian Affairs and others in the Native American community to truly assess the bill's impacts.

There are representatives from the Navajo Nation and the Uintah Ouray Ute here in the audience today. It is my hope that Members will seek these tribal representatives out and really listen to their concerns.

Finally, it is important to note that this is not the only public lands bill that deserves our attention. There are Members on and off this committee with bills developed from the ground up that deserve a hearing and consideration by this committee. We may disagree on the merits of a particular designation or the specifics of the management language, but just like this bill, they deserve the consideration

of a hearing. We shouldn't go a whole Congress without considering even one democratic wilderness bill.

In closing, I respect the process used to attempt to reach agreement on a Public Lands Initiative for Utah, but I join NCAI and others in opposing the final product.

Mr. MCCLINTOCK. The Chair now recognizes the Chairman of the Natural Resources Committee, Congressman Bishop, for 5 minutes.

STATEMENT OF THE HON. ROB BISHOP, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

Mr. BISHOP. Thank you, and I appreciate the witnesses who are here, and, Neil, I need to talk to you after the meeting. Otherwise, you have to call me.

I also want to thank the Chairman very much for having this hearing. I want it to be noted that this is not the hearing of this bill, it is a hearing of this bill. We have had hearings of this bill for the last 3 years. There have been over 1,200 meetings and hearings, and 50 field trips on this bill with small groups, large groups, the public, and stakeholders. It can easily be said I do not think any bill has had this kind of public input ever before that has been before this committee or this Congress.

No one has been cut out of this process. Everyone has had their say, including having this online and allowing online reports to come in. We have had over 65 changes represented by 120 different groups, and that was as of January. That does not count everything that we have done this year.

What this bill tries to do is four major things, bring finality in four areas:

One, guarantee recreation opportunities for Utahans that will be there permanently.

Two, to provide areas that the primary purpose will be for economic development so the business community knows where they can and cannot invest.

Three, provide permanent conservation done by Congress, not by fiat which can be undone by fiat; provide conservation in there in a permanent way.

And, four, give areas to the states so they can develop destination spots that would improve the value of that land and the value of the economy of the state of Utah.

And over that, for every 1 acre of economic development and recreation that we guarantee, there are 4 acres of conservation that are guaranteed in here, and yet there are voices out there that are saying, "That is not enough." A four-to-one ratio is not good enough, which is amazing.

One of the problems we have had in these 3 years is we are asking groups to get together who have never compromised before. There are certain groups that are distrustful. I have grazers out there that realize what has happened to them, especially in Grand Staircase-Escalante. They believe they have been deceived, and I think in many cases they are accurate.

I have other special interest groups that have never actually compromised on anything and do not seem to be willing. In fact, I was amazed when one of the participants who is with us came to me one time and said, "You know, I feel sorry for you, that both

you and Chaffetz were very sincere in what you were attempting to do, but there are groups that have been part of this process that were never sincere about actually being there at the final end."

In fact, you have seen attack ads come on this process before a discussion draft was actually printed and handed out. That misinformation from those original attacks continues on, and you have heard it again here today.

There are shrill voices out there realizing that if we actually bring finality in this issue, they will be out of work. There are shrill voices out there that are not trying to find a compromise and a solution, let alone a consensus.

There is a song in "Hamilton." I do not know whether it is sung by Jefferson or Madison because I cannot afford a ticket, but they are talking about Alexander Hamilton's relationship with George Washington, and the phrase is, "It must be nice, it must be nice to have Washington on your side."

Unfortunately, there are some environmental groups that are out there that think it is really nice to have Washington on your side, and rather than sit down in good faith and actually negotiate something, they can run back here to Washington and see if they can get a sweetheart deal worked out. Neil, you are still part of the problem.

So, here is where we are. In addition to those shrill voices that you will hear, you are also going to hear voices of reason, voices that want a solution, voices that want to end the internal litigation, the time, and the cost of litigation. So, to all of the attorneys in here, I apologize, but you are simply not worth it. There has to be a better way. There has to be a better solution.

With that, Mr. Chairman, I would also ask unanimous consent to introduce into the record as part of my testimony an article that appeared in one of the reputable newspapers in the state of Utah which tried to take a balanced approach at the issue of Bears Ears and the funding source of Bears Ears from both sides, the side that we are trying to do with the PLI and the side that is trying to get a national monument.

I would ask unanimous consent to have that entered into the record as well.

Mr. MCCLINTOCK. Without objection.

[The information follows:]

Big money, environmentalists and the Bears Ears story

By Amy Joi O'Donoghue
Published: Aug. 4, 2016; Updated: Aug. 26, 2016

SALT LAKE CITY—In October 2014, a group of people sat around a table and discussed their campaign to bring a monument designation to southeast Utah for the region they called Bears Ears.

This wasn't a group of Native American tribal leaders from the Four Corners, but board members from an increasingly successful conservation organization who met in San Francisco to discuss, among other things, if it was wise to "hitch our success to the Navajo."

Many Utah Navajo are against a monument designation for Bears Ears, but the out-of-state tribal leaders behind the Bears Ears Inter-Tribal Coalition who support it insist the effort is one that is locally driven, locally supported and grass-roots in nature.

"None of the drivers of this are coming from the environmental community. It is purely Native American led. This is a Native American led effort. Any suggestion

otherwise is not true," said Gavin Noyes, the executive director of Utah Dine′ Bikeyah, a nonprofit, Salt Lake City organization that works to protect indigenous lands for future generations.

But the campaign is fueled in part with $20 million in donations from two key philanthropic foundations headquartered in California—the Hewlett and Packard foundations—that cite environmental protections as a key focus for the grants they award.

Both foundations directed grants to groups like The Wilderness Society for the Bears Ears campaign, or for Colorado Plateau protections to the Grand Canyon Trust or to Round River Conservation Studies, of which Noyes served as director.

In mid-July, the Leonardo DiCaprio Foundation announced its biggest ever round of grants for environmental causes—some $15.6 million—with some of that going to the Bears Ears campaign via Utah Dine′ Bikeyah.

Regina Lopez-Whiteskunk, councilwoman for the Ute Mountain Tribe and co-chairwoman of the Bears Ears Inter-Tribal Coalition, said it is an insult to Native Americans for people to accuse them of being influenced by special interest groups.

"It is absolutely, really absurd to say that. It is an insult to say that. (These groups) serve a good purpose for research and support," she said.

Another monument supporter, Utah Dine′ Bikeyah's board chairman Willie Grayeyes, said much of that support is with technology.

"They know how to produce mass communications and do social media. We don't do social media. That is why we utilize their skills and connections. People say we are being paid under the table. We are not being paid and are not on salary."

Byron Clarke, vice president of the Navajo community group Blue Mountain Dine′ and a member of the Aneth Chapter of the Navajo Nation, does not support a monument designation and said he's bothered by the implications from the San Francisco meeting of the Conservation Lands Foundation.

"The whole tone of it seems like the tribes are generally being used as pawns for the environmental groups to get what they really want," Clarke said. "They are being played. It is somewhat insulting."

Cedar Mesa

In the 2014 meeting, board members discussed the progress of the "Cedar Mesa campaign," which is the Bears Ears area, with chairman Ed Norton inquiring about the dynamics of the tribes and how they were working together.

"There have been some bumps in the road, but progress is being made to gain support from multiple tribes for protection of the Cedar Mesa region," the minutes of the meeting read.

The minutes, too, acknowledge that the Obama administration had more interest in Cedar Mesa than the Greater Canyonlands proposed monument because of tribal leadership.

Calls by environmental groups for the Greater Canyonlands monument designation have all but dimmed. From 2012 to 2014, there was a flurry of activity, with repeated urgings by groups to the White House for monument protection and a letter of support issued by 14 U.S. senators. The focus then apparently shifted.

In the board meeting, Norton questioned if the group was "hitching our success to the Navajo and if so what would happen if we separate from them or disagree with them. Without the support of the Navajo Nation, the White House probably would not act; currently we are relying on the success of our Navajo partners," the minutes read.

The minutes also indicate the local campaign "agreed to the name Bears Ears to move away from a Navajo name," and it became the area and name to push.

Brian O'Donnell, executive director of the Conservation Lands Foundation, said the organization has sought protections for Cedar Mesa since its founding nearly 10 years ago.

"Instead of pushing our Cedar Mesa proposal, we decided it was more important to support theirs," he said.

O'Donnell said the Navajo leaders were already working on ways to protect the Bears Ears region and the meeting was a discussion of other tribes' support of the effort.

"That was a report on how the Navajo was doing with other tribes," he said. "I am frustrated by the continued accusations which imply the tribes can't come up with their own proposal, which is frankly insulting."

With discussion that detailed an upcoming meeting between foundation staff and the then-director of the White House Council on Environmental Quality (tasked with vetting monument proposals) the minutes describe the group's access—and challenges—associated with top Interior Department officials, including Secretary Sally Jewell.

"She is not being a strong advocate for the Antiquities Act, but continues to show gradual improvement. With strong leadership from the White House, this has become less of a roadblock," the minutes read. The Antiquities Act allows the president of the United States to designate national monuments at his discretion.

Gaining access

The effort made to increase access to top Interior Department officials appears to have worked.

Both the Conservation Lands Foundation and The Wilderness Society had staffers who accompanied Jewell on a leg of her "listening tour" last month in Grand and San Juan counties and the Bears Ears region.

Jewell also met with San Juan County commissioners—who are adamantly opposed to the monument designation—but commission member Bruce Adams said they were not invited to tag along on any field visits in their county.

The trip also included top staffers from the offices of Reps. Jason Chaffetz and Rob Bishop, two Utah Republicans who are pushing passage of a massive public lands bill they say will provide adequate protections for the region.

The compromise measure, released last month, is roundly criticized by environmental groups that say it does not go far enough to protect natural resources.

Yet even as the crafting of the public lands bill was ramping up with more than 1,000 meetings across the state involving multiple groups like Native Americans, environmental organizations and county commissions, the push for a monument designation started down an alternative path trod by players still at the negotiating table.

Board members of Utah Dine′ Bikeyah expressed frustration at the planning process to San Juan County commissioners in a letter in 2013, noting their work with Round River Conservation Studies was providing them with the "research, advice and information we desire in a professional manner."

At that time, Noyes had yet to become Utah Dine′ Bikeyah executive director and was still at Round Rivers, and Grayeyes, Utah Dine′ Bikeyah's board chairman, complained that San Juan County leaders were not taking their efforts seriously.

"The county's persistence in challenging RRCS' role is unsettling and threatens our ability to move forward," Grayeyes wrote.

Adams said Utah Dine′ Bikeyah has been untruthful about being cut out of the public lands bill, and instead bolted from talks when commissioners weren't 100 percent on board with their proposal and leaders questioned the depth of environmental groups' influence.

The coalition

On its website, the Bears Ears Inter-Tribal Coalition describes how the coalition was founded in July of 2015 by the leaders of five tribes who came together.

The coalition's formation, however, was written about months earlier in a rock climbing magazine, which listed Friends of Cedar Mesa, the Conservation Lands Foundation, the Grand Canyon Trust and Utah Dine′ Bikeyah as groups that had "banded together."

Josh Ewing's group, Friends of Cedar Mesa, was still in talks that same year with Chaffetz and Bishop over provisions in the yet-to-be unveiled public lands bill that promised the establishment of national conservation areas for the region—designations that differ from monument protections.

Ewing, however, registered the coalition's domain name in 2015 and is listed as its administrative contact. The Grand Canyon Trust notes on its website the voluntary assignment to create the map for the proposed Bears Ears monument and its Native American program manager sends out press releases for the coalition as the media contact.

Those close ties lead monument critics to question the authenticity of the movement.

"This is not a grass-roots Native American effort to protect sacred lands," said Blanding City Manager Jeremy Redd. "This is an effort by environmental groups to get what they want. People feel like they are being run over by the money and

the organization that these special interest groups have. Sadly, local people don't have that kind of money behind them."

Redd added that the Utah portion of the Navajo nation, Native Americans who live off reservation in San Juan County and the Blue Mountain Dine are nearly "across the board," opposed to the monument designation.

"The general consensus among local people is they feel the process has been co-opted by the environmental groups and special interest groups who want to use the power of the federal government to get their way."

"The farther you get away from being local, the more you are influenced by special interest groups and the money they have," Redd said.

Common ground

Ewing said it is natural for Friends of Cedar Mesa to help the tribes because of the common goal of all entities to protect cultural resources in the region.

"Those who don't have common ground with the tribes and want to continue the status quo are trying to manufacture something that doesn't exist," he said. "It is no secret we have worked to find common ground and we have common interests in protecting cultural resources."

Support for a Bears Ears monument includes outdoor business leaders, who came together Thursday in a press conference at the Outdoor Retailer Show. In a packed room in downtown Salt Lake City, they outlined why 15 leading companies are in support of a national monument designation.

"It is a place that is absolutely iconic in the form of recreational opportunities that are available such as climbing, hiking and water sports. It is an incredible treasure in the state of Utah," said Hans Cole of Patagonia. "As an industry we rely on these protected places, and so for us it is an economic driver. But it is also deeply personal because of the landscape."

Carlton Bowekaty, a Zuni tribal councilman from New Mexico, was at the Bears Ears meadows gathering in July, addressing Jewell on the need for protections in the area.

Later, he dismissed the notion that his people had been overly influenced by environmental groups.

"We rely on them for support, but if I felt like it was not something I could personally support, I would not bring it to the Zuni people." Bowekaty said.

But Clarke said most of the tribal leaders who visited Bears Ears for the Jewell meeting had probably never been there before and likely will not be back again.

"The more distant you are as a Navajo and tribal member the more likely you are to support the monument because you view it as an abstraction or concept or theory of tribal sovereignty," he said. "The closer you get to the monument, the more likely you are to view it as land that can and should be used properly."

The Conservation Lands Foundation boasts on its website that the marathon listening meeting in Bluff attended by more than 1,500 people for Jewell was an "incredible success," with huge showings from their Friends Grassroots Network that includes multiple Colorado-based organizations.

Supporters of monument designations sported blue T-shirts to draw attention to themselves at the event designed for Jewell to hear the issues surrounding the monument debate.

"Secretary Jewell, you came to Utah seeking local input. Unfortunately, what you saw and what you heard was theater staged by radical environmentalist outsiders intent on smothering local voices. This wasn't local grass roots. This was Astroturf," blogged Matthew Anderson, the Sutherland Institute's policy analyst for the Coalition for Self Government in the West.

Chaffetz said he has no doubt tribal leaders are being influenced by environmental groups seeking monument designation.

"I sat with the president of the Navajo Nation last August and he had no idea what Bears Ears was or where it was," he said.

Clarke wonders at what he says is a contradiction inherent in the monument designation.

"Everybody who came out here says it's beautiful, it's wonderful and pristine and we want to keep it that way. I say 'thank you,' because we have been taking care of it the last 100 years," he said.

Monument opponents, he said, are characterized as extreme conservatives who don't care about the land.

Clarke said he doesn't believe tribal officials who support a monument designation could name the landmarks at Bears Ears or know if wood gathering is good at places like Babylon Flat, Duck Lake, Little Dry Mesa or Sweet Alice Springs.

"I'd be met with blank faces. The people who came here from a distance and will return to a distance had to GPS the Bears Ears to get there. I've never had to use GPS out there," he said. "Their idea of protection is to essentially make it famous. How is making it famous and putting it on the map for careless visitors protect it."

Mr. BISHOP. With that, I yield back, glad though that as this circus begins, that we are going to hear from my cohort down there, Mr. Chaffetz, who is a master at the art of circus. He has mastered the high wire act perfectly and will be a perfect solution to this process.

I yield back.

Mr. MCCLINTOCK. Thank you.

Without objection, I will now yield to the master of the high wire, Mr. Chaffetz.

STATEMENT OF THE HON. JASON CHAFFETZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

Mr. CHAFFETZ. There is this great place in Bears Ears where we can put this high wire. I am just teasing.

Thank you for the time. I do appreciate it, and I really do appreciate the leadership of Congressman Bishop.

We have tried from our heart of hearts to develop a bipartisan and balanced approach to this solution. The easiest thing for me to do politically is just to say, "to heck with the Federal Government," because that is what I really do feel in my heart, but I also know that a viable, long-term solution requires a bipartisan solution.

We have to develop something and the place that we turn to do that is to look to the local communities. What you see in Rebecca Benally, the Commissioner in San Juan County, is a registered Democrat who at the beginning of this did not start as a fan of the potential process, but ultimately came to this conclusion that the Public Lands Initiative is the viable solution.

We have had more than 1,200 meetings. So, as you look at this option, the arrogance of a national monument is offensive. It is good if it goes our way. There is only one bipartisan suggestion that is now encompassed in a bill, and that is the Public Lands Initiative.

For all of the lip service the Democrats give to "bipartisan" and "meeting" and "we want to accomplish this," it seems to be their way or no way. We have bent over backwards to accommodate as much as we possibly can. There are people that are opposed to certain things, there are people that are in favor of certain things, but there is but one option if you want a bipartisan solution to this, and that is the Public Lands Initiative.

It would be entirely arrogant and offensive to a lot of people, people who have lived there for generations, to have a President who has never been there and will never go there unilaterally change the designation on millions of acres, change their lives forever.

Most of us on this panel will never even visit there, so what we are trying to do as members is develop a local solution. We have

29 counties in Utah and we are dealing with 7, just a handful. Now, they are big; a lot of these are bigger than states.

But let the locally-driven process prevail. It is done in a bipartisan way. The locally-elected officials do not support a national monument, but they do support, by and large, this Public Lands Initiative. So that is what we are asking for, that consideration.

I would hope that you would give deference to those that represent this area who want to do best for their constituents, just as you would want in your own districts. And we are not doing it unilaterally. We are not just blowing past everybody here. We are doing it in an open, transparent way with 1,200 meetings, years of work, bipartisan in its approach, locally-elected officials on both sides of the aisle supporting it, and a ratio of conservation compared to economic development that is unprecedented.

As I conclude here, I would like unanimous consent to enter into the record a September 9, 2016 letter we have received from the White Mesa, Utah part of the Ute Mountain Ute Tribe. I would like to enter that into the record if that is appropriate.

Mr. MCCLINTOCK. Without objection.

[The information follows:]

September 9, 2016

Please hear our voices from White Mesa, Utah, part of the Ute Mountain Ute Tribe.

We are the people who have originated and also are descendants of the Posey Band of Utes of San Juan County, Utah.

The Allen Canyon allotment lands located close to the Bears Ears Mountain was given to the White Mesa community members through or by inheritance from the original Posey Band of Utes of San Juan County.

The Posey Band fought the government to keep the allotted lands years ago and won. And to this day, the elders with their families travel to Allen Canyon to gather willows for basket making; picking herbs; hunting deer, elk, to provide food for their families through the winter months; also hauling wood for cooking and warming their homes; cutting of cedar trees for the annual Bear Dance on Labor Day Weekend; and the gathering of sage for medicine for ceremonial purposes.

One elder said they left Allen Canyon to live in White Mesa so that Allen Canyon allotment lands will remain sacred and will always furnish their needs through generations to come.

There are two cemetery or burial sites in Allen Canyon and the people bury their loved ones at these cemeteries to this day. For this reason, we say NO! Ka'ch to Monument—we want to be able to enter and leave whenever we want to our sacred allotment lands and continue to care for it as our ancestors did years ago.

The teaching of the past to the young Ute Mountain Utes of White Mesa is very sacred and valuable, understanding their genealogy and history which ties them to the allotment lands of Allen Canyon is priceless. We know and understand how much to take from the land, we give tobacco to Mother Earth for her continuous providing of our traditional needs, it will forever be acknowledged through prayers by the Posey Band descendants of White Mesa, Utah.

Sincerely,

THOMAS L. MORRIS
LORETTA N. MORRIS
MARISSA LAMEMAN
MARIAH POSEY
LORLICIA POSEY
JANELLE MORRIS-COWBOY
LEIGHTON COWBOY
MARTICIA POSEY
BELICIA POSEY

Mr. CHAFFETZ. Thank you.

I appreciate the consideration. There is a lot of work that has been done by a lot of people, and if the White House would come in earnest and work with us to develop a solution, I am sure we could get this bill to sail through in record time.

Do not play the charade with us if all you want to do is just go with your environmentalist lobbyists, environmentalist friends, and screw the rest of Utah. That is not the way it should be. If it was the other way around, you would hate it, and you should. It is arrogant, it is offensive, and it should not be tolerated in this Congress.

I yield back.

Mr. MCCLINTOCK. Thank you.

Are there any other opening statements?

[No response.]

Mr. MCCLINTOCK. If none, we will proceed to our witnesses.

Each witness' written testimony will appear in the hearing record. I would ask that you keep your oral testimony to 5 minutes. That is for your protection because that is about the maximum attention span of a Member of Congress. After that elevator music begins playing in people's ears.

To help you keep within those rails, we have a timing device. When you have the green light, you have 5 minutes. The yellow light will go off with a minute remaining, and with the red light, you have lost your audience, so you might as well quit.

Thank you all for being here, and first I would like to recognize Ms. Rebecca Benally, the Commissioner for San Juan County, Utah, for 5 minutes.

STATEMENT OF REBECCA BENALLY, COMMISSIONER, SAN JUAN COUNTY, MONTICELLO, UTAH

Ms. BENALLY. Mr. Chairman, Ranking Members, and members of the subcommittee, we are here today to talk about the Utah Public Lands Initiative, the PLI. As a Navajo woman and the first to serve as a San Juan County Commissioner, I want to say that despite what others have said, the PLI has been a process that has included all San Juan County residents.

And, mind you, San Juan County is the poorest county in the state of Utah. The PLI specifically benefits the grassroots residents of San Juan County. It will benefit the Utah Navajos with mineral rights on McCracken Mesa and will allow the White Mesa Utes continued access to their allotted lands and community cemetery. These are the descendants of the Posey Band.

I became a Commissioner to represent my people and to protect the interests of my community. I consider it a sacred duty to speak on their behalf. This is why I am here today.

My constituents are Utah Navajos who have historically been forgotten or bullied by the Federal Government and their own tribe. Now, so-called environmentalists and their corporate benefactors are adding their own chapter to this sad story, by using a few members of our community who are desperate for a paycheck to advance the agenda of outside interests.

The Bears Ears National Monument campaign is a cynical, political stunt that, if successful, will deny grassroots Utah Navajos access to their sacred and spiritual grounds. Traditional Utah

Navajos depend on that land for their necessities: to gather medicinal plants, firewood, pinon nuts, as well as to hunt and practice sacred ceremonies.

Traditional Utah Navajo people are not conspiring with lawyers in boardrooms in Salt Lake City and San Francisco. Traditional Utah Navajo people are not collecting $20 million from corporations and actors to sponsor this toxic divide-and-conquer campaign.

Traditional Utah Navajo people are not magazine environmentalists, but are real stewards of the land whose interests will be destroyed by a Bears Ears National Monument. Grassroots Utah Navajo people do not support this effort to convert our sacred land into a Federal designation that will subjugate them to micromanagement by bureaucrats in Washington, DC.

The Bears Ears National Monument supporters claim the Federal Government will allow us to have continued access to our sacred lands. "Trust us," they say. In the interest of time, I will give you two reasons why we should not:

Canyon de Chelly—since becoming a national monument, Canyon de Chelly has been raided by the National Park Service, who have removed over 300 sets of ancestral remains and cultural artifacts. The Navajo Nation has been tied up in lawsuits since the 1990s to regain custody of these sacred remains from the NPS because the Department of the Interior continues to defend their actions.

Little Colorado River Valley—since becoming a national monument, Navajos have lost access to the Little Colorado River Valley. The national monument designation systematically eliminated Navajos from this land. Today, what was once a thriving community of hundreds of Navajos is a wasteland of abandoned homesteads, home only to a single Navajo elder woman whose house will revert to Federal ownership upon her death.

Trusting the Federal Government, especially agencies within the Department of the Interior, has not worked well for the Navajo people. If history is our guide, we would be foolish to do so again and expect a different result. Two hundred years of broken promises and treaties should tell us all we need to know. I spent a day at the Native American Museum yesterday looking through all the treaties and, yes, they are broken time and time again.

Honorable members of this committee, Native American support for the Bears Ears National Monument campaign is a hoax. I am here to help you unmask it. I beg this Congress, this Administration, and the next President of the United States to stop what has become the most cynical divide-and-conquer campaign waged by outside interests against Navajo people since the Navajo-Hopi relocation.

I support the PLI process. It has unified the residents of San Juan County: the Navajo people, White Mesa Utes, San Juan Southern Paiutes, the Anglos, the Hispanics, and others. We are of one mind and one voice when we say no national monument, and we support the continuance of the PLI process. It is a people's process, and it is for people.

Thank you.

[The prepared statement of Ms. Benally follows:]

PREPARED STATEMENT OF REBECCA BENALLY, SAN JUAN COUNTY COMMISSIONER

We are here today to talk about the Utah Public Lands Initiative Act, the PLI.

As a Diné woman, a Navajo woman, and the first to ever serve as a San Juan County Commissioner I want to say, that despite what others have said, the PLI has been a process that has included all San Juan County residents.

The PLI specifically benefits the grassroots residents of San Juan County. It benefits the Utah Navajos with mineral rights on McCracken Mesa, and allows the White Mesa Utes the continued use of their Alloted Lands and community cemetery.

I became a Commissioner to represent my people, to protect the interests of my community. I consider it a sacred duty to speak on their behalf. That is why I am here today.

My constituents are Utah Navajos who have historically been forgotten or bullied by both the Federal Government and their own tribe. Now so-called environmentalists and their corporate benefactors are adding their own chapter to this sad story, using a few members of our community who are desperate for a paycheck to advance the agenda of outside interests.

Bears Ears National Monument campaign is a cynical political stunt that, if successful, will deny grassroots Utah Navajos access to their sacred and spiritual grounds.

Traditional Utah Navajo people depend on that land for their necessities of life: to gather medicinal plants, fire wood, piñon nuts, as well as to hunt and practice sacred ceremonies.

Traditional Utah Navajo people are not conspiring with lawyers in boardrooms in Salt Lake City and San Francisco. Traditional Utah Navajo people are not collecting $20 million from the Hewlett and Packard foundations and Leonardo De Caprio to sponsor this toxic divide-and-conquer campaign. Traditional Utah Navajo people are not magazine environmentalists but are real stewards of the land whose interests will be destroyed by a Bears Ears National Monument.

Grassroots Utah Navajo people do not support this effort to convert our sacred lands into a Federal designation that will subjugate them to micromanagement by bureaucrats in Washington, DC.

The Bears Ears Monument men claim the Federal Government will allow us to have continued access to our sacred lands. "Trust us," they say. In the interest of time, I will give you just two reasons why we should not:

1. Canyon de Chelly: Since becoming a national monument, Canyon de Chelly has been raided by the National Park Service (NPS). NPS has removed more than 300 sets of ancestral remains and cultural artifacts. The Navajo Nation has been tied up in a lawsuit since the 1990s to regain custody of those sacred remains from NPS because the Department of the Interior continues to defend that action.
2. Little Colorado River Valley: Since becoming the Wupatki National Monument, Navajos lost access to the Little Colorado River Valley. After generations of herding sheep there, Navajo were told by NPS that environmental concerns took priority over Native access to lands that Navajo families had managed since the 1870s. The National Monument designation systematically eliminated Navajos from this land. Today, what was once a thriving community of hundreds of Navajo is a wasteland of abandoned homesteads, home only to a single Navajo elder woman whose house will revert to Federal ownership upon her death.

Trusting the Federal Government, especially agencies within the Department of the Interior, has not worked out well for the Navajo people. If history is our guide, we would be crazy to do so again and expect a different result. Two hundred years of broken promises should tells us all we need to know.

Honorable members of this committee, Native American support for the Bears Ears Monument campaign is a sham. I am here to help you unmask it. I beg this Congress, this Administration, and the next President of the United States to stop what has become the most cynical divide-and-conquer campaign waged by outside interests against Navajo people since the Navajo-Hopi relocation.

I support the PLI. It has unified the residents of San Juan County: the Navajo, White Mesa Utes, San Juan Paiutes, Anglo, Hispanic, etc. We are of one mind and one voice when we say "No National Monument."

Mr. MCCLINTOCK. Great. Thank you very much for your testimony.

The Chair now recognizes Mr. Neil Kornze, the Director of the Bureau of Land Management in Washington, DC, for 5 minutes.

STATEMENT OF NEIL KORNZE, DIRECTOR, BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR, WASHINGTON, DC

Mr. KORNZE. Mr. Chairman, all the Chairmen here, Ranking Members, other members of the committee, thank you for your time today.

The "Utah Public Lands Initiative Act" provides direction for the future management and use of public lands across broad areas of eastern Utah. This is a vast undertaking, and I commend Chairman Bishop and Chairman Chaffetz for the time and commitment that they and their staffs have given to this process.

Unfortunately, the Department cannot support the bill as written. Eastern Utah has been blessed with spectacular natural beauty, important ancient Native American ruins and cultural sites, and world class outdoor recreation destinations. The public lands in this area are also used for mining, grazing, and energy development.

In July, Secretary Jewell and I had the opportunity to visit eastern Utah, along with several staff from the Utah congressional delegation and a member of the governor's staff. At the San Rafael Swell, we joined Emery County Commissioners to see Utah's Little Grand Canyon, and it is spectacular.

We visited the challenging cliffs at Indian Creek, which are known to rock climbers around the world. In the Bears Ears area, we hiked with your staff deep into canyons that revealed rock art and incredible ancient cliff dwellings.

In many of these areas, we found the ground littered with pieces of pottery that were left there by former inhabitants many hundreds of years ago.

Many tribes have a long and rich history in this area, including the Hopi Tribe, the Navajo Nation, the Ute Mountain Utes, the Pueblo of Zuni, and the Ute Indian Tribe. These lands continue to hold special significance for them today.

Throughout our visit through eastern Utah we heard a strong common theme, one that is embodied in parts of this legislation. There is a broad consensus that many areas deserve special attention, conservation, and protection.

Now, moving to some of the details of the legislation, this bill would establish a significant number of conservation units through eastern Utah. Unfortunately, the bill strays significantly from the standard, time-tested management language that this Congress and other Congresses have used for decades when it protects public lands.

We are very concerned that the areas in focus would be left without the real protection that they deserve. For example, we applaud the sponsors' choice to designate a variety of spectacular landscapes as National Conservation Areas, including the San Rafael Swell, Indian Creek, and Bears Ears. These areas contain some of the most significant cultural and natural resources anywhere in the West.

However, the management language in the bill undermines the BLM's ability to actually protect these special areas.

We also strongly believe that the tribes deserve and must have a meaningful seat at the table in managing the Bears Ears area.

Division B of the bill proposes significant land exchanges between the BLM and the state of Utah, provides for the transfer of lands to local communities, and would require the disposal of large areas of public lands. While we can support many of these goals, the Department continues to believe that there are more efficient and cost-effective ways to reach the same end.

As we have repeatedly testified, the reauthorization of the Federal Land Transaction Facilitation Act, FLTFA, would be a better answer in many of these cases.

H.R. 5780 would also transfer management of oil and gas activities on Federal lands in six counties to the state of Utah and would seriously limit the BLM's management of grazing, which could prevent us from making reasonable adjustments when they are needed.

The Department opposes these provisions and draws the subcommittee's attention to the BLM's long history of safe and effective management of both energy and grazing on the public lands.

We greatly appreciate the work of Chairman Bishop and Chairman Chaffetz to address these challenging land issues. The Department supports many of the goals of this bill, although we cannot support it in its current form.

The state of Utah has been blessed with some of the most remarkable areas in the country. I share the Chairman's commitment to conserving these areas for future generations. My written statement provides much greater detail on the challenges that are still before us, and I look forward to continuing to work with the sponsors and their staffs.

We can accomplish a great deal by working together.

Thank you.

[The prepared statement of Mr. Kornze follows:]

PREPARED STATEMENT OF NEIL KORNZE, DIRECTOR, BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR

Thank you for the opportunity to testify on H.R. 5780, the Utah Public Lands Initiative Act, which is a sweeping bill that provides direction for the future management and use of Federal lands within Summit, Uintah, Carbon, Emery, Grand, Duchesne, and San Juan Counties in eastern Utah. H.R. 5780 establishes numerous public land units that are somewhat similar to existing conservation designations, including 41 wilderness areas, 11 National Conservation Areas (NCAs), 6 Special Management Areas (SMAs), a National Monument, approximately 357 miles of Wild and Scenic Rivers, an approximately 120-mile National Historic Trail, and an expansion of Arches National Park on lands currently managed by the Bureau of Land Management (BLM), National Park Service (NPS), and U.S. Forest Service (USFS). The bill also proposes a large-scale land exchange with the state of Utah's School and Institutional Trust Lands Administration (SITLA), directs a number of land conveyances, requires the sale of some public lands, designates 13 recreation zones, and establishes an off-highway vehicle (OHV) trail. Finally, H.R. 5780 includes several land management provisions that would transfer the BLM's permitting authority for all energy development to the state of Utah, require that grazing continue at current permitted levels in perpetuity, restore grazing in areas where it has been reduced or eliminated for resource protection, and grant perpetual, no-cost rights-of-way for certain roads claimed by counties and the state of Utah.

The Department of the Interior (Department) sincerely appreciates the sponsors' efforts to address a broad range of challenging resource and management issues in

eastern Utah. Due to the length and complexity of the bill, this testimony will briefly summarize the views of the Department. While the Department supports many of the goals of H.R. 5780, we have significant concerns with numerous provisions and are opposed to the bill as it is currently written. In particular, the Department opposes the nonstandard management language for many of the proposed conservation and special management designations, which are repeated throughout the bill and would result in significantly less protection than in other similarly designated areas. Additionally, the Department strongly opposes the unprecedented language transferring all energy development and permitting authority within the affected counties from the Federal Government to the state of Utah, proposed limits on the BLM's management of grazing, and the automatic granting of Revised Statute (R.S.) 2477 right-of-way claims that are currently subject to active litigation with no showing that they have satisfied applicable legal standards. A number of additional important concerns are detailed below. We defer to the U.S. Department of Agriculture regarding provisions in the bill concerning the lands and interests in lands under their administration.

BACKGROUND

Eastern Utah is a land of spectacular natural beauty, important historical resources, and areas of special significance to a number of tribes. The lands managed by the BLM and NPS in this region range from rolling uplands and snow-capped peaks to free-flowing rivers and colorful red-rock canyons. This varied and magnificent terrain provides habitat for a variety of wildlife, including mule deer, pronghorn antelope, bison, and several sensitive bird and fish species. The southeastern portion of this area, in particular, also contains thousands of vulnerable cultural and archaeological sites, including well-preserved cliff dwellings and rock art. Home to premier recreation hubs like Moab, the public lands in eastern Utah provide popular destinations for outdoor enthusiasts, including off-highway vehicle users, hikers, mountain bikers, rock climbers, and hunters. Many of these public lands also provide opportunities for grazing, energy development, and other commercial activities.

DIVISION A—CONSERVATION AND SPECIAL MANAGEMENT DESIGNATIONS

Wilderness

Title I of Division A would designate 41 new wilderness areas on over 2.4 million acres of Federal land in Summit, Uintah, Carbon, Emery, Grand, Duchesne, and San Juan Counties in eastern Utah. The designations are on lands managed primarily by the BLM (over 1.56 million acres), but also include lands managed by the NPS (over 469,000 acres) and the USFS (over 119,000 acres). The BLM-managed lands that would be designated as wilderness by H.R. 5780 include areas of stunning beauty, secluded places offering opportunities for solitude, and important wildlife habitat. For example, the proposed Cedar Mesa Wilderness contains an extensive canyon system that features spectacular sandstone cliffs and pinnacles and an abundance of cliff dwellings and other archeological resources. This area's striking scenery provides an exceptional opportunity for primitive recreation, including hiking, photography, and horse packing. Similarly, the proposed Crack Canyon Wilderness includes colorful badlands of eroded soils, cliffs, and rock monuments, including fins which form a sawtooth sandstone ridge, and knobs, caves, and arches. Scenic, geologic, and archaeological features and wildlife habitat in this area are remarkable, and the narrow, twisting canyons offer outstanding opportunities for primitive recreation.

We recognize the hard work of the sponsors and other members of the Utah delegation in seeking consensus on BLM and NPS wilderness designations and Wilderness Study Area (WSA) releases. We believe that the areas identified in the bill could be managed as wilderness. However, the Department is very concerned that the bill, as currently written, contains language that would prevent the effective management of these areas for their wilderness values. For example, Title I of Division A would permit motorized access within all of the proposed wilderness areas for the maintenance of future water infrastructure, a provision that is ambiguous and could be interpreted to permit broad manipulation of the hydrology of the landscape. The Department strongly opposes this troubling exception to the Wilderness Act of 1964. It is without precedent for BLM- and NPS-managed wildernesses, would undermine each agency's ability to protect, enhance, and maintain wilderness values and opportunities for the public, and is at odds with one of the core values associated with wilderness—to prohibit the use of motorized equipment. The Department notes that the Congressional Grazing Guidelines, outlined in Appendix A of the report accompanying H.R. 2570 of the 101st Congress and H.R. 5487 of

the 96th Congress, already provide for a specific, generous management approach that has worked well for grazing within BLM-administered wilderness areas.

Additionally, the bill omits essential, standard language requiring that any wildlife water development structures and facilities within the proposed wilderness areas enhance wilderness values and minimize their visual impacts. Moreover, Title I of Division A includes provisions requiring the BLM to maintain trail and fence lines within proposed wilderness and potentially eliminating the Secretary's discretion to permanently close a trail or remove a fence line for resource protection. The Department opposes this language, which would effectively pass the historic responsibility for maintenance of fences from the authorized grazing permittee to the BLM.

In place of the problematic language on wildlife water developments, motorized access to water infrastructure, and trail and fence maintenance within the proposed wilderness areas, we urge the sponsors and the subcommittee to instead adopt the standard wilderness management language that has been used by Congress for decades, including in the successful Washington County, Utah, conservation bill included as part of the Omnibus Public Land Management Act of 2009 (Public Law 111–11, Subtitle O). The Department would also like the opportunity to work with the sponsors and subcommittee on a number of additional amendments, including boundary adjustments for manageability and to eliminate overlapping or incompatible designations, time frames, and clarifications regarding outfitting and guide activities, mapping requirements, the jurisdictional coordination of wildfire management, and the role of the Utah Department of Agriculture in BLM grazing administration. In addition, we would like to work on language addressing legacy Primitive Area classifications for the Grand Gulch and Dark Canyon areas.

