

U.S. House of Representatives

Committee on Natural Resources

Washington, DC 20515

September 24, 2020

The Honorable David Bernhardt
Secretary
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240

Dear Secretary Bernhardt,

We write today to express significant concern about the precedent setting actions the Bureau of Land Management (BLM) and U.S. Fish and Wildlife Service (FWS) have proposed under the Northern Corridor Project near St. George, Utah. This proposal, through its preferred alternative, would allow the Utah Department of Transportation (DOT) to build a four-lane highway through the federally-protected Red Cliffs National Conservation Area (RCNCA), undermining the values for which that land was designated by Congress and imperiling federally-protected wildlife species, including the threatened Mojave Desert Tortoise.¹

Since this planning process was announced in mid-June, our concern has only grown as BLM and FWS have repeatedly issued planning documents and analyses which fail to recognize congressional intent.² The RCNCA was designated by Congress (P.L. 111-11) to protect some of the unique and exceptional resources of this region of Southwestern Utah. The purposes of that Act could not be clearer:

SEC. 1974. RED CLIFFS NATIONAL CONSERVATION AREA.

16 USC 460www.

(a) PURPOSES.—The purposes of this section are—

(1) to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the ecological, scenic, wildlife, recreational, cultural, historical, natural, educational, and scientific resources of the National Conservation Area; and

(2) to protect each species that is—

(A) located in the National Conservation Area; and

(B) listed as a threatened or endangered species on the list of threatened species or the list of endangered species published under section 4(c)(1) of the Endangered Species Act of 1973 (16 U.S.C. 1533(c)(1)).

¹ Omnibus Public Land Management Act of 2009, Pub. L. No. 111-11 § 1971, 123 Stat. 1075 (2009). Retrieved from https://www.blm.gov/sites/blm.gov/files/nationalconservationlandsdesignation_utah.pdf

² Bureau of Land Management. (2020, June 11). BLM and USFWS Invite the Public to Review and Comment on the Northern Corridor Draft Environmental Impact Statement and Proposed Washington County HCP [Press Release]. Retrieved from <https://www.blm.gov/press-release/public-review-and-comment-northern-corridor-deis>

The law goes on to state that the Secretary of the Interior “shall only allow uses of the National Conservation Area that the Secretary determines would further a purpose described,” in the purposes of that Act.³ This includes any and all lands added to the RCNCA after enactment.

It defies any form of statutory interpretation to suggest that building a four-lane highway could meet any of these quite explicit purposes. Any highway built through this highly sensitive landscape will only further threaten its unique resources, fragmenting habitats, disturbing soils, and increasing the likelihood of deadly human-wildlife interactions.

Furthermore, BLM and FWS have also failed to consider potential impacts this proposed plan might have on the resources RCNCA was designated to protect. In the summer of 2020, large fires burned through one quarter of RCNCA, degrading habitat and killing wildlife, including the threatened Mojave Desert Tortoise. Yet, BLM and USFS have not updated their planning documents to account for the impacts of these fires.⁴ The decision not to review the impacts of these fires is especially concerning given the findings of a recently released Tortoise Survey Mortality Report, which found that the fires will “likely have significant population level effects on tortoises within their respective burn areas.”⁵

In the rush to push this controversial plan forward, failure to consider these potential damages to wildlife and habitats is highly inappropriate and could have devastating consequences. Therefore, we request that no final decision be made, and no record of decision signed until a supplemental EIS is completed examining the compounding impacts this project would have on fire damaged habitats and populations.

Beyond these failures of interpretation and analysis, the plans proposed by BLM and FWS could have negative impacts on lands paid for and protected with taxpayer dollars through the Land and Water Conservation Fund (LWCF). We were surprised, given this administration’s recent efforts to tout LWCF as a major priority even after years of asking to defund these same programs, that agencies within the Department of the Interior (DOI) would seek to push through controversial plans that undermine the integrity of LWCF.

