



Society of Vertebrate Paleontology

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February 1, 2025

Adam Lujan, Field Manager
Bureau of Land Management - Rio Puerco Field Office
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Albuquerque, NM. 87109

Subject: Comment by the Society of Vertebrate Paleontology on the “Temporary Prohibition on Excavation of Paleontological Resources” Administrative Action for Shu'tu'ba'/Espinosa Ridge ACEC

To the U.S. Bureau of Land Management,

The Society of Vertebrate Paleontology (SVP) is the largest organization of vertebrate paleontologists in the world. Our diverse membership of approximately 2,000 includes members that are of Indigenous Peoples ancestry and many others with extensive experience in collaborating with various Indigenous Peoples tribes. One of the central tenets of SVP's best practices in collecting is the importance of ensuring that paleontological resources are preserved and cared for in their perpetuity for educational and scientific purposes in proper repositories, which could and should include Indigenous Peoples' institutions. With this in mind, we would like to respectfully offer comments on the BLM's proposed “Temporary Prohibition on Excavation of Paleontological Resources” Administrative Action for Shu'tu'ba'/Espinosa Ridge Area of Critical Environmental Critical Concern (ACEC).

SVP acknowledges the importance of the land parcel to the San Felipe Pueblo for both its cultural significance and its strategic geographic location, nearly bisecting the current boundaries of the Pueblo. We respect the spirit of the Pueblo's request to bring the land in question into the entirety of the Pueblo. We further understand that incorporating the parcel in question into the Pueblo proper could impact future paleontological access and investigation. We feel obliged to note our respect for this possibility, but we hope for a useful compromise. To this end, because the proposed prohibition is temporary for a period of twenty-four (24) months, we would like to offer our concerns, comments, and suggestions on how the two years can be wisely spent and how best to manage the protection and preservation of paleontological resources (i.e., fossils, which must not be confused with archaeological or cultural objects) on the land from the viewpoint of our expertise, paleontology, moving forward (which must not be conflated with ‘archaeology’: see ‘Appendix’ within Appendix below).

Our concerns, comments, and suggestions are three-fold:

- (1) We are concerned and somewhat puzzled with the criteria proposed for justification of the temporary prohibition of excavation. The proposed categorical exclusion states “the need for additional protections for paleontological resources from threats to their disturbance even from permitted excavation activities.” This appears to suggest that because of the presence of

paleontological resources, paleontological information may not be gathered. If so, this would be practices working at cross-purposes, representing a misunderstanding of standard paleontological resources management practice. This seems to suggest that BLM paleontologists in the agency's paleontology program (i.e., not to be confused with the bureau's archaeology program), who are in the very positions to protect and preserve paleontological resources in the area, were quite possibly not consulted in the drafting of this proposal. The proposed Administrative Action states that the proposal originated in the government-to-government relationship. Moving forward, if the proposal were to go into effect, we ask that those BLM paleontologists be represented as an integral part of the government-to-government discussions during the two-year temporal administrative action to discuss the future of paleontological resources protection and preservation in the area.

(2) The proposed categorical exclusion will undoubtedly result in the destruction of surface-exposed paleontological resources by weathering and erosion. In our professional opinion as paleontologists who work on paleontological resources, it is common knowledge that constant monitoring of paleontological resources in the field and excavation/extraction of surface-exposed fossils are ideally needed to ensure their protection. As with any cultural objects managed by qualified archaeologists, heavily weathered paleontological resources require their immediate extraction from the ground by qualified paleontologists for proper preparation, stabilization, and storage in proper public repositories (e.g., museums) to protect them from further deterioration before they permanently disappear due to erosion as nonrenewable resources (see Appendix below for additional information in another SVP's letter that was submitted to BLM explaining why extraction of paleontological resources is necessary for their protection and preservation). In fact, the preservation of paleontological resources on U.S. public lands is mandated by the Paleontological Resources Preservation Act (**PRPA**). Therefore, if the proposed Administrative Action were to go into effect, we ask that BLM conducts constant monitoring and inventorying of paleontological resources in the area by qualified paleontologists for the two-year period to document the effects of weathering and erosion of paleontological resources so that informed decision on the future of paleontological resources protection and preservation in the area can be made when the temporary administrative action expires. We believe that such field monitoring and inventorying efforts would also be beneficial for the San Felipe Pueblo to decipher the extent of weathering-induced damage to culturally significant materials if BLM paleontologists conduct such surveys collaboratively with BLM archaeologists and representatives of the San Felipe Pueblo.