Title I of Division A also proposes to release nearly 81,000 acres of BLM-managed land from WSA status. While the Department appreciates the use of standard WSA release language in this title, we believe that the Desolation Canyon and Jack Canyon WSAs contain such extraordinary scenic resources and recreational opportunities that protection of those areas is essential. Together with Turtle Canyon, these areas represent the largest complex of unprotected WSAs in the lower 48 states. The extremely rugged terrain of the Desolation Canyon and Jack Canyon WSAs contributes to their scenic quality, remoteness, and habitat for species such as bighorn sheep and raptors, which are sensitive to development. Moreover, these WSAs have an extensive system of deep canyons and feature arches, pinnacles, and other erosional elements not known to occur elsewhere. In addition, the diversity of wildlife within these areas is unusual compared with the public lands surrounding them. We would like the opportunity to work with the sponsors and the subcommittee on language and boundaries that would ensure the continued protection of outstanding resources in these areas.

Finally, the Department opposes section 110 of this title, which could be construed to prohibit the designation of Class I airsheds under the Clean Air Act for lands proposed as NPS-administered wilderness in the bill. All NPS-administered wilderness areas are currently managed as Class I airsheds, which means that the wildernesses proposed by the bill would be managed to a lesser standard. The Department is particularly concerned that this language would eliminate or reduce the existing Class I airsheds associated with both Canyonlands National Park and Arches National Park.

National Conservation Areas (NCAs)

Title II of Division A designates 11 new NCAs covering more than 1.35 million acres on BLM-managed lands. The spectacular and diverse landscapes of the BLM's National Conservation Lands currently include 21 NCAs nationwide. All of these designations have certain critical elements in common, which have consistently been followed in a bipartisan manner during the Clinton, George W. Bush, and Obama administrations. These elements include withdrawal from the public land, mining, and mineral leasing laws; limiting off-highway vehicles to roads and trails designated for their use; language that charges the Secretary of the Interior with allowing only those uses that further the conservation purposes for which the NCA is established; and language ensuring that lands within the NCA are managed at a higher level of conservation than lands outside of such designations.

The management language for all 11 NCAs proposed by this title does not comport with these standards and repeatedly makes exceptions that would conflict with the primary objective of conserving the significant natural and cultural resources within the proposed areas. For example, the purposes for which the NCAs are to be established are overly broad. As a result, the BLM would have to manage these areas for purposes that may prevent effective resource protection. The Department urges the sponsors to clearly define the specific resources, objects, and values to be protected for each of the proposed NCAs consistent with the purposes for which the

BLM's National Conservation Lands were established. The Department opposes language in the bill requiring that the BLM "recognize and maintain historic uses" of the NCAs because such uses may be incompatible with the protection of resources for which these areas are to be designated.

Title II of Division A also includes unacceptable grazing language that would make it more difficult to achieve rangeland health standards in the proposed NCAs. In fact, this language would create lower standards for grazing in the proposed NCAs than it would on public rangelands that are outside of the proposed conservation units. The Department opposes this grazing language, which not only represents a significant deviation from all other NCA designation laws, but also from the management of grazing on all other public lands. As with the proposed wilderness designations, the Department strongly recommends that the sponsors and subcommittee adopt the standard NCA management language that Congress has used for decades, including in the Washington County, Utah, provisions of Public Law 111–11.

For the sake of efficient management, the Department also encourages the sponsors to consider designating a single NCA for the lands surrounding the Dinosaur National Monument, which would include the bill's proposed Beach Draw, Diamond Mountain, Docs Valley, Stone Bridge Draw, and Stuntz Draw NCAs and would consist of approximately 44,000 acres of BLM-managed public lands. Manageability and interagency coordination would be improved by combining these five geographically clustered NCAs into a single NCA managed under a single management plan.

The San Rafael Swell, a portion of which is proposed for NCA designation under the bill, is one of the most spectacular areas managed by the BLM. The terrain of this area varies from sheer cliffs and dazzling canyons to more gently carved badlands broken by shallow washes. The fins and folds of the San Rafael Reef jut through the southeast side of the area and feature dramatic cliffs, pinnacles, the knobs of Goblin Valley, twisted canyons, and valleys of stunning colors. Few canyons can compare to the entrenched, narrow gorges of the Black Boxes of the San Rafael River, which twists and turns through the San Rafael Swell. The Department recognizes and applauds the vision of the sponsors to protect this special area. We believe that this vision would be best reflected through the designation of a single NCA encompassing the approximately 750,000 acres proposed as the San Rafael and Muddy Creek NCAs, the proposed Goblin Valley Cooperative Management Area, as well as other adjacent lands that contain similar resources, such as the currently excluded area between the proposed Cedar Mountain and Muddy Creek Wildernesses. Again, a single management plan for this area, consistent with the goals and purposes for which NCAs are designated, would significantly enhance manageability.

Similarly, the Department notes that the proposed Labyrinth Canyon and San Rafael River NCAs are separated only by the Green River. We believe that manageability for these areas would be improved by combining them into a single NCA under a single management plan.

Finally, the Department would like the opportunity to work with the sponsors on a number of additional amendments to this title, including boundary modifications for manageability, time frames, language addressing potentially incompatible overlapping designations, and clarifications and other edits regarding management plan development, mapping requirements, WSA release, and travel management planning.

Special Management Areas

Title IV of Division A proposes four new Special Management Area (SMA) designations on approximately 108,200 acres of BLM-managed public lands for the Desolation Canyon, Nine Mile Canyon, White River, and Book Cliffs areas, and two other SMAs on approximately 27,400 acres of national forest land. Under the bill, each of these BLM-managed SMAs would be open to oil and gas development at the Secretary's discretion and subject to surface occupancy restrictions. The management guidance that comes with these new designations does not seem to differ greatly from the BLM's existing authorities and management practices. As a result, we do not see a reason to create this new category of public land designations. However, we recognize the significant wildlife, cultural, and other values contained in these areas and would like to work with the sponsors and subcommittee on provisions that would ensure meaningful protection for these areas.

Arches National Park Expansion

Title V of Division A adds approximately 19,000 acres to Arches National Park. The Department supports this expansion because management of these lands in accordance with the park's General Management Plan would enhance visitor

enjoyment and protect irreplaceable resources, including paleontological resources. The eastern portion of the expansion would contribute significantly to the ability of the NPS to protect principal views from key points within the park. The small southern addition, while within the exterior park boundary, is a BLM Recreation and Public Purposes Act (R&PP Act) lease held by Grand County. The existing arrangement works well; however, NPS ownership of this area may require changes to current management and recreational use. The Department would like to work with the sponsors and the subcommittee on additional amendments to this title, including boundary adjustments to address these management challenges.

Jurassic National Monument

The BLM currently manages the Cleveland-Lloyd Dinosaur Quarry in Emery County, Utah, to protect and conserve its unique paleontological resources, which includes the densest concentration of Jurassic resources in the world. Title VI of Division A designates this area as an 867-acre National Monument, and the Department applauds the sponsors for putting forward a vision to permanently protect this special place. To ensure adequate conservation of the world-class paleontological resources of this area, the Department would like to work with the sponsors on amendments to ensure consistency with other National Monument designation laws, language limiting motorized and mechanized vehicles to roads and trails designated for their use, time frames, management plan development, mapping requirements, and clarifications that the BLM would manage the proposed National Monument.

Wild and Scenic Rivers

Title VII of Division A appears to designate approximately 357 miles of rivers on lands managed by the BLM and NPS as wild, scenic, or recreational rivers for protection under the Wild and Scenic Rivers Act. The Department supports the designation of the proposed river segments, but we strongly encourage the sponsors and subcommittee to adopt the standard designation language that has been used by Congress for decades. In addition, we would like to work on time frames, mapping requirements, and technical amendments to this title for consistency with the Wild and Scenic Rivers Act, including language identifying beginning and ending points for individual river segments, ensuring standard protective corridors, and enhancing manageability.

DIVISION B—LAND MANAGEMENT AND ECONOMIC DEVELOPMENT

School Trust Land Consolidations

Title I of Division B proposes the exchange of approximately 328,000 acres of Federal land and approximately 5,700 acres of Federal mineral estate to the state of Utah, and approximately 288,000 acres of state land and approximately 8,000 acres of state mineral estate to the United States. This title, however, is unacceptable as currently drafted as it does not include public interest determinations according to standard practice under FLPMA, complete environmental and cultural review, standard appraisal language, or equalization of values—four provisions that are critical on any land exchange because they provide for public engagement and opportunities to consider mitigation for impacts to environmental and cultural resources, and to help ensure that unknown and unforeseen issues are not overlooked.

While Congress has in the past determined that individual land exchanges are in the public interest, this generally occurs when the BLM has already had an opportunity to identify the parcels as potentially suitable for disposal through the land use planning process. Based on an initial review of the final legislative maps, it is not yet clear whether that is the case in this situation. In addition, some of the lands proposed for exchange out of Federal management in the bill contain sensitive cultural, paleontological, and natural resources and recreational uses, and active oil and gas leases. The BLM does not typically exchange such lands out of Federal ownership and seeks to ensure continued protection of these important resources. Moreover, the Department is concerned about the potential effects of the proposed exchange on valid existing rights and grandfathered uses. Therefore, the Department opposes the proposed exchange as currently written and urges the sponsors to adopt standard language regarding public interest determinations according to standard practice under FLPMA, complete NEPA and cultural review, appraisals, and equalization of values. The Department would also like to work with the sponsors on additional amendments, including potential boundary adjustments for manageability and to ensure protection of important resources, time frames, and language ensuring that royalties for potash and oil and gas are consistent with existing law. The Department also believes that Federal land should not be used to pay for the administrative costs of the exchange, and we would like to work with Congress to ensure that the BLM has the resources needed to implement this title.

Additionally, the Department notes that the Book Cliffs roadless area mineral withdrawal provision is unclear as currently written, and we are unsure if it would achieve its intended purpose. We would like to work with the sponsors to clarify this language to ensure continued protection of the important wildlife habitat and natural resources of this area.

Finally, the Department notes that section 103(g) of this title may threaten the Federal reserved water right for Arches National Park, which was negotiated and finalized by the state of Utah and the NPS a year ago to protect seeps, springs, and streams in the park. The Arches Federal reserved water right extends within the Entrada formation underneath a block of parcels to be exchanged west of Arches. The Department would like to work with the sponsors and subcommittee on language ensuring that the exchange does not adversely impact this important agreement.

Land Transfers, Conveyances, and Disposals

Title II of Division B requires the conveyance, at no cost, of nearly 10,000 acres of BLM-managed lands to the state of Utah to expand the Goblin Valley State Park. It also requires that the BLM, at the state of Utah's request, enter into a cooperative agreement whereby approximately 153,000 acres of BLM-managed land surrounding the enlarged park would appear to be managed by the Utah State Parks and Recreation Division of the Department of Natural Resources.

In the past, the Department has supported minor conveyances for the expansion or establishment of public parks in various western states. We would like the opportunity to work with the sponsors and subcommittee to address a number of concerns with the proposed Goblin Valley State Park conveyance, including boundaries, the presence of occupied endangered species habitat, conflicts with wild horse herd management areas and unpatented mining claims, and investments made in recent years by the BLM. The Department would also like to work with the sponsors on time frames and language ensuring consistency with the R&PP Act and other applicable laws. The Department also believes that legislation establishing a Cooperative Management Area (CMA) for the lands surrounding Goblin Valley State Park is unnecessary. The BLM has a long record of successfully using cooperative agreements for the management of public lands in Utah, such as the Sand Flats Recreation Area near Moab, without the need for implementing legislation.

Title III of Division B would exchange approximately 13,300 acres of Federal land in Carbon County, Utah, to the state of Utah and approximately 15,000 acres of state land in Grand and San Juan Counties, Utah, to the United States for the purpose of creating the Price Canyon State Forest. The Department opposes this title as drafted because the exchange includes the BLM-managed Price Canyon Recreation Site, located just north of the cities of Helper and Price, Utah, which is popular with the public and has substantial recreation use. The BLM has invested more than $1 million in recent years to improve access and infrastructure for public use at this site. In addition, the exchange does not include public interest determinations under FLPMA, complete environmental and cultural review, standard appraisal language, or equalization of values. As discussed above, these elements are critical for successful land exchanges. The Department strongly encourages the sponsors to adopt standard language regarding public interest determinations under FLPMA, complete environmental and cultural review, appraisals, and equalization of values. The Department would also like to work with the sponsors on additional amendments, including boundary adjustments for manageability and to ensure protection of important resources, and time frames.

Title V of Division B deals with long-standing encroachment and reservoir boundary issues on Bureau of Reclamation (BOR) managed lands at Scofield Reservoir. While the requirement to secure properties within the flood surcharge elevation at Scofield is constructive, the bill's language places long-term responsibility on the BOR to monitor and enforce these requirements, which could pose a significant budgetary impact. The Department continues to have concerns about the safety of the facility with the structures located in the surcharge space. Separately, section 503(d)(5)(C) places responsibility for administrative costs to the subject lands with Carbon County; BOR would implement this provision under the terms of a mutual agreement with the county. The Department continues to have concerns with the trust fund as indicated in earlier testimony, and we look forward to working with the subcommittee to further refine that provision.

Title VI of Division B would transfer 20 parcels of public land—encompassing approximately 18,000 acres—to various state and local governmental entities for a variety of purposes. As discussed above, the Department has previously supported legislated, no-cost public purpose conveyances if they meet standards under the R&PP Act and are determined to be appropriate for transfer out of Federal

ownership. While many of these parcels may be appropriate for transfer if additional conditions are satisfied, others may not be for various reasons, including the presence of significant natural and cultural resources, lack of a well-defined public purpose, acreage inappropriate for the intended use, conflicts with wildernesses proposed by Title I of Division A, and conflicts with current uses such as recreation or mineral development. In addition, numerous parcels are encumbered by withdrawals for public water reserves, water supply, and power site reserves. The Department appreciates the sponsors' work to address concerns with other parcels proposed for transfer in earlier public discussion drafts, including the Sand Flats, Fantasy Canyon, and Dugout Ranch areas. The Department would like to work with the sponsors on additional amendments, boundary adjustments for manageability and protection of sensitive resources, time frames, mapping requirements, language ensuring consistency with the R&PP Act and NEPA, including the addition of standard reversionary clause provisions.

Title VII of Division B would require the Secretary to dispose of approximately 5,400 acres of BLM-managed lands, subject to valid existing rights, within 2 years of enactment. While sale of some of these parcels may be appropriate if undertaken consistent with section 203 of FLPMA (including environmental review, public participation, and appraisals), other parcels should remain in Federal ownership. We encourage the sponsors to consider an approach for land disposals similar to those outlined in the White Pine County Conservation, Recreation, and Development Act of 2006 (Public Law 109–432) and the Owyhee Public Land Management provisions of Public Law 111–11, and we would like to work with the sponsors on time frames and language ensuring consistency with FLPMA and NEPA, should disposal of some of these parcels be appropriate and consistent with the purposes of FLPMA.

Recreation and Trails

Title VIII of Division B would designate 13 new recreation zones on approximately 414,500 acres of BLM-managed public lands. The Department notes that the BLM already manages all or major portions of the proposed zones as either Special Recreation Management Areas (SRMAs) or open OHV areas, which were established in the relevant land use plan through a public process. It is unclear how the designation of the proposed zones would differ from the existing administrative designations. Further discussion would be necessary to understand the purpose and need for the proposed zones.

Additionally, Section 815 of this title would designate the Hole-in-the-Rock Trail as a National Historic Trail under the National Trails System Act. This trail would traverse approximately 120 miles of BLM and NPS-managed lands. While the Department supports the designation of this trail as a National Historic Trail, we note that the route depicted on the legislative map accompanying the bill is very general. We would like to work with the sponsors to prepare an updated map depicting the exact location of the trail. Moreover, we are extremely concerned that portions of this trail, which would be designated to "promote motorized and nonmotorized uses," would bisect the proposed Cedar Mesa Wilderness. The Department strongly opposes such a provision on motorized and mechanized use within wilderness as it is counter to the purposes for which wilderness areas were established, and we would like to work with the sponsors and subcommittee on additional amendments, including boundary adjustments for clarity and language ensuring consistency with the National Trails System Act.

Title VIII of Division B includes language regarding Recapture Canyon (section 816) and the Big Burrito Non-Motorized Trail (section 817). Section 816 would approve San Juan County's application for a FLPMA Title V right-of-way in Recapture Canyon and outline the purposes for this right-of-way. The BLM is currently going through a public process to evaluate potential trails and routes through this area of rich archaeological treasures that was home to Ancestral Puebloans. A draft environmental assessment for these potential trails and routes was released on September 9, 2016. The Department opposes this section. Section 817 exempts the proposed 9.3-mile Big Burrito Non-Motorized Trail from administrative or judicial review, presumably in perpetuity. The Department notes that the BLM established this trail through a public process and that it is in use today; the purpose of this language is unclear and cannot be supported in its current form.

Title IX of Division B would establish the Red Rock Country Off-Highway Vehicle (OHV) Trail, a 90-mile motorized recreation trail in Grand County, Utah. The Department has supported similar efforts in the past and, with some alterations, could support this effort.

Tribal Mineral Transfer

Title X of Division B would transfer minerals beneath a portion of the Uintah and Ouray Indian Reservation to the Ute Tribe and would direct that all split estate lands and minerals that are currently managed by a Federal agency be held in trust for the tribe. This title also transfers the Federal minerals beneath a portion of the Navajo Nation to the Utah Navajo Trust Fund and modifies the royalty payment due to the state of Utah. The Department notes that the intent of the provisions in this title is unclear, and we would like to work with the sponsors and subcommittee to get a better understanding of the purpose and vision for this title.

Energy Permitting and Development

The Department oversees a robust oil and gas development program on Federal lands in Utah, and we are proud of the BLM's safe and effective management of this important energy source. As of the end of fiscal year 2015, BLM Utah managed nearly 9,000 wells on over 1.1 million acres that are currently producing oil and gas resources in the state. In fiscal year 2015 on BLM-managed lands in Utah, the agency approved three times more drilling permits (847) than were actually drilled (218). As of the end of fiscal year 2015, 2000 drilling permits are ready for use without any further action by the BLM. To date in fiscal year 2016, 243 applications for permit to drill were approved, but only 14 were drilled. In light of this strong performance and the agency's long history of successful management of mineral resources, the Department strongly opposes Title XI of Division B, which authorizes the state of Utah to take over the permitting processes, regulatory requirements, and development of all energy sources on Federal lands within Uintah, Carbon, Emery, Grand, Duchesne, and San Juan Counties, Utah. This title is also contrary to the BLM's multiple use and sustained yield mission and ignores critical public participation components of the land use planning process, including NEPA and other laws.

Highway Rights-of-Way

Title XII of Division B would recognize the existence and validity of certain claims of "Class B" road rights-of-way in Uintah, Carbon, Emery, Grand, Duchesne, and San Juan Counties, Utah, that were paved as of January 1, 2016. In addition, the Secretary would be required to convey to the state of Utah easements across Federal lands for the current disturbed widths of these purported roads. This title would also require the Secretary to grant perpetual, no-cost rights-of-way for certain "Class D" roads claimed by Uintah County.

The Department recognizes the enormous scope and importance of this issue both to the people of Utah and to successful public land management. However, we have broad concerns with this title because most, if not all, of the claimed routes are currently subject to active litigation and many are located in sensitive resource areas, including priority sage-grouse habitat and specially designated areas. As a matter of policy, we do not believe that R.S. 2477 rights-of-way asserted by the state should be automatically recognized as valid and existing rights-of-way. In establishing the validity of an R.S. 2477 claim through the judicial process, the burden of proof is on the claimant to demonstrate that they have satisfied the applicable legal standard. In contrast, this title's recognition of all county assertions as valid would reverse existing legal precedent and would establish perpetual rights over public lands without applying applicable legal tests. Further dialogue and coordination are needed before the Department could consider a legislative approach to this complex issue.

Grazing

The Department strongly opposes Title XIII of Division B, which would require that grazing on all Federal lands in Summit, Duchesne, Uintah, Grand, Emery, Carbon, and San Juan Counties, Utah, continue at current permitted levels. Although this title includes an exception for "extreme range conditions where water and forage are not available," this language is unclear and could prevent the BLM from addressing deteriorating range conditions. Given the broad scope of this language, the Department may identify additional concerns as we continue our analysis. The Department also does not support managing rangelands according to arbitrary targets of use, which may be inappropriate depending on resource condition. As we have previously testified, the Department instead supports management of rangelands by adjusting targets of use according to resource conditions and through transparent processes, working with the affected permittees and the public under the principles of multiple use and sustained yield. In addition, this title includes language directing that public grazing lands, including areas outside of those otherwise designated by this title, that have "reduced or eliminated grazing shall be

reviewed and managed to support grazing at an economically viable level." The Department strongly opposes this language because it is inconsistent with the BLM's multiple use and sustained yield mission and ignores critical public participation components of the land use planning process, including FLPMA, NEPA, and other laws. Furthermore, this language could inadvertently undermine the application of the Congressional Grazing Guidelines to the wildernesses proposed under Title I of Division A.

Title XIII of Division B also includes language on bighorn sheep management. This language is contrary to BLM policy guidance on improving coordination and management of bighorn sheep habitat to minimize conflicts with domestic sheep and goats released in March 2016, which reflects extensive public outreach and input, represents a thoughtful management approach, and is aligned with USFS policy and efforts on this issue. The Department opposes this provision because it would limit the BLM's efforts to sustain and manage bighorn sheep populations on public lands.

DIVISION C—ADVISORY COMMITTEE

H.R. 5780 would establish a "Public Lands Initiative Planning and Implementation Advisory Committee" (PLI Advisory Council) and would require the Secretary to consult and coordinate with this committee in developing management plans for many of the designations proposed in the bill, including NCAs, SMAs, the Jurassic National Monument, and the Hole-in-the-Rock Trail. Under this title, in the event this Council's recommendations on the management plans are not adopted, the Secretary would be required to provide a written explanation to Congress outlining the reasons for rejecting the recommendations.

The Department has supported advisory councils for many NCAs and National Monuments, and we believe that the local input and involvement that they provide is beneficial in the management of public lands. Based on an initial review of the bill, however, it is unclear if this advisory committee would be consistent with both FACA and with other advisory councils for BLM-managed NCAs and National Monuments. The Department would like to work with the sponsors and the subcommittee on language ensuring that the PLI Advisory Council meets these elements, which we believe would be essential for it to function effectively. The Department also encourages the sponsors to consider incorporating other advisory councils established by the bill into the PLI Advisory Council—perhaps through subcommittees or other mechanisms—which we believe will be beneficial for the participants and the agencies involved.

DIVISION D—BEARS EARS NATIONAL CONSERVATION AREA

The Bears Ears area of southeastern Utah is a unique landscape that combines extraordinary natural features, irreplaceable cultural resources, and areas of great importance to a number of tribes. It has been proposed for protection by Members of Congress, Secretaries of the Interior, state and tribal leaders, and local conservationists for at least 80 years.

This region contains some of the most significant cultural and natural resources anywhere in the West, with thousands of vulnerable cultural and archaeological sites spanning thousands of years—from the Paleoindian Period 12,000 years ago to Mormon pioneers in the 1800s. Visitors to this remarkable area are rewarded with spectacular canyon vistas surrounded by high mesa tops dotted with juniper trees and pinyon pines. Hikes into the canyons reveal ancient cliff dwellings, kivas, and rock art left by the Ancestral Puebloans more than a thousand years ago.

H.R. 5780 establishes two new NCAs encompassing a total of nearly 1.3 million acres of BLM-, NPS-, and USFS-managed lands in this part of San Juan County—the approximately 858,000-acre Bears Ears NCA and the approximately 434,000-acre Indian Creek NCA. The Bears Ears NCA represents the largest of the proposed NCAs in H.R. 5780. The Department notes that the same unacceptable and nonstandard management language that applies to the other proposed NCAs would also apply to the Bears Ears NCA, including the omission of language that permits only those uses compatible with the conservation purposes for which the area is to be designated. While the bill does provide for additional opportunities for tribal and other stakeholder input into the management planning process, it does not appear to contain the cooperative management language that the tribes have requested, and we encourage the sponsors to continue to reach out to the tribes directly for their input. The Department would like the opportunity to work with the sponsors on the care and protection of the world-class cultural and natural resources of the area and on additional amendments regarding definitions, time frames, management plan development, mapping requirements, and boundary adjustments for manageability.

CONCLUSION

The Department of the Interior greatly appreciates the sponsors' ambitious effort to address difficult resource and land management issues in eastern Utah and supports many of the goals of H.R. 5780. However, the Department opposes this bill in its current form for the reasons articulated above. The Department has a number of substantive as well as additional modifications to recommend, and we look forward to continuing to work with the sponsor and the subcommittee to address those issues.

QUESTIONS SUBMITTED FOR THE RECORD TO DIRECTOR NEIL KORNZE, BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR

Mr. Kornze did not submit responses to the Committee by the appropriate deadline for inclusion in the printed record.

Question Submitted by Representative Raul Ruiz

Question 1. During the September 14, 2016 hearing on H.R. 5780, Congressman Westerman presented a map to Bureau of Land Management (BLM) Director Neil Kornze entitled "State and Federal Land Exchange Map." This map was prepared at the request of Congressmen Bishop and Chaffetz by the BLM and dated July 12, 2016. Congressman Westerman asked Director Kornze to confirm if the red areas on the map were "public land managed by the BLM." Relying on the information in the map presented to him Director Kornze replied in the affirmative.

However, the map did not show the exterior boundary of the Ute Indian Tribe's Uintah and Ouray Reservation. If the map had included the boundary, the map would have shown that some of these red areas are within the tribe's reservation. In addition, I understand that the Ute Indian Tribe has formally requested that the Secretary of the Interior restore these red areas, as well as other lands, within the reservation to trust status under the Indian Reorganization Act of 1934.

With this new information about the location of some of these red areas and the tribe's restoration request applicable to lands including some of those red areas, would Director Kornze revise his response to Congressman Westerman?

Questions Submitted by Representative Alan S. Lowenthal

Question 1. Was the Interior Department consulted (including by the committee and/or the bill's sponsors) regarding the Scofield land transfer provided for in Title V of H.R. 5780 (starting on p. 131) and/or the provision's Senate companion S. 14?

Question 2. Do you have knowledge of which parties requested Title V?

Question 3. Does the Interior Department have a position on Title V?

Question 4. Does the Interior Department have a position specifically on the exclusion provided for by Section 502(3)(B)(ii)?

Question 5. Do you have any knowledge of why the parties to *United States v. Dunn et al.* (10th Circuit 2009) were excluded from the land exchange offered by this legislation?

Mr. MCCLINTOCK. Great. Thank you for your testimony.

The Chair now recognizes Ms. Leslie Weldon, the Deputy Chief of the National Forest System for the U.S. Forest Service in Washington, DC, for 5 minutes.

STATEMENT OF LESLIE WELDON, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, U.S. DEPARTMENT OF AGRICULTURE, WASHINGTON, DC

Ms. WELDON. Thank you, Chairman Bishop and members of the committee. I appreciate the opportunity to present the views of the U.S. Forest Service regarding H.R. 5780.

The Utah Public Lands Initiative bill would create, on national Forest System lands, 10 new wilderness areas, 2 National Conservation Areas, 5 watershed management areas, 2 special management areas, and the Ashley Karst National Geologic and Recreation Area.

It would also provide for land exchanges and other conveyances and provisions of relevance to the Forest Service.

The bill recognizes the diversity of uses and values of landscapes in Utah, including cultural, spiritual, and historic values; outdoor experiences and recreation; water; forage; wilderness; access; healthy ecosystems; and vital economic contributions to people.

Thank you to Chairman Bishop and Congressman Chaffetz for your extensive efforts working with citizens and stakeholders on conservation and benefits of balanced land management. Although the Administration does not support this bill, we are encouraged by many of the goals outlined within it and look forward to working further with you and the committee to address provisions that cause concern.

The Forest Service has overall responsibility to manage National Forest System resources in a sustainable manner that meets the needs of present and future generations. Demands in supplies of renewable resources are expected to change over time in response to social values, new technology, and new information. Our land management planning process, which is regulated by the 2012 Planning Rule, is the responsive approach we use to balance those multiple demands in close collaboration with our communities, and that allow adaptive change over time.

We have already initiated the planning processes on the Ashley and Manti-La Sal National Forests with engagements in more than 16 communities, cooperation with local, county, and tribal governments, and conversations with scores of Utah and Wyoming citizens regarding the unique contributions of these national forests.

I believe that the work that is done here really does acknowledge the value and importance of creating a balance and finding ways to ensure the certainty of availability of access in the multitude of values that have been described in the bill and that echo quite a bit with what the Forest Service intends in its land management, working closely in collaboration with communities.

We want to make sure that as we look at results here we can stay in a mode that is highly engaging, involving, including the role and responsibility we have regarding the interest of tribes, and to ensure that we stay in a mode that is highly adaptable as management requirements and needs change and the interest of people change through time. We want to make sure that our land management process under the 2012 Planning Rule can do this.

With that, I look forward to working with the committee on how we can address the areas of concern with the bill. Our written

testimony has much more detail, and I look forward to answering any questions regarding the bill.

Thank you.

[The prepared statement of Ms. Weldon follows:]

PREPARED STATEMENT OF LESLIE WELDON, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, U.S. DEPARTMENT OF AGRICULTURE, FOREST SERVICE

Chairman Bishop and members of the committee, thank you for the opportunity to present the views of the U.S. Forest Service regarding the Utah Public Lands Initiative, H.R. 5780. The Utah Public Lands Initiative bill would create, on National Forest System lands, 10 new wilderness areas (approximately 125,000 acres), 2 National Conservation Areas (approximately 624,000 acres), 5 Watershed Management Areas (approximately 66,000 acres), 2 Special Management Areas (27,422 acres), and the Ashley Karst National Geologic and Recreation Area (110,838 acres). It would also provide for land exchanges and other land conveyances and other provisions of relevance to the Forest Service. The bill provides a range of designations with objectives from protecting motorized recreation to designating wilderness. The bill recognizes that a varying mix of human uses and resource protection best serves the public and ensures long term conservation of resources.

As a general matter, the Forest Service welcomes legislation that incentivizes collaboration and expands the options available for accomplishing critical work on our Nation's forests. Although the Department has significant concerns about H.R. 5780 and opposes this bill as written, we are encouraged by many of the goals outlined within, and we look forward to working further with the sponsor to address the provisions that cause concern.

The Forest Service has an overall responsibility to manage National Forest System resources in a sustainable manner that meets the needs of present and future generations. Demands for and supplies of renewable resources are expected to change over time in response to social values, new technology, and new information. Our land management planning process, regulated by the 2012 Planning Rule, is the responsive approach we use to balance those multiple demands, collaborate with our communities, and allow adaptive change over time.

By designating special management areas with very specific language, the proposed bill establishes direction that is normally the outcome of this land management planning process, which, as required by the 2012 Planning Rule, must include robust public engagement. As a result, land management could become static and unresponsive to changes in values, environmental conditions, technology and new science. We have already initiated the planning process on the Ashley and Manti-La Sal National Forests with engagements in more than 16 communities, cooperation with local and county governments, and conversations with scores of Utah and Wyoming citizens regarding the unique contributions of these National Forests.

As written, the legislation does not allow for management of National Forest System lands at a local level or through the collaborative planning process. Instead, the legislation imposes specific and in some cases inflexible management direction with respect to livestock/range management, energy development, transportation system management, some watershed management and management of different areas of emphasis; in contrast the Forest Service takes its responsibility to flexibly manage National Forest System lands seriously and finds this prescriptive approach inflexible and limiting. Finally, to implement this bill, the agency administrative burden, such as land management plan amendments and associated NEPA analysis would be significant and likely delay our ongoing public process on the Ashley and the Manti La Sal National Forests by several years.

WILDERNESS (TITLE I)

To best serve the public and provide for uniform management of designated wilderness areas on National Forest System lands, we believe the bill should be fully consistent with the Wilderness Act of 1964, including special provisions. Also, where proposed special management areas overlap with wilderness designations, the legislation must clearly state which special provisions are tied to which designation in order to provide clarity to the public and the land manager.

Additionally, we recommend boundaries for wilderness areas and other special designations be mapped to recognizable features on the ground to assist the public and the land manager in knowing when they are in or out of the different designations. Further, boundaries could better conform to existing special designations (such as roadless areas and research natural areas) and wilderness boundaries could

include additional roadless/unroaded lands with wilderness character. Such changes would make boundaries more definable and afford protection to water, cultural and other resources important to local communities. We also recommend that proposed boundaries be vetted at the field level to confirm practicality of the management of these special designations in accordance with the legislative intent.

There are Wilderness and Conservation areas which fall mainly on Bureau of Land Management lands, but include a small portion of National Forest Service lands. These Forest Service lands and acreages should be identified in the bill. Also, clarity is needed regarding jurisdiction—whether the area is to be jointly managed as a single unit or whether each agency is to manage their lands as a separate wilderness unit. If the lands are to be jointly managed, it would be helpful for the legislation to identify which agency is to be the lead.

Section103(c) on Wildfire Management Operations would allow any Federal, state, or local agency to conduct wildfire management operations in wilderness, including the use of aircraft or mechanized equipment, without Forest Service approval. As the underlying land manager, the Secretary should determine which agency can or should conduct operations, and one agency should serve as the primary coordinator to ensure firefighter and public safety. Additionally, the Wilderness Act requires the use of motorized equipment and mechanical transport, including in emergencies, to be allowed only as necessary to meet the minimum requirements for the administration of the area for the wilderness purposes. We recommend Section 103(c) be revised to clarify the coordination responsibilities of the Secretary and to ensure that the operations of all agencies conducting wildfire management in wilderness areas are consistent with current law, regulation and policy.

Section 103(e), addressing Outfitting and Guide Activities, should more closely mirror the Wilderness Act by authorizing commercial services only to the extent necessary for realizing recreational purposes and other wilderness purposes of the designated area. As written, the legislation places recreational purposes above other public purposes, including scenic, scientific, educational, conservation, and historical use and is therefore inconsistent with the Wilderness Act. This Outfitter and Guide Activities language is also included in the other non-Wilderness management areas. For those areas where recreation is more of a focus and goal outside of Wilderness, we recommend striking 'to the extent necessary'.

Throughout the bill there is language requiring the Secretary to provide access. For clarity, we recommend the language be modified to limit that requirement to 'upon request of owner'. For this provision to be fully consistent with Section 5(a) of the Wilderness Act, we recommend Section 103(f) say "adequate access" to the property, as was written in the June 2016 draft of this bill.

As drafted, language in the bill referencing Existing Water Infrastructure does not limit access to existing routes or roads, creating the potential for new road construction, if justified for maintenance of existing facilities. We recommend instead using management language on water infrastructure that is fully consistent with the Wilderness Act of 1964.

LAND EXCHANGES

We recommend that language be added to ensure selected Federal lands are mutually agreed upon by the state of Utah and the United States. In addition, language should be added to ensure that title meets Department of Justice Title Standards and is also free of hazardous substances and petroleum products, and that those requirements need to be met before the land exchange is executed.

We find that, as written, acquisition of land and interests in land do not clearly specify whether the state has 2 years from the date of enactment to request an exchange, which appears to preclude future opportunities, or if the United States is required to complete the exchanges within 2 years of date of enactment, regardless of the date of request by the state. We recommend more practical language, which would require completion of an exchange within 2 years from the date of any state request.

NATIONAL CONSERVATION AREAS (TITLE II)

Language in Title II should clarify that the special provisions listed in this section do not apply to the wilderness acres designated within the National Conservation Areas (NCAs). The section on Livestock is particularly problematic for the wilderness acres in the NCAs, and the provision is inconsistent with the livestock section under Wilderness Areas (Title I). Some language relevant to livestock management is inconsistent with the Wilderness Act of 1964.

Regarding the function of the proposed Public Lands Initiative Planning and Implementation Advisory Committee for the special management areas, national

conservation areas, and recreational zones, the reporting requirements imposed by the bill could impede the meaningful function of the committee. The Forest Service has always encouraged input from states, local governments, tribes and the public, including through the use of advisory committees. The purpose of the committee could be fulfilled by authorities currently available to the agency.

WATERSHED MANAGEMENT AREAS (TITLE III)

National Forest System lands were originally set aside in part to help sustain the Nation's water supply. The Forest Service manages the largest single source of water in the United States, with about 20 percent originating from its 193 million acres of land. Agency program managers and decisionmakers take the agency's stewardship responsibility for water resources seriously and apply available tools and authorities to help sustain those resources over the long term. For example, the Agency uses the Watershed Condition Framework to characterize the condition of the more than 15,000 watersheds located on NFS lands and help identify watersheds that need focused work to improve or maintain condition. The Agency also uses information about public water supply sources to help prioritize fuels treatments to improve fire resilience. In addition, the Agency has existing authorities to provide for the formal designation of municipal watersheds and the establishment of special management areas through land management planning. These authorities have been utilized to set up special management within source watersheds.

The provisions in this section of the bill on Vegetation Management requires the Secretary to conduct vegetation management projects if they improve water quality or restore ecosystems, regardless of cost, public support or effects on other resources. Such direction could have unforeseen consequences, possibly precluding a transparent public engagement process or forcing a wide-scale shifting of resources from other public lands with negative consequences.

SPECIAL MANAGEMENT AREAS (TITLE IV, VIII)

The language under Title IV and VIII does not provide a rationale for a congressional designation and doesn't specify any management activity that isn't already available under existing authorities, such as the land management planning process. The development of a specific management plan and engagement of an advisory committee with such a minimal foundation would be challenging and may have unanticipated consequences.

There is also potential for the Special Management Areas designation to be in conflict with forest-level over-the-snow travel management planning. The goals of a Special Management Area could be more effectively integrated into the applicable land management plan, in conjunction with travel management planning without having to require a separate management area and separate management plan. Permanent withdrawals from mineral entry for areas of 5,000 acres or more, such as those delineated in sections 404 and 407, cannot be addressed through administrative planning or decisions and would require an act of Congress.

The Forest Service recognizes state management of water rights. The water rights provisions in Sections 404, 407, and 804 differ from those in other sections in this bill. The Forest Service believes that the additional language in these three sections is unnecessary and would like to work with the sponsors and the committee to revise the language to be consistent with the rest of the bill.

