

Kane County Commission

76 N. Main Street, Kanab, Utah 84741



December 10, 2021

Nada Culver
Deputy Director of Policy and Programs
Bureau of Land Management
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Re: Grand Staircase-Escalante National Monument Proclamation: Grazing Retirement Clause

Dear Deputy Director Culver,

The Kane County Board of Commissioners, and the Kane County Resource Development Committee feel disposed to address concerns regarding Presidential Proclamation 10286¹ issued by President Biden on October 8, 2021, in which the boundaries of the Grand Staircase-Escalante National Monument were increased. Kane County takes concern with many parts of mentioned proclamation, however is especially alarmed and displeased with a section of Proclamation 1085 that states: ***“Should grazing permits or leases be voluntarily relinquished by existing holders, the Secretary shall retire from livestock grazing the lands covered by such permits or leases pursuant to the process of applicable law.”***

It is first important to note that roughly 85.5% of the land base in the Kane County is managed by federal agencies. Maintaining multiple-use management practices on federal and state lands is a high priority, and the economic stability of Kane County rests upon continued multiple uses of those federal lands. Kane County has depended on the livestock grazing industry throughout its history to provide economic stability to the county; therefore, livestock grazing must be protected. The language in the Proclamation to *“retire from livestock grazing the lands covered by such permits”* will have lasting and devastating consequences to our community; if grazing is restricted, the tax base of the county suffers.

This language referenced in proclamation 10286 directly conflicts with Kane County’s Enhanced Grazing Plan outlined in the County’s Resource Management Plan. It states; *“Federal land management agencies will not adjust AUMs on public lands, without demonstrated scientifically based justification and full consultation between the permittee and the administering agency. Federal management agencies will not permit*

¹ Presidential Proclamation 10286 of October 8, 2021, Grand Staircase-Escalante National Monument.

the relinquishment, transfer, or retirement of livestock grazing AUMs in favor of conservation, wildlife, or other uses besides livestock grazing.”²

Furthermore, the County’s Resource Management Plan has incorporated Utah State Law which reads *“the state opposes the relinquishment or retirement of grazing animal unit months [AUMs] in favor of conservation, wildlife and other uses;” “the state opposes the transfer of grazing animal unit months to wildlife for supposed reasons of rangeland health,” and “reductions in domestic livestock animal unit months must be temporary and scientifically based on rangeland conditions;”³*

The Taylor Grazing Act⁴ (TGA) established grazing rights for ranchers through a permit process. Federal courts have interpreted the TGA preamble to *“(1) provide for the most beneficial use possible of the public range in the interest of ranchers themselves but also the public at large; (2) “... to define their grazing rights and to protect those rights, by regulation, against interference; and (3) to stabilize the livestock industry dependent upon the [grazing] public range”* There is evidence that Congress intended for *“public domain grazing patterns and forage use quantities [AUMs] to be recognized as grazing use (usufructuary) rights subject to Fifth Amendment protection from takings.”⁵* Additionally, Kane County asserts that citizens who hold grazing permits on the Grand Staircase-Escalante National Monument have an inchoate, contingent right that federal courts have recognized.

Kane County insists that Federal agencies comply with coordination and consistency Requirements associated with NEPA, FLPMA, CEQ regulations, and BLM planning Authority. This consistency analysis must be resolved before the Governor’s Consistency Review and noted in the record (either directly in Resource Management Plans or by Amending the RMPS). Until inconsistencies are resolved, any RMP that conflicts with local Plans will not be a legal document. Kane County maintains that according to FLPMA, NEPA, and TGA, *“...their implementing regulations and policies contain reciprocal requirements concerning cooperation, consultation and coordination by federal agencies with state and local governments and such cooperation needs to be fully implemented by Kane County and the relevant federal agencies.”⁶* It is the policy of Kane County that federal and state land management agencies: *“Implement federal land management programs and activities consistent with the county’s ordinances, and respect the county’s rights in fulfilling the Federal Government’s legally mandated coordination responsibility.”⁷*

² Kane County Resource Management Plan, p. 89, 94.

³ Utah Code, 63j-4-401(6)(m)(ii)(iv)and(v). Kane County Resource Management Plan p. 73.

⁴ Title 43, Chapter, §315-316. Established June 28, 1934.

⁵ Kane County Resource Management Plan, p. 56.

⁶ Kane County Land Use Ordinance, Title 9, Chapter 27, (9-27A-3 (H).

⁷ Kane County Resource Management Plan, p. 252

Kane County maintains its position that the public lands be properly managed in accordance to state and local planning documents and requirements. Kane County believes the language in the Proclamation blatantly infringes on culture, tradition, and heritage of the area. We solicit the Department of Interior to review the language on grazing and disqualify the retiring of grazing permits.

Respectfully,

Andy Gant, Kane County Commission, Chair