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House Resources Committee

Subcommittee on National Parks and Public Lands

**H.R.4275, Colorado Canyons National Conservation Area
and the Black Ridge Canyons Wilderness Act
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Thank you for the opportunity to testify regarding H.R.4275, the Colorado Canyons National Conservation Area and the Black Ridge Canyons Wilderness Act. This stunning and captivating area is much deserving of special protective status, and Secretary Babbitt supports special designation for this area. However, the legislation before the Committee is seriously flawed, and consequently the Administration must oppose H.R. 4275 as introduced. We would be happy to work with Congressmen McInnis and Hefley, and the Committee to improve the bill.

Located north and west of the growing city of Grand Junction in western Colorado, the Ruby Canyon/Black Ridge area covered by the legislation encompasses over 113,000 acres of magnificent lands including over 70,000 acres that make up the Black Ridge Canyon Wilderness Study Area (WSA) that the bill would designate as wilderness. Over 100,000 visitors each year come to the area to bike Kokopelli Trail, hike through and among the awe-inspiring sandstone arches of Rattlesnake Canyon, float the red rock canyons of the Colorado River, marvel at the dinosaur quarries and revel in the solitude of extraordinary wilderness.

Carved over millions of years by the Colorado River and its tributaries, this northern edge of the Colorado Plateau is home to a wide range of geological and other natural wonders. The evolution of life on earth can be read on the many canyon walls. From the Precambrian crystalline rocks predating the evolution of higher life forms at the bottom of the canyons to Triassic sandstone attesting to the ancient desert that was once here, to the abundant dinosaur bones in the Jurassic strata the geologic history is accessible to scientists and schoolchildren alike.

For over 100 years, paleontologists have appreciated the incredible resource this area presents. Dinosaur Hill, Fruita Paleontological Area, and the Mygatt-Moore Dinosaur Quarry have been, and continue to be, the source for significant finds. Brachiosaur, Apatosaur, Diplodocus, and Ceratosaur bones have all been recovered from these areas furthering our scientific knowledge. Today, while work continues, the BLM has created interpretive walks and information to allow access to the nonscientist as well.

This is a landscape where scale is important. From the awesome 300 foot wide amphitheater carved in the side of Mee Canyon to sheer cliff walls and waterfalls in the bottom of many canyons the individual is dwarfed by the sheer size of a myriad of geological formations. Natural arches are found throughout the area but Rattlesnake Canyon has a wondrous concentration of huge arches and related alcove features.

The area also is a haven for an incredible range of fauna. Desert bighorn sheep, mule deer, antelope, mountain lions and smaller mammals inhabit the region along with peregrine falcons, eagles and other raptors. The Colorado River running through the proposed NCA is home to four species of endangered fish- the humpback chub, pike minnow, bonytail chub and razorback sucker. In addition, the riparian communities found along the Colorado River are a significant biological resource of great importance to many forms of wildlife.

Recreation, including hiking, floating and mountain biking, is a significant and appropriate use of the area. The Black Ridge Canyons wilderness area provides accessible opportunities for solitude and discovery for over 25,000 hikers annually. Twenty-five miles of the world-renown mountain bike Kokopelli Trail traverses the NCA as it traces a 140-mile path from Grand Junction to Moab, Utah. The Ruby Canyon/Black Ridge area is one of stark beauty and tremendous natural assets, it deserves designation as a National Conservation Area.

As the Administration has stated in previous testimony before this subcommittee, the litmus test for new National Conservation Areas (NCAs) is that they must provide new meaningful protections and they cannot diminish any protections or authorities that currently apply to the lands. Critical elements of an NCA include: a land and mineral withdrawal, off highway vehicle (OHV) use limitations, and language which charges the Secretary to allow "only such uses" as further the purposes for which the conservation area is established. Also, and importantly, we cannot consent to language that represents a step backward from current management. Unfortunately, the bill before us does not meet these criteria. Let me describe briefly the major problems we see with the legislation.

Importantly, the bill does include "only such uses" language and a land, mining and mineral withdrawal- significant protections we support. However, in both cases, drafting irregularities raise problems with the language. It may well be that these are simply technical problems, but as written the bill appears to lack the important purposes to conserve, protect and enhance the lands for the benefit and enjoyment of future generations and does not specify the important values (such as geologic, natural, wilderness, cultural, paleontological, etc.) for which the lands are being set aside. Without such a purpose, the "only such uses" language is hollow. Similarly, the withdrawal language is not consistent with standard withdrawal language and may be misinterpreted. We hope that these are problems that can be easily resolved.