Finally, in several locations, the legislation identifies time frames for mapping and establishing legal descriptions, development of management plans, and execution of land exchanges. This represents a workload to be accomplished within 2 years from the date of enactment. Two years is too short given the number and complexity of all the designations occurring through this bill. We recommend no less than 3 years and would prefer 5 years for completing the numerous maps, legal descriptions and management plans that the legislation would require.

GRAZING (SECTIONS 106(B), 204(D), 303(J)(1), 404(D)(1), 407(H), 804(H), TITLE XIII)

Throughout the proposed legislation, direction is given to maintain existing livestock grazing levels. It appears that the goal of the legislation intends to give permittees assurances that nothing in the legislation would be used as a justification for managers to direct reductions in livestock grazing simply because of the land management designation. The legislation recognizes that range conditions can improve and that increases in livestock numbers could be considered, but appears to limit reductions regardless of conditions. Section 1303 states that 'areas of public land that have reduced or eliminated grazing shall be reviewed and managed to support grazing at an economically viable level'. This may result in grazing practices that exceed sustainable levels.

Our concerns focus on the challenges of sustaining both range conditions and livestock uses under these restrictions. In order to protect the resource, the legislation should direct managers to ensure livestock levels consistent with rangeland capabilities and conditions and, when making adjustments, to work closely with permittees and state and local governments, utilizing data from all sources, including the Utah State Department of Agriculture.

Specifically Title XIII, Section 1302 removes the viability requirements for bighorn sheep on National Forests in Summit, Duchesne, Uintah, Grand, Emery, Carbon, and San Juan Counties, where there are possible conflicts with domestic sheep grazing. This requirement conflicts with the National Forest Management Act (NFMA) and its implementing viability regulations. These viability regulations (36 CFR Sec. 219.9(b)(1)) address the Forest Service's obligation to meet NFMA's requirement "to provide for diversity of plant and animal communities" (16 U.S.C. 1604 (g)(3)(B)). We suggest the bill's language be changed to emphasize that any potential conflicts between bighorn sheep and domestic sheep will be resolved using the best available science, best management practices, and incorporating input from the Utah Division of Wildlife Resources, the Utah Department of Agriculture and grazing permittees.

DEER LODGE LAND EXCHANGE AND OTHER LAND CONVEYANCES (DIVISION B, TITLE IV, VI)

With regard to the realty-related actions in Title IV and VI, the Forest Service has long been a supporter of efforts to consolidate ownerships, be it private, state or Federal. This improves management efficiency, improves utilization of resources, both natural and financial, and eliminates many potential conflicts. Numerous examples exist where large-scale land exchanges have occurred between the Forest Service and with states.

We strongly support efforts to encourage the consolidation of non-Federal ownership of public lands outside of congressionally designated areas. As drafted, however, we strongly oppose this provision as the bill does not provide the ability for the United States to agree to the Federal lands proposed for acquisition by the state. Additionally, we are concerned that the proposed land exchange may create an inholding within the National Forest, resulting in additional resource and boundary management burdens.

LONG-TERM ENERGY DEVELOPMENT CERTAINTY IN UTAH (TITLE XI)

As drafted, Title XI is of great concern for the Forest Service. While we recognize the need for timely review of energy development proposals, the Forest Service does not agree that transferring permitting authority to the state will significantly improve that process. In addition, while it requires the state to comply with Federal statutes and regulations, it does not require compliance with applicable land management decisions, Forest Plan standards or other considerations, typically developed with public input, for management of multiple-use lands.

Sec. 1101 is unclear whether this Title XI is speaking only to energy development or to energy and minerals. The second sentence in Sec. 1101 should have the word "minerals" removed. The rest of the Title XI only speaks to "energy".

LONG-TERM TRAVEL MANAGEMENT CERTAINTY (TITLE XII)

Title XII would provide for immediate resolution of R.S. 2477 claims. However, we have broad concerns with this title because most, if not all, of the claimed routes are currently subject to active litigation and many are located in sensitive resource areas, including priority sage-grouse habitat and specially designated areas. As a matter of policy, we do not believe that R.S. 2477 rights-of-way asserted by the state should be automatically recognized as valid and existing rights-of-way. We share the state's concerns over protracted litigation. However, we have concerns over provisions which could significantly expand rights in protected areas (e.g. roadless areas).

BEAR EARS NATIONAL CONSERVATION AREA (DIVISION D, TITLE I)

The Bears Ears National Conservation Area incorporates approximately 190,000 acres of the Manti—La Sal National Forest and includes all of Elk Ridge and all lands west of South/North Cottonwood drainage on the Monticello portion of the District. This broader region contains one of the highest densities of archeological resources, spanning a multitude of eras, of anywhere in the United States. It is therefore concerning that while there is consideration for enhanced protection and recognition of the cultural values associated with the heritage resources of the Bears Ears area, the legislation excludes important cultural resources found on the east

side of Cottonwood Canyon, among other areas. In addition, portions of Hammond Canyon and Arch Canyon are designated as wilderness, but the boundaries are not clear.

Finally, regarding Sec. 104(a)(5): the term "Native American archaeological sites" is an unusual, limited, and possibly confusing subset of the sites protected by the statutes listed (NAGPRA, NHPA, Utah Antiquities Act). Those statutes also protect historic sites, including traditional cultural properties, and burial sites, even when they are not archaeological. It is also odd that ARPA (Archaeological Resources Protection Act) is not listed if the focus is indeed on archaeological sites.

The legislation directs the development of a management plan and establishes the Bears Ears Management Commission, to include two tribal representatives, a county representative and a state representative to review and approve the plan. The Department is not supportive of this provision and believes it is unnecessary as the Forest Service is required under the 2012 Planning Rule to develop land management plans in a broadly inclusive manner and will continue to work collaboratively with tribes, communities of interest, local, county and state entities and elected officials in achieving mutually beneficial outcomes under its existing planning authorities.

Additionally, while the Department is supportive of the goal of increasing tribal involvement in the management of this land the Bears Ears Tribal Commission at Sec. 107 will not fit within the intergovernmental exemption from FACA in the Unfunded Mandates Reform Act (UMRA), PL 104–4 Sec. 204(b). To qualify for the intergovernmental exemption from FACA, the Commission must consist exclusively of "Federal officials and elected officers of . . . tribal governments (or their designated employees with authority to act on their behalf) acting in their official capacities." UMRA Sec. 204(b). By contrast, under the bill as revised, the tribal representatives would be "tribal members," not elected tribal government officials or designated tribal government employees.

The Department does not support the National Conservation Area proposal to lock the current Travel Plan in place, which does not allow for any new permanent road construction and does not allow for permanent closure of any designated routes.

We would like to work with the bill sponsors and committee to clarify the extent of the mineral withdrawals on the National Conservation Area.

CONCLUSION

The Forest Service welcomes the opportunity to work with the sponsors and the committee to address the Agency's concerns.

Thank you for the opportunity to testify here today. I would be pleased to answer any questions you may have.

Mr. MCCLINTOCK. Great. Thank you for your testimony and your brevity.

Our next witness is Ms. Regina Lopez-Whiteskunk, the co-chairwoman of the Bears Ears Inter-Tribal Coalition from Towaoc, Colorado. You are recognized for 5 minutes.

STATEMENT OF REGINA LOPEZ-WHITESKUNK, CO-CHAIRWOMAN, BEARS EARS INTER-TRIBAL COALITION, TOWAOC, COLORADO

Ms. LOPEZ-WHITESKUNK. Thank you, and good morning, Chairman McClintock and committee members.

I just want to take a real quick moment to acknowledge other members of our coalition who are in the room with me today: Vice President of the Navajo Nation, Nez, and Delegates Davis Filfred, as well as the Ute Indian Tribe Vice Chairman, Ed Secakuku, and Member Bruce Ignacio. I thank them for accompanying me out here today. It shows a great presence of support.

For a moment here, I am going to defer from my written statement for a reason that is very tender and close to my heart. Last week, I attended and laid to rest a very special individual, a

member of the White Mesa community, an elder and a grandmother. We laid to rest one of the elders who was born in the area of the Bears Ears region.

I was very grateful to have shared many conversations with her and listened to her tell the stories of the watermelon patches that they nurtured, the fruit trees that they tended to every day, but at most and most importantly, the ability to have been able to play in those areas growing up, enjoying their grandmothers, grandfathers, their parents, family, and community in that area.

It was very important to me because it is those voices that I carry and bring into Washington, DC, every time I visit, every time I have the opportunity and honor to speak before many people to carry and share my people and their voices and how important this is.

We are very much tied to the land, which makes every bit of my testimony today weigh very heavy on my heart.

It has been stated on many occasions from local and national interests and at each level of government that the Bears Ears landscape deserves protection. This pertinent question, something that many of us have pondered, is not that it deserves protection. We all agree that it deserves protection. The real question is how?

How will we all come together to do this? And I gracefully thank Chairman Bishop and Congressman Chaffetz for all of the hard work you guys have invested in trying to pull everybody together, and trying to compromise and see that everybody has a seat at the table. Thank you for all of those many hours of visits and meetings that you have all set forth.

That opportunity for many has been seized, and for some may have even been passed by. Some of the heartfelt concerns that my people carry, especially and more so with the two tribes, the Navajo and the Ute, is what precedents this bill could set. This has Native American tribes very much on alert when you look at the precedents that could be on the Floor here.

Do we really want to set Native American conversations with Congress and agencies back another 100 years? My sincere and heartfelt request is no. We worked so hard to get our foot in the door. We are going to continue to work hard to bring those heartfelt, genuine concerns and conversations to the table.

One of the big areas is collaborative management, something that we feel steps beyond consultation, or should I say "meaningful consultation"? I challenge each of you to rise above that word and let's redefine that.

As a Native American woman and elected official of my people, I sincerely thank you for this honor to express myself in the manner that I have.

Thank you.

[The prepared statement of Ms. Lopez-Whiteskunk follows:]

PREPARED STATEMENT OF REGINA LOPEZ-WHITESKUNK, CO-CHAIR OF THE BEARS EARS INTER-TRIBAL COALITION, COUNCILWOMAN OF THE UTE MOUNTAIN UTE TRIBE

Thank you and good morning Chairman McClintock and committee members. Thank you members and staff for the opportunity to speak today. My name is Regina Lopez-Whiteskunk. I serve as the co-chair of the Bears Ears Inter-Tribal Coalition (BEITC) and as a Councilwoman for the Ute Mountain Ute Tribe.

It has been stated on many occasions, from local and national interests and at each level of government that the Bears Ears landscape deserves protection. The pertinent question turns to "how." How should the Bears Ears cultural landscape be protected for the generations to come? Several tools are available to meaningfully protect these public lands. However, the Public Lands Initiative (PLI) is not the appropriate vehicle for preserving and protecting our Nation's treasures within southeastern Utah. PLI falls dramatically short of what the BEITC requested in our October 15, 2015 proposal to President Obama calling for the designation of 1.9 million acres as a Bears Ears National Monument (Exhibit A).

Due to a number of shortcomings within the complex PLI bill, the BEITC does not support PLI. The BEITC originally set out our opposition to the PLI and discontinuation of discussions with the Utah delegation in a December 31, 2015 letter (Exhibit B). Since that period, it has become increasingly clear that the BEITC's decision to withdraw from PLI discussions is validated. A second letter, a subsequent press release, and a final letter, each reaffirm the BEITC's refusal to continue empty discussions with the Utah delegation (Exhibit C, D, and E). A hard look at the details of the PLI bill confirms the BEITC's stance and reveals language favoring energy development and off-road vehicle use in the breathtaking and cultural resource-dense landscape.

At the heart of the BEITC's national monument proposal is a comprehensive measure calling for true tribal collaborative management of the living landscape. With thousands of documented sites and cultural resources that inextricably connect tribes to these lands, the birth of the BEITC was necessary to immediately protect and preserve the area from rampant looting. However, participation from the five member tribes of the BEITC is severely diminished in the draft PLI bill. Instead, PLI envisions a 10-member advisory committee with only a single tribal representative that is charged with advocating the interests of each individual tribe. As in our past discussions with the Utah delegation on PLI, tribal voices will continue to be drowned out by a 10-member committee designed for deadlock and inaction.

As drafted, PLI also fails to protect over half a million acres of the Bears Ears region as proposed by the BEITC. Not only were considerable efforts made to account for every acre in a proposed national monument, but considerable reductions of lands, that are also worthy of protection, were painstakingly not included in maps of the BEITC's proposed national monument. Our call to protect 1.9 million acres is already a conservative request. Anything less is tantamount to destruction of sacred sites that the identities of native people are affixed to.

PLI also proposes to transfer control over-permitting and regulation of energy development on Federal lands to the state, thus effectively placing cultural, air and water resources in greater jeopardy. While these sacred lands continue to be disturbed by uranium mining, recent spills of radioactive waste material, potash and other dirty conventional energy development, current lax regulation is not protective enough of the lands. The landscape deserves better. Our proposal, as provided in most national monuments, proposes that the area be completely withdrawn from mining.

In addition, designation of the Bears Ears landscape as a National Conservation Area, as proposed in the PLI, offers insufficient protections from the development of roads. Construction of new roads should be prohibited within the Bears Ears region, but the PLI proposes to grant thousands of miles of routes through culturally sensitive areas and wilderness. Irresponsible off-road vehicle use and enabling the state to develop roads runs counter to the protection of cultural resources.

At this time, I would like to take a moment to acknowledge the Ute Indian Tribe whose Uintah and Ouray Reservation would be dramatically impacted by the bill. Attending today's hearing are the Ute Tribe's Business Committee Vice Chairman Ed Secakuku and Members Bruce Ignacio and Tony Small. The Ute Indian Tribe must be heard before the full committee considers this bill.

Buried in a section called "Innovative Land Management and Recreation Development" the bill proposes to take more than 100,000 acres of the Ute Tribe's lands for the state of Utah. Not since the late 1800s has Congress attempted to take Indian lands and resources to benefit others. This modern day Indian land grab should be universally rejected by Congress.

In addition to taking more than 100,000 acres of the Ute Tribe's lands, the bill would make management changes to another 200,000 acres of reservation lands. The tribe learned about these proposals when the discussion draft was released in January. The tribe was never consulted on these proposals until after the fact.

This bill has been built on the back of the Ute Indian Tribe and their reservation homelands. Let me be clear, a vote for this bill is a vote to steal Indian lands, diminish tribal self-determination, and set Federal Indian policy back 100 years.

Thank you again for the opportunity to appear before you today to present the views of the BEITC on this important topic. We hope that our perspective will be of assistance, and I, along with my colleagues, am happy to answer any questions you may have.

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The following documents were submitted as supplements to Ms. Lopez-Whiteskunk's testimony. These documents are part of the hearing record and are being retained in the Committee's official files:

—Exhibit A: Proposal to President Barack Obama for the Creation of Bears Ears National Monument by Bears Ears Inter-Tribal Coalition, October 15, 2015

—Exhibit B: Bears Ears Inter-Tribal Coalition, December 31, 2015 Letter to Rep. Bishop and Chaffetz

—Exhibit C: Bears Ears Inter-Tribal Coalition, June 27, 2016 Letter to Sen. Hatch and Lee; and Rep. Bishop and Chaffetz

—Exhibit D: Bears Ears Inter-Tribal Coalition, Statement on Tribal Concerns Ignored by Bishop's Public Lands Bill

—Exhibit E: Bears Ears Inter-Tribal Coalition, July 23, 2016 Letter to Rep. Bishop and Chaffetz

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Mr. MCCLINTOCK. Great. Thank you for your testimony.

The Chair now recognizes Mr. Dave Ure, the Director of the Utah School and Institutional Trust Lands Administration from Salt Lake City, Utah for 5 minutes.

STATEMENT OF DAVE URE, DIRECTOR, UTAH SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION, SALT LAKE CITY, UTAH

Mr. URE. Thank you, Mr. Chairman, and Mr. Bishop and Congressman Chaffetz, for the work you have done, and also the committee members for inviting me here.

My name is Dave Ure. I have been in the saddle now for 10 months, so I know a lot about nothing and I am learning as hard as I can. I was thrown into the middle of this not knowing a lot about it until I was here.

Let me give you a little bit of history. I was a dairy farmer up until 3 years ago, milked cows for 50 years. I forced my sons and my daughters to milk cows, taught them their times tables while milking cows. So, school kids are pretty close to me.

I served in the legislature for 14 years, 2 years underneath Speaker Bishop, of which he and I had a love-hate affair and mostly a love affair. Cut that off? OK.

I served as County Councilman for 7 years until I took this position here at School Trust Lands, so I have seen a lot of different areas.

I do not envy you in your jobs trying to decipher the balancing act between environmentalists, the school kids in Utah, and the tribes, but it can be done and I believe that this bill is one way of doing it.

The reason we are here is the School Trust lands are scattered with a checkerboard, with four sections with every township, of which we are talking about 311,000 acres in this transaction of the

PLI. Any decision that is made about the use of an area of public lands directly affects the school kids.

There is a huge amount of land in southeastern Utah that is particularly beautiful, canyon land that everyone can agree should be preserved. The question is—how do you preserve it? Do you preserve it with a scalpel as we are doing in PLI, or do you take an ax or a chainsaw and do it as some have suggested and call it a national monument?

What we ask is that where Federal lands are placed into wilderness or conservation management, there be a simultaneous exchange of State Trust Lands under the new conservation area for usable Federal lands elsewhere in the state.

SITLA already has a successful record of working with the Department of the Interior and the BLM to finish large land exchanges of this nature: in the Grand Staircase-Escalante National Monument in 1998; the West Desert in 2000; and most recently, the Colorado River exchange with Moab in 2009.

We believe that land exchange proposals by the PLI Act builds on this track record. Under the PLI Act, SITLA would trade trust lands out in the Bears Ears National Conservation Area, the Gemini Bridges, areas near Moab, and huge acres in the San Rafael Swell and Desolation Canyons.

The PLI bill also lays the groundwork for a large conservation transaction for SITLA among a wildland block in the Southern Book Cliffs of Grand County.

In this legislation, there are 41 new wilderness areas and 11 new National Conservation Areas. These will be designated to use under the proper design and policy set by the BLM and by the Forest Service.

We understand that there are some parts of the PLI land exchange proposal that have created objections from various parties. This is invariable in a proposal of this size. SITLA commits to work with all of these parties, particularly the Ute Indian Tribe, to resolve any of these issues.

We are already partners with the Ute Indian Tribe on several other issues, including the Hill Creek extension we are talking about. This will not be a new deal with us.

In the 10 months that I have been in this saddle, I have learned to respect and admire the Ute Tribe. I do not always agree with them, but I have learned to respect the culture and their history, and I look forward to doing it again. It will not be an easy cup of tea, but we have a good communication.

I have spent many, many hours over the last 10 months talking with the two gentlemen from the tribe sitting behind me right now. We can continue to talk. They have schoolchildren in the school system in Utah as well as everybody else, and the money we raise furthers their progression. It goes directly to the classrooms and that is what I am asking you to do, to persist and push this bill along. We need this bill for our school kids and for the Ute Tribe school kids in the state of Utah.

I thank you for your time today, and I apologize for my emotions.

[The prepared statement of Mr. Ure follows:]

PREPARED STATEMENT OF DAVID URE, DIRECTOR, UTAH SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

INTRODUCTION

On behalf of the Utah School and Institutional Trust Lands Administration, I thank Chairman McClintock and the subcommittee members for the opportunity to provide this statement in support of H.R. 5780. I also wish to thank Utah Congressmen Rob Bishop and Jason Chaffetz for their co-sponsorship of this landmark legislation. H.R. 5780 will resolve long-standing conflicts between conservation and economic development over a vast portion of eastern Utah; designate millions of acres for conservation; and support outdoor recreation of all types as well as local economic development. The associated land exchange contained in Division B, Title I of H.R. 5780 will secure Federal ownership of existing state trust lands within various proposed conservation areas, and concurrently provide replacement Federal lands to Utah's school trust, helping fund K–12 public schools in Utah.

ABOUT SITLA

The School and Institutional Trust Lands Administration ("SITLA") is an independent, non-partisan state agency established to manage lands granted by Congress to the state of Utah at statehood for the financial support of K–12 public education and other state institutions. SITLA manages approximately 3.3 million acres of state trust lands, and an additional million acres of mineral estate. Revenue from school trust lands—most of which comes from mineral development—is deposited in the Utah Permanent School Fund, a perpetual endowment supporting K–12 public schools. Investment income from this endowment is distributed annually to each public and charter school in Utah to support academic priorities chosen at the individual school level.

BACKGROUND

H.R. 5780 is the culmination of multiple years of stakeholder outreach by Representatives Bishop and Chaffetz, and represents a compromise solution to protracted disputes over public lands management in eastern Utah. The two sponsors and their respective staff have conducted hundreds of meetings with scores of stakeholders, including local governments, Indian tribes, environmental NGOs, outdoor recreationalists of all types, and a host of others, to reach a bottom-up compromise on how to manage public lands in eastern Utah for the future.

SITLA's testimony on H.R. 5780 will focus on one major aspect of the Public Lands Initiative—the consolidation of state school trust lands out of conservation areas and into larger, more useable blocks of lands. Some background on the reasons for the proposed land exchange will be helpful to the subcommittee. The majority of land in eastern Utah is Federal land managed by BLM. A notable exception is the presence of state school trust lands scattered in checkerboard fashion throughout the area. As the subcommittee is aware, state school trust lands are required by law to be managed to produce revenue for public schools. Revenue from Utah school trust lands—whether from grazing, surface leasing, mineral development or sale—is placed in the State School Fund, a permanent income-producing endowment created by Congress in the Utah Enabling Act for the support of the state's K–12 public education system.

H.R. 5780 will create 41 new wilderness areas, 11 new National Conservation Areas, and a variety of other special designations. These designations by their nature place substantial limits on the use of the Federal lands within their boundaries, which in turn places limits on SITLA's ability to develop economic uses such as mineral extraction. Likewise, state efforts to generate revenues from trust lands through sale of the lands for recreational development and home sites would conflict with management of the surrounding Federal lands. Over the years, disputes over access to and use of state school trust lands within federally-owned conservation areas have generated significant public controversy, and often led to expensive and time-consuming litigation between the state of Utah and the United States.

Land exchanges are an obvious solution to the problem of state land ownership within Federal conservation areas. Exchanges can allow each sovereign—the state of Utah and the United States—to manage consolidated lands as each party's land managers deem most advisable, without interference from the other. In the last 20 years, the state of Utah and the United States worked successfully to complete a series of large legislated land exchanges. In 1998, Congress passed the Utah Schools and Land Exchange Act, Public Law 105–335, providing for an exchange of hundreds of thousands of acres of school trust lands out of various national parks, monuments, forests and Indian reservations into areas that could produce revenue

for Utah's schools. Then, in 2000, Congress enacted the Utah West Desert Land Exchange Act, Public Law 106–301, which exchanged over 100,000 acres of state trust land out of proposed Federal wilderness in Utah's scenic West Desert for Federal lands elsewhere in the region. In 2009, Congress enacted the Utah Recreational Land Exchange Act, Public Law 111–153, which authorized the exchange of 70,000 acres of combined BLM and state trust lands out of the scenic Colorado River corridor near Moab. This exchange closed in 2014. Other exchange efforts are currently pending, and SITLA greatly appreciates the efforts of Representatives Bishop and Chaffetz, and the cooperation and efforts of the Bureau of Land Management, in the enactment and implementation of past and current exchange proposals.

The hallmark of each of these exchanges was their "win-win" nature: school trust lands with significant environmental values were placed into Federal ownership, while Federal lands with lesser environmental values but greater potential for revenue generation were exchanged to the state, thus fulfilling the purpose of the school land grants—providing financial support for public education. The land exchange proposed by the Utah Public Lands Initiative would continue this tradition.

DESCRIPTION OF PROPOSED PLI LAND EXCHANGE

Under Division B, Title I of H.R. 5780, SITLA would give up essentially all state trust lands in wilderness areas, national conservation areas, and other conservation areas created by the PLI Act. These trust lands to be traded to BLM would include lands within the proposed Bears Ears National Conservation Area and included wilderness in San Juan County; state trust lands in the Gemini Bridges and Labyrinth Canyon areas west of Moab in Grand County; all trust lands within the San Rafael Swell in Emery County; state trust lands in Desolation Canyon in Carbon, Emery and Grand Counties; state trust lands in Nine Mile Canyon in Carbon, Duchesne and Uintah counties; and other conservation areas elsewhere in eastern Utah.

One additional conservation transaction is worth noting in addition to the areas described above. SITLA currently manages a large block of wild land in the Book Cliffs of Grand County—often called the Roadless Area. This remote 48,000 acre land block includes some of the best big-game hunting habitat in Utah, as well as profound scenic values. Under the PLI, SITLA would convey mineral rights in the area to BLM, with those minerals to be permanently retired from development. SITLA would then undertake a conservation transaction for the surface estate with a non-Federal entity such as the Utah Division of Wildlife Resources, to ensure long-term conservation and wildlife use of the area. SITLA's willingness to commit this property to conservation was based on the negotiated compromises represented by the PLI with respect to lands to be acquired by SITLA from BLM for the school trust, and particularly the ability to acquire BLM lands in southern Uintah County.

The total acreage of school trust lands and severed minerals to be conveyed by SITLA to BLM, or in several cases to the U.S. Forest Service, would be approximately 311,250 acres. In exchange, SITLA would acquire approximately 311,791 acres of BLM lands and minerals in eastern Utah. These include a large block of lands outside the Bears Ears NCA in San Juan County; lands near the Lisbon Valley, also in San Juan County; a large block of land west of the Moab airport that is within a known potash leasing area; lands along the I–70 corridor in Emery and Grand counties; a large block of land in southern Uintah County; and a number of smaller parcels around eastern Utah.

H.R. 5780 provides that the proposed exchange would be subject to analysis under the National Environmental Policy Act. The legislation also contains specific provisions for the sharing of future mineral revenues between the United States, the state of Utah, and SITLA to ensure mutual fairness in the valuation of the lands involved. In particular, the United States would retain its entire current revenue stream from existing oil and gas development on the BLM lands SITLA would be acquiring, and its entire projected revenue stream from future potash development.

With a land exchange of this magnitude, it is inevitable that some issues of dispute will arise with respect to the lands involved. SITLA has concerns about the southeast boundary of the Bears Ears NCA where it overlaps existing SITLA oil and gas leases for which near-term development is anticipated. SITLA is also aware that the Ute Indian Tribe of the Uintah and Ouray Reservation has expressed opposition to SITLA's acquisition of lands within the historic Uncompahgre Reservation. Although Congress has repeatedly authorized land exchanges of BLM lands in this area, we acknowledge and respect the tribe's position, and commit to work with the tribe and the Department of the Interior to see if a mutually acceptable resolution can be found. Similarly, we commit to work with the Department, local

governments, NGOs, and affected third parties to resolve particular issues that may arise with respect to either the exchange process or specific lands of concern.

On the whole, the land exchange contemplated by H.R. 5780 is a spectacular opportunity to consolidate scattered trust lands into more useable larger parcels with better potential to support both the school trust and local economic development, while protecting a huge amount of land for conservation. Collectively, the BLM lands to be acquired by SITLA are expected to produce significant revenue to Utah's school trust over a long time period, meaningfully supporting K–12 public education in Utah. The conservation benefits of the other side of the land exchange are profound. It is an opportunity that needs to be taken.

CONCLUSION

SITLA appreciates the efforts of Chairman McClintock, the subcommittee, and Congressmen Bishop and Chaffetz in holding a hearing on H.R. 5780. We respectfully ask that it be passed out of committee favorably at the earliest possible time. Thank you.

Mr. MCCLINTOCK. No apology necessary. Thank you for your testimony.

Our final witness is Mr. Clif Koontz, the Executive Director for Ride with Respect from Moab, Utah. You are recognized for 5 minutes.

You guys do an awful lot of advertising in my neck of the woods.

STATEMENT OF CLIF KOONTZ, EXECUTIVE DIRECTOR, RIDE WITH RESPECT, MOAB, UTAH

Mr. KOONTZ. Thank you Chairman McClintock, Ranking Member Tsongas, and members of the subcommittee. I am Clif Koontz, Executive Director of Ride with Respect, a 501(c)(3) nonprofit organization that conserves shared-use recreation of the public lands surrounding Moab, Utah. Thank you for the opportunity to discuss the Utah Public Lands Initiative Act, a bill that I believe lives up to its stated purpose, to provide greater conservation, recreation, economic development, and local management of Federal lands.

For the last 14 years now, Ride with Respect has assisted state and Federal agencies with the management of off-highway vehicles. Our motto of caution, consideration and conservation promotes an ethic of respecting oneself, other trail users, and the land itself.

Our trail work almost always benefits conservation and rarely involves constructing new trails. More often, we relocate existing trails away from sensitive resources, such as unstable soils, riparian areas, and cultural sites.

I have supervised over 12,000 hours of field work and am proud of Ride with Respect's contribution to the natural resources and the local communities, as well as visitors who depend on them.

In 2012, when groups seeking to vastly expand wilderness designations proposed a 2 million acre Greater Canyonlands National Monument, I was concerned that such a proclamation would likely close trail systems for which Ride with Respect has been the caretaker.

By 2013, the national monument threat had spawned a collaborative effort in which Representatives Bishop and Chaffetz solicited input from stakeholders via each county in eastern Utah. I don't know how many hundreds of hours I have spent participating, but my personal notes on various meetings and correspondence specific to the PLI is 100,000 words long.

To illustrate this difficult process, let me describe an area between Moab and Labyrinth Canyon called Big Flat. As part of Grand County's Big Flat Working Group, in 2014, I attended a dozen meetings to develop a package of conservation, recreation, and development areas. The old County Council accepted these recommendations, but rather than forwarding them to the Congressmen, the Council deferred to the incoming council members.

In 2015, this new council modified the Big Flat Working Group package to emphasize conservation. In 2016, compared to what the new County Council had recommended, the PLI bill proposes more SITLA trade-in areas, but also more NCA and wilderness acreage, thereby honoring that balance point set by the new council.

Although I prefer the position of the old council, I respect the deliberative process and accept the outcome. In fact, beyond Big Flat, most areas covered by the PLI would be more restricted than what the counties had recommended.

To develop a viable bill, the Congressmen made careful concessions to wilderness groups without undermining the interests of local communities. Unfortunately, wilderness groups have turned their backs on negotiation in favor of another quick fix, this time proposing a 1.9 million acre Bears Ears National Monument.

As with Greater Canyonlands, the Bears Ears covers many motorcycle and ATV trails where Ride with Respect stewardship would no longer be welcome, if other national monuments are any indication.

While the threat of national monuments can be credited for making many stakeholders compromise, it has clearly had the opposite effect on wilderness groups. At the risk of being blunt, the PLI is not a great deal for OHV riders, and a national monument could be a great fundraising tool for Ride with Respect.

However, I am not taking time off the trail just to advance my hobby of motorcycling or my profession of directing a nonprofit organization. I am here because imposing a national monument on half of a county would only entrench controversy.

While the PLI could not be a panacea, it would go a long way toward resolving controversy by providing a more clear direction and basically putting brackets on the debates that we have been having for many decades. In my 14 years of service on public lands, the PLI is the closest proposal that I have seen to sustaining people and places.

I submitted 20 attachments to convey the PLI's thoroughness and ask members of the Subcommittee on Federal Lands to focus on the 6 attachments from this past summer.

Also please feel free to ask questions.

Thank you.

[The prepared statement of Mr. Koontz follows:]

PREPARED STATEMENT OF CLIF KOONTZ, EXECUTIVE DIRECTOR, RIDE WITH RESPECT

Chairman McClintock, Ranking Member Tsongas, and members of the subcommittee, I am Clif Koontz, Executive Director of Ride with Respect (RwR), a 501c3 non-profit organization that conserves shared-use recreation of the public lands surrounding Moab, Utah. Thank you for the opportunity to discuss the Utah Public Lands Initiative (PLI), a bill that I believe lives up to its stated purpose "to provide greater conservation, recreation, economic development, and local management of Federal lands . . ."

For the past 13 years, Ride with Respect has assisted state and Federal agencies with the management of off-highway vehicles (OHVs). Our motto of "caution, consideration, and conservation" promotes an ethic of respecting oneself, other trail users, and the land itself. Our trail work almost always benefits conservation, and rarely involves constructing new trails. More often we relocate existing trails away from sensitive resources, such as unstable soils, riparian areas, and cultural sites. I have supervised over 12,000 hours of field work, and am proud of RwR's contribution to the natural resources and the local community as well as visitors who depend on them.

In 2012, when groups seeking to vastly expand wilderness designations proposed a 2 million-acre Greater Canyonlands National Monument, I was concerned that such a proclamation would likely close trails systems for which RwR has been the caretaker. By 2013, the monument threat had spawned a collaborative effort in which Rep. Bishop and Rep. Chaffetz solicited input from stakeholders via each county in eastern Utah. I don't know how many hundred hours I've spent participating, but my personal notes on various meetings and correspondence specific to the PLI is 100,000 words long.

To illustrate this difficult process, let me describe an area between Moab and Labyrinth Canyon called Big Flat. As part of Grand County's Big Flat Working Group, in 2014 I attended a dozen meetings to develop a package of conservation, recreation, and development areas. The old County Council accepted these recommendations, but rather than forwarding them to the Congressmen, the Council deferred to incoming council members. In 2015, the new council modified the Big Flat Working Group package to emphasize conservation. In 2016, compared to what the new County Council had recommended, the PLI bill proposes more SITLA trade-in areas but also more NCA and wilderness acreage, thereby honoring the balance point set by the new council. Although I prefer the position of the old County Council, I respect the deliberative process, and accept the outcome.

In fact, beyond Big Flat, most areas covered by the PLI would be more restricted than what the counties had recommended. To develop a viable bill, the Congressmen made careful concessions to wilderness groups without undermining the interests of local communities. Unfortunately wilderness groups have turned their backs on negotiation in favor of another quick fix, this time proposing a 1.9 million-acre Bears Ears National Monument. As with Greater Canyonlands, Bears Ears covers many motorcycle and ATV trails where RwR's stewardship would no longer be welcome, if every other national monument is any indication. While the threat of monuments can be credited for making many stakeholders compromise, it has clearly had the opposite effect on wilderness groups.

At the risk of being blunt, the PLI isn't a great deal for OHV riders, and a monument could be a great fundraising tool for RwR. However I'm not taking time off the trail just to advance my hobby of motorcycling or my profession of directing a non-profit organization. I'm here because imposing a monument on half of a county would only entrench controversy. While the PLI couldn't be a panacea, it would go a long way toward resolving controversy by providing a more clear direction. In my 14 years of service on public lands, the PLI is the closest proposal I've seen to sustaining people and places.

I submitted 20 attachments to convey the PLI's thoroughness, and ask members of the Subcommittee on Federal Lands to focus on the 6 attachments from this past summer. Also please feel free to ask questions. Thank you.

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The following documents were submitted as supplements to Mr. Koontz's testimony. These documents are part of the hearing record and are being retained in the Committee's official files:

—The Times-Independent Article: Guest Commentary. Greater Canyonlands—A monumental mistake that may also spark collaboration . . .

—Blueribbon Coalition, April 23, 2013 Letter to Chairman Bishop

—Blueribbon Coalition, July 10, 2013 Letter to Chairman Bishop

—Description of OHV Management by Clif Koontz—August 13, 2013

—Ride with Respect, January 16, 2014 Memo to the Grand County Council

—Ride with Respect, May 7, 2014 Memo to the Grand County Council

—The Times-Independent Article: My View. Local input on federal lands is a grand opportunity . . .

—Ride with Respect, September 10, 2016—PLI proposal for Grand County

—Moab Friends-For-Wheelin', September 10, 2016—PLI proposal for Grand County
—The Times-Independent Article: My View. Stabilizing the public-lands pendulum . . .
—The Times-Independent Article: Thanks to council for coming back to balance on public lands . . .
—The Moab Sun News Article, January 21, 2016: Riding with respect in 2015
—The Moab Sun News Article: Ride with Respect Editorial
—Ride with Respect, BlueRibbon Coalition, Moab Friends for Wheelin', Red Rock 4-Wheelers, February 23, 2016 Letter to Rep. Bishop and Chaffetz
—Blueribbon Coalition/Sharetrails.org, Letter to Rep. Chaffetz
—Ride with Respect, July 13, 2016 Letter to Rep. Bishop and Chaffetz
—Ride with Respect, Past Projects
—The Moab Sun News Article, August 18, 2016: A grounded view of the PLI
—The Moab Sun News Article, August 25, 2016: A monumental error
—Ride with Respect, Latest Project

Mr. MCCLINTOCK. That concludes our testimony. Thank you.

We will now proceed with Members' questions. We are also limited to 5 minutes each and the custom of this subcommittee is to recognize Members in order of Committee Seniority, with general modifications requested by the Majority and the Minority, and we will be making a few of those today.

With that, I will begin the first round of questions.

Commissioner Benally, a lot of people claim that the creation of the Bears Ears National Monument is going to bring new tourism and economic development in San Juan County. I understand your county already has one national park, three national monuments, the Glen Canyon National Recreation Area, and the unemployment rate is still double that of the state of Utah.

Do you think another national monument would really create any economic prosperity for San Juan County?

Ms. BENALLY. That is true, Chairman. As I said, San Juan County is the poorest county in the state. Tourism is not the answer for economic development. You can only fill hotels so many times, and a national monument would not encourage or create job creation.

Tourism jobs are just seasonal.

Mr. MCCLINTOCK. What kind of economic activity would the PLI provide for your community?

Ms. BENALLY. The PLI Act brings people together through a resource management plan with the different communities to come together for the county, and yes, it will include some tourism, and yes, there will be some development of other resources on the eastern side of San Juan County, a piece of an energy zone there.

Mr. MCCLINTOCK. Let me underscore that point for a moment. Mr. Koontz, we are told that the national monument designation will shut down a lot of economic uses of the land, but don't worry, look at all of the tourism you will have.

Well, my experience is tourists do not go where they are not wanted, where they are forbidden to enjoy their outdoor recreational pursuits. Could you offer some insight into that?

Mr. KOONTZ. Yes. While there is a segment of tourism that can utilize wilderness areas, the vast amount of tourism in the Moab

area is not using wilderness areas, and so it is very important to maintain that diversity of opportunity.

Mr. MCCLINTOCK. Thank you.

Ms. Lopez-Whiteskunk, what state do you live in?

Ms. LOPEZ-WHITESKUNK. I live in Towaoc, Colorado, but that is the headquarters of the tribe.