Since 1997, BLM has spent more than \$20 million in LWCF funds to purchase lands within the RCNCA. These purchases include perpetual easements on lands within the RCNCA, and some of these lands were acquired even after the original proposal to construct this highway, with \$7 million spent in RCNCA in 2019 alone. These lands, like all federal lands acquired under LWCF, were intended by Congress to be managed in perpetuity to protect exceptional landscapes and to enhance Americans’ access to outdoor recreation resources. That was clear in their original

³ Omnibus Public Land Management Act of 2009, Pub. L. No. 111-11 § 1971, 123 Stat. 1075 (2009). Retrieved from https://www.blm.gov/sites/blm.gov/files/nationalconservationlandsdesignation_utah.pdf

⁴ Gross, S. (2020, July 22). Despite calls for pause after fires, BLM says Northern Corridor review will continue. *The Spectrum*. Retrieved from <https://www.thespectrum.com/story/news/2020/07/22/groups-demand-pause-fires-northern-corridor-review-continue/5483381002/>

⁵ Kellam, J. (2020). Cottonwood Trail Fire Tortoise Mortality Survey Report: Redcliff National Conservation Area, Bureau of Land Management. Retrieved from <https://naturalresources.house.gov/imo/media/doc/Cottonwood%20Trail%20Fire%20Tortoise%20Mortality%20Survey%20Report.pdf>

authorization and in each subsequent annual appropriation. Instead, this administration proposes turning these acquired lands into a highway right-of-way.

Unfortunately, this is not the only instance of the Trump administration attempting to undermine the integrity of LWCF. The U.S. Forest Service has supported efforts to allow for exploratory drilling and hard rock mining on lands near Mount St. Helens acquired with LWCF funds, despite requests by congressional Democrats to preserve these protected lands.⁶ For an administration claiming LWCF as a cornerstone piece of its environmental agenda, these repeated attempts to undermine the integrity of the law in favor of unfettered development raise serious questions. In both instances the law and common sense are clear: lands paid for and protected with public dollars for the purposes of permanent conservation and recreational access are not appropriate places for destructive development.

It would set a dangerous precedent for LWCF and for all National Conservation Areas if this Northern Corridor Proposal is allowed to go forward under its preferred alternative. Congress set out clear guidelines for how these lands ought to be managed; taking action in clear contravention of those management prescriptions risks the integrity of both laws. While we are confident that any such efforts to undermine these important conservation statutes would not hold up under judicial scrutiny, it would save taxpayer money, agency-staff time, and the people of Southwestern Utah consternation to pursue a course of action less legally precarious. BLM and FWS planning efforts found alternate highway routes that avoid lands in the RCNCA that could serve as perfectly acceptable locations for the proposed highway. These alternatives, alternatives 5 and 6 in the Draft Environmental Impact Statement, could successfully address the needs of stakeholders without undermining the integrity of multiple bedrock conservation laws.⁷

We appreciate your attention to these issues. If you have any questions regarding our concerns, please contact Committee staff at 202-225-6065.

Sincerely,



Raúl M. Grijalva
Chair
House Committee on Natural Resources



Debra Haaland
Chair
Subcommittee on National Parks, Forests,
and Public Lands

⁶ U.S. Senate Committee on Energy and Natural Resources. (2016, March 21). Cantwell Asks Forest Service to Deny Hardrock Drilling Permits Near Mount St. Helens [Press Release]. Retrieved from <https://www.energy.senate.gov/public/index.cfm/2016/3/cantwell-asks-forest-service-to-deny-commercial-drilling-and-mining-permit-near-mount-st-helens>

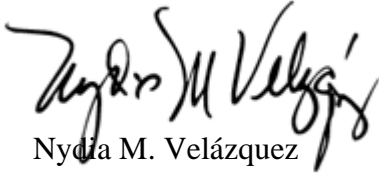
⁷ Bureau of Land Management. (2020, June 11). Northern Corridor – Highway Right-of-Way, Issuance of an Incidental Take Permit Draft Environmental Impact Statement and Draft Resources Management Plan Amendments. Retrieved from <https://eplanning.blm.gov/eplanning-ui/project/1502103/570>



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