More serious, is the omission from the bill of restrictions on off highway vehicle (OHV) use. One of the greatest and growing threats to the protection of our natural resources is unregulated OHV use. In special places such as this, we believe that the vast majority of the OHV using community - the responsible users - agree to the necessary limitations to use only designated roads and trails and to the elimination of cross-country vehicle use. Such language is consistent with standard OHV language in other existing and proposed NCAs and should be included in this legislation. The local BLM office and the interested publics have developed excellent plans for the management of OHVs in portions of the proposed NCA. This legislation must provide the concrete direction necessary to build on this positive record.

The other half of the NCA equation is to ensure no diminishment of current management protections. Unfortunately, intentionally or not, this bill has many such provisions. The

singularly most serious change in BLM's current authorities is two different provisions in sections 6(c) and (d) which refer to grazing as a "right." Grazing on public lands is a "privilege" not a "right," according to long held and clearly established statute and court decisions. Section 3 of the Taylor Grazing Act very specifically states:

the creation of a grazing district or the issuance of a permit pursuant to the provisions of this Act shall not create any right, title interest or estate in or to the lands.

Likewise in the Supreme Court decision of *United States v. Fuller*, 409 U.S. 488 (1973), the court states clearly:

The provisions of the Taylor Grazing Act quoted supra make clear the congressional intent that no compensable property right be created in the permit land themselves as a result of the issuance of the permit.

Sections 6(c) and (d) of this bill seemingly alter current law and must be deleted from the legislation. It is our position that grazing is compatible with this NCA but that grazing within the NCA should be managed in the same way and under the same laws, regulations and executive orders as it is on the rest of the BLM-managed public lands.

Wilderness designation as specified in section 5 is a significant and important piece of this legislation - we all want to protect the pristine nature of these lands. Congressman McInnis' willingness to include the wilderness designation should be applauded. However, subsection 6(f)(3) undermines protections for the wilderness area by specifically permitting motorized access to grazing allotments within the wilderness area. This language is both unnecessary and overreaching. Current practices for grazing in wilderness areas are captured in subsection 6(f)(2) of the bill which references Appendix A of House Report 101-405. That report provides:

occasional use of motorized equipment should be permitted where practical alternatives are not available and such use would not have a significant adverse impact on the natural environment.

This is appropriate language which we can support. We will oppose any attempts such as the language in 6(f)(3) which weaken the Wilderness Act.

Another provision, subsection 6(k)(3) would make proper management of the conservation area virtually impossible. Subsection 6(k)(3) would remove the Colorado River to the hundred year flood plain from the middle of the NCA. Such a provision is unnecessary. Subsection 6(k)(1) specifies that the Act does not constitute an "express or implied reservation of water." This language guarantees that including the river within the boundaries of the NCA will have no impact on water rights. While removing the land and river from the NCA will serve no real purpose, it will undermine management of the area for conservation purposes. This swath of land in the middle of the NCA would be outside the management proscriptions of the bill including the land, mining and mineral withdrawals. These riparian areas contain significant biological resources which are particularly sensitive and require real protections not exclusion. The Colorado River, the progenitor of the landscape, and the adjacent public lands cannot be removed from the overall context of the NCA.

We agree with Congressman McInnis' goal of excluding private inholdings from the NCA when possible. However, we should not sacrifice lands that strongly deserve inclusion to this goal. Specifically, we would like to work toward expanding the southern boundary of the April 6, 2000 map to include lands in the vicinity of Sieber Canyon. We advocate this expansion to protect the important archaeological, cultural and natural features on public lands of the area. The BLM Grand Junction Field Office is currently taking steps to address private inholdings and is in the process of acquiring private parcels in this region from willing sellers. This action would reduce concerns about private inholdings if the southern boundary were expanded.

In addition to these major concerns, we would like the opportunity to work on other issues including the buffer zone language, land acquisition provisions, interpretive sites, the advisory council and other management and technical provisions. For example, we believe that new interpretive sites, as called for in subsection 6(j), should be encouraged outside the boundaries of the NCA in local communities. This both provides economic opportunities for the community bordering an NCA and preserves the natural quality within the NCA which we are seeking to protect.

Mr. Chairman, the Ruby Canyon/Black Ridge area is precious, it deserves both NCA and wilderness protection. We simply need to ensure that those protections are adequate now and for the future. I am optimistic that we can work with the Committee, Congressman McInnis and the Colorado delegation to resolve these many conflicts so that we will be able to give Administration support to the Colorado Canyons NCA.