Mr. MCCLINTOCK. In Colorado. This bill affects the state of Utah.

Ms. LOPEZ-WHITESKUNK. I understand that.

Mr. MCCLINTOCK. Could you tell me how many of your board of directors are from Utah, particularly from San Juan County?

Ms. LOPEZ-WHITESKUNK. We have one member of the Ute Mountain Ute Tribal Council. The tribe is headquartered in Towaoc, Colorado. We do have Federal trust lands as well.

Mr. MCCLINTOCK. So, the *Deseret News* reported in April of this year that you were opposing the creation of the Sleeping Ute Mountain National Monument near your home in Colorado. If a national monument is such a good idea, can you explain why you do not support one in your home state, but you do support one imposed against the wishes of the local community in another state?

Ms. LOPEZ-WHITESKUNK. Excuse me, but I am going to correct that. The proposed national monument is for an already existing Federal Reservation. They mentioned if I would support the Sleeping Ute Mountain becoming a national monument, that's the Reservation. That seemed like a very difficult question to even imagine.

Mr. MCCLINTOCK. Thank you. I am going to have to cut you off because my time is short.

Ms. Benally, where did this Bears Ears National Monument campaign begin?

Ms. BENALLY. My understanding is that when the PLI process started, there was a branch-off once environmentalists got involved to create Utah Dine Bikeyah, which became Bears Ears Inter-Tribal Coalition. When funding started to come in, and there were paid board memberships, that is where it started, the Bears Ears National Monument.

And also, if you look at the 1.9 million acre designation, it looks very, very similar to the Southern Utah Wilderness Alliance proposal.

Mr. MCCLINTOCK. Interesting. I have letters here which I would like unanimous consent to enter into the record in support of this from the elected County Commissioners in Carbon County, Emery County, and San Juan County, all in support of the PLI.

[The information follows:]

CARBON COUNTY BOARD OF COUNTY COMMISSIONERS,
PRICE, UTAH

July 13, 2016

To whom it may concern:

On behalf of the Carbon County Board of Commissioners, I lend my support and efforts to the passage of the Public Lands Initiative (PLI). PLI is a good example of grass roots politics in action. There have been thousands of hours worked, multiple counties involved, hundreds of meetings held, diversity of both the political and societal spectrums and representation from a wide range of user groups. PLI is also a good example of collaboration as both sides of the issue have felt like they were giving up some things and gaining others.

The declaration of this monument undermines the local peoples' ability to have a say and be involved in something that will affect their lives personally and is contrary and in opposition to a grass root movement like the PLI.

Thank you for your consideration. Please do not hesitate to contact our office if you would like to discuss this very important matter further.

Very truly yours,

CASEY HOPES,
Commission Chairman.

EMERY COUNTY BOARD OF COMMISSIONERS,
CASTLE DALE, UTAH

Congressman Chaffetz:

Emery County has been involved in a collaborative public land management process since 2008, involving many stakeholders. When we were asked to be a part of the Public Lands Initiative, we were pleased that other counties were going to engage in similar public lands collaboration, and that we could be part of a process that would address management issues on a regional basis.

We appreciate the effort that has been made by you and Congressman Bishop to engage stakeholders in each of the counties, and address all the many issues regarding public land management. We feel your process has been fair and inclusive. We are pleased to see draft legislation made available for further process and discussion. We look forward to continued discussion of the draft legislation as it makes its way through Congress.

The Emery County Commission supports the Public Lands Initiative, and will work to ensure its success.

Respectfully,

KEITH BRADY,
Chairman, Emery County Commission.

SAN JUAN COUNTY COMMISSION,
MONTICELLO, UTAH

May 3, 2016

Hon. BARACK OBAMA, *President of the United States*,
The White House,
1600 Pennsylvania Avenue N.W.
Washington, DC 20500.

Dear Mr. President:

As the elected Board of Commissioners of San Juan County, Utah, we are concerned that a Presidential designation of a national monument of significant acreage in San Juan County may be made prior to the end of your administration. Such a unilateral designation would not be supported by this Commission nor would it be favorably accepted by a majority of San Juan County residents.

San Juan County has been actively involved the past few years in preparing a citizen's proposal for land designations to be included in the Public Lands Initiative (PLI) sponsored by Congressmen Rob Bishop and Jason Chaffetz. The impetus for this Initiative is to provide greater certainty and local management of federally managed lands by resolving long-standing and highly controversial land management issues. The Commission supports locally-driven planning and in that spirit appointed a council of citizens from various parts of the county representing a variety of interests to develop a proposal. The resulting proposal was endorsed by this Commission. This proposal included, among other things, the designation of two National Conservation Areas and several wilderness areas. This proposal was submitted to the Congressmen for inclusion in the PLI for eastern Utah. This PLI is currently being reviewed by Congressional staff preparatory to introduction into Congress for passage into law.

Governor Herbert has expressly asked that Presidential designation of a national monument not be considered in Utah while the PLI process develops. He was assured by your office that such a designation would not occur while this process works out but if such unilateral designation is considered, it would not be exercised without first involving the local citizenry in a public, transparent process including locally-held hearings. This assurance of an open public process on a local level was also reaffirmed by Bureau of Land Management Director Neil Kornze in testimony given in a March 23, 2016, hearing of the House Committee on Oversight and Government Reform. Furthermore, it has been the practice of your administration to exercise this authority only where it is widely supported by local residents.

We trust that these assurances will be honored and that the current open and transparent process of developing a Public Lands Initiative will continue. It is our hope that such a locally-driven process will be the basis for resolution of land management issues that have long festered and polarized all sides of the issues.

Sincerely,

PHIL LYMAN,
Commission Chairman.

REBECCA M. BENALLY,
Commission Vice-Chair.

BRUCE B. ADAMS,
Commissioner.

Mr. MCCLINTOCK. They are, by definition, and you are, by definition, a representative of the people or you would not be holding that office. It seem to me the bill is opposed by out-of-state interests who are orchestrating this national monument campaign. Is that an accurate observation?

Ms. BENALLY. That is a 100 percent accurate observation of outside interests.

Mr. MCCLINTOCK. In my remaining 14 seconds, could you explain the views of the Indian tribes in the local community on this project?

Ms. BENALLY. The three tribes in San Juan County with letters and visiting elders oppose a national monument for the simple reason of it will close access.

Mr. MCCLINTOCK. Great. Thank you very much.

The Chair now recognizes the Ranking Member, Ms. Tsongas, for 5 minutes.

Ms. TSONGAS. Thank you, Mr. Chairman.

It is clear today, and we are hearing it over and over again, that much appreciation has been given to the many hearings that were held and the strong effort that has been made to bring people together, but it is clear that we still have real differences that are getting in our way.

One aspect of this bill that has received a lot of attention, and we are certainly hearing it today with our questions, is the effort to protect the area known as Bears Ears.

So, Ms. Whiteskunk, can you tell us why this place is so special and worthy of protection?

Ms. LOPEZ-WHITESKUNK. This location is worthy of protection for many reasons, but utmost is the Native Americans have ties, and it is just not the five tribes. Many tribes have come and gone through this area. We have ties and identity to the earth. It is who

we are, what we do, where we pray, where our ancestors once roamed.

There is still strong evidence that they were there. When they are there, we are still there. Our prayers and our viability on a daily basis is still very, very much in existence. It is our responsibility to protect what once was for what is upcoming in the future for our children and our grandchildren.

We have to protect the water usage. We have to protect the vegetation, the fragile ecosystem that fringes in the balance of what is called civilization.

From what I last heard, the greatest thing that ever happened to us was when the Homestead Act came to be. My last understanding was there were Native people that did live in those areas. I did not know it needed to be homesteaded.

So, we have a natural, innate desire to take care of what is, and that has been in our DNA to protect it.

Ms. TSONGAS. One of the goals obviously of this Federal Lands Subcommittee and the Natural Resources Committee is to identify places that have deep significance both to the peoples who live and have lived in those regions, but also for what they say about who we are as a country.

Given your deep connection to Bears Ears, was the Bears Ears Inter-Tribal Coalition able to participate in the PLI negotiations?

Ms. LOPEZ-WHITESKUNK. We started that, and let me back up a little bit. With a group of the Utah Dine Bikeyah, they initially were the grassroots organization that started that discussion. It is through their frustrations and efforts that they then approached many of the tribes to collectively gain the support of tribal sovereign voices, and through that effort is how we organized as tribally-elected leaders to bring the sovereign voices to the forefront so that we could conduct a government-to-government relationship and conversation.

Ms. TSONGAS. Were you all able to travel to Washington to make the case with any frequency?

Ms. LOPEZ-WHITESKUNK. Well, what we have in my exhibits, which you also have before you with my written testimony, is a demonstration of documented meetings and times of when we did participate, and we have attempted to try to continue the conversations with Chairmen Bishop and Chaffetz. Through several of those meetings we just did not feel like we were quite taken seriously.

Ms. TSONGAS. Can you talk a little bit more about why you chose to leave the negotiations?

Ms. LOPEZ-WHITESKUNK. As I mentioned in the Exhibit A, we provided a proposal. Part of that proposal is an extensive time line. Within that time line we felt like it was just time that we needed to be taken seriously.

On December 31, we all gathered in White Mesa and were supposed to have a meeting with staff members. That morning, we received a letter that that was not going to happen. We had put our agenda out, and we said we need to discuss what our next steps are, and that is when it was discussed to great lengths that we would turn away from the PLI effort at that point because of frustration.

Ms. TSONGAS. And were you able to raise your concerns with our Chairmen and their staff as they were engaging in this process?

Ms. LOPEZ-WHITESKUNK. We did, and we asked for a reaction to our proposal. A substantive reaction was never received.

Ms. TSONGAS. Do you feel that the PLI as proposed provides adequate protection for the cultural resources of Bears Ears?

Ms. LOPEZ-WHITESKUNK. We need collaborative management. We need more than an advisory position.

Ms. TSONGAS. So, you see much work that still needs to be done?

Ms. LOPEZ-WHITESKUNK. Yes.

Ms. TSONGAS. Thank you, and I yield back.

Mr. MCCLINTOCK. Thank you.

The Chair next recognizes the Chairman of the Western Caucus, Mrs. Cynthia Lummis of Wyoming.

Mrs. LUMMIS. Thank you, Mr. Chairman.

I can tell you this process that Mr. Bishop and Mr. Chaffetz have initiated has actually spawned a similar process in Wyoming, the Wyoming Public Lands Initiative, to try to pull together groups of interest in the land and its care and protection, its proper grazing and use. This has been an effort that has been something that we are trying to replicate.

I am proud of the work that they have done. I am also proud of the work that Wyoming County Commissioners and people who live and work on the land in Wyoming are doing to try to set a course for land that we live on, work on, love, and recreate on, and to do it in a way that honors people previously living there and honors the people that want to live there in the future, including our children and our families.

I also applaud Chairman Bishop and Chairman Chaffetz for their terrific work on this bill.

Yesterday, I held a hearing over in the Interior Subcommittee on Oversight and Government Reform specifically about grazing. We talked about some of the very 21st century grazing methodologies that are being used around the world to improve the grass resource, the soil resource, and the way that water moves across the land.

And these processes, when you apply modern science, are very different from the way we manage Federal lands now and more similar to the way that the ancestors of two of the women at the table that have tribal roots managed the land.

To suggest that there is not a better way than having the Federal Government in Washington, DC manage land and processes when the people who are on the land are so able of employing processes that have worked for time immemorial and can work again is a little shocking to those of us who care so much about our states.

I am delighted to have the testimony here today.

With those remarks, I want to ask one question of Director Kornze first, and it has to do with wild horse sterilization management. You canceled the research, and horse populations have tripled. We are engaged in the desertification of certain lands in the West because of the horse population and, quite frankly, improper management of grazing resources.

My question is—why? What is it going to take for BLM to manage the wild horse population?

Mr. KORNZE. You raise a very big, very important topic. Related to research, we are still moving ahead with many research projects. A few years ago when I came into this seat, I sat down with our team and we discussed this and asked what is the state of knowledge? What is the state of science?

The best we have is what we call PZP, which is a 1-year fertility treatment. We have almost 70,000 horses out on the range. We do not have the budget to go out and touch every horse every year.

Mrs. LUMMIS. Right. But here is my question. You and I have had this dialogue before.

Mr. KORNZE. Absolutely.

Mrs. LUMMIS. Did you cancel the research because you got sued?

Mr. KORNZE. We were working with Oregon State University and a number of litigants in trying to find a way to have a reasonable observation opportunity for the litigants, and we simply could not come to an agreement for all parties.

It does not mean we are stepping back from this type of research. It just means that research, at that place, at that time, we had to take a step back from, but we will continue moving forward, looking at long-term fertility control and looking at spay and neuter. We have to go in that direction.

Mrs. LUMMIS. Thank you, Mr. Chairman. I yield back.

Mr. MCCLINTOCK. Thank you.

Mr. Lowenthal.

Dr. LOWENTHAL. Thank you, Mr. Chairman.

I would like to preface my questions with a few remarks.

First, Chairman Bishop and also Chairman Chaffetz, I applaud you for the years of work on this PLI, but I believe in its present form it is seriously flawed. It is of particular interest to me as I have come to know and deeply appreciate Utah's public land treasures. Earlier this year, I participated in our committee's field hearing in St. George, Utah, and I was lucky enough to spend some time after the hearing hiking and getting a first-hand appreciation of the amazing and unique landscapes in southern Utah.

I can completely understand why passionate people in my own district, in Long Beach and in Orange County, keep constantly asking me to take care of and protect our public lands, and to keep them public for all Americans to visit and enjoy.

Even though my constituents live hundreds of miles away from Utah, they spend their precious time and money visiting and defending our shared public lands, just like visitors from Utah come to experience and love California's Yosemite or Joshua Tree National Parks.

However, the road to preserving public lands for future generations has been a bumpy one filled with opposition, which incidentally is true for any great idea. Even such iconic places as the Grand Canyon and Yellowstone National Park were staunchly opposed leading up to their creation. Yet now, they enjoy broad support and bring many economic opportunities to their gateway communities.

In Utah, for example, the proposal by Senator Frank Moss to create the Canyonlands National Park in 1961 was also met by stiff

opposition that split the Utah delegation and was opposed by then Governor George Clyde.

Today, however, Canyonlands receives more than 500,000 visitors a year and was recently praised by Utah's Senior Senator Orrin Hatch, who said, "We owe a debt of gratitude to the people, both elected officials and citizens, who possessed the foresight to recognize the value of Canyonlands and created the park 50 years ago."

As a country, we have had a long history of vigorously debating the future of our public lands, but the arc has been bent toward the long-term preservation of our public lands to be used by the many, instead of privatization or development for the profits of few.

That is why many of the provisions in the PLI concern me, because they do not strike the right balance between development and conservation that a majority of Americans like my constituents have come to demand. In fact, in my reading of the PLI, it conserves 100,000 acres less than the status quo; opens up pristine landscapes to roads; and grants unprecedented authority to the state to develop Federal minerals on the state's terms.

My three-part question then is for Director Neil Kornze on that last point. Has there ever been another example of a state government having primary permitting authority over decisions on Federal lands like the PLI has proposed?

Do you think it is appropriate for states to be given permitting authority for energy development on Federal lands?

And, how specifically might state permitting on Federal lands complicate the work of the BLM, including potentially interfering with BLM's other land use responsibilities, like recreation, hunting, and fishing? Director Kornze?

Mr. KORNZE. Thank you, Mr. Lowenthal, for that question.

In terms of a precedent, I am not aware of a precedent where a state has been given primacy in the authorization of things like energy development. This would be not only unusual, but potentially highly problematic. We have a number of active oil and gas wells, a number of active leases; in addition, we have a broad array of activities that we have management responsibility for given to us by this committee and by Congress.

So, we have very strong concerns with those provisions. We have laid that out in some detail in the written testimony, and we hope that we can continue working with the committee and the sponsors on the core of their concerns.

We think we have a very good energy program running in Utah. We also think that, by and large, our grazing program has been highly successful.

Dr. LOWENTHAL. Thank you.

And I will wait if there is a round two for further questions.

Thank you, Mr. Chair.

Mr. MCCLINTOCK. Thank you.

Our resident forester, Mr. Westerman.

Mr. WESTERMAN. Thank you, Mr. Chairman.

I, too, would like to compliment Chairman Bishop and the work that he and the Utah delegation have done on this, plus all the others that put so much effort into it. I think it is an example of how the legislative process should work.

I believe there have been years of work, 65 different proposals and 1,200 meetings. This has been debated long enough and I, again, would just like to congratulate the Chairman for his work on that and for the example that he sets for the rest of us.

There is a map up on the screen. Mr. Kornze, if you could please look at that map on the screen and the one that is in front of you that was prepared by the BLM on July 12, 2016. There is a red portion of land that will be transferred to the state of Utah under the PLI. According to this map, the land is public land managed by the BLM.

Can you confirm that this is currently public land that is managed by the BLM?

Mr. KORNZE. It indicates that here on the map which was just put in front of me. So sure.

Mr. WESTERMAN. So, the area indicated in red on the map is land that is currently public land that is managed by the BLM?

Mr. KORNZE. With the information I have in front of me, it looks like that is accurate.

Mr. WESTERMAN. OK. The next question is for Ms. Weldon.

This subcommittee is focused on ways to improve forest health during this Congress. PLI attempts to address forest health by helping the Forest Service better manage land through several different land conservation and consolidation provisions.

Can you explain to the subcommittee how Chairman Bishop's bill will help the Forest Service better protect Utah's Federal lands from threats such as insects, disease, and wildfire?

Ms. WELDON. Thank you.

There are many aspects of the bill around conservation that echo the goals that the Forest Service has in managing these public lands with assistance from the public around sustainable forest management, health for watersheds, and ensuring a range of uses that citizens want to be a part of and that contribute to economic capability.

There is that great echo. Our concern is that there are aspects of this, by making this a law, that take away the adaptability that we find has really helped us to be successful over the long term with ensuring those types of forest health and ecological goals.

Mr. WESTERMAN. Could you clarify that? Are you saying making this law would hurt forest health or help forest health?

Ms. WELDON. We would like to discuss further some of the provisions that lock in static types of management compared to what our planning regulations do, which allow for us to periodically check and adapt based on what's happening with landscapes and what is happening with public values through time.

We just want to make sure as we move forward that we keep that adaptability, flexibility, and the ability for the public input and the most recent scientific findings to be considered as we continue to manage.

Mr. WESTERMAN. So you are thinking this bill will make it harder to manage than what you currently have?

Ms. WELDON. There are concerns about layers of complexity that are placed on top of our current planning processes that would make it more challenging.

Mr. WESTERMAN. Mr. Chairman, I yield back.

Mr. MCCLINTOCK. Thank you.

Mr. Polis.

Mr. POLIS. Thank you.

I have a number of issues with the provisions of the legislation we are reviewing today. Certainly, I find it unacceptable that the bill includes language ranging from a public land giveaway, to a failure to protect the Bears Ears region, to shedding environmental protections, and the fact that this legislation steals land from the Ute Indian Tribe. H.R. 5780 includes a provision to take 100,000 acres of the tribe's lands within the Uncompahgre Reservation, which was set aside for the tribe's Uncompahgre Band in 1882 by Executive Order.

The Uncompahgre Band was originally from Colorado, and I plan to stand up for tribal sovereignty. The fact that this bill attempts to steal over 100,000 acres of land, I find is offensive to the concept of tribal sovereignty, as well as the integrity of our Nation's agreement with our Indian Nations.

But it is not only the provisions in the bill that I have some issues with. It is also the way that the order has gone about it, and the fact that our Chairman seems to be refusing to allow access on wilderness bills that do have community agreement behind them, while holding hearings on bills like this.

I hope that in the future we can be more evenhanded in the committee. I know the Chairman has said he has had many stakeholder meetings on the Public Lands Initiative, but obviously there are differing opinions from Utah among the people who are represented here, most notably the voices from people who are here and not here on all sides of this issue.

Chairman Bishop and Chairman McClintock, I did send you a letter on August 16 requesting a hearing on my Continental Divide Wilderness and Recreation Act. I have not yet received a response. I hopefully look forward to your affirmative response shortly.

I do want to indicate that while I am pleased that I have had several pieces of legislation move through this committee, my district's top priority, the Continental Divide Wilderness and Recreation Act, has not received a hearing yet. As you are aware, the bill came about from a large coalition of local groups, officials, and businesses requesting a change in designation for approximately 60,000 acres of Colorado's most spectacular peaks and forests in Summit and Eagle Counties, our main economic driver and our main lifestyle driver.

We have introduced the legislation three times, had an open stakeholder process, we compromised, and we got everybody on board. If we do have the opportunity to have a hearing, you will hear diverse voices from our water authorities, our cities, our counties, our businesses, sportsmen groups, 100 bipartisan, nonpartisan endorsing organizations, companies, local governments, et cetera, all supporting this designation change.

In our conversations, you have indicated a willingness to potentially hold hearings on this, but I wanted to again respectfully ask that our subcommittee or committee consider a hearing on that bill with local buy-in.

Now, moving on to the issue at hand, I did want to address a question to Director Kornze in follow-up to Mrs. Lummis' question.

Although you mentioned you have taken a step back from research, a dangerous roundup of horses is still occurring, and often these roundups occur when foals are very young, sometimes killing them.

You mentioned PZP. Aren't there other humane methods like this, instead of costly roundups and dangerous and costly holdings and even slaughter, to manage our wild horse population?

Mr. KORNZE. The Bureau of Land Management's goal is to have healthy horses on healthy rangelands. We have a number of impediments to getting there. Part of it is the tools and the budget that we have.

Just to give you a sense of scope, there are about 70,000 horses on the range right now. Our own internal analysis is that there should be something closer to 25,000 or 27,000 horses. That is the recommended amount.

Mr. POLIS. I understand. One more thing. I know you have about 44,000 horses that one of your own advisory committees recently recommended for slaughter or sale. Can you give me information to reassure my constituents that the advice of that committee is non-binding and inform me as to what other options are being looked into the BLM, other than the completely unacceptable proposal of slaughter or sale?

Mr. KORNZE. I can confirm that for you. The advisory board, frankly, we were surprised by their recommendation last Friday. I read about it in the papers like you did.

We have a huge challenge, and it is something that we have been trying to put together a comprehensive program to slow the fertility of the horses and to make sure that we are getting more horses into good homes.

And we have a massive budgetary problem in that we have roughly 50,000 horses that have already been taken off the range and are sitting in long-term holding pastures and corrals. That is a billion, with a B, dollar cost for the American taxpayer over the life of those horses.

Then we have the additional roughly 70,000 horses that are out on the range. We need more tools. We could use the help of this committee. We could use the help of states to get after research, to get after more programs, to get more horses into homes, but also to figure out how to properly manage these animals.

And I will note one more thing, that this is the only species that the Bureau of Land Management has responsibility for. It is a true oddity. Normal wildlife is managed by governors.

Mr. MCCLINTOCK. I have to call time on you. We did have a hearing on this very subject here earlier this year.

Mr. KORNZE. But just to finish the point—if it is endangered, it is managed by the Fish and Wildlife Service or NOAA. This is the one species that the BLM has, and I think there are a lot of big questions that we need to ask about how we have ended up here.

Mr. MCCLINTOCK. Thank you.

Mr. Hardy.

Mr. HARDY. Thank you, Mr. Chairman.

Mr. Kornze, many in the West, to put it mildly, take issue with the excessive use of the Antiquities Act. We often argue, and our constituents argue, that they would be much better off if their

Congressional leaders had an opportunity to be part of that vote process on whether to create national monuments or not.

Based off of the extensive stakeholder involvement and the transparent process throughout the development of this legislation, would you agree that this is a better way to go about solving land management challenges instead of through the unilateral executive action?

Mr. KORNZE. Congressman Hardy, it is good to see you.

Mr. HARDY. You, too.

Mr. KORNZE. I will say that I think the state that you represent, which is my state, has had great success in working through some of these large landscape legislative efforts, and I think they are good for communities.

Mr. HARDY. OK. Do you believe that Chairman Bishop's legislation is an appropriate balance between conservation and economic development?

Mr. KORNZE. I have long testimony and have given our views on it, but I think that there are a number of provisions that give us great heartburn, whether it is handing permitting over to the state on oil and gas or limiting the BLM's discretion to properly manage grazing. As forage goes up and down, we would be locked into a flat line of how many cows can be out there and how many cows should be out there.

And that is the tip of the iceberg. There are other pieces where, when it comes to the language that is underneath the title "National Conservation Areas," many important pieces are missing. Notably, language that says, as there are in other National Conservation Areas, and there are more than 20 across the country, this area should be managed for the conservation purposes that are spelled out in this bill.

That is not part of this, and so there are a number of gaps. I am so pleased that Chairman Bishop and Chairman Chaffetz have taken on this task. It is extraordinary to have seven counties working together and pushing in a similar direction, and to have all of the groups that come with that.

Mr. HARDY. OK.

Mr. KORNZE. But there are some serious concerns we have, and we would like to see some major revisions to the legislation.

Mr. HARDY. OK. I guess one of the key points I would like to emphasize when we examine this legislation is the solution to improve land management that sometimes we feel have not been done by BLM. Along with Chairman Bishop, every member on this committee supports protecting public lands, and preserving our Nation's natural heritage is very important also.

Yet, despite the commitment to responsible stewardship, interest groups like to frame these efforts as massive privatization.

Do you believe that under this reading of this bill that the local and state governments will manage the lands covered and it is not just for private interests?

And do you believe this is a massive land sale like some would like to have us believe?

Mr. KORNZE. There is a provision that would compel us to sell thousands of acres immediately. We have given the feedback that we think that we would like to work with the sponsors on which

parcels make sense. Some have been identified for sale in our plans. Others have not, and there also might be better mechanisms.

We want to make sure that we are not dumping land onto a market and flooding it. If there is interest, like in southern Nevada, there is a system where people have to raise their hand and say, "We are interested in this," and then the county or the cities come to the BLM and say, "There is expressed interest in this. We would like to nominate it for sale."

That kind of process allows us to make sure that we are working on something where there is a high probability of a sale and we are using public resources maximally.

Mr. HARDY. OK. Thank you.

I am short on time. Mr. Ure, can you explain why this is such a good win-win for the state and the Federal land managers?

Mr. URE. Thanks for the question.

In the PLI, this is a way for both the children in the state of Utah, also the Ute Indian Tribe, and also the Federal Government to all make money off the natural resources and still be very, very directly guided and not ruin the picturesque things we have in our mind that are beautiful.

We have new ways of drilling oil and gas called horizontal, as you guys are all aware of. We can start one here and go 2 miles in one direction or another.

I think one of the things that both Congress and also the people of the United States do not realize is that the Federal Government makes money off royalties of oil and gas. With our sanctions being scattered out throughout the western states or throughout the state of Utah, oil companies do not have the incentive to go out there and pay the mitigation fees or the mitigation acreage of going 1 mile and having to put 10 miles into mitigation one way or another.

By us being able to block this up, we are able to have better control of our property. We are able to give royalties to our school kids, to the Federal Government, if that is the ground on which they choose to drill on, and also with partnerships with the Ute Tribe, we can also give royalties there. So it is a win-win for everybody on that, Congressman.

Mr. MCCLINTOCK. OK. Thank you.

Mr. HARDY. Thank you.

Mr. MCCLINTOCK. Mr. Grijalva.

Mr. GRIJALVA. Thank you, Mr. Chairman.

Director Kornze, I think in response to other Members' questions, you have dealt with this question about Division B of the bill that mandates a land exchange between the Federal Government and the state of Utah. This land exchange that is directed in the bill, as you indicated, differs from the standard presently with BLM procedure.

Beyond the concerns that you outlined, is there another comment regarding that exchange that is mandated?

Mr. KORNZE. To paraphrase the official feedback we are provided when it comes to any land exchange, we are generally looking for four things: a public interest determination, a complete NEPA process, standard appraisals being used, and equal exchange.

Those are the four things that we walk into any exchange discussion looking for, and some of those pieces seem to be missing here.

Mr. GRIJALVA. Director, it is my understanding that the Ute Indian Tribe is very directly impacted by these land exchanges that are being mandated. It is their assessment that 100,000 acres of their reservation would transfer to the state of Utah without review or consultation.

Is it possible that the land exchange authorized by the bill could transfer Indian land to the state of Utah? Is that really possible?

Would this happen if we followed BLM land exchange procedures? Would that be possible to make that kind of exchange? It is probably more of a BIA question, but the BIA is not here.

Mr. KORNZE. Yes. This is a unique situation that I have not seen in my public lands experience before, where the Ute Indian Tribe has stepped forward and asked for the reinstatement of significant lands into tribal ownership. So, it is incredibly complex on the legal side of this.

We are still looking through it, so I cannot offer you a template of how BLM has dealt with this in the past. This is the first time that I have seen it.

Mr. GRIJALVA. Thank you very much.

Director Ure, in this bill the group SITLA is seeking to consolidate 100,000 acres of lands within the Ute Indian Tribe's Reservation. Could you answer for the committee why these lands are so valuable to SITLA?

And when SITLA proposed taking these lands from the tribe, did you know that they were tribal lands?

Mr. URE. Could you repeat the last question again?

Mr. GRIJALVA. When SITLA proposed taking these lands from the tribe, 100,000 acres, at the time did you folks know that they were tribal lands?

Mr. URE. Let me, first of all, explain. I am over my head on this one, but let me try to. The grounds that we are talking about go into what they call the Uncompahgre. To my knowledge, and I am sure the gentleman behind me will correct me outside, the Uncompahgre is not specifically Indian Reservation under today's terms.

I believe that that is part of a lawsuit going through the Tenth Circuit Court in Denver and Salt Lake to define more what the reservation is and the Uncompahgre.

If I am not mistaken, I believe that there is language in the bill that if the lawsuit should prevail, if this is part of the Indian Reservation, that there would be an action of doing something else so that it would not be Reservation ground.

There are some tricky terms that I have learned in the last 10 months. One is "Indian Country," one is "Reservation," and one is "Uncompahgre." They are very hazy back and forth. As Director Kornze just said, it is very technical legal jargon we are talking about here that has been in court for many, many years.

It is not our intent to take directly off the Reservation. It is out of the Uncompahgre, as I understand it today, Congressman.

Mr. GRIJALVA. So, to some extent SITLA is betting on Uncompahgre. If the litigation goes a certain way, then those lands would be there to appropriate into whatever value SITLA feels

those 100,000 acres have—possibly to develop gas and oil, who knows? The point is, at this point do you think given the litigation that is going on, given the ancestral ties to that land and the Reservation, do you feel it is even appropriate for these Ute tribal homelands to be included in any piece of this legislation?

With the caveat about the court case there, do you still think that it should be in there?

Mr. URE. With the language in the bill, which I believe makes that determination if it should ever be settled, there is a way for us to work out of that and keep the tribe whole.

This area up there is very rich in oil and gas. Even if we are given that within the PLI, there will also be revenues given to the tribe themselves as well as to our school kids.

I personally believe it is a fair issue under the circumstances of which we are discussing the bill today. Things could change with the Tenth Circuit Court and change everything, but I believe there is language in the bill to make things whole for the tribe and for the trust lands at the same time.

That is as good as I can answer.

Mr. GRIJALVA. I yield back, Mr. Chairman. Thank you.

Mr. MCCLINTOCK. Thank you.

Chairman Bishop.

Mr. BISHOP. OK. I have questions for all of you. Let's see how far we get through with this.

Commissioner Benally, let me start with you. Can you tell me in very simple terms, what is the Utah Navaho Trust Fund, and what does it actually fund?

Ms. BENALLY. The Utah Navajo Trust Fund is royalties that come off the oil and gas on the northern section of the Navajo Nation. The Utah Navajo Trust Fund recently, under Senate Bill 90, was reinstated for the state of Utah to oversee the funds.

It benefits roads, health, education, and the well-being of Utah Navajos.

Mr. BISHOP. If PLI were to pass, what would happen to that trust fund?

Ms. BENALLY. That trust fund in PLI would help the Utah Navajos get a bigger share to help the Utah Navajos that have been neglected otherwise. That is what it would do.

Mr. BISHOP. For the roads, the transportation and the education, everything that is involved with that?

Ms. BENALLY. Yes, and also PLI will include, if passed, that BIA, BLM, the Federal Government, and Navajo Nation finish the process of getting mineral rights from McCracken Mesa for the people that live on it. That is inserted in PLI, and that is a great benefit for Utah Navajos under PLI.

Mr. BISHOP. Thank you.

We mentioned briefly this idea of co-management. In fact, I think you called it "collaborative management" of these lands. In PLI right now, the management language is all we can do.

Let me ask the question. Do you like that concept of collaborative management, Commissioner? Because I have to admit I do.

Ms. BENALLY. Any time anyone comes together to work together on anything is the best method.

Mr. BISHOP. All right. Here is the reality of it. The collaborative management approach that has been suggested for Bears Ears National Monument cannot legally be done. It violates the law.

We write the law. I like the idea. PLI could, would, will—I will write that language because I am still waiting for Interior to give me some potential language on that.

We will incorporate that in PLI so we can actually do that collaborative management program. You cannot do it with a Presidential declaration. We can do it because we are Congress and we write the laws. That is a guarantee for you.

Mr. Koontz, let me hit you very quickly. How would certainty of protection, like what we are trying to do with this bill, benefit groups like Ride with Respect?

Mr. KOONTZ. We invest quite a bit in the trails, and we do not know on any given day whether they are going to go away. But what this bill would do is provide a certainty of access somewhere while giving the agencies the flexibility to relocate as issues arise.

Mr. BISHOP. Thank you.

Dave, let me come back to you on this 100,000 acres, which has been so glibly thrown out here so far. It is complex. In fact, Director Kornze looked at the map and said, "Yes, that is BLM land." They are controlling it right now.

What you said as to what we can do in language is not, I think, in the bill right now. It is what I would like to add to the bill to try and work it out. The issue is this is part of litigation. Once litigation is done, is there a way we can work out some compromise language to make sure that the value of the resources that are here that are given completely over to the tribe would actually go to the tribe?

Is there some language that you have proposed that could move us in that direction?

Mr. URE. Yes, it is. Once they get the lawsuit finished, yes.

Mr. BISHOP. All right. I appreciate that kind of clarity. Some of these things are very simplistically thrown out there that really are not accurate.

Mr. Kornze, I do not really have a question. A couple of quick statements here. You have given us some language. There are some technical changes in there that I like. I promise you for a markup those will be incorporated.

You have given me some substantive changes to the bill. I promise you for markup those will not be incorporated because, to be very honest, some of them are very confusing and the potential arbitrary exchange without input is what we are trying to eliminate in this.

You have used the phrase "time tested management areas." That is the exact problem. Those time tested management areas are why we are trying finally, instead of just giving a carte blanche to the executive agencies, to say Congress will take the time and the responsibility to map up what the agency should be doing and how they should be managing the land.

I reject what you said about the oil concept. What we are giving to the state is simply the permitting process, doing the paperwork after they meet the standards that you all set, simply because the state can do it in a reasonable amount of time. You all cannot. You

claim you do not have the manpower on the ground to do it, which is probably true.

DEQ already has greater authority in the Clean Air Act than what we are giving in this particular bill. I think it is a misstatement and misapplication. I object to the way you have characterized our grazing.

I am out of time and I have more things to complain about.

Mr. MCCLINTOCK. Well, as a matter of fact, we are going to go to a second round of questions, which begins with me, and I yield my time to the Chairman.

Mr. BISHOP. All right. Then let's come back here again.

I also want to state in here when we talk about transferring of lands, and I am glad you brought it up, it says specifically in here any lands given to the state shall be used for a public purpose. That is not a sale. That is public purpose.

Indeed, if you were giving lands back to the state of Utah, there would be no financial incentive.

For Wyoming, lots of luck with your process. You saw what I am going through. We could actually solve the horse problem in PLI, but you would probably be opposed to it anyway.

All right. Now let me come back to you, Dave. You said when you became SITLA Director that you wanted to grow the fund by a billion dollars. Do you think that goal is achievable if you do not do large transfer ideas like PLI?

Mr. URE. No, it really is not. The cost of drilling for oil in the state of Utah is already quite high, and oil companies are not willing to take the risk of going into one of our sections and finding oil in a diagonal drill somewhere else.

Plus, they cannot afford the access to our scattered sections. The mitigation cost that the BLM and the Federal Government has put on top of these oil companies to mitigate out one to four, one to ten, or whatever it might be, we need these blocks put together so that we can make more money for our kids.

Mr. BISHOP. Mr. Koontz, did Ride with Respect, as you were going through this process, sacrifice some of your priorities as the negotiations have been going along?

Mr. KOONTZ. Absolutely, and I have gotten flack for supporting things, because originally what OHV groups and even counties were looking for was RS 2477 resolution. We have not gotten that, so there is no trail that I can say for sure is going to remain open. But I can say that there will be less time spent in the courtroom in Washington, hopefully, and more time spent fixing things on the ground on the trail.

Mr. BISHOP. One other thing we attempted to do there is if there has to be a change in a trail, that we have guaranteed that there will have to be an equal, accurate alternative opportunity. So the ability of recreating in the state of Utah will not be taken away by arbitrary and capricious decisions made by someone else far, far away.

Mr. KOONTZ. Absolutely, and we have done that with the BLM and the Forest Service, and it has been a win-win, so to have that legislative direction to do just that means that I can do a better job for the people and the land.

Mr. BISHOP. I have one other question, I am trying to maintain my balance here with it, for Ms. Lopez-Whiteskunk.

You made a statement of the December meeting in which a staffer was supposed to attend, and you were told it would not happen, and that was the trigger that allowed you to no longer actually deal with us.

Do you know why that staffer was not able to attend that Christmas time meeting?

Ms. LOPEZ-WHITESKUNK. No, I stated that that was the trigger that launched the discussion.

Mr. BISHOP. Do you know why that staffer was unable to attend the meeting?

Ms. LOPEZ-WHITESKUNK. If I recall correctly, a loss of a family member.

Mr. BISHOP. He was attending his father's funeral. Now, in all due respect, don't you think that is a wiser choice of his time?

Ms. LOPEZ-WHITESKUNK. Oh, yes.

Mr. BISHOP. Thank you. That is all I had, which is why I was very offended by the statement that you made. That hurts very deeply. I am sorry, that is the wrong type of approach to take on this type of legislation.

Ms. LOPEZ-WHITESKUNK. Well, with all due respect——

Mr. BISHOP. No, no. I am sorry. I wanted that to be very clear. That was the proper approach, and if that was the trigger, shame on you.

With that, Mr. Chairman, let me yield back to you.

Mr. MCCLINTOCK. Thank you.

Ms. Benally, on my final minute, one of the problems we have here, particularly among the western states, is Federal ownership. Pick a state out of the air, maybe Massachusetts—the Federal Government owns 1.6 percent, as we have pointed out. It owns two-thirds of the state of Utah. I cannot begin to imagine the outcry if the Congress proposed expropriating two-thirds of the state of Massachusetts for bidding economic activity and taking all of that land off of the local tax rolls.

Any suggestions on how we can educate our colleagues about the difficulties existing in counties where, for example, in one of my counties, Alpine, 93 percent of the land is owned by the Federal Government, off the tax rolls and forbidden from productive activity?

Ms. BENALLY. Ninety-two percent of the land base in San Juan County is National Park Service, a national monument, Forest Service, Navajo Nation, or reservations. Only 8 percent is privately owned.

So, with this I would like to say that there has been neglect by the Federal Government through BLM, Forest Service, Park Service, and national monuments. There are such things in place like BLM Section 106. All of these places are already intact for protection and conservation, but because of gross neglect and no follow-through, San Juan County is the poorest county in the state of Utah.

So, to educate the people, whether you are on the western or eastern side, there needs to be much education.

Mr. MCCLINTOCK. I am afraid I am out of time, but thank you for your answer.

Ms. Tsongas.

Ms. TSONGAS. Thank you, Mr. Chairman.

First, Ms. Whiteskunk, I wanted to give you a chance to follow up on your answer to Chairman Bishop. I appreciate his sensitivity to why his staff member could not be there, but I think you had more to say about the experience altogether.

Ms. LOPEZ-WHITESKUNK. Thank you, and I appreciate the opportunity.

As I mentioned before, that was just one of the whole incidents of what happened that day. If I recall correctly, we had received an email that morning that that staff member was not going to be there. I would have figured that if the funeral was scheduled that day, we would have received some more leeway in terms of when that individual was not intending on being there. We received that email that morning while the rest of us had gathered, and we were informed that that was not going to happen.

We had a well thought out agenda for that day and had just basically thrown that to the side and discussed where we were at, what we were feeling, and one of the greatest moments was when we just sincerely all felt like our consideration, our conversation in this whole process was not being taken seriously.

Ms. TSONGAS. Thank you, Ms. Whiteskunk. So it was clearly an accumulation of things.

Ms. LOPEZ-WHITESKUNK. Yes, as it is outlined in the exhibit.

Ms. TSONGAS. Nevertheless, we all appreciate why his staffer could not be there.

Ms. LOPEZ-WHITESKUNK. Thank you.

Ms. TSONGAS. Thank you.

On another note, as we are having this discussion, I just wanted it to be known that we have received numerous letters outlining a variety of concerns with this bill. We have heard some of them today. While some of the letters come from national conservation groups like the Wilderness Society and the National Parks Conservation Association, groups not always well received by this committee, we have also received letters from the National Trust for Historic Preservation, the Outdoor Industry Association, which represents businesses that make up the $646 billion outdoor recreation economy, and not to mention local groups like the Friends of Cedar Mesa, and even one of the counties, Grand County, impacted by this legislation.

All of the letters outline different concerns with the introduced bill, but there is one message threaded through each one of them, that despite all of the strong and concerted efforts to bring people together, in the end, this bill does not represent consensus and it will lead to more, not less conflict.

To quote one of the letters, "H.R. 5780 undermines years of effort to find common ground, and it is a missed opportunity to advance conservation, recreation, and economic development in eastern Utah."

I ask unanimous consent that all of these letters are entered into the record.

Mr. MCCLINTOCK. Without objection.

[The information follows:]

THE WILDERNESS SOCIETY,
WASHINGTON, DC

September 13, 2016

Hon. TOM MCCLINTOCK, *Chairman*,
Hon. NIKI TSONGAS, *Ranking Member*,
House Subcommittee on Federal Lands,
Washington, DC 20515.

Dear Chairman McClintock and Ranking Member Tsongas:

The Wilderness Society (TWS) writes to express views on H.R. 5780, the Utah Public Lands Initiative Act (PLI). We respectfully request that this letter be included in the hearing record.

The Wilderness Society opposes H.R. 5780. While the proposal recognizes the critical need to protect scenic and sensitive public lands in Utah—places like the Bears Ears region in San Juan County—it fails to focus on areas of agreement between conservation groups, counties and other stakeholders, and would instead impose controversial provisions that lack public support.

As drafted, H.R. 5780 undermines years of effort to find common ground and is a missed opportunity to advance conservation, recreation and economic development in eastern Utah.

The legislation suffers from numerous fatal flaws, including:

- Contradicting the Wilderness Act, Federal Land Policy and Management Act, National Forest Management Act, and National Environmental Policy Act.
- Undermining the management of proposed wilderness areas, national conservation areas, special management areas, and recreation zones.
- Failing to conform to local agreements between stakeholders, as well as county proposals, developed during the PLI process.
- Providing unprecedented giveaways to the State of Utah, including over a thousand miles of public roads, as well as important land and resources.
- Giving the State of Utah unprecedented authority to approve energy development on Federal lands in eastern Utah.
- Failing to designate 62% of deserving wilderness-quality BLM lands as wilderness and rolling back existing protections for over 100,000 acres of wilderness study areas.
- Affording insufficient protections for the proposed Bears Ears National Monument.
- Containing numerous other onerous provisions such mandatory grazing on all public lands in eastern Utah; granting San Juan County a right-of-way on Recapture Canyon, the site of the illegal ORV protest ride that damaged archeological resources; and mandating energy development in the Nine Mile Canyon Special Management Area.

We appreciate the commitment of many stakeholders and community leaders to find common ground during the development of the Public Lands Initiative. The Wilderness Society remains committed to continuing to work for the permanent protection of deserving public lands in Utah through whatever process can successfully secure those protections.

Thank you for considering our views on this legislation.

Sincerely,

PAUL SPITLER,
Director of Wilderness Policy.

NATIONAL PARKS CONSERVATION ASSOCIATION,
WASHINGTON, DC

September 12, 2016

Dear Members of the House Natural Resources Committee:

Since 1919, the National Parks Conservation Association (NPCA) has been the leading public voice in protecting and enhancing America's National Park System. On behalf of our more than one million members and supporters nationwide, and in advance of the Subcommittee on Federal Land's upcoming September 14th hearing, I write to urge members of the subcommittee to oppose Chairman Rob Bishop and Congressman Jason Chaffetz's Utah Public Lands Initiative (H.R. 5780).

For over three years, the National Parks Conservation Association (NPCA) has been a stakeholder in the Utah Public Lands Initiative (PLI). We encouraged an open, transparent process for determining land designations based on mutual trust and a commitment to finding common ground, where possible. NPCA's priorities in the process were to protect and conserve the unique ecological, cultural and recreational values of our national park units while also considering the larger shared landscape. This includes potentially expanding protections around several national park units as well as ensuring that activities on adjacent lands do not impair the air, water, sounds, night skies, views and other values that the National Park Service (NPS) is charged with protecting. Throughout the PLI process, NPCA's goal was to work toward legislation that would protect eastern Utah's magnificent landscape, while allowing for a variety of recreational opportunities, appropriate development, and robust local and state economies.

After closely examining provisions in the legislation, NPCA cannot support H.R. 5780 because it would result in a step backwards for conservation in the management of the national park units and the larger shared landscape. In addition, the bill includes language that contradicts and undermines key federal laws including the Wilderness Act, Clean Air Act, and National Environmental Policy Act. While we are pleased to see our priority of expanding Arches National Park included in the bill, we oppose many more provisions of the bill that do not support parks or their adjacent landscapes, and therefore do not consider H.R. 5780 a balanced approach to resolving Utah's public land issues.

The bill ignores much of the progress made over the past three years and the collaborative approach taken in several of the state's counties. Overall, the bill is a missed opportunity to protect and preserve some of America's greatest national parks and their surrounding public lands. Instead, H.R. 5780 would subject much of eastern Utah's public lands to excessive development and off-road vehicle use, while weakening environmental protections. Even the title of the bill is of concern, "To provide greater conservation, recreation, economic development, and local management of federal lands in Utah, and for other purposes." These are federal lands and while local input and participation in management of these landscapes is important, these are public lands that belong to all Americans.

Below we outline the provisions of the bill which NPCA opposes due to potential impacts to our national parks, their shared landscapes, and the enjoyment of all Americans.

Division A: Conservation

Title I: Wilderness

Although we support H.R. 5780 the designation of wilderness in Arches and Canyonlands National Parks, Dinosaur National Monument and Glen Canyon National Recreation Area in H.R. 5780, the wilderness boundaries are problematic; they do not include all of the recommended acreage in Arches, but do include other developed areas within the parks, which do not qualify as wilderness. In addition, the wilderness management language in the bill contradicts the Wilderness Act and undermines the authority of the NPS to fully manage wilderness resources in the parks. As written, H.R. 5780 would actually offer less protection for lands inside national parks because nearly all of the land designated as wilderness in the bill that is inside the parks is already recommended wilderness and currently managed by the NPS in a manner consistent with the Wilderness Act. We are extremely concerned about the provisions in the wilderness administration language in H.R. 5780 which limit the land manager's ability and authority to appropriately manage the natural and cultural resources. All designated wilderness should be managed consistent with the Wilderness Act without stipulations and exemptions attached.

NPCA strongly opposes any effort to reclassify Arches and Canyonlands national parks from Class I to Class II airshed status as defined under the Clean Air Act. H.R. 5780 attempts to clarify exceptions to prohibiting the designation of Class I

airsheds in new wilderness, but is not clear to which areas the clarification applies (p. 25, line 23–25).

Title II: National Conservation Areas

NPCA is very supportive of protecting landscapes adjacent to national park units and could be supportive of the National Conservation Area (NCA) designation if crafted with strong conservation language. However, the NCA designations included in H.R. 5780 are in name only and do not provide for clear and meaningful protection of the shared landscapes, which in many cases are adjacent to NPS managed areas. The management language for the NCAs contradicts the Federal Land Policy and Management Act, National Environmental Policy Act, and will limit the ability of land managers to adequately manage the resources they are intended to protect.

Although the Indian Creek NCA incorporates a portion of NPCA's long-standing Canyonlands Completion proposal (which would expand the Canyonlands National Park boundary beyond the natural erosional boundary of the Wingate Cliffs), the NCA proposed in H.R. 5780 would not adequately protect the Canyonlands basin and its many natural and cultural resources. Instead, the NCA would allow for "historic uses", including grazing and off-road vehicle use, which can be incompatible with adjacent NPS management and threaten park resources. This does not represent a significant step forward in conservation.

Title III: Arches National Park Expansion

NPCA advocated for and supports expanding the boundaries of Arches National Park. However, H.R. 5780 also designates Wilderness within the expansion area with numerous cherry stemmed vehicle routes. These cherry-stems lessen the conservation value of park landscapes and the minor additions to the park; these also were not discussed with the conservation community.

Division B: Innovative Land Management, Recreation and Economic Development

Title I: School Trust Land Consolidations

NPCA has concerns with the large areas where SITLA would trade into federal lands west of Arches National Park and on Hatch Point east of Canyonlands National Park. These areas are all within the Moab Master Leasing Plan boundary, which is a nearly final, stakeholder driven process which looked closely at where and how oil, gas and potash leasing should take place. SITLA land within this area would not be managed under the provisions of the MLP and presents significant threats to park resources if developed for oil, gas or potash. In addition, the bill excludes the trade of a SITLA parcel adjacent to the eastern boundary of Natural Bridges National Monument. NPCA has consistently advocated for a trade of this specific parcel through the PLI process since incompatible use or development of the parcel would have significant impacts on park resources, including its International Dark Sky status.

Title VII: Recreation Zones & Title IX Red Rock Country Off Highway Vehicle Trail

Both of these titles allow for off-road vehicle use and the development of new off-highway vehicle trails adjacent to national park units. This could potentially lead to incursions in the park and damage to park resources. In H.R. 5780 the Klondike Recreation Zone is adjacent to the western boundary of Arches National Park and is established "to promote outdoor recreation (including off-highway vehicle use, mountain biking, rock climbing, and hiking), provide for the construction of new non-off-highway vehicle trails, and to prevent future mineral development" (P. 162). The Red Rock Country Off-Highway Vehicle Trail allows for the development of a new trail linking up several communities in southeastern Utah near Arches and Canyonlands national parks. However, it is not clear through H.R. 5780 where the routes would be located in relationship to the parks. If sited too close to park boundaries, there could be visual impacts and potential incursions into the parks. Encouraging more off-road vehicle use adjacent to Arches and Canyonlands National Parks could create increased dust, noise, and diminished air quality. This, in turn would impact the dark night skies, visibility, natural sounds, viewsheds, and overall visitor experience of millions of people to these parks and their adjacent public lands.

Title XII: Long Term Energy Development Certainty in Utah

This title hands over authority for expedited energy development on public lands within the six PLI participating counties to the state of Utah. The language of H.R. 5780 requires the state to follow the process of federal law, but not the substance. This action could lead to a significant increase in energy development on the landscapes surrounding our national parks, without regard for the impacts on air quality, natural and cultural resources, and the outdoor recreation economy.

Opening up the landscapes, particularly at the scale offered through H.R. 5780, adjacent to national parks to energy development with no regard for impacts on the natural and cultural resources or the experience of millions of people who flock to this part of Utah, would be a huge setback for conservation, the State of Utah, and all Americans who treasure our public lands.

In addition, NPCA has been a strong proponent of the Bureau of Land Management's Master Leasing Plans as an important tool that can more effectively create certainty on the Utah landscape for all sides—whether for conservation, recreational use, or energy development. H.R. 5780 effectively eliminates the development and implementation of Master Leasing Plans by the BLM within the participating PLI counties and will nullify years of cooperative efforts between land managers and local stakeholders who have been working to determine where energy development, recreation and conservation are most appropriate on the landscape around Arches and Canyonlands National Parks. This action will also ensure that other national park units in the area do not receive a similar level of focused planning for potential energy development on the adjacent landscape.

Title XII: Long-Term Travel Management Certainty

This title grants right of ways, in perpetuity, for all paved Class B roads claimed by the six PLI participating counties to the State of Utah. This includes paved entrance roads leading up to and within the Island in the Sky and Needles Districts of Canyonlands. It also gives right of ways to Uintah County of all claimed Class D roads in the county. This can include cowpaths, overgrown two-tracks and routes that have been closed by the BLM and NPS in Uintah County. It also allows the State of Utah to continue litigation for other claims not included in this legislation.

NPCA's position has been consistent—the counties and state do not have legitimate claims to the roads, paths and trails inside the national parks. Their management by the National Park Service is critical to achieve the flow and volume of visitors into the parks enabling them to meet goals for recreational access and long-term resource protection. In addition, these controversial, permanent rights-of-ways flout current laws and policies governing RS2477 claims and would encourage off-road vehicle use on federal lands where it does not currently occur.

Title XIII: Long Term Grazing Certainty

This title, requiring that grazing on public land within seven Utah counties continue at current levels, "except for cases of extreme range conditions where water and forage is not available," would limit public land managers' ability to manage grazing and the significant impacts it can have on natural and cultural resources. This includes grazing inside Dinosaur National Monument and within the Arches National Park expansion. This title also undermines the National Forest Management Act, National Environmental Policy Act, Federal Land Policy and Management Act and Endangered Species Act.

In addition, Section 1303 of this title appears to ensure public land grazing outside the seven Utah counties engaged in the PLI: "this title shall ensure public grazing lands, including areas outside the areas designated in this title, not be reduced below current permitted levels, except for cases of extreme range conditions where water and forage is not available" (P. 197). NPCA strongly opposes any type of provision allowing for existing grazing levels on a statewide basis. This provision impacts other park units including Glen Canyon NRA and Capitol Reef National Park.

Division C: Local Participation

Title I: Local Participation and Planning

Creating an unbalanced, statewide advisory committee to advise the Secretaries of the Interior and Agriculture on the implementation of the PLI would complicate and bias implementation of this legislation relating to public lands owned by all Americans.

Division D: Bears Ears National Conservation Area

This title creates an 860,000-acre Bears Ears National Conservation Area in San Juan County. Similar to the other NCA's designated in H.R. 5780, the management language for the Bears Ears NCA contradicts the Federal Land Policy and Management Act and National Environmental Policy Act and undermines the authority of public land managers to appropriately protect NCA cultural and natural resources. Unlike the current Inter-tribal Coalition's proposal for a Bears Ears National Monument, an NCA would not effectively provide for the healing of the sacred, ancestral landscape, nor for a strong Native American voice in management of the conservation area. It is also not clear whether Natural Bridges National Monument would or would not be incorporated into the Bears Ears NCA. The NCA map for

H.R. 5780 indicates that Natural Bridges National Monument would be included in the Bears Ears NCA; if so, NPCA advocates that the monument continues to be managed by the National Park Service.

Conclusion

While we believe the PLI process led to valuable discussions among diverse stakeholders in some counties, and even the identification of areas of unexpected common ground, the resulting legislation represented in H.R. 5780 does not reflect the progress made during over three years of engagement. Instead, all semblance of compromise is overshadowed by broad negative policy provisions, some that were not shared or discussed with stakeholders, and others that NPCA identified as nonviable compromises from the beginning of the PLI process. While NPCA remains committed to pursuing all genuine opportunities to achieve the protection the amazing, dynamic landscapes of Eastern Utah deserve, we do not believe the PLI represents a conservation gain for these public lands. We urge you to also oppose H.R. 5780.

Thank you for your consideration of our comments.

Sincerely,

KRISTEN BRENGEL,
Vice President, Government Affairs.

PREPARED STATEMENT OF STEPHANIE K. MEEKS, PRESIDENT AND CEO, NATIONAL TRUST FOR HISTORIC PRESERVATION

Chairman McClintock and members of the subcommittee, I appreciate the opportunity to present the National Trust for Historic Preservation's perspectives on the recently introduced Utah Public Lands Initiative Act ("PLI") and the importance of protecting the Bears Ears cultural landscape. My name is Stephanie K. Meeks, and I am the President and CEO of the National Trust.

The National Trust for Historic Preservation is a privately-funded charitable, educational and nonprofit organization chartered by Congress in 1949 in order to "facilitate public participation in historic preservation" and to further the purposes of federal historic preservation laws. The intent of Congress was for the National Trust "to mobilize and coordinate public interest, participation and resources in the preservation and interpretation of sites and buildings." With headquarters in Washington, DC, 9 field offices, 27 historic sites, more than 800,000 members and supporters and partner organizations in 50 states, territories, and the District of Columbia, the National Trust works to save America's historic places and advocates for historic preservation as a fundamental value in programs and policies at all levels of government.

We appreciate the sustained efforts of House Natural Resources Committee Chairman Rob Bishop, Congressman Jason Chaffetz, and members of the committee to develop a legislative solution to address the long-term conservation of nationally significant lands in Utah. This is a difficult and challenging problem of public policy—ongoing for generations—that deserves an expedient and successful resolution.

We recognize that the existing legislation includes certain improvements over the previous discussion draft, but we are disappointed that H.R. 5780 does not meet our hope for legislation that would generate the broad-based bipartisan support necessary to be signed into law by the President.

Accordingly, we join the broad-based request that the President utilize his authority under the Antiquities Act to protect the nationally significant cultural and archaeological resources of the Bears Ears area this year. In addition, the National Trust opposes H.R. 5781, the "PLI Partner Act," which would limit the President's authority to proclaim national monuments in certain areas of Utah.

NATIONAL TRUST PARTICIPATION

Bears Ears is one of the most significant cultural landscapes in the United States and a landscape that is home to more than 100,000 cultural and archaeological sites, many of which are sacred to tribal communities across the region. The 1.9 million acres of public lands south and east of Canyonlands National Park include Ice Age hunting camps, cliff dwellings, prehistoric villages, and petroglyph and pictograph panels that tell the diverse stories of 12,000 years of human habitation.

Since 2007, the National Trust has been working on legislative proposals with the Utah delegation and other stakeholders to protect this important place. We have also been actively engaged in cultural resource protection issues in southeast Utah—working to ensure compliance with federal laws designed to avoid impacts to historic and cultural properties and supporting thoughtful planning for and interpretation of cultural resources.

In 2013, we developed and presented maps and narratives describing the National Trust's priorities for resource designations in southeast Utah to local, state, and national partners, including the offices of Congressmen Bishop and Chaffetz. Since we named this area one of our National Treasures in 2013, we have committed our expertise and resources to seeking a preservation-friendly solution to land use conflicts in this area. Earlier this year, reflecting our long-standing commitment to the legislative process, we submitted extensive comments on the "Discussion Draft" of the PLI.

Like many Americans, I have had the pleasure of visiting and marveling at the extraordinary cultural resources of the Bears Ears region. This landscape and its resources certainly rival nearby nationally protected areas like Canyon of the Ancients National Monument (established by President Clinton in 2000), Mesa Verde National Park (established by Congress in 1906), Chimney Rock National Monument (established by President Obama in 2012) and Chaco Culture National Historical Park.

It is worth noting that the remarkable resources of Chaco Canyon were first protected by President Theodore Roosevelt as a national monument in 1907. Nearby Hovenweep National Monument was established by President Harding in 1923.

VIABILITY OF THE LEGISLATIVE PROCESS

Due to our commitment to securing permanent protection for these nationally significant cultural resources, the National Trust has been hopeful that the long-awaited PLI legislation would be crafted in such a way as to gather the broad bipartisan support necessary to be adopted by Congress and signed into law by the President this year. Unfortunately, the legislation as introduced on July 14 is unlikely to generate such support and in fact has generated significant opposition by many of our conservation colleagues.

We appreciate the proposed establishment of a Bears Ears National Conservation Area, however we are concerned that neither the proposed size (857,000 acres) nor management provisions are sufficient to protect the nationally significant resources of this area, including such archaeologically valuable lands within the White Canyon drainages and the Allen, Chippean, and Dry Wash Canyons.

We appreciate that there have been multiple improvements from the discussion draft, including, as in section 108, permitting the acquisition of lands within wilderness areas from willing sellers, the removal of language designating certain areas for recreational shooting and removing designation of specific areas for recreational shooting and certain changes restricting the ability of managers to determine grazing levels.

However, we are disappointed that many of the concerns outlined in our February 12 letter on the discussion draft were not addressed, including but not limited to the following:

- We are very concerned with the details of proposed land trades which direct the Department of the Interior to accept, without full environmental analysis, trades proposed by the state of Utah, even when they are problematic for cultural resources. In particular, the National Trust for Historic Preservation joined a protest in 2014 of oil and gas lease sales in the Bluff and Montezuma Creek areas of San Juan County—leases that were deferred to protect cultural resources. The maps submitted with the PLI suggest the Utah State Institutional Trust Lands Administration (SITLA) will request retention of ownership of surface and mineral rights within the Bears Ears NCA near Bluff—contrary to the concept of a National Conservation Area—along with significant acreage adjoining the NCA to the east. Both the retained and acquired lands contain important cultural resources deserving of protection.
- We are particularly concerned with section 1103, which would create a new program whereby the state of Utah would be granted energy permitting powers now exercised by the federal government. Our reading of this precedent setting proposal is that it would remove the federal protections currently afforded cultural resources, including the National Historic Preservation Act, Native American Graves Protection and Repatriation Act (NAGPRA) and other federal laws.

- We are also concerned that the existing and potential use of Master Leasing Plans, which have proven to be helpful collaborative tools to resolve long-standing conflicts over land use would be precluded by the legislation.
- We are concerned that the bill would permit grazing in certain areas where current restrictions protect archaeological and cultural resources and that other areas could be made available to grazing, including in Grand Gulch, Slickhorn, and other canyons on Cedar Mesa.

Additionally, the National Trust agrees with a number of our conservation colleagues who have expressed serious concerns with the sweeping and controversial changes to other long-standing federal laws protecting the nation's natural and cultural resources.

Given the numerous and significant changes necessary to redraft the bill and achieve a bi-partisan compromise, as well as the limited number of legislative days remaining prior to Congress adjourning this fall, we are skeptical that comprehensive legislation can be achieved this year.

ADDRESSING THE URGENT NEED FOR PROTECTION

Continued reports of looting, vandalism, and other damaging disturbances of archaeological sites lends particular urgency to the permanent protection of the Bears Ears landscape as soon as possible. In just one of over 50 recent incidents of looting, a 2009 Bureau of Land Management and FBI sting operation resulted in indictments of over 24 people for multiple violations of trafficking an estimated 40,000 stolen artifacts, government property, and Native American cultural items from the Southeast Utah area.[1]

Given the time sensitive and significant threat to priceless cultural resources and the absence of a realistic opportunity to enact bipartisan legislation during this Congress, the National Trust supports the protection of the Bears Ears landscape by the President as a National Monument before the end of this year.

We appreciate the substantial time and resources dedicated to the pursuit of a legislative solution to this critical preservation issue by local and national stakeholders, including local governments, our partners in the conservation and preservation community and the staffs of the House and Senate committees and offices of Congressmen Bishop and Chaffetz. We look forward to continuing our collaborative work to advance preservation solutions with members of the committee, Congressmen Bishop and Chaffetz, and other stakeholders.

PREPARED STATEMENT OF JESSICA WAHL, GOVERNMENT AFFAIRS MANAGER, OUTDOOR INDUSTRY ASSOCIATION, BOULDER, COLORADO

Mr. Chairman and members of the subcommittee: Thank you for your attention to the important lands and waters in Eastern Utah and for holding this hearing on the Utah Public Lands Initiative (PLI).

Outdoor Industry Association (OIA) is the national trade association for suppliers, manufacturers and retailers in the $646 billion outdoor recreation industry, with more than 1200 members nationwide. The outdoor industry supports more than 6.1 million American jobs and makes other significant contributions toward the goal of healthy communities and healthy economies across the United States.

We would first like to express our gratitude to Chairman Bishop and Chairman Chaffetz and their staff for the time, energy and resources that have gone into crafting the Public Lands Initiative. OIA and our members have been involved in the PLI process for several years and we are pleased to see recreation interests included in the PLI, and some improvements from the first discussion draft. However, these protections as a whole do not go far enough to ensure Utah's treasured lands and waters will remain healthy and viable for the next generation of outdoor enthusiasts. Therefore, we cannot support the bill as it is currently drafted. We sincerely hope that our written testimony, and this hearing, will help chart a path forward that will provide protection for the Bears Ears region and recreation assets throughout Eastern Utah.

Recreation on Utah's public lands and waters is a cornerstone of the state's economy. Eastern Utah is world-famous for outdoor recreation, home to several

[1] Center for American Progress; "Bears Ears Cultural Area: The Most Vulnerable U.S. Site for Looting, Vandalism, and Grave Robbing"; https://www.americanprogress.org/issues/green/news/2016/06/13/139344/bears-ears-cultural-area-the-most-vulnerable-u-s-site-for-looting-vandalism-and-grave-robbing/; June 13, 2016 (accessed September 13, 2016).

destination national parks, world-class rock climbing, mountain biking, whitewater paddling, hiking, canyoneering, OHVing, hunting and skiing. With these incredible recreation assets, it's no wonder that Utah is critical to the growing outdoor recreation sector with 122,000 jobs directly related to the outdoor economy, $12 billion in spending on outdoor products, and as a home to over 60 OIA member companies. Additionally, Outdoor Retailer held in Salt Lake City twice a year brought upwards of $50 million to the local economy and over 50,000 visitors to the area in 2015 alone.

Resolving land and water conflicts in Utah is incredibly important to outdoor businesses who have chosen to locate there, their customers who play there, and many others across the country whose inspiration for exploration has, and we hope will continue to be, linked to Utah for generations to come.

Like you, we believe that economic development through energy and mineral extraction, conservation and recreation can co-exist. Further, as our outdoor recreation economy study reports, protecting recreation assets is, in fact, economic development. This is particularly evident in Utah, with opportunities for a strong and sustainable future for recreation-based economic development and access to outdoor recreation that is the envy of the country, if not the world. As we focus on how the outdoor industry inspires healthy people, and creates healthy economies, we understand that economic diversity and the role that all of Utah's industries play in that diversification is extremely important. However, we also realize that energy and mineral development near iconic recreation destinations, or extraction that is prioritized and expedited in areas adjacent to recreation, undermines the protections of these recreation assets we have fought so hard for throughout the PLI process.

Unfortunately, recreation gets very little representation on the PLI Advisory Committee, showcasing the lack of this balance. Additionally, PLI provisions call for transferring all energy leases to the state, which stands in direct conflict with the Moab Master Leasing Plan that OIA and our members enthusiastically support. Please reference the attached appendix A for a list of recreation-based concerns with H.R. 5780.

There is not consensus for many of the provisions in H.R. 5780. However, there exists almost unanimous public support for permanent protection for the Bears Ears region and its iconic recreation opportunities, archaeological resources, unique landscape and connection to Native Americans. This was evident at the Bluff town hall meeting, which many of our members and partner organizations attended. Currently, a number of legislative and administrative efforts, as well as proposals from the public, call for permanent protection of this landscape. OIA prefers that protection for this area be accomplished through legislation, but we support judicious use of the Antiquities Act when legislative solutions are not viable for important recreation landscapes. (See Appendix B for our public lands statement.) We suggest Congress and the administration first focus on the Bear Ears region, find a way to strengthen the protections in this area, and then move to the other disputed lands and waters covered in the PLI.

Another issue we would like to bring attention to is that land managers are not provided the resources necessary to properly manage recreation, protect archaeological resources and preserve the integrity of the landscape. We wholeheartedly support additional funding for law enforcement, resource protection and recreation management for the greater Bears Ears area region and hope that this issue will be given the attention it deserves in this hearing and in the future. We maintain optimism that the legislative process can find the right balance for managing our national public lands, honoring Native Americans, and protecting the places we play that support Utah's recreation economy.

While H.R. 5780 would provide some protections for this exceptional landscape, when paired with other provisions in the bill, it does not ensure recreation assets will be available for future generations. As such, OIA will continue to work with both Congress and the administration toward an improved balance between mineral and energy development and the recreation assets whether through the PLI, designation of a national monument, or a new legislative option that provides greater protection and funding for the greater Bears Ears region.

Thank you for your attention to this issue and we look forward to working together for the protection of Utah's world-class outdoor recreation opportunities, local economies and Native American ancestral treasures.

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APPENDIX A: CONCERNS WITH H.R. 5780

1. The PLI (Division C, Title I) Planning and Implementation Committee is not sufficiently well-balanced, does not adequately include the entire spectrum of recreation interests, and is predisposed to decisions that favor development and resource extraction over conservation and protection of cultural and recreation resources. It is important to note that Utah's recreation economy contributes $12 billion in consumer spending, employs 122,000 Utahans and brings in $856 million in state and local tax revenue.
2. The PLI proposes transfer of federal lands to the state of Utah that could negatively affect the environment, recreation access, the integrity of National Park viewsheds and air quality, and quality of life of neighboring communities. In particular, the PLI proposes a very large consolidation of School and Institutional Trust Land Administration (SITLA) lands just northwest of Moab, Utah that has a high likelihood of facilitating intense industrial development and cause environmental impacts detrimental to the recreation community and quality of life for Grand County residents.
3. The PLI (Division B, Title XI) provides the state of Utah control over energy leasing decisions and will conflict with the Moab Master Leasing Plan—a plan that Access Fund, Outdoor Alliance and Outdoor Industry Association wholeheartedly support because it brings better balance and certainty to energy development.
4. The PLI favors some land management strategies that are not informed by currently accepted land management best practices. For example, PLI grazing and snowmobile prescriptions do not follow well-substantiated, sustainable resource management approaches.
5. The PLI (Division B, Title XII) RS 2477 provisions prematurely address state rights-of-way before the courts resolve such claims that are the subject of extensive on-going litigation.

In addition, we do not support the "PLI Partner Act" (H.R. 5781) that limits the use of the Antiquities Act—a tool that has been used effectively for over a century to conserve lands when no other alternatives were available.

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APPENDIX B: WHERE WE STAND—OUTDOOR INDUSTRY ASSOCIATION'S POSITION ON PUBLIC LAND DESIGNATIONS NOVEMBER 2015

Public lands and waters are the backbone of the outdoor industry and outdoor recreation economy. OIA supports the protection of recreation assets for the enjoyment of present and future generations.

In specific cases, if a high value recreation asset needs protection and there is local business support for a land designation, but no corresponding legislation (immediate or over time) is viable, OIA will support the executive branch's use of the Antiquities Act to protect that asset.

Working with member companies and other strategic partners, OIA will work to develop new legislation, land designations, and policy tools to better fund, protect and manage public land and water for recreational use.

In many cases, the goals of better access and management can be achieved by optimizing existing programs and tools:

- Agency Planning Processes (e.g., Master Leasing Plans, Forest Plans and similar)
- Full or increased funding for these programs and tools

OIA believes that The Antiquities Act and The Wilderness Act are foundational laws to protect recreation on national public lands and waters and that the scope and power of both must be preserved.

OIA will support new land designations first through legislation that:

- Protects high value recreation assets
- Has local support from outdoor recreation businesses
- Has support from one or more of the state's Congressional delegation

OIA believes it is appropriate to pursue a higher level of protection for public lands and waters, and the recreational experiences they support, in the following circumstances:

- To mitigate a threat from development
- Protection is needed to maintain existing conditions
- A special or iconic place warrants elevated status

FRIENDS OF CEDAR MESA,
BLUFF, UTAH

July 19, 2016

Hon. ROB BISHOP,
Hon. JASON CHAFFETZ,
U.S. House of Representatives,
Washington, DC 20515.

Re: Opposition to Introduced PLI Legislation

Dear Congressmen Bishop and Chaffetz:

After receiving legislative language shared with Friends of Cedar Mesa on July 8th and maps shared on July 12th, we drafted a letter in response to the Public Lands Initiative legislative text. In that letter we expressed our appreciation for the hard work of your staff to engage in meaningful and constructive conversations with us on ways to improve January's Discussion Draft. We shared a draft of that letter with your staff and also provided a quote for the PLI rollout expressing gratitude for having been involved with the process and our hopes that our remaining concerns with the bill could be addressed in the legislative process.

After the official release of the PLI legislation, however, our hopes of the bill evolving to one we could support have been dashed. Very problematic provisions were added to the bill after it was shared with us, and we were never made aware of the "PLI Partner Act" before the public roll out. Combined, these last minute changes lead us to conclude that a reasonable, win-win compromise is not forthcoming.

As you know, Friends of Cedar Mesa has been engaged in the Public Lands Initiative process for more than 3 years. We attended every meeting in San Juan County and have made every effort to work with our friends, neighbors, and elected officials. Because we are the local, on-the-ground group, we feel Friends of Cedar Mesa may be the most invested in finding a legislative solution of all the conservation groups at the table.

While we continue to believe that a legislative solution to conservation needs in southeastern Utah would have been the preferable path, we now have no faith that our legislative delegation is seeking a true compromise, even by our terms (and we're the right flank of the conservation community).

Despite all our efforts to work constructively on this legislation, **we oppose the language in the bill as introduced**. We cannot abandon our mission to help protect the natural and cultural resources of public lands in San Juan County by supporting a bill with provisions likely to result in resource damage on the ground. Last minute land trades added to the bill would extend the footprint of cultural resource damage, decimate Bluff's economy and dramatically change our way of life.

Provisions we oppose in the introduced language of the Public Lands Initiative bill include:

1. **Proposes a massive block of SITLA land on top of Bluff to facilitate large-scale energy development that would devastate Bluff's tourism-based economy and our quality of life.** This is an egregious change to the PLI drafts we saw in January, June and just four days before the release of the PLI. It's a huge step in reverse. After all the efforts FCM took to help refine a bill that could be the resolution to local cultural resource and conservation needs, this last-second proposal is an insult to the idea of public process and constructive negotiations with the Utah Delegation. In the old version, we found it worrisome that SITLA wanted a few sections around Bluff. Now we see what SITLA really wants: a larger block of land in FCM's backyard than they are asking for in Lisbon Valley. If SITLA gets its way, the new welcome sign to those coming to Bluff would be a series of oil rigs and fracking operations.

2. **Retains ownership and mineral development rights by SITLA on lands inside the Bears Ears NCA north of Bluff (Tank Mesa & Cottonwood Wash),** therefore failing to protect internationally significant archaeology from energy development. This means drilling and privatization could occur within the NCA, completely opposed to the entire point of creating a Conservation Area.
3. **Does not trade out SITLA parcel on the southern end of the Comb Ridge that will be otherwise be sold to the highest bidder this October.** With this move, SITLA shows its intent to create the only privatized section of the Comb Ridge. This last second change comes despite FCM and the community of Bluff expressing strong opposition to the sale at a community meeting on June 7th at which Director Ure assured the community if the PLI passed the sale would be moot. This significant square mile of what should be public land contains important archaeological and recreational values and deserves the protection afforded to the rest of the Comb Ridge in an NCA or Monument.
4. **Leaves surface rights to three other key SITLA parcels on Cedar Mesa to SITLA,** creating the potential for serious land management conflicts or privatization of lands that should be traded out so they can be permanently made public land.
5. **Gives the State of Utah, which already lacks transparency and public process when handling drilling permits, undue authority in any type of energy development on all available public lands** in San Juan County. This delegation of authority would expedite energy development on lands that would be better served by a Master Leasing Plan process that requires thoughtful planning for cultural resources and other land uses. Title XI on energy development gives no mention of the significant cultural resources in Utah, opening up a pathway to conflict over streamlined energy development in archaeologically dense areas like Montezuma Canyon and Alkali Ridge.
6. **Fails to protect important archaeological and recreation areas in the White Canyon drainages and Southern Abajo areas** (Allen Canyon, Chippean Canyon and Dry Wash Canyon).
7. **Fails to protect two important sections of the internationally significant San Juan River corridor as a "Recreational River,"** despite recommendation for such designation by the official BLM study.
8. **Opens up sensitive archaeological areas now closed to grazing (inside and outside of NCAs)** to damage from cattle in cultural sites. Likewise, internal conflicts in the bill potentially direct grazing in wilderness to be resumed in places where it has been eliminated to protect cultural and recreational resources. FCM cannot support any language with the potential to open Grand Gulch, Slickhorn, and the other canyons on Cedar Mesa to cattle grazing.
9. **Fails to adequately involve local people in decision making for the Indian Creek National Conservation Area** by creating no local stakeholder advisory group and giving primary advisory status to a committee of county commissioners and state officials who do not know the area at all.
10. **Despite the positive step of naming the Hole-in-the-Rock Trail a National Historic Trail, creates conflict with existing land use plans by facilitating the overriding of group size limitations in the trail corridor.** In addition, the location of the HITR Trail on the map is likely incorrect and the language does not allow for the exact location of the trail to be confirmed after it is designated.
11. **Gives blanket approval to an ATV route in Recapture Canyon on the route that is already damaging archaeological sites.** The language is not definitive as to whether compliance with the NHPA and NAGPRA are automatically granted with the application or whether the Section 106 process must be followed. Because this route bisects sensitive archaeological sites, the bill must require compliance with these laws and rerouting if deemed necessary to protect the resource.
12. **Fails to resolve RS 2477 litigation in Wilderness and NCA areas,** meaning the actual protection for those areas may be far less than in other Wilderness and NCAs around the country.

13. **Cherry stems at least one road in wilderness on Cedar Mesa that is currently closed for cultural resource protection and wilderness characteristics.** The Hardscrabble road on Cedar Mesa was closed as part of an open public process that resulted in the 2008(A) RMP.
14. **Releases the Cross Canyon and Squaw Papoose WSAs from management that would protect wilderness values.** These are archaeological rich areas that will be very difficult to develop anyway, due to high archaeological densities. Releasing these is a symbolic move that, in our view, allows for easy attack of this bill as reducing current protection of important lands.

Leaving critical, sensitive archaeological areas out of the path to protection while streamlining activities likely to irreparably harm cultural resources across vast tracks of land makes the introduced bill something we strongly oppose. We have worked for years through a process we hoped would lead to a tenable bill we could improve on through the markup process. Failing a massive effort at a true compromise negotiation, it now appears the time to make the large corrections needed is too short. In light of the failure of the PLI process to achieve a legitimate compromise that has hopes of bi-partisan support, Friends of Cedar Mesa has no choice but to fully support President Obama protecting the Bears Ears region as a National Monument.

With regret,

JOSH EWING,
Executive Director.

GRAND COUNTY COUNCIL MEMBERS,
MOAB, UTAH

August 16, 2016

Hon. ROB BISHOP,
Hon. JASON CHAFFETZ,
U.S. House of Representatives,
Washington, DC 20515.

Dear Congressmen Bishop and Chaffetz:

Thank you again for providing an opportunity for Grand County to participate in the Public Lands Initiative.

There are numerous areas where the introduced Bill departs from the recommendations forwarded to you. In General, Grand County stands by the recommendations as originally presented. Insofar as these were developed with the input of a variety of stakeholders, partners, and citizens, we feel the knowledge and interest of the entities and individuals on the ground should carry the greatest weight. To this end we cannot support the legislation as introduced and offer the below concerns for possible amendment.

There are parts of the introduced Bill which are a major departure from our submission that we feel require special mention. These are as follows:

1. The entire NW side of the Colorado River canyon daily boating section, which is currently protected by the three rivers withdrawal, is eliminated from the Colorado River NCA. Grand Co. requests that the NCA boundary reflect the current boundary of the three rivers withdrawal as was presented in Grand Co.'s recommendations. Both sides of the Colorado River canyon deserve protection and are vital to the local economy.
2. Several cherry stemmed routes in E. Arches, The Book Cliffs, and Labyrinth wilderness are not currently open in the BLM/County's travel plan. Grand Co. requests that only routes which are currently open in the travel plan be cherry stemmed as per our original recommendations.
3. A previous SITLA parcel that was traded out of Millcreek Canyon and is now BLM land is not currently incorporated into the eastern portion of the proposed Millcreek wilderness area. Likewise, a sizable area of the eastern portion of William Grandstaff wilderness has been removed. Grand Co. requests that the boundaries of these wilderness areas reflect our recommendations.
4. The County Council voted against including Antiquities Act exemptions. Grand Co. objects to the companion bill.

5. The County Council has officially expressed their support for the Master Leasing Plan (MLP). Grand Co. requests that areas that fall within the MLP but fall outside of any PLI designation be managed by the local field office as per the provisions of the MLP.
6. "Title XI-Long-Term Energy Development Certainty In Utah" is unacceptable to Grand Co. Grand Co. requests that this entire section be removed from the legislation. The BLM should maintain permitting control and primacy for their lands.
7. Nearly 34,000 acres of SITLA trade-ins are located outside of Grand Co.'s designated trade-in area. Of notable objection are parcels located around Mineral, Hell Roaring, and Ten Mile Canyons. As well as a trade-in adjacent to existing tar sands leases in northern Grand Co.
8. The upper half of Ten Mile Canyon has been included in the Dee Pass recreation area. While Grand Co. has approved existing motorized routes in upper Ten Mile Canyon, this is a sensitive riparian area and not suitable for further expansion. We request that the boundaries of the Dee Pass recreation area reflect our recommendations.
9. "Section 1302. Bighorn Sheep" is unacceptable to Grand Co. It is essential that domestic livestock and Bighorn sheep be separated. Domestic livestock disease is a leading cause of decline in Bighorn sheep populations.

We look forward to continuing to work with you on developing a bill that honors the work of the many stakeholders and ultimately produces a bill which Grand County can fully support.

Respectfully,

ELIZABETH A. TUBBS,
Chair.

Ms. TSONGAS. Thank you.

With that I would like to ask—does this bill in your view, Mr. Kornze, strike the balance necessary to be considered as a consensus?

And if not, where would you most like to see change?

Mr. KORNZE. I would say I think there has been great outreach done here. Twelve hundred meetings is like nothing I have ever heard of before, and when you travel through eastern Utah, as I have had the fortune to do a number of times, you can see the people have truly been engaged.

I do not think we are seeing, or I am not seeing, people coalesce around the proposal as it is written. There are numerous provisions that we would like to see edited, strengthened, or deleted. So, we took the unusual step at the request of the sponsors to send technical assistance ahead of this hearing. We usually do not do that until afterwards. So we have provided some of that and we also have very lengthy feedback.

If I can take just one second on a different topic, I do think I could probably speak on behalf of the entire panel here that as part of that significant outreach, I do want to compliment the great efforts of the staff of Congressman Bishop and Congressman Chaffetz. These types of efforts do not come without significant challenges and significant sacrifices, and so I just want to note we may not agree, but there has been extraordinary personal effort and personal commitment put into this.

Mr. BISHOP. With the gentlelady's permission, I appreciate that statement about our staff. They are not getting a raise. I don't care what they told you.

Ms. TSONGAS. Thank you for that.

Ms. Weldon, if you would like to take a moment, 15 seconds.

Ms. WELDON. I would echo what Director Kornze stated there. I think that this concept and idea of collaboration and engaging diverse stakeholders to make choices, both based on what some national interests are, but more specifically local interests, is a very effective way for land solutions.

So, we just wanted to make sure we are in as close step in the process that would enable us to do that.

Mr. MCCLINTOCK. Great. Thank you.

Ms. TSONGAS. Thank you. I yield back.

Mr. MCCLINTOCK. Mrs. Lummis.

Mrs. LUMMIS. Thank you, Mr. Chairman.

I would like to enter for the record testimony that was presented yesterday before the Oversight and Government Reform Committee, Subcommittee on the Interior. I do not have it with me, but I will include it for the record later.

Mr. MCCLINTOCK. Without objection.

[The information follows:]

WRITTEN TESTIMONY OF BYRON SHELTON, SAVORY INSTITUTE
CONGRESSIONAL HEARING ON "21ST CENTURY CONSERVATION PRACTICES"
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
SUBCOMMITTEE ON THE INTERIOR

Honorable House members. Thank you for taking the time to hear some of the "21st Century Conservation Practices" of land management applicable for both federal and private lands and specifically related to grazing.

My name is Byron Shelton. I am the Senior Program Director for Savory Institute based in Colorado. The Savory Institute is named for Allan Savory, a scientist, ecologist, farmer, and rancher from Zimbabwe and the United States who has worked tirelessly over the last 60 years to understand and train others on how to manage land and resources regeneratively. This includes increasing biodiversity of plant and animal life, increasing water holding capacity of the soil, increasing soil building capacity, increasing soil carbon sequestration and nutrient cycling, and increasing capture of solar energy flow.

This effort by Allan has resulted in a management process that has come to be called Holistic Management. Managing holistically, as successful management has to do, considers the whole or big picture including economic, environmental, and social ramifications simultaneously. Otherwise we end up taking actions that have many unintended consequences. The actions might be environmentally sound but not economically sound or visa versa and may not meet the needs of the people involved.

Savory Institute was formed to promote the large-scale restoration of the world's grasslands, which include the croplands of the world, as most crops are grown on soil created by productive grasslands. Grasslands are extremely important, as they comprise ⅓ of the world's land surface, 70% of which are in degraded form. That means grasslands are losing plant and animal biodiversity, soil structure, soil carbon, and water holding capacity leading to more severe droughts and flooding and soil loss.

Savory Institute has approximately 30 regional entrepreneurial for-profit and non-profit hubs or training centers around the world. These hubs include demonstration sites and trained Savory Institute Accredited Professionals to leverage spreading the knowledge of how to improve our resources through management. They focus on getting results on the land. Currently over 40 million acres around the world are being managed holistically. We are actively working to increase the number of training centers to 100 by 2025. With functioning ecosystem processes water, food, and security are tremendously increased for people around the world.

Holistic Planned Grazing is one of our important planning procedures. This procedure is used to manage livestock for land health and improvement vs. land degradation. We also use other planning procedures including Holistic Financial Planning, Holistic Land or Infrastructure Planning, and Holistic Ecological Monitoring to

ensure land managers are being successful in improving the resources while remaining viable as a business.

With that background, I will encourage you to review the written material and resources provided that give further information on Savory Institute and what we are working to accomplish. In our limited time I want to get right to the crux of the matter.

To allow for reasonable debate and decisions on actions on grazing a clear understanding of the role of the grazing animal is needed.

Many times you'll hear a farmer or rancher say, "I wish it would rain, we need more water." This is true to allow for more plant growth. Just as important however, is the need for water for decay of the plant material to replenish the soil. Nutrients have to cycle from the land and back to the land for a healthy regenerating soil. Decay occurs by microorganisms and small insects eating and decomposing the old plant material. These microorganisms and small insects cannot live without water.

In an environment with regular humidity and rainfall, regardless of the amount of rainfall, as here in the mid-Atlantic region, plants that grow will decay back onto and into the ground, as the habitat including water for the microorganisms and insects exists. These microorganisms and insects eat the plants and cause them to decay biologically back into the ground thereby replenishing the soil.

Now comes the point that is not generally recognized or understood. In an environment with irregular humidity and rainfall regardless of the amount of rainfall, as on many of our western federal rangelands and private lands, plants that grow will remain standing for many years as there is limited water in the air or on the ground to allow for micro-organisms to live that would eat the plants and cause the plants to decay biologically back into the ground. These plants actually turn gray and oxidize or rust into the air, mining the soil by not returning to it, eventually dying, and creating more bare ground. This causes poorly functioning water and nutrient cycles, biodiversity loss and therefore desertification.

This variation in regularity of humidity and seasonal rainfall we refer to as brittleness on a continuum from non-brittle, having regular humidity and moisture, to brittle, having irregular humidity and moisture.

Now what does this have to do with grazing? The areas of the world that tend to have no or low humidity and seasonal rainfall dry out throughout the year and from year to year causing the microorganisms that would cause plants to decay to go dormant or die. Plant decay stops.

However, these areas had herds of large wildlife with their predators. A bison, elk, deer, antelope, cow, goat, or sheep can't digest plants any more than you or I. That's why these ruminants, as they are called, have a multi-chambered stomach with the first compartment being full of moisture and microorganisms year round. These microbes digest the plants the animals eat with the animal assisting by rechewing the forage to help break it down. In other words, the ruminant whether wild or domesticated is a mobile, digestive vat moving about the land that breaks down plant material and returns it to the soil as dung or urine to replenish the soil. When this animal is removed from these brittle environments the natural system is broken.

Another way the natural system is broken is by removing the predator that kept the herding animals bunched and moving. This movement allowed grazed forages to recover by being able to re-grow their roots and leaves between grazings to grow and remain healthy. Herding or fencing replaces the predator. Additionally, the hooves aerate or break the soil surface as a gardener does their garden that has been sealed by rainfall to allow for water to enter versus run off thereby making the rainfall more effective. These hooves also trample the old plant material onto and into the ground.

When bison or cattle are on the land the manager is managing two tools involving living organisms—grazing and animal impact. When managed improperly these animals can be very destructive to the land. When managed properly these tools are extremely powerful for improving the effectiveness of the water cycle and nutrient cycle by capturing more sunlight, covering bare ground, and therefore increasing biodiversity and reversing desertification.

The Holistic Planned Grazing planning procedure developed by Allan Savory and used in Holistic Management allows the land manager to manage these tools of grazing and animal impact properly for regeneration of the natural resources both in brittle and non-brittle environments. Holistic Management addresses this need for timing of plant, animal, and soil relationships through Holistic Planned Grazing within the Holistic Context of the people involved.

As I would tell customers at farmers markets asking about my beef for sale, "regardless of whether one eats meat or not, wildlife and their predator or domes-

ticated livestock being managed to mimic wildlife and their predator is required in these brittle areas for a healthy ecosystem, biodiversity, and water for us all to drink and improves the nonbrittle areas."

Other tools beside those related to living organisms we have available are technology in many forms, fire, and rest (no disturbance by grazing, animal impact, fire, or technology). These tools, however, need to be used knowing where on the brittleness scale the land involved lies as the probable results on the land of using a tool are different depending on the degree of brittleness, the regularity of rainfall and humidity.

Management of livestock that is aware of the points I've discussed is seeing success. Management where livestock are not being used to mimic nature is seeing continuing degradation of land, loss of water and carbon holding capacity in the soil, more bare ground, and reduced biodiversity.

Savory Institute's work addresses food, water quality and quantity, soil health, soil carbon sequestration, wildlife and plant conservation, and climate change. We are seeing land managers increase their profits while building their biological capital by producing food and water on regenerating soils. Livestock, wildlife, plants, and human needs can be met simultaneously. Holistic Management is appealing to both conservative and liberal values. It's economically viable, can generate income and, at the same time, restore landscapes for wildlife species and the enjoyment of people.

Please refer to the written material, our website www.savory.global, and Allan Savory's TED talk for further information. I thank you for your time today. I'll try to answer any questions you may have when we get to that part of the hearing.

Thank you for allowing this panel to present proven conservation practices that are being used in the 21st century.

TESTIMONY OF JUDITH D. SCHWARTZ
AUTHOR/JOURNALIST FROM VERMONT
CONGRESSIONAL HEARING ON "21ST CENTURY CONSERVATION PRACTICES"
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
SUBCOMMITTEE ON THE INTERIOR

Thank you to Chairman Lummis, Ranking Member Lawrence, and members of the Interior Subcommittee for this opportunity.

I am before you today as an author of two books that explore animal/land dynamics, particularly the potential for holistic livestock management to regenerate landscapes. *Cows Save the Planet and Other Improbable Ways of Restoring Soil to Heal the Earth* (Chelsea Green Publishing, 2013) looks at soil as a hub for our environmental, economic and social challenges—and for solutions. *Water In Plain Sight: Hope for a Thirsty World* (St. Martin's Press, 2016) explores how water intersects with climate, biodiversity, food security and peace and conflict. And how understanding how water works—how it moves across the landscape—helps us address such concerns. Understand that I never expected to be on this "beat": Rather, as a journalist driven to explore solutions I was drawn to the elegant complexity of flourishing ecosystems and the promise of drawing on nature's models to restore balance and vitality to our lands, including through holistic managed grazing.

Basically, whenever there are animals on the land those animals are having an impact, which can be positive or negative, depending on how they are managed. The paradigm for "conservation" has changed, in that land is not static but requires biological activity. In nature, plants are to a large extent managed by herbivores, and those plant-eating animals are managed by predators. The alteration of the landscape and the absence of natural predators have left a management void. With what we now understand about rangeland systems, this void can be filled in a way that at once bolsters ecological function and economic opportunity.

In my reporting I've encountered numerous examples of land transformed by restorative grazing. In Zimbabwe, at the Africa Centre for Holistic Management, the Dimbangombe River flows a kilometer farther than it has in living memory and now runs throughout the year. Despite a continuing drought in Southern Africa, this land remains productive and supports abundant wildlife, including elephants and lions. In the Chihuahuan Desert, which spans several states and part of Mexico, I visited an area where holistic ranchers are working with bird conservation organizations to create a corridor for endangered migratory grassland birds. These ranches are "islands of grass" for the birds, whose numbers have steeply declined due to desertification throughout the region. In Australia, a rancher I interviewed uses cattle to control excess vegetation and thus minimize the extent of wildfires. In each

instance, management entails inquiring how nature maintained healthy conditions and finding ways to mimic or ally with those processes.

Agriculture, including ranching, need not be an "extractive" industry; it can be regenerative, too. As well as consistent with conservation goals. This was noted at COP21, the global climate conference in Paris last December, with the advent of the 4 per 1000 Initiative, introduced by the French Agricultural Ministry. This initiative, signed by 30-plus nations and several dozen NGOs, calls attention to agricultural means of bolstering carbon levels in the soil. Even at a modest annual rate, increasing soil carbon stocks has important implications for drawing down atmospheric CO2, bolstering fertility and biodiversity, and enhancing land's ability to retain water—which means added resilience amid the threat of drought, floods and wildfires. Every one percent increase in soil organic matter (which is mainly carbon) represents an additional 20,000 gallons of water per acre that can be held on the land. The loss of this capacity is a story that has been written across much of the U.S., leading to many of the challenges we face today.

My recommendation is that we do not leave land bare and hope that it will somehow improve. Rather, we should explore strategies that work with natural processes, including holistic planned grazing, restoring the predator-prey relationship, and reviving populations of keystone species such as beaver. One way to ascertain progress is through monitoring basic factors such as water infiltration and soil carbon levels.

Mrs. LUMMIS. Thank you.

And that was sworn testimony, so I can vouch for the correctness of the views of the people who gave it.

And I am begging you, especially Mr. Polis—I am begging you to visit your constituents in Boulder who are at the Savory Institute. I am begging people in this room to listen to a TED talk by Allan Savory. It will explain to you why I feel so strongly that we, the American people who deal with public land management, have quite inadvertently and with good intention really, really messed up in the way that we are managing public lands.

I think we are messing up to such a degree that we could be implementing policies that will further deteriorate the quality of public lands for generations to come.

Please also read two new books by Judith Schwartz. Her testimony was also presented yesterday. I believe we have to totally rethink the way that we are managing public lands, because with the best of intentions we have sat up policies that provide public input without the knowledge of the scientific ramifications of the decisions we are making. We are hurting our natural resources, our trees, our grass, and our water. We are dealing with carbon in a way that is completely inconsistent with the ultimate goals of people who want to sequester carbon.

It is truly unfortunate that here we come in the 21st century and realize the system that we implemented in the 1970s and have carried on for all these years has been such a detriment to the resource. We need to look at holistic management practices on public lands in a way that we have never looked at them before.

One of the reasons why I like this draft bill is that it will accommodate some of the flexibilities that we have to implement to regain forest health and regain stands of grass that are healthy, so we can sequester carbon, so we can preserve resources, and so we can have a sustainable public lands resource and private lands resource. We need to rethink the whole thing.

This proposal that Chairman Bishop has put forward is heading in the right direction. Based on what I have been learning while

I have been in Congress about public land management and new principles in public land management, I think the worst thing we could do is create more national monuments.

We are inadvertently destroying resources, and it is being done by people with the best intentions.

I yield back.

Mr. MCCLINTOCK. All right. Mr. Polis.

Mr. POLIS. Thank you, Chairman.

I first want to respond to Mrs. Lummis. I will certainly look at those. You gave me my reading materials.

I would add that one of the major impacts to the detriment of our ecosystems and our lands in the West has been the loss of the apex predator, the wolf. When you lose your apex predator, it throws entire ecosystems out of whack, and that is why many of us on this committee have worked so hard for the reintroduction of the wolf across the West.

I am sure there are many other factors that need to be looked at too, and perhaps your next career might be to re-examine these. Maybe that will be what you focus your time on is management of land, and if that is, then I will look forward to meeting with you in that capacity and we will see if we can work out a way to re-introduce the wolf and save the wild horses together.

I do want to address a question to Ms. Regina Lopez-Whiteskunk about the Bears Ears area. Can you describe in your view the shortcomings of the PLI with regard to protecting Bears Ears and also the way that the Bears Ears Inter-Tribal Coalition proposal would, and how it differs from the PLI?

Ms. LOPEZ-WHITESKUNK. Thank you.

One of the first areas that I would like to highlight is our effort to advocate for the land in terms of mineral withdrawal. That is definitely a huge threat to any area, and that is something that is within our proposal. It is the outcome, the current and even the future possible threats to the land. That is one area.

I speak very passionately to roads. In regards to some of our trust lands and allotment lands within the area, there have been roads that people have just established. That is something that is a huge threat, and we need to do everything we can to safeguard some of those landscapes from people just roguely establishing future roads.

And, again, I cannot speak enough to this. For generations, mere consultation has always fallen short for Native Americans, and much of this is just because it is a checkmark on a piece of paper, like somebody is going down a grocery list and says, "OK. This is fulfilled."

I firmly believe that we need to really visit this with true intent, with some true substance, when this is established and when it is achieved. One of the ways that we see is by establishing a stronger voice through collaborative management and making sure that the Native voice is represented in much of that.

Mr. POLIS. My next one is for Director Kornze. It is kind of a procedural question.

There are several sections of the bill that include land exchanges, but these are land exchanges without identifying the actual land. This committee has worked on a number of land exchanges. I have

had one that went through in the form of a bill. There have been others that have gone through.

So, my question is—how has this sort of changed in process? Are there any issues the agency has with identifying land exchanges without identifying the actual lands or studying the impact to the public?

Are there any concerns the agency has about that and how that could negatively impact the public or taxpayers?

Mr. KORNZE. I think it is a fairly standard point that if there is going to be a directed exchange, we want to have had some up front conversation and understand what is going in and what is going out and make sure that we have a good equalization following those four points that I laid out earlier.

Mr. POLIS. Thank you.

I want to again conclude by hoping that the Chair of the Subcommittee and the Committee will consider a hearing on the Continental Divide Wilderness Recreation Bill, H.R. 2554.

I would like to point out that our Full Committee Ranking Member, Mr. Grijalva, has personally scaled the 12,000 foot peak inside of this designated protection area, and I would like to invite our Subcommittee Chair and Full Committee Chair to come visit our proposed 60,000 acre re-designation, including recreational areas, backed fully by the recreational industry, the elected officials of the district, the various user groups including mining companies, Climax mining, the only company with active claims in the area, as well as the various water districts and fire districts.

I am hopeful that we can move forward. I am not asking for a markup. I am just asking for a hearing, particularly in celebration of Mr. Grijalva's hike to the peak of a 12,000 foot mountain in that district.

I yield back the balance of my time.

Mr. MCCLINTOCK. Great. Well, I am sorry the mountain did not come to Grijalva, but Grijalva did go to the mountain.

Mr. Hardy.

Mr. HARDY. Thank you, Mr. Chairman.

Mr. Kornze, given that there is no statutory mechanism in place for the BLM to co-manage national monuments with tribes, how do you plan on actually bringing the tribe to the table other than just a symbolic role?

Mr. KORNZE. One possibility would be this legislation passing and there being some direction from Congress as to how that should work. If that takes place, we would like to see significant conversations between the sponsors, the administration, and the tribes to come to a common view of that.

Mr. HARDY. OK. With designation of the Antiquities Act, who makes the final decisions over the land management issues, BLM or the tribes?

Mr. KORNZE. The President has control over the use of the Antiquities Act. Is that what you are asking?

Mr. HARDY. No. After the designation, who has control, BLM or the tribes?

Mr. KORNZE. I am not sure I completely follow.

Mr. HARDY. The management issues, like RMPs, who has that ultimate control? Is that a collaborative effort? Is that BLM telling the tribes?

Mr. KORNZE. Under this bill, I cannot recall the language exactly, but I think there is a suggestion that the tribes would have a specific seat at the table for an advisory group and that there would be some collaborative effort on management.

Mr. HARDY. OK. Final question. Ms. Benally, in 2015, there were about 1,400 cases of vandalism on the Grand Staircase-Escalante National Monument. In the Bears Ears last year, there were less than half a dozen cases. Do you believe that if this is designated as a national monument, that it will increase vandalism due to the increased visitation, or do you believe it will be protected by the Bureau of Land Management?

Ms. BENALLY. I believe, yes, it would increase looting and vandalism because we just had a meeting with BLM in our region 2 weeks ago and they actually qualified those numbers, and it was just one case in the last 5 years, currently. But in the Grand Staircase-Escalante, there were a lot.

The national monument does not guarantee that there will be no vandalism. In fact, it will increase because a national monument brings thousands and thousands of people. We may think otherwise, but it takes away that protection because there are less boots on the ground to give protection.

Mr. HARDY. Thank you. I yield back.

Mr. MCCLINTOCK. Thank you.

Mr. Grijalva.

Mr. GRIJALVA. Thank you, Mr. Chairman.

Commissioner Benally, you spoke about tribal opposition to the Bears Ears National Monument proposal. Do I have the correct information or is it true that six of the seven Navajo Nation, Utah Chapter Houses, have passed resolutions in favor of the national monument in the proposal?

Ms. BENALLY. It depends how you read it. Some of those resolutions say "National Conservation Area or National Monument." So, it depends what side you want to see first.

Mr. GRIJALVA. OK. Then how about the 26 southwestern tribes and the 250-plus members of the National Congress of American Indians that have passed resolutions very specifically in support of the Bears Ears National Monument?

Are these resolutions from sovereign units of government not important in the decisionmaking?

Ms. BENALLY. Again, I will qualify my answer by asking how many people were there to actually pass these resolutions, because some of these resolutions were only passed by 17 or 18 people versus over 2,000 grassroots Utah Navajos that live in the county, and that would affect them and they are opposed to the national monument.

Mr. GRIJALVA. OK. Let me try some other way. Do you have a sense of how the Navajo Nation as a whole feels about the diversion of royalties from tribal budgets and coffers to specifically the Utah Navajo Trust Fund as the PLI proposes in this legislation?

Does it not seem likely the Nation as a whole will oppose that?

Ms. BENALLY. I cannot speak on their behalf, but I can speak for Utah Navajos. Any funding that can be increased for roads, education, and the general welfare of the Utah Navajos, of course, that will be supported by them because it helps them be self-sufficient.

Mr. GRIJALVA. But not the Nation as a whole?

Ms. BENALLY. I wouldn't know, but they do get funds from the oil and gas royalties from the Fund in Utah.

Mr. GRIJALVA. OK. Ms. Lopez-Whiteskunk, in one of the comments that one of your fellow panelists made, she said that Native American support for the Bears Ears National Monument is a hoax. Your reaction to that comment, if you do not mind?

Ms. LOPEZ-WHITESKUNK. What did we say, a hoax? I take that rather offensively because there is so much support in there amongst the NCAI who have passed a resolution. The Utah tribal leaders have also passed a supporting resolution, as well as the Tri-Ute Council, which is made up of all three Ute tribes.

So, in regards to that, these are elected groups that hold the responsibility to represent their constituents, and this is the support that has been lent to us.

Mr. GRIJALVA. Mr. Chairman, having visited with Sioux leadership and the folks at the encampment at Standing Rock, a word of both caution and to look at this question with an entirely different set of eyes. The redefinition of "sovereignty," the sense that consultation is not applied uniformly, equally, or with the same consistency, has many Native Nations feeling that the indignities of history have culminated in these times now.

When we are proposing land use decisions, massive transfers, looking at national monuments, and Native Americans are the nexus of the Antiquities Act; that we be careful and we do due diligence to assure that we are not repeating indignities of the past and ignoring, sidestepping, or waiting until the last minute to deal with the very urgent and very real needs that Native American Nations and their leadership are bringing before this Congress, and in Standing Rock, before this Nation.

With that, let me yield back, and thank you very much for the hearing.

Mr. MCCLINTOCK. Thank you.

Chairman Bishop.

Mr. BISHOP. The gentleman passes. I want to thank you, panel.

Mr. MCCLINTOCK. The gentleman passes.

That concludes the committee's business today. We will keep the hearing record open for 10 business days if there are additional questions submitted to our witnesses.

Again, we extend our thanks to them for taking their time to be with us today.

If there is no further business to come before the subcommittee, the subcommittee stands adjourned.

[Whereupon, at 12:10 p.m., the subcommittee was adjourned.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

PREPARED STATEMENT OF ACCESS FUND AND OUTDOOR ALLIANCE

On behalf of the Access Fund and Outdoor Alliance, we welcome the opportunity to submit this testimony for inclusion into the public record regarding the proposed "Utah Public Lands Initiative Act," also known as the "PLI" or H.R. 5780.

The Access Fund is a national advocacy organization whose mission keeps climbing areas open and conserves the climbing environment. A 501(c)(3) non-profit and accredited land trust representing millions of climbers nationwide in all forms of climbing—rock climbing, ice climbing, mountaineering, and bouldering—the Access Fund is the largest U.S. climbing advocacy organization with over 13,000 members and 100 local affiliates. The Access Fund provides climbing management expertise, stewardship, project specific funding, and educational outreach.

Outdoor Alliance is a coalition of seven member-based organizations representing the human powered outdoor recreation community. The coalition includes Access Fund, American Canoe Association, American Whitewater, International Mountain Bicycling Association, Winter Wildlands Alliance, the Mountaineers, and the American Alpine Club and represents the interests of the millions of Americans who climb, paddle, mountain bike, and backcountry ski and snowshoe on our Nation's public lands, waters, and snowscapes.

Eastern Utah includes world-class outdoor recreation opportunities, unique natural values and countless Native American cultural sites. While H.R. 5780 would provide protections for some portions of this exceptional landscape, it does not provide enough to protect recreation assets and these other important values for future generations. For climbers, eastern Utah contains some of the most iconic, unique and high quality opportunities in the world, including areas like Indian Creek, Castle Valley, Fisher Towers, San Rafael Swell, Valley of the Gods, Arch Canyons, Lockhart Basin, Comb Ridge, and thousands other climbing sites. A recent survey of over 1,000 climbers nationwide who travel regularly to this region found that our members and the national community value wild experiences, vast landscapes, undeveloped viewsheds, clean air, solitude, and cultural heritage. We want to protect southeast Utah for future generations because we know firsthand how valuable the area is to personal growth. Climbers—along with the greater outdoor recreation community—also contribute significantly to the economy of the region as evidenced by growing visitation levels and the Outdoor Industry Association's report showing that in Utah alone outdoor recreation generates $12 billion in consumer spending, 122,00 direct jobs, $3.6 billion in wages and salaries, and $856 million in state and local tax revenue. As such, the Access Fund and Outdoor Alliance are committed to working with both the Congress and the Administration toward appropriate, durable protections for eastern Utah's incredible public lands.

We believe the legislative process can achieve a solution that honors recommendations from numerous stakeholders who have weighed-in over the course of this painstaking 3-year process. However, time remaining in the 114th Congress is very short and the PLI is problematic for the climbing and greater outdoor recreation community because, among other things, it does not adequately consider the voice of the human-powered recreation community and, for many areas that are highly valuable to our community, favors development and resource extraction over conservation of the environment and protection of cultural and recreation resources. Perhaps most importantly, we cannot support legislation that transfers vast tracts of public land and energy leasing authority to state control. We also fundamentally oppose plans that can result in the large-scale disposal or transfer of our public lands to the states.

Please find below our suggested improvements to H.R. 5780 that would ensure clean air and water along with public access to natural landscapes that will allow Utah to benefit from a thriving recreation economy and high quality of life. As with our previous comments, we make no representation whether the amount and location of proposed wilderness and conservation designations are enough for this bill to be viable in Congress and for the President's signature.

I. POSITIVE ELEMENTS OF THE PUBLIC LANDS INITIATIVE

Since the initial "discussion draft" of the PLI was released in January of 2016 there have been significant improvements incorporated into the now-introduced H.R. 5780. We appreciate that H.R. 5780 reflects some of the outdoor recreation community's comments on the draft legislation such as an Indian Creek National Conservation Area, Wild and Scenic Rivers (357 miles of the Green, Dolores, San Juan and Colorado Rivers) and in particular some boundary adjustments to address

potential management challenges related to rock climbing at Bridger Jack Mesa, Mexican Mountain, and San Rafael Reef.

However, we believe that the PLI still needs considerable work since additional provisions were included in the latest version that would diminish world-class recreation assets and the environment, thereby threatening the growth of Utah's recreation economy. We maintain hope that a legislative process could find the right balance to manage our Federal public lands, honor Native American values, protect recreation resources and the recreation economy in gateway communities, and provide landscape-scale conservation measures.

II. NEEDED IMPROVEMENTS TO THE PUBLIC LAND INITIATIVE

Eastern Utah is world-famous for its unmatched natural, cultural and recreational values. While the PLI protects some of the special places noted herein, negative elements in the bill far outweigh its positive aspects. The Access Fund and Outdoor Alliance believe that the following issues, addressed in more depth below, are key parts of the PLI that require adjustment.

- Internal management direction in the PLI conflicts with the Wilderness Act, Federal Land Policy and Management Act, National Forest Management Act, and National Environmental Policy Act.
- The PLI fails to conform to local agreements between stakeholders, as well as county proposals developed during the PLI process.
- Unprecedented giveaways to the state of Utah, including over a thousand miles of public roads, massive SITLA "trade-in" areas, and regulatory authority over Federal energy leases.
- The PLI affords insufficient protections for the Bears Ears region.
- Other problematic provisions addressed in more depth below.

A. Public Lands Initiative Planning and Implementation Committee

The PLI's Planning and Implementation Committee is not sufficiently well-balanced, does not adequately represent the entire spectrum of recreation interests and local concerns, and is predisposed to decisions that favor development and resource extraction over conservation and protection of cultural and recreation resources. We believe the design of this committee will render predictable outcomes and result in forgone conclusions that support industrial development to the detriment of recreational users, the regional economy, and public land conservation.

B. Energy Policy and Master Leasing Plans

The PLI provides the state of Utah control over energy leasing decisions, including federally-owned leases, and will conflict with the Moab Master Leasing Plan—a plan that Access Fund and Outdoor Alliance enthusiastically support because it brings better balance and certainty to energy development and the protection and enhancement of recreation opportunities. We believe that the Interior Department should retain its primacy in the leasing authority over Federal lands owned by all Americans, and that such management decisions should be informed by meaningful and vigorous public involvement, such as was the case with the Moab Master Leasing Plan.

C. SITLA

The PLI proposes transfer of Federal lands to the state of Utah—in very large blocks—that could negatively affect the environment, recreation access, the integrity of National Park viewsheds and air quality, and quality of life of neighboring communities. The PLI includes a mandatory land exchange that will result in large consolidated blocks of SITLA land bordering, and within, high value recreation sites in San Juan, Grand, and Emery Counties. This exchange is clearly designed to give SITLA large blocks for the purpose of energy and potash development. Many of these trade-in areas are greatly valued by Utahns and countless visitors for their recreation and scenic values. Specifically, we are concerned about the following SITLA consolidations: (1) northwest of Moab along State Highway 313 in the Big Flat area from Monitor and Merrimac Buttes all the way to the Green River, (2) just north of Interstate 70 near the San Rafael Reef and the San Rafael River, and (3) near Bluff, Utah just north of the San Juan River.

We are also deeply concerned with the parcels that would be retained by SITLA and border the Dugout Ranch at Indian Creek. These Dugout Ranch parcels are among the most important to the viewshed of the rock climbing community and we urge that they be conveyed to the Federal Government. All these locations represent

high value recreation, natural and cultural areas that stand to be greatly harmed by development that will come with these SITLA trade-ins.

Unfortunately, many of the details regarding where and how much of this Federal land will be transferred to the state and consolidated was not available to the public prior to this bill's introduction, thus limiting the ability of stakeholders, like the Access Fund and Outdoor Alliance, to provide meaningful input regarding this very important aspect of the PLI. Moreover, this title contradicts the National Environmental Policy Act and Federal Land Policy and Management Act by declaring the land exchange to be in the public interest and stating that the exchange is in compliance with Federal law. School Trust Land consolidations should be reduced to minimize the impact of potential industrial development on the outdoor recreation economy, conservation, and local communities and we need to better understand these implications.

D. Road Claims

The PLI attempts to resolve long-standing road disputes (RS 2477 claims), but would do so by simply granting to the state of Utah over a thousand miles of rights-of-way on BLM land. These routes are currently the subject of extensive litigation, and thus far the state of Utah and its counties have a very mixed record of prevailing in court. As such, we believe that the PLI's provisions prematurely address state rights-of-way before the courts have had a chance to resolve such claims based on evidence pursuant to RS 2477 that each right-of-way actually existed before the passage of the Federal Land Policy and Management Act of 1976.

The PLI also requires the management existing designated routes in a manner that "is consistent with Off-highway vehicle and mechanized use of the designated routes that is authorized on January 1, 2016." This language in essence codifies the existing controversial 2008 Resource Management Plans that are also under litigation, and seemingly would prevent the BLM from managing these "routes" in accordance with court orders even where the state of Utah loses its claims in court. For these reasons we believe the PLI should not address RS 2477 issues and let the courts resolve these thousands of controversial road claims.

E. Air Quality

The PLI prohibits the designation of Class I airsheds for newly designated wilderness areas unless Class I status is agreed to by the state of Utah. If the past is any indication, the state of Utah will never agree to Class I airsheds for these proposed areas (and the Federal Government unlikely to conceding Federal supremacy on this topic), thus the flexibility intended for this provision is meaningless. Access Fund and Outdoor Alliance support the option of designating these areas as Class I airsheds to protect and enhance the local environment and economy.

F. Additional Concerns

Finally, the PLI favors some land management strategies that are not informed by currently accepted land management best practices. For example, PLI grazing and snowmobile prescriptions do not follow well-substantiated, sustainable resource management approaches. Also, the Seep Ridge Utility Corridor (AKA Book Cliffs Highway/Utility Corridor) should not be included in the bill. Grand County residents and local elected officials have rejected this corridor numerous times over the last 35 years. While this conveyance has been changed from a "road" to a "utility" corridor, the concerns about industrialization that will be facilitated by the corridor remain. Finally, Access Fund fundamentally opposes the PLI "partner" bill, H.R. 5781, which would remove the President's authority under the Antiquities Act.

* * * *

Chairman McClintock and members of the Subcommittee on Federal Lands, we appreciate the opportunity to provide testimony on Utah Public Lands Initiative Act (H.R. 5780). The Access Fund and Outdoor Alliance have reviewed the PLI and cannot support this proposal for the reasons stated herein.

Respectfully Submitted,

Erik Murdock, Policy Director,
Access Fund

Louis Geltman, Policy Counsel,
Outdoor Alliance

ENEFIT AMERICAN OIL,
SALT LAKE CITY, UTAH

September 15, 2016

Hon. TOM MCCLINTOCK, *Chairman*,
House Subcommittee on Federal Lands,
1332 Longworth House Office Building,
Washington, DC 20515.

Re: Comments on H.R. 5780, the Utah Public Lands Initiative Act

Dear Chairman McClintock:

On behalf of Enefit American Oil ("Enefit"), please accept these comments for the official record for the hearing held on September 14, 2016 on H.R. 5780, the Utah Public Lands Initiative Act.

Enefit is a subsidiary of Eesti Energia, the largest energy company in Estonia, and is developing an oil shale project in the Uinta Basin in eastern Utah. Enefit owns or leases over 27,000 acres of lands that contain more than 3.5 billion barrels of in-place oil shale resources. Enefit is the world's foremost developer and producer of energy from oil shale resources, and Enefit is pursing the development of a mine and processing facility on its Utah lands that will produce 50,000 barrels—or ¼th of Utah's oil consumption—per day for 30 years. This operation is planned to be a heavy industrial complex that will involve typical mining and refining activities, and these activities will likely be seen or heard outside of our land holdings.

We want to commend Congressman Bishop and Congressman Chaffetz for their support of this project over the years and for their efforts to craft public lands policies that strike a balance between conservation and energy production. Enefit has engaged in the Public Lands Initiative since its inception to ensure that conservation designations do not create conflicts with the full development of our project or infringe upon any valid existing rights held with our private lands or our state and Federal leases. The purpose of these comments are to commend the Utah Delegation for considering our input and to urge the Committee to recognize the possible impacts to energy development if boundaries are changed or language is altered during the legislative process.

Enefit's private project lands are situated near the Colorado border and adjacent to the White River, within a few miles of the proposed White River Special Management Area (SMA). Our Federal oil shale Research, Development, and Demonstration Lease and associated Preference Right Lease Area, totaling nearly 5,000 acres, lie directly adjacent to the proposed SMA. We worked with the Utah Delegation and the Uintah County Commission to adjust the previously proposed boundaries to ensure our leased lands are not included in the SMA, in order to minimize potential future development conflicts with conservation, resource or special management plans and objectives. We urge the Committee to not expand the boundaries of the White River SMA on the south and eastern borders to ensure this conservation designation does not encroach on our leased lands. We stand prepared to work with the Delegation and the Committee if changes are considered to ensure no conflicts are created between our oil shale project and this important conservation effort.

Additionally, language within H.R. 5780 in Section 204, which applies to Section 408 (that mandates the designation of the White River SMA per Section 411(a)) prohibits the creation of a "protective perimeter or buffer zone" around the White River SMA and ensures that any activity that can be "seen, heard, felt, or smelled" within the White River SMA "shall not preclude the activity or use outside the boundary" of the SMA. We support this critical language, which protects the Enefit project from future claims that our energy development activities somehow are impairing the purposes of the SMA if they can be seen, heard, felt, or smelled. We urge the Committee to retain this vital language and again we stand ready to work

with the Committee if there are any proposed changes to these provisions, in order to ensure a fair balance of conservation and responsible energy production in this region of Utah.

Thank you for including these comments in the record and Enefit is happy to provide further information at the Committee's request.

Sincerely,

RYAN CLERICO,
Acting Chief Executive Officer.

PREPARED STATEMENT OF FRIENDS OF CEDAR MESA, IN OPPOSITION TO H.R. 5780, THE "UTAH PUBLIC LANDS INITIATIVE ACT"

As a longtime participant in the Utah Public Lands Initiative (PLI) process, Friends of Cedar Mesa (FCM) submits the following written testimony regarding the Legislative Hearing on H.R. 5780, the "Utah Public Lands Initiative Act" that was held September 14, 2016.

As a local, on-the-ground conservation group in San Juan County, Utah, we have long believed in a legislative solution to land use conflicts in southeast Utah and have showed our good faith in working toward a bill by attending every PLI meeting in San Juan County. We have worked hard to find common ground with our friends and neighbors, provided many constructive comments to the delegation on the bill, and been willing to compromise on many key provisions. Like many who spoke at the hearing in Washington, DC, we are grateful to the staff of Representatives Chaffetz and Bishop for their tireless hard work to include viewpoints from a variety of stakeholders, including those of FCM.

After years of work on the PLI, we had hoped to support the legislation in Congress. Unfortunately, we were saddened to be compelled to oppose the PLI when it was formally introduced to the House on July 14, 2016. Please see our original letter to the Utah Delegation, attached as Exhibit A, which were also submitted to the record at the hearing by Representative Tsongas.

Since the introduction of H.R. 5780, we have gained even more insight into the shortfalls of the Bill. Likewise, we are concerned by misinformation and political rhetoric that continues to undermine an objective analysis of the legislation. As such, this testimony aims to set the record straight on a couple of key issues raised at the September 14 hearing.

Most importantly, Congress should know the truth about the serious problem of looting, grave robbing, and vandalism of cultural resources in southeastern Utah. At the hearing, a completely false statement was made that there has only been one serious incident of cultural resource damage in the Bears Ears area in the last 5 years. The truth is there have been at least 28 incidents on Bureau of Land Management land within San Juan County since 2011, with at least six so far in 2016. In May, the BLM confirmed it had a record of 25 incidents. However, we know of three more that have either happened since then or were unintentionally left of 25-incident compilation. These are only the incidents we are aware of on BLM lands and do not include State, Forest Service or Park Service managed lands in the County. Most of these 28 incidents occurred within the Bears Ears area, as defined by the Inter-Tribal Coalition National Monument proposal. For a list of specific incidents that occurred within the Bears Ears area, which we have seen with our own eyes, please see Exhibit B.

We would happily host any Member of Congress to show them first hand sites that have been looted or vandalized within recent years.

Besides the false information regarding the number of incidents, misleading comparisons were made between incidents of serious cultural resource damage in Bears Ears and law enforcement incidents in Grand Staircase Escalante Monument. Representative Hardy tried to suggest that 1200 law enforcement incidents that have occurred in Grand Staircase since 2011 were the same type of antiquities-related crime as the 28 incidents mentioned above. This kind of apples-to-oranges comparison is not constructive to public dialogue. Bubble gum on signs or graffiti in restrooms is not the same as grave robbing.

Long-term preservation of sensitive cultural resources, which span a history longer than 14,000 years and represent connections to over 26 Tribes and Pueblos, is the driving force of the movement to protect Bears Ears. In excess of 100,000 archaeological sites make this area exactly the kind of place the Antiquities Act was designed to protect.

In our estimation, legislation would be a better method to protect the area than a Monument designation. However, the introduced bill undermines cultural resource protection by excluding many critical archaeological areas from the proposed Bears Ears National Conservation Area, including Allen Canyon, Chippean Ridge, the Dry Wash drainage, and many of the tributaries that run into White Canyon. Additionally, the PLI in its current form creates the potential to open up culturally sensitive areas to grazing after land managers have taken measures to close them to cattle for the express purpose of protecting archaeological sites.

The September 14 hearing also highlighted our outstanding concerns regarding the proposed Utah State Institutional Trust Lands Administration (SITLA) land trades proposed in the bill. SITLA Director Dave Ure confirmed our fears that a large block of land just north of Bluff is being proposed for consolidation for expedited oil and gas drilling. After years of working toward a conservation solution that protects cultural resources in our backyard, no one was more surprised than us regarding this last-minute addition to the PLI bill. Large-scale energy development right outside of Bluff and inside of the proposed Bears Ears National Conservation area would devastate our local tourism-based economy. We can only hope that Director Ure was genuine in his expressed commitment to working with local communities and conservation experts who have concerns about trades. Attached in Exhibit C is a memorandum sent to the Department of Interior on this problematic land trade.

The Bluff Bench trade out is not the only worrisome SITLA position outlined in the bill. There are other problematic parts in Division B and the related maps, including SITLA's retention of ownership and mineral development rights or surface rights on Comb Ridge, Tank Mesa, Cottonwood Wash and Cedar Mesa within the proposed Bears Ears NCA. This would compromise the conservation intentions of the designation, and leaving these critical archaeological areas out of the pathway to protection makes our support for the current bill impossible.

The third alarming issue raised at the hearing is the granting to the state of Utah primacy in oil and gas permitting in these seven counties. The state cannot be given undue authority on energy development on all available public lands. This circumvents the NEPA public process, puts an agency that already lacks transparency in the driver's seat, and undermines Master Leasing Plan processes that would be better win-win solutions balancing energy development, cultural resource protection, recreation and other land uses. MLPs are an inclusive tool that can ultimately prevent litigation, whereas giving the state primacy in permitting will likely lead to land being locked up in lawsuits. When testifying, BLM Director Neil Kornze warned that energy permitting by the state could be "highly problematic" and concerning. FCM agrees.

We submit this written testimony with heavy hearts. Had this hearing occurred a year ago, there might be some chance of our substantial concerns being addressed in the legislative process. However, we agree with Representative Tsongas that H.R. 5780 has no realistic chance of becoming law in 2016. Contrary to statements by Representative Chaffetz, this bill is not a bi-partisan solution. Barring a miraculous overhaul of bill, we continue to support a Presidential declaration of a Bears Ears National Monument. Such action would protect an area that has been proposed for protection for 113 years and is filled with antiquities worth preserving.

Exhibit A

See July 19, 2016 Letter to Congressmen Bishop and Chaffetz on page 73.

Exhibit B

Exhibit B

Friends of Cedar Mesa

CULTURAL RESOURCE DAMAGE IN SOUTHEASTERN UT & BEARS EARS REGION

Sacred Sites Imperiled

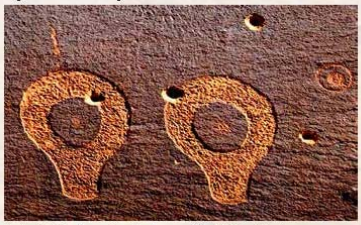
The greater Cedar Mesa area is home to more than 56,000 archaeological sites, with the larger Bears Ears cultural landscape holding in excess of 100,000 cultural sites. Destruction of these sites and mass export of Native American artifacts from the Cedar Mesa area was part of the reason for the creation of the Antiquities Act in 1906.

After more than a century, looting and vandalism of cultural resources continues at alarming levels, causing irreparable damage to American history and great disrespect to Native American people.

Dramatic increases in visitation to cultural sites in Bears Ears, combined with a severe lack of resources for effective visitor management also create newer but no less menacing challenges.

Types of Cultural Resource Damage in Bears Ears

Vandalism on our public lands can take many forms, such as intentionally knocking down walls of prehistoric structures, burning historic hogans, self-congratulatory graffiti on rock art, and using petroglyph panels for target practice. Intentionally irresponsible off-road vehicle driving can also cause significant damage to cultural sites.



Bullet holes in petroglyph panel in Butler Wash

Looting is the removal of archaeological resources and artifacts from their historic or prehistoric resting place. Looters steal national treasures for personal gain or pocket rare artifacts for personal display.

Desecration of burials is the most disturbing form of looting. "Grave robbers" dig up burial sites to look for grave goods like ceramics that were buried with the deceased. Grave robbing is a personal affront to modern day Native American descendants.



Looted burial site in Cottonwood Canyon

Careless visitation by uneducated hikers presents a constant threat to sacred sites in the Bears Ears region. Unsupervised children climb on walls, ignorant visitors pocket 1,000 year-old pot sherds, unleashed dogs create erosion around architectural features, fires in alcoves obscure rock art, wannabe ancients grind away prehistoric grinding slicks, and even hiking poles scar surface rock art.



Wall knocked down by careless visitor or possibly a cow.

While these impacts may seem small on an indidual basis, they have significant long term effects. For example, some sites that had hundreds of pot sherds on the ground just a decade ago now have no artifacts evident at all.



Exhibit C

MEMORANDUM

To: Secretary Sally Jewell, U.S. Department of the Interior

From: Josh Ewing, Executive Director

Subject: Problematic land trades near Bluff, Utah proposed by SITLA in connection with conservation proposals in southeastern Utah

Date: September 9, 2016

Background

Friends of Cedar Mesa has previously shared with your office our concerns about the proposed Public Lands Initiative (PLI) Legislation, which would impact DOI administered lands in San Juan County, Utah. This memo focuses on an important but little publicized portion of that legislation with new information.

The PLI proposes a very large land trade between the State of Utah and the United States government, exchanging SITLA lands for DOI lands. A similar land trade

would likely be triggered by any use of the Antiquities Act to designate a National Monument in the Bears Ears region.

This memo highlights a specific geography of problematic trades proposed by SITLA, overlapping both the Bears Ears National Conservation Area that would be created by the passage of the PLI and the footprint of the National Monument proposed by the Bears Ears Inter-Tribal Coalition. The trades discussed are visualized on the attached map.

In general, the principle of consolidating land ownership is an excellent idea. Conservation areas are best managed when small dispersed Trust Land holdings are removed, providing continuity of management. Likewise, the Utah State Institutional Trust Lands Administration (SITLA) can accomplish its mission of maximizing returns for beneficiaries far more efficiently when lands under the Trust's management are consolidated away from sensitive cultural and natural resources.

Unfortunately, trades proposed in the Bluff area are highly problematic for the reasons outlined below. We have shared these concerns directly, in person, with SITLA leadership.

Conservation and scenic values of the area

Many of the lands proposed to be retained or acquired by SITLA in the Bluff area are highly scenic and contain important cultural resources. The Bluff Bench is a viewshed prized by the people of Bluff and the surrounding lands provide the gateway for tourists from around the world who come to Bluff to visit nearby Monument Valley, Valley of the Gods, Comb Ridge, and Hovenweep National Monument.

Although little of the area has been documented by rigorous professional surveys, local archaeologists have identified many unique archaeological sites, including ancient Ancestral Pueblo roads, shrines and pueblos. Importantly, this area contains what may be Utah's highest concentration of Navajo and Ute archaeology, including rare petroglyph panels.

This area has been involved in significant controversy over possible oil and gas leases, which were protested by the Hopi Tribe in the early 2000s and most recently by the National Trust for Historic Preservation and Friends of Cedar Mesa in 2014. The Bureau of Land Management deferred leasing in this area in 2015 after this most recent protest. Significantly, this area is covered in the upcoming San Juan Master Leasing Plan boundaries, which will seek to balance cultural resource protection and oil and gas development.

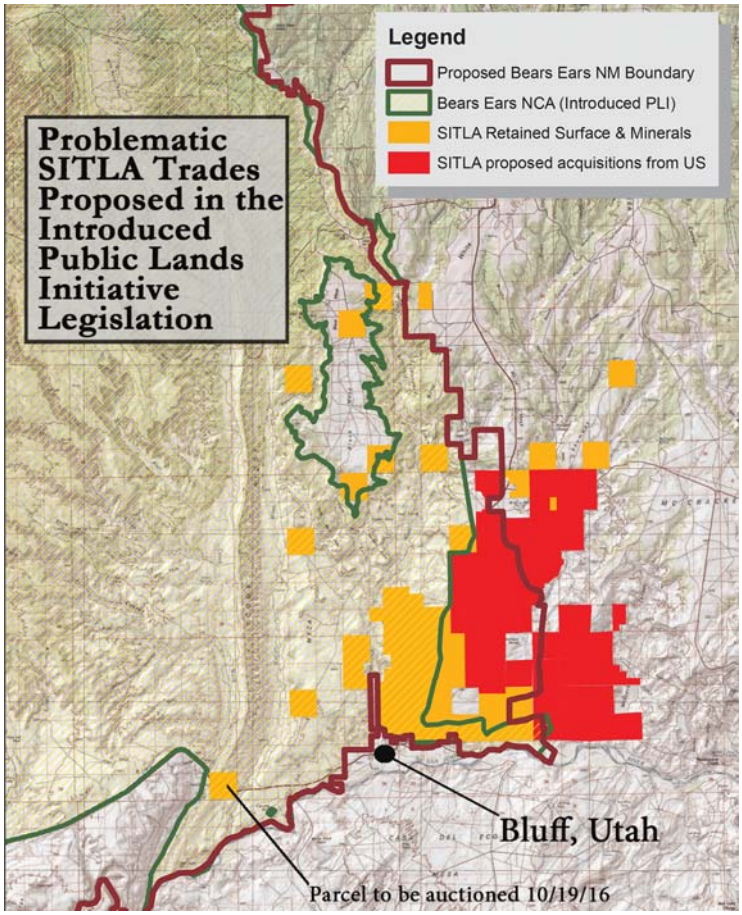
Potential for development, privatization and extraction within proposed conservation areas

As one can see from inspecting the attached map, SITLA is proposing to retain ownership of surface and mineral rights on significant lands within the Bears Ears National Conservation Area. This creates the very real scenario of oil drilling, residential/commercial development, or privatization of lands that are specifically proposed for conservation in the PLI. Even more lands are proposed to be acquired by SITLA within the boundaries of a National Monument proposed by the Bears Ears Inter-Tribal Coalition.

Combined, the retention by SITLA of lands within the two proposed conservation areas and their proposed acquisition in the area creates the scenario of a major block of SITLA land in Bluff's backyard. The residents of Bluff are very concerned with the possibility of mass industrialization or even large-scale tourism development in this region. While perhaps not imminent due to current market conditions, future industrialization could dramatically impact Bluff's tourism-based economy and devastate the way of life enjoyed by residents. Such industrialization could also have significant impacts on cultural resources in the area. Despite best efforts, subtle archaeology, such as many of the Ute sites in the area, are easily missed and damaged by work crews. And the "setting" of these sites, which is protected by the National Historic Preservation Act, would change forever.

Recommendations and conclusion

If a conservation designation is created in the area, be it NCA or Monument, Friends of Cedar Mesa recommends that federal land managers and SITLA work with local residents and conservation experts to identify lands more suitable for SITLA ownership outside of any designated areas. Proper thought should be given to not creating the scenario for development just outside of a designated area, which would certainly engender significant future controversy.



PREPARED STATEMENT OF HILDA MADSEN ON BEHALF OF HERSELF AND COLONEL JOHN A. WATTS, USA, RET., GAYLE AND GARY HUNTING, DAVID GUNDERSON, HELEN WATTS, AND RONALD AND CHARLYN DALEBOUT

H.R. 5780 is an important step to reaffirm the property rights of families in Scofield, Utah. We appreciate the work of Representatives Bishop and Chaffetz and the intent of the legislation. However, we ask the committee to eliminate the exclusion of the properties and persons described below from the relief otherwise offered by this legislation.

Section 5.2(3)(B)(ii) of H.R. 5780 *specifically excludes* the families impacted by *U.S. v. Dunn et al.* (case described below). It is unclear why the legislation eliminates the promise of fair and equitable relief for the very families that were targeted by the Department of the Interior (DOI) for decades, but fought hard enough for the government to soften and reconsider taking additional private property to arrive at the point we are today. A just resolution to this issue must extend to the families that sacrificed to persistently fight the aggression of DOI—not just to their neighbors who watched and waited.

We consistently maintained rightful ownership of this property as demonstrated by decades of faithful payment of property taxes to Carbon County over generations of progeny, improvements made to the land, and the facts described in the following

paragraphs. We would be willing to pay reasonable costs of conveyance to resolve this matter once and for all.

As you examine our request, please consider the following facts to demonstrate the violation of property rights by DOI. We have sacrificed decades of peace and substantial financial loss in the hopeless effort to match the unlimited legal resources of the Federal Government.

From the 19th century, my grandfather settled the Scofield area and with his sons operated a large ranch. The title matters that affect this area are not simple, but our understanding of the back story is. When the Scofield dam was proposed, in order to cooperate, owners entered into various deeds to grant to governmental entities certain lands, and then those lands or use rights thereto in excess of the needs of the dam would be granted back to citizens. Certain lands to be permanently inundated would be lost by the resultant lake, but the representation was that, other than the lake, ultimate use and ownership rights would be unchanged.

In that respect, in 1927, our family members received deeds back to tracts of lands in the vicinity of Scofield, Utah. Over the years, some of these lands were passed down through the generations, including to me. My (Hilda Madsen) properties at issue are described on Exhibit A to this letter.

(It bears noting that this tradition of cooperation at Scofield has continued through the generations. We have consistently maintained a cooperative relationship with the state of Utah and its management of state interests within the Scofield Reservoir area, even contributing lands on the shore of Scofield Reservoir for use by the public. These lands are now known as Madsen Bay Campground within Scofield State Park.)

In 1976, we were surprised to receive notification from E.G. Bywater, Asst. to the Regional Director, U.S. Department of Interior, Bureau of Reclamation, Upper Colorado Regional Office, that we were trespassing on such property. We hired an attorney. Jake Garn, then U.S. Senator for the state of Utah, involved himself in the matter on behalf of landowners, some his constituents and others not.

Each of the landowners subject to the *Dunn* litigation described below received a letter dated May 6, 1977 from E.G. Bywater, Acting Regional Director, Bureau of Reclamation, Upper Colorado Regional Office, setting the date of May 17, 1977 for a settlement meeting. The meeting was held May 17, 1977 at 10:00 a.m. in Conference Room 7102, Federal Building in Salt Lake City, Utah. (We have a copy of the notice of meeting.) After some discussion, the attorney representing the United States' interests, Ron Staten, determined that the government had only a surface flood easement over this land and stated that he would be presenting his recommendation to the Department of the Interior in Washington, DC. The landowners left that meeting, well pleased with the resolution, and continued using the land and paying property taxes thereon for decades to come.

In 1988, the same regional office of the Bureau of Reclamation again wrote saying that it had an interest in the property. We reminded the government about the events of 1977 and the matter again went away.

In 2000, just months after the death of Della Madsen, the last witness to the events of 1977 and 1988, a complaint was filed against us by the government for trespass and quiet title. (*U.S.A. v. Dunn et al.*, Case No. 2:99 CV 0145 G, District Court of Utah, Central Division.) Again we retained an attorney and were initially encouraged by the government's counsel that the case could settle.

In the meantime, Alan Christensen, a representative of the Bureau of Reclamation, separately told (1) a Carbon County commissioner, Mike Melavich; (2) a neighboring land owner, John Woolsey, and (3) the mayor of Scofield, Utah, Mike Erkola, that once he won this property for the Bureau, he was "going after" the lands of everyone around Scofield Reservoir. There are numerous homes, agricultural and grazing interests and custom-lot developments surrounding Scofield Reservoir. At my deposition and in the presence of his U.S. Assistant Attorney, John Magnum, Christensen denied making any of these corroborated statements.

Despite that we provided copies of the government's written notice of the 1977 meeting, the government denied that the meeting occurred, insisting that there are no files or records pertaining to the events and determinations made in the 1970s and that there are no files for Ron Staten. They denied any conclusions or assurances made by government attorneys or representatives at that time. We, however, relied on those assurances by continuing to use and pay property taxes on those lands for over the following decades. And ironically, during the course of the quiet title action, the government produced other, older documents, including a handwritten note from my father during his final months of terminal illness in 1949. Yet they insisted they had nothing from the 1970s or 1980s.

In July 16, 2007, Judge Stewart issued his 26-page Findings of Fact and Conclusions of Law in this matter. He describes the deeds (dated from 1927) he

found dispositive of the matter and reiterates, in point 13, his 2006 finding that the language of the deeds is ambiguous as to whether they grant a use right over these disputed lands because the same right granted to other properties in said deeds was clearer. He goes on, however, to resolve the ambiguity in favor of me and my fellow defendants.

I will not reiterate the 26 pages of Judge Stewart's findings here. A few highlights, however, include:

1. In 1986, Mr. Leon Mason, chief appraiser of the Upper Colorado Region of the Bureau of Reclamation, performed an appraisal of a portion of the property at issue for the expressed purpose of acquiring the rights of the Madsen family for use other than flooding as needed by the United States. He stated: "This appraisal involves an unusual situation *where the Federal Government has fee title to the land for flooding purposes only*. The theoretical underlying estate of all uses other than flooding is the most useful.. . . According to what the Appraiser can best determine fee title to the subject tract is held in the United States, subject to grazing and any other use except when inundated by the Schofield [sic] Reservoir. This right to use the subject parcel for other purposes is owned by the Madsen family.. . . The [property] was originally acquired . . . from the Madsen family, reserving to the Madsens the rights to graze and use for any other use except when inundated." [Emphasis added.]
2. In a letter dated July 21, 1989, BOR represented to Mike Jackson, Superintendent of Scofield, Utah State Parks Department, that the property was acquired in fee by the United States, but that "*the deeds reserved the rights of the former owners to retain grazing and other uses except when inundated.*" [Emphasis added.] To the letter was attached a 1959 BOR map, indicating the property was held as "Fee title in the U.S. subject to grazing and any other use except when inundated."
3. Judge Stewart found that from 1927 to date, the property was used and leased by me and my fellow defendants, and that improvements were constructed thereon. He found that the property was fenced continually since the 1950s, and that "no trespassing" signs and locked gates were installed and used.
4. Taxes have continually been paid.
5. At no time since the earlier of pertinent deeds (1927) have any structures on the property ever been inundated by water.

Judge Stewart determined that, based on the facts presented to resolve the ambiguity in the deeds, the evidence "supports that it was the intent of [grantor] to grant the Madsens a use right on the [property]." (This determination renders title akin to a homestead grant wherein fee is to the owner, subject to the government's right to use for purposes of mineral extraction; the *two estates in the same property* are understood and discernable.)

We are now four generations further in time from those who were party to the events in 1927. However, with the exception of the brief events in 1977 and 1988 resolved in favor of the purported landowners and the 2000 action, no party—not the United States, not the state of Utah, grantees of easements for railroad, utilities and highways, municipal authorities, taxing authorities, neighboring landowners or the very parties in question—ever objected to or even questioned the ownership of these lands by the Madsen successors.

In 2009, the 10th Circuit Court of Appeal applied a narrow 21st century reading to deeds written by legally unsophisticated ranchers in 1927 and determined that the deeds were not ambiguous and therefore did not consider the facts that Judge Stewart found so compelling.

Please consider the following observations:

1. This property was part of a large ranch operation of my father, his father and his uncles from at least the early 20th century. From the time I was a child, I heard about the building of the dam, and the flurry of property transfers made to allow the reservoir and the continuing use of the property by the Madsens. It makes complete sense to me that the deeds are not as clearly drafted as they might be if prepared by a sophisticated modern law firm with plenty of time and capital. These people were ranchers; they were not sophisticated lawyers. But at no time did they, their grantors, or anyone operating the reservoir thereafter, question their right to continue to use the property as they saw fit.

2. There is no way my father, grandfather or uncles would have paid taxes on property they did not think they owned. I have reviewed year after year of records showing that when taxes were due, the family had to mortgage the properties to pay the taxes prior to lambing season. Once lambing season was successfully over, monies were used to pay off the mortgages. It was a tight business. They did not have extra capital to spend on taxes for properties they had no right to use. Further, it is my understanding that though fee title might have been in the U.S., the broad use right would have been superior and entirely taxable as fee ownership.
3. Were this a matter of private landowner versus private landowner, this issue would have been settled long ago in favor of the Madsens by virtue of the doctrine of adverse possession. All elements were met again and again over the decades, and taxes were paid. Quiet title would have been resolved without question in favor of the Madsens. But because the questioning party is the United States of America, the equitable doctrine is unavailable to us.
4. The government knew, over and over, for decades, that the Madsens were using and improving the property. Indeed, they affirmatively acquiesced to the same. A private landowner ought to be able to hold the government to assurances and outward manifestations of assent to ownership. The government should be estopped from disavowing its own prior contrary findings that were relied upon by the party damaged by the later disavowal.
5. I find it very difficult to stomach that this matter ultimately turned on a scholarly panel's interpretation of deeds when over *eight decades* of outward manifestations to the contrary were unopposed.

After all of this, it would be inequitable in the extreme to perpetuate the damage inflicted upon us as selective targets of the Interior and to specifically target us for exclusion from the relief offered by this legislation. It is our sincere hope that the committee will see that denying the equal protection of the legislation's umbrella from the very properties and citizens that have been championing this cause for decades is unjust and inequitable.

Again, we appreciate your work in this endeavor and looking forward to working with you to amend this legislation.

EXHIBIT A

HILDA M. MADSEN PROPERTIES

Parcel No. 2A-80-3 in the Official Records of the Carbon County, Utah Recorder's Office, described as: The West ½ of the Southeast ¼ of the Southwest ¼ of Section 10, Township 12 South, Range 7 East of the Salt Lake Meridian.

AND

An undivided 25% interest in Parcel No. 2A-80-4 in the Official Records of the Carbon County, Utah Recorder's Office, described as:

Beginning at a point 895 feet North and 330 feet East, more or less, East of the Southwest corner of Section 10, Township 12 South, Range 7 East, Salt Lake Base and Meridian, a point which is in the Paul Mancina South fence line and on the High water line, and running thence Northwesterly 250 feet, more or less, along the high water line to a point in the Paul Mancina North fence line; and running thence North 175 feet, more or less to the forty line; thence West 590 feet, more or less to the North west corner of the forty line, thence South 425 feet, more or less; thence East 300 feet, more or less to the point of beginning.

and

Beginning at a point 447.5 feet, more or less, North of the Southwest corner of Section 10, Township 12 South, Range 7 East, Salt Lake Base and Meridian, and running thence East 430 feet, more or less, to the State Road right-of-way; thence Northeasterly along the State Road right-of-way to the Paul Mancina South fence line; thence West 430 feet, more or less, to the forty line; thence South 447.5 feet, more or less, to the point of beginning. (Less the State Road right-of-way.)

and

Beginning at a point 447.5 feet North and 430 feet East of the Southwest corner of Section 10, Township 12 South, Range 7 East, Salt Lake Base and Meridian; thence East 890 feet to the forty line; thence North 722.5 feet; thence West 630 feet, more or less; thence Southwesterly along the State Road right-of-way to the point of beginning, less the State Road right-of-way and the railroad right-of-way.

NATURAL RESOURCES DEFENSE COUNCIL *** SIERRA CLUB
SOUTHERN UTAH WILDERNESS ALLIANCE

September 14, 2016

Hon. TOM MCCLINTOCK, *Chairman*,
Hon. NIKI TSONGAS, *Ranking Member*,
House Subcommittee on Federal Lands,
Washington, DC 20515.

Dear Chairman McClintock and Ranking Member Tsongas:

We write to express our opposition to H.R. 5780, the Utah Public Lands Initiative on the occasion of the bill's hearing on September 14, 2016.

Our groups were once optimistic that this bill could be crafted into something that would help bring meaningful protections to Utah's superlative wilderness lands, and worked diligently toward that goal. But over the course of the bill's drafting it has instead morphed from an earnest effort at compromise to an unacceptable, lopsided pro-development bill that rolls back existing lands protections, unleashes excessive dirty fuels development in the era of climate change, sets in motion unprecedented giveaways of public lands, and fails in its efforts to protect the 1.9 million-acre region known as the Bears Ears.

We address each of these concerns below.

The PLI is a step backward for conservation in Utah.

The PLI fails to adequately protect the nearly 4.4 million acres of remarkable wilderness-quality lands managed by the Bureau of Land Management (BLM) in southern and eastern Utah. The PLI removes existing wilderness management on BLM lands and fails to protect 62% of inventoried lands that qualify and deserve wilderness protection. In doing so, the bill rolls back existing protections for over 100,000 acres of wilderness study areas (WSAs) and at least 70,000 acres of BLM-managed natural areas (i.e., areas managed by the BLM for the protection of wilderness values).

Rep. Bishop claims that the PLI designates 4.6 million acres of public land "for conservation," when in fact the PLI substitutes weakened "national conservation areas" (NCAs) and "special management areas" for landscapes deserving of wilderness protection. These so-called "conservation designations" enshrine the unacceptable Bush-era management plans that designated thousands of miles of off-road vehicle routes, allow designation and development of new motorized trails, green-light deforestation projects (such as pinyon-juniper clear cuts), prioritize and entrench livestock grazing (even where cultural resources are at risk), prohibit future wilderness protection in these areas, and limit federal land managers' ability to protect natural and cultural resources. The PLI also artificially inflates "conservation" acreage by over 1.3 million acres. The bill does so by, in part, including wilderness in already-protected national parks, double counting acres where wilderness falls within NCAs, and encompassing currently designated areas such as Natural Bridges National Monument and the Dark Canyon Wilderness.

The PLI is a climate change nightmare.

At a time when our nation and the world are struggling to seriously address climate change, the PLI works in the opposite direction. The PLI seizes authority from public land managers and instead gives the State of Utah control over the permitting and regulation of all forms of energy development on millions of acres of federal lands. In doing so, the PLI will fast-track dirty energy development on public lands and will likely eviscerate meaningful energy leasing reform such as the recently completed Moab Master Leasing Plan. The PLI also unleashes a carbon bomb by transferring large blocks of federal land to the State of Utah for tar sands, oil shale, potash, coal, oil, and gas development. These blocks are located in the remote Book Cliffs, in high value scenic and recreation lands near the Green River west of Moab, on Hatch Point bordering Canyonlands National Park, near the world-renowned San Rafael Swell, and in the Uintah Basin.

The PLI is a public lands giveaway.

The PLI grants thousands of miles of disputed R.S. 2477 rights-of-way to the State of Utah while allowing for continued litigation over R.S. 2477 routes within areas designated as wilderness, NCAs, and recreation areas. The PLI furthers the State of Utah's land grab efforts by transferring thousands of acres of federal land

to the state, without compensation, for development and increased motorized and non-motorized recreation. The PLI permanently establishes livestock grazing as a priority and would result in both increased and new grazing in areas currently closed by federal land agencies due to natural and cultural resource damage. The PLI bestows inordinate authority to county and state officials by requiring federal land managers to submit a report to Congress if they fail to follow the demands of local politicians. And it undermines the Antiquities Act by including a companion bill that would remove the president's authority to protect deserving landscapes in southern and eastern Utah.

The PLI fails to protect the Bears Ears Region.

An historic coalition of Native American Tribes is asking President Obama to proclaim a 1.9 million-acre Bears Ears National Monument in southeastern Utah and provide them with co-management authority to protect their ancestral homelands. Containing over 100,000 cultural sites, the Bears Ears is the most significant unprotected cultural landscape in the U.S. The PLI ignores Tribal recommendations by failing to protect well over half a million acres of the Bears Ears region as proposed by the Inter-Tribal Coalition; diminishing the Coalition's voice by creating a 10-member advisory committee with only one tribal representative for a reduced-size Bears Ears "national conservation area;" promoting motorized recreation (which puts cultural sites at increased risk); authorizing grazing in currently closed areas like Grand Gulch, Fish, Owl, and Arch Canyons; and prohibiting the Department of the Interior from protecting hundreds of thousands of wilderness-quality lands as wilderness.

For these reasons, we strongly urge to you oppose the Public Lands Initiative, and we respectfully request that our statement be entered into the record.

Sincerely,

Sharon Buccino, Director,
Land and Wildlife Program
Natural Resources Defense Council

Athan Manuel, Director,
Lands Protection Program
Sierra Club

Scott Groene, Executive Director,
Southern Utah Wilderness Alliance

PREPARED STATEMENT OF RUSSELL BEGAYE, NAVAJO NATION PRESIDENT

On July 14, 2016, Congressman Rob Bishop (R-UT) introduced H.R. 5780, the Utah Public Lands Initiative Act (UPLI), which designates specified Federal lands for certain uses within the San Juan County area as well as other provisions. The bill was co-sponsored by Congressman Jason Chaffetz (R-UT) and was referred to the House Natural Resources Subcommittee on Indian, Insular and Alaska Native Affairs, and House Natural Resources Subcommittee on Federal Lands on August 4, 2016.

As it stands now, the Navajo Nation cannot support the bill for three reasons: (1) the negative impact it would have on Navajo Nation royalty revenues from oil and gas fields located on the Navajo reservation; (2) its negative effects on the resources within the Bears Ears region; and (3) the lack of tribal consultation on key provisions.

In the first instance, H.R. 5780 stands to reduce the Navajo Nation revenues. The bill would decrease the Navajo Nation's royalty revenues from its oil and gas leases located in the Aneth extension on the Navajo reservation from 62.5 percent to 37.5 percent. These revenue sources provide essential funds for government services, programs and projects that benefit the members of the Navajo Nation. In addition, we are unclear as to why a provision on the McCracken extension, located on the Navajo reservation, has been included in the language. Although the sponsors may have had public meetings in Utah, the Navajo Nation has not been consulted on the inclusion of these provisions in the bill. Therefore, because these provisions directly impact the Navajo Nation, they should not be included without the consent of the Navajo Nation and proper consultation with the Nation.

Second, H.R. 5780 would not provide enough protection of the Bears Ears as it would open the surrounding areas to recreation, public use and mining. Many Southwestern Native American tribes, including the Navajo, Hopi, Zuni, Acoma, Zia, Jemez Pueblos, the Ute Mountain, Southern and Uintah Ouray Utes, the San Juan,

Kaibab, and Utah Paiute tribes and the Jicarilla Apache assert affiliation, ancestry, occupation and enduring use of the Bears Ears and surrounding areas. The region is also rich in cultural, scenic, ecological, archaeological and paleontological resources. It has many archaeological sites from multiple indigenous cultures that inhabited the region for more than 12,000 years. In fact, the Bears Ears region is the birthplace of the Navajo headman Manuelito. The region has many historic landmarks, historical trails, ruins, petroglyphs and paleontological resources. Members of the Navajo Nation and other tribes use the region and its plants and wildlife to sustain their traditional livelihood and their spiritual and cultural practices. As such, protection of the Bear Ears region is of paramount importance to the Navajo Nation and the neighboring tribal nations and the UPLI will not offer the same level of protection for the region as a national monument designation.

The UPLI may also introduce more uranium mines into the regions surrounding the Bears Ears. The Navajo Nation has a long history of suffering from the negative consequences of uranium extraction. During the cold war, uranium was mined from Navajo, which contaminated the water table with radioactivity and affected tribal communities from uranium tailings that traveled downwind on the Navajo Nation. Many Navajo miners and other Navajos living within the mining areas suffered from the ill effects of radiation. Navajos are still dealing with the ill effects from uranium mining.

Because of the negative impact on our revenue, the lack of consultation, and the potential intrusion on the sacred area of Bears Ears, the Navajo Nation opposes the UPLI. The Federal Government has trust and treaty obligations to the Navajo Nation to protect its resources and the UPLI, in its current form, would undermine these obligations. There may have been many meetings leading to the development of the UPLI, however the language of the UPLI has only been recently presented to the public and there have been very few meetings to discuss its meaning, effects and alternatives. Along with the other supporting tribes of the Bears Ears Coalition, the Navajo Nation still supports the designation of Bears Ears as a national monument. The UPLI legislation has not changed this position. Therefore, we ask that you not support the UPLI. Thank you.

PREPARED STATEMENT OF THE PEW CHARITABLE TRUSTS

The U.S. Public Lands program at The Pew Charitable Trusts seeks to preserve ecologically and culturally diverse U.S. public lands through congressionally designated wilderness, the establishment of national monuments, and administrative protections. We appreciate the opportunity to submit these views for the record.

H.R. 5780—the Utah Public Lands Initiative Act

More than 3 years ago, The Pew Charitable Trusts joined a public process begun by Representatives Rob Bishop and Jason Chaffetz aimed at ending three decades of uncertainty over whether to protect or develop public lands in eastern Utah. The initiative was an attempt to find common ground between conservation and development interests. All sides recognize that this special place needs to be preserved for future generations.

On July 14, the Utah Public Lands Initiative Act (H.R. 5780) was introduced. At the time, Pew outlined our concerns about the bill in a letter to the bill's sponsors. Since we are not aware of any revisions made to H.R. 5780 in the interim to improve the bill or otherwise address our concerns, they remain unchanged. We therefore attach a copy of our July 14 letter here and respectfully request that it be included in this hearing's public record, noting that the time remaining for Congress to act to protect these areas is rapidly expiring.

H.R. 5781—the Utah Public Lands Initiative Partner Act

Pew is opposed to any legislation, including H.R. 5781, that would remove or weaken the President's authority to use the Antiquities Act to protect important cultural, natural, and recreational resources on lands owned by the American people for the benefit of future generations.

We appreciate the opportunity to submit these views for the subcommittee's consideration.

ATTACHMENT

THE PEW CHARITABLE TRUSTS,
WASHINGTON, DC

July 14, 2016

Hon. ROB BISHOP,
Hon. JASON CHAFFETZ,
U.S. House of Representatives,
Washington, DC 20515.

Dear Congressmen Bishop and Chaffetz:

The Pew Charitable Trusts has supported the fundamental premise of the Utah Public Lands Initiative (PLI) from its beginning: the pairing of new wilderness and other conservation designations with broadly supported land exchanges between the federal government and Utah. The virtues of such an exchange include permanent protection for some of Utah's most spectacular places for future generations, a significant funding stream for Utah's schoolchildren, and diverse new economic opportunities for rural Utah communities provided by wilderness designations. The introduction of the *Utah Public Lands Initiative Act* (H.R. 5780) is an important step toward realizing such an exchange.

Utah's redrock country is virtually unmatched worldwide in its sublime combination of scenic vistas, recreational opportunities, biological values, and archeological treasures. H.R. 5780 would protect some of its most spectacular places. While we are generally supportive of the conservation gains envisioned by the bill, we continue to have concerns with some of the provisions in the bill that must be addressed in order to achieve a durable legislative outcome for southeastern Utah's public lands.

Pew is opposed to the Recapture Canyon right-of-way provisions in Section 817. While we appreciate the elimination of the Seep Ridge Road corridor from Grand County in Title VI, we remain concerned that future developments of the road might endanger the Book Cliffs region. We also feel that the management language in the NCA and Wild and Scenic sections could be improved so that the areas are adequately protected in a manner that is consistent with the goals and values of the National Landscape Conservation and National Wild and Scenic Rivers Systems and will enjoy management—particularly with regards to grazing—that is more protective than existing management, not less. We have concerns with the mechanics of the land exchange process in Title I of Division B; in particular the NEPA and FLPMA compliance provisions found in Section 105. By preemptively determining that these conveyances are in the public interest, the bill undermines regular order and limits critical checks and balances that ensure that the American taxpayer receives the best possible return for the conveyance of public property. Likewise, the RS 2477 provisions in title XII of Division B are beyond the scope of this bill, and improperly pre-empt court proceedings currently underway to resolve these claims. In addition, section 204(m) of Division A is so broadly written as to potentially limit agencies' authority to make a wilderness recommendation or other administrative designations in the management planning process. In fact, language throughout the bill significantly and unnecessarily constrains the ability of the Secretaries of the Interior and of Agriculture to manage these lands for the value for which they've been designated. We also support adjusting the boundaries of the Bears Ears NCA to include the recreationally and archaeologically valuable lands within the White Canyon drainages and the Allen, Chippean, and Dry Wash Canyons. Finally, we have concerns about the energy language in Title XI of Division B.

Because Pew believes the legislative process can achieve a solution that honors recommendations from numerous public land users, we are committed to working with you on the legislation in a manner that would enable the Senate to act favorably on this legislation and the President to sign H.R. 5780 into law. However, time remaining in the 114th Congress is very short. Pew's continued support for the PLI process depends on a clear demonstration that a measure is moving forward and can be enacted by this Congress before the House recesses at the end of September.

If such progress cannot be shown, Pew believes that President Obama should use his authority, granted by Congress under the Antiquities Act, to protect the Bears Ears area as a national monument. These places are under imminent threat, there is strong support among Native American tribes for their preservation, and protecting them would confer economic benefits to the communities of Bluff, Blanding, Monticello, and beyond. While we would prefer to see a good bill passed into law, we know from experience with the Grand Staircase-Escalante National Monument

that a designation under the Antiquities Act can also successfully replicate the premise underlying this bill: the conservation of land coupled with subsequent consolidation of SITLA parcels for lands outside the conservation units to eliminate checkerboard ownership and provide a revenue stream to Utah's permanent State School Fund.

We are sincerely grateful for the effort you and your staff have put into this bill, which is vastly improved from the draft we saw in January. We look forward to working with you on this legislation.

Sincerely,

MIKE MATZ, DIRECTOR,
U.S. Public Lands.

SUMMIT COUNTY COUNCIL,
COALVILLE, UTAH

September 21, 2016

Hon. TOM MCCLINTOCK, *Chairman*,
Hon. NIKI TSONGAS, *Ranking Member*,
House Subcommittee on Federal Lands,
Washington, DC 20515.

Dear Chairman McClintock and Ranking Member Tsongas:

The Summit County (Utah) Council respectfully writes to provide its input and experience relating to H.R. 5780, the Utah Public Lands Initiative Act or PLI. The Summit County Council requests that this letter be included in the hearing record.

Summit County was actively involved for a year and a half in creating a proposal for the PLI, utilizing an interest-based process with local, State and Federal stakeholder groups. That consensus process included ranchers, grazers, recreation representatives, elected officials, environmentalists, representatives from Utah State agencies, Forest Service representatives and citizens at large. We were proud to present a full-consensus proposal to Congressman Rob Bishop for Summit County. The focus was on watershed management for conservation and restoration and multi-use, and included an expansion of the High Uintas Wilderness, protection of grazing, and improved access for landowners and recreation.

Summit County does not support H.R. 5780 as currently constituted. Summit County has worked diligently with Congressman Bishop's staff over the past nine months to conform the PLI to our proposal. Unfortunately after repeated assurances from Congressman Bishop's Office that the PLI will fully reflect our proposal, we find the current draft varies greatly from our proposal's intent.

Areas of the PLI that are unacceptable include the following:

- Contradicts critical elements of the Wilderness Act, including provisions regarding water development.
- Contradicts critical elements of the Federal Land Policy and Management Act, National Forest Management Act, and National Environmental Policy Act.
- Disregards term that were highly negotiated among all stakeholders concerning proposed management for the expansion of the High Uintas Wilderness, Little West Fork Blacks Special Management Area, and Widdop Mountain and East Fork Smiths Fork Watershed Management Areas, which are critical watersheds for the Bear River and Colorado River Basins.
- Permits over-snow and off-road vehicle use or other motorized access to areas currently designated roadless or deemed sensitive due to critical watershed resources. Section 1302—Bighorn Sheep does not comport with our proposal to allow local stakeholders to develop workable solutions.

Additional areas of the PLI are of significant concern due to environmental impacts to the State as a whole, although they do not immediately affect Summit County or its proposal, and include:

- Concerns that land exchanges may not be adequately vetted and/or of equitable resource value.

- Circumvents the Bureau of Land Management and National Forest Service's primacy for energy development permitting on lands under their control through Title IX Long-term Energy Development.
- Provides for a companion bill to restrict the President's ability to utilize the Antiquities Act in counties participating in the PLI.
- Does not provide appropriations for additional Federal and/or State management requirements.
- Mandates grazing at current levels regardless of consistency with current laws and/or condition of landscape to support current levels.

While the proposal recognizes the critical need to protect scenic and sensitive public lands in Utah, places like the High Uintas Wilderness and Bears Ears region in San Juan County, it fails to focus on areas of collaborative agreement between stakeholders in Summit County and other counties, and instead imposes unacceptable and controversial provisions. We remain committed to the consensus contained in the Summit County proposal and to permanent protection of deserving public lands in Utah through whatever process can successfully secure those protections.

Thank you for considering our response to this legislation.

Sincerely,

ROGER ARMSTRONG,
Chair.

UINTAH COUNTY COMMISSION,
VERNAL, UTAH

Hon. TOM MCCLINTOCK, *Chairman*,
House Subcommittee on Federal Lands,
Washington, DC 20515.

Dear Chairman McClintock:

On behalf of Uintah County, Utah, we the Board of Uintah County Commissioners provide the following comments regarding H.R. 5780, the Utah Public Lands Initiative Act ("PLI") which will greatly impact our County and our citizens. We support the process and concepts utilized to develop this grassroots public lands process.

Located in the Uinta Basin of Eastern Utah, Uintah County is home to world class energy and mineral resources as well as some of the most unique and wild places in the United States. Uintah County is fortunate to contain the snow packed peaks of the High Uinta Mountains, prehistoric remnants in Dinosaur National Monument, banks of the Green River in Desolation Canyon, the first steps down the remote Book Cliffs, billions of barrels of recoverable oil, trillions of cubic feet of natural gas, as well as minerals that are vital to our nation. Balancing the competing interests of stakeholders and citizens across these landscapes is complex, delicate, and requires a great deal of hard, face to face work with all interests.

Uintah County commends Congressmen Bishop and Chaffetz and their staff for the thousands of hours of work and dedication to this effort. This has been a long and trying process attempting to achieve perhaps the most difficult balancing act in public policy. Uintah County has been proud to participate in this process and we have conducted numerous public meetings ourselves and conducted hundreds of meetings and conversations with citizens and stakeholders. We support this process and look forward to working with the Committee and the Utah Congressional Delegation to resolve remaining issues within our County.

General Comments:

National Forest—It is important to note the historical and current management of certain lands addressed in the PLI. The national forest lands have been managed as a federal timber reserve and forest for over 100 years. These are public lands reserved for the public purpose of timber resources. It is part of the Ashley National Forest, managed by the United States Forest Service.

This area is enjoyed by many of the residents of Uintah County and the general public. It includes beautiful alpine lakes, lush meadows, high peaks over 12,000 feet in elevation. This area also provides one of the few areas with Uintah County where open snowmobiling can occur with regularity. This is an important public use which must be protected. Of great importance is the water which flows from these

mountains provides the drinking and irrigation water for almost 30,000 residents of Uintah County. The trailhead of the Highline Trail begins at the eastern boundary of this area. This trail traverses much of the spine of the High Uintas.

Bureau of Land Management—This area of Uintah County has a long and storied history. In the northern part of the County these public domain lands have been used for grazing, hunting, rock hounding, and motorized and nonmotorized recreation. Particularly around Dinosaur National Monument these public lands constitute a very important component of the Uintah Sage Grouse Management Area. As such, access must be preserved to further the habitat projects and wildlife counts. This area is also very import to our hunting community and select roads must remain open to provide public access to use and enjoy this public land.

In the southern part of Uintah County resides a great expanse of public lands managed by the Bureau of Land Management. This area has a very rich history being public domain lands, public lands reserved as a temporary Indian reservation, then returned to the public domain by an 1894 Act of Congress. Numerous mineral patents were issued in these lands and some homesteading occurred in the early 1900s.

When Utah became a state in 1896, Congress granted four sections of land in each township to Utah and created permanent endowments to support public education. These parcels could only be given to the State of Utah from unreserved lands. Much of the $2 billion Permanent School Fund managed by the State of Utah School and Institutional Trust Lands Administration has been generated by the State parcels in southern Uintah County.

In 1948 Congress passed Public Law 440 (An Act To define the exterior boundary of the Uintah and Ouray Indian Reservation in the State of Utah). This Act extended the exterior boundary of the Uintah and Ouray Reservation from "lands in the former Uncompahgre Indian Reservation." It also provided for the State of Utah to have the right to make selections in lieu thereof outside of the [extension] . . . from the vacant, unappropriated . . . public lands, within the State of Utah." Most of these selections were made in the public domain lands in southern Uintah County.

The remaining public lands have been continuously managed by the federal government as public lands. In 1976, Congress passed the Federal Land Policy and Management Act which subjected these lands to multiple use mandates of that Act and the planning provisions set forth therein. Currently all of these public lands are managed by the Bureau of Land Management under the 2008 Resource Management Plan. It is from these lands, the federal, state and local governments enjoy mineral lease funds. These lands contain the areas described in the PLI as White River SMA, Desolation Canyon Wilderness Area, and the Book Cliff Sportsman Area.

Division A

Title I—Wilderness

In consideration of the Long Term Energy Development Certainty provisions in the Act and also bringing final resolution to Class B and D roads within the county, Uintah County provides the following comments regarding wilderness designations within our county:

High Uinta: Uintah County supports this designation and the currently depicted boundaries.

Dinosaur National Monument: During the many months of discussions and negotiations, Dinosaur National Monument has been the subject of numerous proposals including wilderness designation, expansion, park designation, road issues, and management issues. Throughout those discussions Uintah County has sought to be mindful of those who live, recreate, and work in this part of the County. As you are well aware, there is a long history of promises made, promises broken and management creep from the National Park Service. Some of the families who continue to ranch in this area were on the land prior to the monument designation. Because of this history, there remains a high level of mistrust of the National Park Service by ranchers, recreationists, and other businesses within our County. At this time, due to the input from our constituents, we cannot support wilderness designation within Dinosaur National Monument. We are happy to continue these discussions with your offices and certainly with our concerned citizens. We understand the difficulties this may cause as you attempt to balance the complex nature of the PLI so we certainly want to continue to work through these issues and hopefully resolve them in a manner that serves the citizens of our County. If wilderness is designated within the Monument it must avoid those areas where development has occurred or will foreseeably occur to accommodate visitor use and enjoyment.

Desolation Canyon: Uintah County supports the proposed wilderness designation within a portion of Desolation Canyon inside of our county boundaries. We spent a great deal of time resolving conflicts in this area and crafting a wilderness boundary that protects the most critical portions of the canyon within our county and avoided conflicts with energy development and existing roads. While we are supportive of the current boundaries of the Desolation Canyon Wilderness, we urge the Utah Delegation to insure these boundaries do not expand and that the road and energy resources surrounding this Wilderness area are protected.

Management Provisions: Uintah County applauds the inclusion of strong management language that will preserve grazing, state water rights, existing uses as well as the air shed language on these landscapes, and excludes buffer zones.

Title II—National Conservation Areas

In consideration of the Long Term Energy Development Certainty provisions in the Act and also bringing final resolution to Class B and D roads within the county, Uintah County agrees to the following conservation designations:

Beach Draw, Diamond Mountain, Docs Valley, Stone Bridge Draw, and Stuntz Draw NCAs: Uintah County supports the designation of these areas as National Conservation Areas and appreciates the specific language preserving our efforts to manage for greater sage grouse. We are concerned that several roads within the Diamond Mountain NCA will be closed by the Bureau of Land Management and these roads should be specifically protected in the language.

Management Provisions: Uintah County applauds the inclusion of strong management language that will preserve grazing, state water rights, existing uses on these landscapes, and excludes buffer zones.

Title III—Watershed Management Areas

Ashley Spring and Dry Fork Watershed Management Areas—Uintah County supports these provisions as they will help protect our water resources that supply irrigation and drinking water to the 20,000+ residents of Ashley Valley.

Title IV—Special Management Areas

In consideration of the Long Term Energy Development Certainty provisions in the Act and also bringing final resolution to Class B and D roads within the county, Uintah County agrees to the following special management designations.

High Uintas: Uintah County supports the current boundaries and management language of this designation. Specifically, the over snow vehicle language is important to our recreation community.

White River: Uintah County has supported the designation of a Special Management Area along the White River provided there continues to be access to the minerals underlying the area and the designation would not cause conflicts with other uses in the area. We appreciate the adjustment of the boundaries of this area in order to avoid the world class oil shale resources in the area that are under current development. We urge the Committee and the Utah Delegation to not expand these boundaries, retain the language prohibiting the creation of a buffer zone around the SMA and preserve access to the minerals under the White River SMA.

Book Cliffs Sportsmen: Uintah County supports designation of this area but would like to work with the Committee and the Utah Delegation to insure that existing roads in this area are cherry stemmed out of the designation or language is included that specifically preserves these roads that are vital for recreational access.

Title VII—Wild and Scenic Rivers

In consideration of the Long Term Energy Development Certainty provisions in the Act and also bringing final resolution to Class B and D roads within the county, Uintah County supports designation of the Green River as a Recreational River south of the Pariette Draw Road to the county line but does not support Wild and Scenic designation within Uintah County.

Title VII—Ashley Karst National Geologic and Recreation Area

Uintah County supports this designation which will protect the critical water supplies for the city of Vernal and surrounding communities. The karst system which feeds Ashley Creek is critical for the protection of these water resources. We would request the inclusion of language to prohibit the Forest Service for charging recreation fees excepting for developed camp grounds. Uintah County also supports and respectfully requests that the federal minerals be withdrawn from the BLM managed lands within the County's Ashley Spring Protection Zone.

Division B

Title VI—Land Conveyances

Ashley Spring: Uintah County supports this land conveyance which will allow the County to protect the supply of drinking water for Vernal City and will insure that mineral development will not impact the flows and quality of Ashley Spring.

Seep Ridge Utility Corridor: Uintah County supports this provision as it is critical to the future economic growth of the Uinta Basin. The Basin is an isolated area without rail service requiring utility corridors to move energy and products to markets. There is currently not a path to move utilities south out of the County to the Interstate 70 corridor which makes this provision of vital importance. We look forward to working with the Committee and Delegation in the mapping process to insure it reflects a route that will accomplish the goals of this conveyance, consider engineering and construction restrictions, and avoids environmental conflicts where possible.

Title VIII—Recreation Zones

Red Mountain, Jensen Hills, Bourdette Draw, and Devils Hole Recreation Areas: Uintah County supports the designation of these areas which will enhance the opportunities for our citizens to recreate on public lands in Uintah County.

Title X—Long-Term Native American Economic Development Certainty

Uintah County supports legislative actions to assist the Ute Tribe in its efforts to provide economic development for its Members and the Tribe's success is important to the Uinta Basin. As the Committee well appreciates, the long history of tribal issues in the Uinta Basin is complex, emotional, and very important to the future of all citizens in the Basin.

Given recent actions and positions taken by the Ute Tribe, Uintah County requests that this section be deleted from the text and that the Secretary of Interior, the Utah Congressional Delegation, the Governor of Utah, the Ute Tribe and Uintah County and other affected counties and cities craft a more global solution to issues raised by the Ute Tribe and it neighboring governments. Decades of litigation have left many issues unresolved and we request the Committee's assistance in bringing parties together to resolve all Tribal and jurisdictional issues in the Basin. We do not believe the current PLI legislation is the appropriate venue for this conveyance at this time.

Title XI—Long Term Energy Development Certainty

In consideration of the wilderness and special designation areas in this Act, Uintah County requires the following to provide more certainty to our economy.

Uintah County initiated the concept of an energy zone which would insure that the management priority for certain lands within the County be managed for the specific purpose of producing energy and mineral resources. Just as conservation designations insure that environmental management is the primary purpose of managing wilderness and national conservation areas, we believe energy and mineral development on lands not otherwise designated for conservation purposes should be newly evaluated for mineral and energy potential. On lands of mineral character, BLM should manage those lands to responsibly and effectively develop these resources. We have developed various iterations of language over approximately two years through discussions with the Utah Delegation and negotiations within the conservation community. Uintah County requests that the PLI language reflect these efforts and adopt language that will require the BLM to manage the mineral and energy resources within our County. While we appreciate the intentions of the current language which would provide for State primacy in permitting actions, we do not believe the concept will achieve the progress in Uintah County that is necessary to fully develop our enormous oil, gas, and mineral resources.

Uintah County would like to continue to work with the Committee and the Delegation to craft language that achieves the goals and needs of the County.

Title XII—Long Term Travel Management Certainty

In consideration of the wilderness and special designation areas in this Act, Uintah County requires the following to provide more certainty to our economy and further the provisions of the Act.

We commend the Utah Congressional Delegation for its willingness to resolve the long standing issues of ownership of our Class B and D highways. We support the concept of bringing final resolution to this longstanding dispute which has eluded resolution for over 40 years. Uintah County has provided language that would resolve all Class B roads claimed by Uintah County, all Class D roads where the County's Travel Management Plan and the Bureau of Land Management Resource

Management Plan agree. Additionally we need the legislation to address public access to and into specific designated areas. These additional 18 Class D roads are needed to ensure the purpose of each area can be fully realized.

Title XIII—Long-Term Grazing Certainty

Uintah County supports Title XIII as grazing is vital to our economy, our citizens, and our culture. While we believe the individual grazing provisions associated with Wilderness or other conservation designations is the first priority, this provision will insure that grazing will continue on lands not otherwise designated for conservation purposes under the Act.

Division C—Local Participation

Title I—Local Participation and Planning—Uintah County supports the establishment of Federal Advisory Committees to achieve greater participation and transparency in the Federal management of the lands affected by the PLI legislation.

Conclusion:

Uintah County appreciates the opportunity to participate in the PLI process and to submit these comments for the hearing record. Uintah County believes in a collaborative process to resolve public lands issues and that all parties should be heard and considered. We also believe that elected officials closest to the people, the land, and the natural resources be given priority consideration in these public policy debates. We are elected by the people to protect and advocate for their interests and we will continue to do so as part of the PLI process and we are invested in this effort in the long term. We are happy to provide any further information that would be useful to the Committee.

Sincerely,

MARK D. RAYMOND,
Chairman.
WILLIAM C. STRINGER
MICHAEL J. MCKEE

PREPARED STATEMENT OF THE UTE INDIAN TRIBE OF THE UINTAH AND OURAY RESERVATION

The Ute Indian Tribe appreciates the opportunity to provide this testimony to the Committee on Natural Resources' Subcommittee on Federal Lands on H.R. 5780, the Utah Public Lands Initiative. Unfortunately, H.R. 5780 is an attack on our Uintah and Ouray Reservation homelands that conflicts with more than 100 years of Federal Indian law and policy. We respectfully request that the Subcommittee, Committee and House of Representatives not take further action on the bill without additional hearings, a full airing of the numerous issues in the bill and substantial revisions.

INTRODUCTION

The Ute Indian Tribe of the Uintah and Ouray Reservation strongly opposes H.R. 5780, the Utah Public Lands Initiative. The bill is promoted as a local solution to difficult Federal land management issues in eastern Utah. Unfortunately, nothing could be further from the truth. In fact, much of H.R. 5780 was built on the back of the Ute Indian Tribe and our 4.5 million acre Uintah and Ouray Reservation without our knowledge or consent. Overall the bill would affect more than 370,000 acres within our Reservation.

Most important, the bill proposes to take more than 100,000 acres of our Reservation lands for the state of Utah. This proposal would take Federal Indian policy back to the late 1800s when Indian land grabs and the taking of tribal resources for the benefit of others was common. This modern day Indian land grab cannot be allowed to stand. Unprecedented in over 100 years, Congress and Administration long ago rejected these devastating policies in favor of tribal self-determination and restoring and protecting tribal homelands.

Even worse, the proposal to take our lands was developed behind our backs. After 4 years and, apparently, more than 1,200 meetings with stakeholders, the Tribe first learned of this proposal about 8 months ago when a discussion draft of the bill was released on January 20, 2016. Over these 4 years, the Congressmen never invited the Tribe to a meeting or came to our Reservation to discuss their proposal

to take our lands. In meetings since the discussion draft was released, nearly all of the Tribe's proposals and revisions were rejected. H.R. 5780 was developed without tribal consultation and defies the Federal Government's trust responsibility to the Tribe.

The development of H.R. 5780 even defies common sense. The bill involves seven counties in eastern Utah. Our 4.5 million acre Reservation overlaps these seven counties and makes up 26 percent of the total land area covered by the bill. Representing more that a quarter of these eastern Utah lands, the Tribe and our Reservation should have been a major participant in the development of any bill to address problems in Federal land management. We were not.

Proposals for moving H.R. 5780 also defy regular order and will not allow for a full airing of all the proposals in the bill. We understand that the Congressmen plan for only one subcommittee hearing on this 215-page bill including about 129 individual land management proposals. Normally each one of these land management proposals, or no more than three or four at a time, would get their own hearing in the subcommittee. In addition, the bill includes significant proposals for Indian lands and resources and should get a separate hearing before the Subcommittee on Indian, Insular and Alaska Native Affairs.

Finally, even the witness table for today's hearing defies logic. While the Tribe agrees that each of today's witnesses should be given the opportunity to present their views and supports their participation, most of the bill's key supporters and those most affected are not included here. At the bill's only hearing the Committee and the Subcommittee should also hear from the Ute Indian Tribe and the seven counties. The Tribe asks that members of the Committee and Subcommittee demand additional hearings and a full airing of the proposals included in H.R. 5780.

H.R. 5780 IS A MODERN DAY INDIAN LAND GRAB

H.R. 5780 is a modern day Indian lands grab. Not since the late 1800s has Congress authorized the taking of Indian land for the benefit of others. In the late 1800s Congress passed a series of acts that divided up or allotted tribally held lands to individual Indians. The primary allotment act was the General Allotment Act of 1887. Tribal lands not assigned to individual Indians were to be sold to non-Indians as surplus lands. The primary effect of the General Allotment Act was a reduction in Indian-held land from 138 million acres in 1887 to 48 million in 1934.

Recognizing the disastrous effects of the loss of tribal and Indian held lands, Congress passed the Indian Reorganization Act of 1934 (IRA). The IRA ended the allotment of Indian lands and restored trust status to remaining Indian lands. In addition, ever since the passage of the IRA, Congress has pursued a policy of tribal self-determination and affirmation of tribal authority over lands and resources within Indian reservations.

H.R. 5780 is a return to those failed policies of the late 1800s. The Congressmen buried the taking of Indian lands in a section entitled "Innovative Land Management and Recreation Development." However, even reading this section does little good. Readers are directed to reference a map entitled "State and Federal Land Exchange Map." Finally, this map, which does not show the boundaries of our Uintah and Ouray Reservation, reveals the taking of more that 100,000 acres of Reservation lands for the state of Utah. A return to the failed policies of the 1800s is hardly "innovative."

It is also important to note, that these 100,000 acres inside our Reservation are in an area known as the Uintah Basin. The Uintah Basin is a prolific oil and gas resource that has been producing for the past 70 years. Once described by Utah Territory officials as a "wasteland," the state now seeks congressional action to diminish our Reservation and take our most valuable resources.

PROPOSAL TO RESTORE TRIBAL LANDS

Instead of taking 100,000 acres of our lands for the benefit of others, the Ute Indian Tribe asked Congressman Bishop to include a provision in H.R. 5780 that would direct the Secretary of the Interior to restore our lands to trust status and management by the Bureau of Indian Affairs (BIA). Currently, these lands are managed by the Bureau of Land Management (BLM) as surplus lands within an Indian reservation. As such, the Secretary should be directed to restore our lands under existing authority in Section 3 of the IRA which provides:

> The Secretary of the Interior, if he shall find it to be in the public interest, is authorized to restore to tribal ownership the remaining surplus lands of any Indian reservation heretofore opened, or authorized to be opened, to sale, or any other form of disposal by Presidential proclamation, or by any of the public-land laws of the United States: . . .

25 U.S.C. 463(a). Restoration of these lands to trust status would increase local control, promote energy development and help to resolve nearly 100 years of improper Federal land management stemming from the allotment acts. This is exactly the kind of proposal that should have been included in a bill promoted as "a locally-driven effort to bring resolution and certainty to some of the most challenging land disputes in Utah."

The 100,000 acres that H.R. 5780 would give to the state is in the eastern half of our Reservation that has been mismanaged by the Federal Government for more than 100 years. The eastern half of our current Uintah and Ouray Reservation is also known as the Uncompahgre Reservation. The Uncompahgre Reservation was established by President Chester A. Arthur in a January 5, 1882 Executive Order. Like other reservations, the Uncompahgre Reservation was subject to Acts of Congress attempting to allot reservation lands and provide for non-Indian homesteading. However, as the Tenth Circuit Court of Appeals has conclusively determined, these Acts never diminished nor disestablished the Uncompahgre Reservation.

Even though the Uncompahgre Reservation was never diminished nor disestablished, over the last 80 years the Bureau of Land Management (BLM) gradually assumed management of lands within the Reservation. First, in 1933, relying on authority applicable to Executive Order reservations, Section 4 of the Act of March 3, 1927 (44 Stat. 1347), the Secretary of the Interior set aside most of the Uncompahgre Reservation as a grazing reserve. Then, under a 1935 agreement, the grazing reserve was to be jointly managed by the BIA and the BLM for the benefit of Indian and non-Indian stockmen. However, BLM field officers made decision after decision benefiting non-Indian stockmen and over-running our Reservation lands.

In 1948, Congress passed the Act of March 11, 1948 (62 Stat. 72) to settle tensions between Indian and non-Indian grazing interests within the Uncompahgre Grazing Reserve. This Act extended the boundaries of the Uintah and Ouray Reservation to include an area known as the Hill Creek Extension. The Act canceled the grazing reserve created by the Secretary in 1933, but did not affect the January 5, 1882 Executive Order setting aside the Uncompahgre Reservation. Nevertheless, BLM moved quickly under the 1948 Act to gain control of most of the lands within Uncompahgre Reservation.

BLM's actions were incorrect. As the Tenth Circuit Court of Appeals would later hold, the 1948 Act "in no way changed the character of the region. In fact, it preserved its Indian character." *Ute Indian Tribe v. Utah*, 773 F.2d 1087, 1099 (10th Cir. 1985) (en banc), *cert. denied*, 479 U.S. 994 (1986) (Ute III). In other words, by revoking the 1933 Order withdrawing the Uncompahgre Reservation as a grazing reserve, the 1948 Act returned the lands within the Uncompahgre Reservation to their status pre-1933. The lands were once again surplus lands within an Indian Reservation. Such lands are eligible for restoration to trust status under the IRA. At a minimum, H.R. 5780 should not attempt to legislatively take the very same lands that the Tribe is currently seeking to have restored to trust status by the Secretary.

H.R. 5780 ATTEMPTS TO OVERRULE 30 YEARS OF 10TH CIRCUIT AND SUPREME COURT CASE LAW

H.R. 5780 is an attempt to over-rule 30 years of litigation in the Tenth Circuit Court of Appeals and the Supreme Court. For 30 years the state of Utah has attempted to challenge the boundaries of our Reservation in a series of cases known as *Ute Indian Tribe v. Utah*. After yet another loss in the state's endless litigation, the state now asks Congress to legislatively take title to Indian lands and take authority over Reservation roads and resources.

The status of the Uncompahgre Reservation was definitively resolved when the United States Supreme Court denied certiorari after *Ute Indian Tribe v. Utah*, 773 F.2d 1087 (10th Cir. 1985) (en banc), *cert. denied*, 479 U.S. 994 (1986) (Ute III). In Ute III, the Tenth Circuit analyzed the history of the Uncompahgre Reservation and held "that the opening of the Uncompahgre Reservation was never formally or informally negotiated between the Federal Government and the Tribe of Indians [and that t]here was never an understanding on the part of the Tribe that they would lose their reservation as a result of the 1897 Act." The Court then expressly concluded: "Therefore, we hold that the Uncompahgre Reservation has not been disestablished or diminished." *Ute III* at 1093.

In both *Ute Indian Tribe v. Utah*, 114 F.3d 1513 (10th Cir. 1997) (Ute V), and *Ute Indian Tribe v. Utah*, 790 F.3d 1000 (10th Cir. 2015) (Ute VI), the Tenth Circuit reiterated and reaffirmed this holding. In *Ute VI*, after again reaffirming that the Uncompahgre Reservation was neither disestablished nor diminished, the Tenth

Circuit bluntly stated: "we hope this opinion will send the same message: that the time has come to respect the peace and repose promised by settled decisions." *Ute VI*, 790 F.3d at 1013. Thus, on three separate occasions over the past 30 years, the Tenth Circuit held that Congress did NOT take, remove or eliminate the Tribe's title to the land in question. In addition, the Supreme Court has denied rehearing of these cases twice.

H.R. 5780 would conflict with this settled law and attempt to legislatively overrule these decisions. Rather than resolve land management issues, the bill would result in decades more litigation. The bill would also subject the United States to a claim for taking the Tribe's lands and resources without just compensation.

Contrary to the conflict H.R. 5780 would create, the only remaining issue is whether the United States holds the Uncompahgre Reservation in fee or in trust for the Tribe. The Tribe has been working with the Department of the Interior regarding this question, and to date the BLM has not been able to locate any documentation which transferred the Uncompahgre Reservation from trust to fee title. Until that issue is resolved, it is inappropriate for Congress to attempt to transfer any Uncompahgre Reservation lands to the state.

ILLEGAL TRANSFER OF JURISDICTION OVER ROADS

In a similar challenge to the Tribe's Reservation and related tribal jurisdiction, the bill proposes to transfer jurisdiction over roads within the Reservation. In a section deceptively titled "Long-Term Travel Management Certainty," the bill proposes to undermine settled Federal law regarding the Tribe's jurisdiction over roads within the exterior boundaries of the Reservation. The bill would actually increase uncertainty for jurisdiction over these roads and subject the United States to a claim for taking a right-of-way across tribal lands without just compensation.

As above, authority over these roads was conclusively determined in the *Ute Indian Tribe v. Utah* series of cases. With regard to the Tribe's Reservation overlapping Uintah County, the Tenth Circuit conclusively determined that that part of the Tribe's Reservation was neither diminished nor disestablished. Again, the Supreme Court twice refused to rehear this decision.

As a result, that portion of the Reservation is Indian Country as defined by 18 U.S.C. 1151. This long-standing criminal statute recognizes Federal and tribal jurisdiction over Indian Country to the exclusion of state and local governments.

CONFLICTS WITH FEDERALLY RESERVED INDIAN WATER RIGHTS

In numerous places throughout H.R. 5780, the bill conflicts with the Ute Indian Tribe's water rights and Federal Indian water rights law generally. For example, the bill designates approximately 69.5 miles of the Green River within the boundary of our Reservation as a "scenic river" and approximately 13.34 miles as a "wild river." The Tribe is the beneficial owner of this portion of the Green River and was never consulted on this designation. In contrast, the Wild and Scenic Rivers Act provides that "lands owned by an Indian tribe . . . may not be acquired without the consent of the appropriate governing body thereof . . . ." 16 U.S.C. § 1277(a). We do not consent.

Further, if the Tribe did consent, we would have to be compensated. The designation of portions of the river as wild and scenic would constitute a taking of the Tribe's beneficial ownership in the riverbed and a taking of the a mile buffer zone on both sides of the river. The Wild and Scenic Rivers Act imposes certain restrictions on water resource projects and certain requirements with regard to how the rivers are managed. We oppose the bill because it will likely lead to challenges and limitations to our existing regulatory control over that portion of the river.

Overall, we reject any provision in the bill that interferes with our jurisdiction over our historic, current, and future reserved water rights, and the authority to administer, regulate, and enforce our rights under Federal and tribal law. We oppose any attempts in the bill to place any restrictions on our Federal and tribal rights as a sovereign to govern and regulate our waters.

In another example, there are provisions related to the bill's designation of the High Uintas Special Management Area and the Ashley Karst National Geologic and Recreation Area that require the Secretary to follow the procedural and substantive requirements of State law to obtain and hold water rights. As above, these provisions totally ignore the Tribe's federally recognized reserved water rights, which are held by the United States in trust for the Tribe.

H.R. 5780 PROPOSES CHANGES IN MANAGEMENT TO RESERVATION LANDS WITHOUT CONSULTATION

H.R. 5780 also proposes to make land management changes to more than 200,000 acres of lands within the Reservation. Among other things, the bill proposes a "Utility Corridor," "Special Management Areas," "Wildernesses" and "Wilderness Study Areas," "Recreation Areas" within our Reservation. These changes would directly affect our ability to exercise tribal self-determination and manage our Reservation lands for the benefit of our members.

CONCLUSION

Despite 4 years and, apparently, 1,200 meetings with stakeholders, the Congressmen never discussed these proposals with the Ute Indian Tribe prior to the release of the discussion draft in January 20, 2016. Over these 4 years, the Congressmen never visited our 4.5 million acre Reservation in eastern Utah to meet with us, discuss these proposals, and ask the Tribe what could be included in the bill to improve Federal management of our lands. Since the release of the discussion draft, the Tribe has worked hard to provide proposals that would benefit the Tribe as well as the state of Utah. We have also worked to provide revisions that would make the bill consistent with modern Federal Indian law. The vast majority of these proposals and revisions were rejected by the Congressmen.

The Ute Indian Tribe opposes H.R. 5780 as a modern day Indian lands grab. Not since the late 1800s has Congress attempted to take Indian lands for the benefit of others. H.R. 5780 attempts to legislatively over-rule Federal case law and diminish tribal authority. All of Congress should oppose attempts to rollback modern and successful policies that protect Indian lands and promote tribal self-determination. We appreciate the subcommittee's consideration of this testimony.

[LIST OF DOCUMENTS SUBMITTED FOR THE RECORD RETAINED IN THE COMMITTEE'S OFFICIAL FILES]

—National Monuments and National Conservation Areas: A Comparison in Light of the Bears Ears Proposal, September 9, 2016, Wallace Stegner Center, White Paper No. 2016–02.

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