(3) SVP understands that, in rare instances, some fossils may be considered both 'paleontological resources' and 'cultural resources' (see 'Appendix' within Appendix below) and respects the cultural significance and potentially sacred nature of the land the San Felipe Pueblo seeks to incorporate into its boundaries. This means that, if the Pueblo revisits the issue of paleontological investigation in this parcel in the future, SVP will respect that intention and offer to help determine steps going forward. With that in mind, however, we would like to call BLM's attention to the first full paragraph on page 4 of the Department of the Interior Memo M-37082 of January 16, 2025, which states:

"Affording deference to Native American traditional knowledge does not shift the decision-making responsibility away from a museum or federal agency under NAGPRA or its regulations such that the decisionmaker defers to the determination a lineal descendant, Indian Tribe, or NHO makes based on traditional knowledge. It does require, however, that the decisionmaker make a determination on whether an item is a cultural item only after consulting with lineal descendants, Indian Tribes, and NHOs, and meaningfully considering the Native

American traditional knowledge provided during that consultation process. That deference includes the Department and its bureaus deferring to a lineal descendant, Indian Tribe, or NHO on the substance and validity of its Native American traditional knowledge when making its final 41 determination on whether an item, like a paleontological resource, is a cultural item.”

Our Society’s position is that the custodians of Native American cultural values together with paleontologists could have the mutual goal of the preservation of the deep history of the Earth, scientific, cultural, and sacred together. SVP neither suggests rescinding protections for the land in question, nor removal of the land from the Pueblo’s administration. Rather, SVP strongly feels that this is an extraordinary opportunity for the BLM, professional paleontologists, and the residents of San Felipe Pueblo to craft a landmark example of cooperation.

We recognize that the excavation of paleontological resources is inappropriate at many sacred or culturally important locations, but the assertion that prohibiting the excavation of paleontological resources will help protect the very resources is far from the truth. Hence, if the proposed administrative action were to take place, we suggest strongly that BLM engage in an even more concerted effort for the two-year temporary period to monitor and inventory paleontological resources in the field by qualified paleontologists and to further strengthen the government-to-government relationship by fully involving qualified BLM paleontologists in the dialog, who are there for BLM to effectively comply with the protection and preservation of fossils mandated by PRPA. As we noted previously (see Appendix), this is because paleontological resources are a shared legacy important to the entire world.

Questions and comments concerning our letter can be addressed to any of us or Dr. Kenshu Shimada of SVP’s Government Affairs Committee at svp@vertpaleo.org.

Yours sincerely,



Stuart S. Sumida, Ph.D.
SVP President



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Past SVP President

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Appendix. SVP’s another letter submitted recently to BLM, which explains why the ability to extract paleontological resources is necessary for their protection and preservation as well as the difference between paleontology and archaeology.



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October 17, 2024

Subject: Protest letter from the Society of Vertebrate Paleontology on the Proposed Resource Management Plan and Environmental Impact Statement for the Bears Ears National Monument

To the U.S. Bureau of Land Management and U.S. Forest Service,

We are writing in protest of the Resource Management Plan (RMP) and Environmental Impact Statement (EIS) for Bears Ear National Monument (BENM) because its provision in Table 2-3.9 (“Agencies would minimize collection and curation of fossils and would consider collection only in cases where paleontological objects are threatened by potential impacts including, but not limited to erosion, development, or other discretionary actions”) is incompatible with scientific research, and indeed incompatible with other management actions listed in the RMP and with Proclamations 9558 and 10285.

We objected to this provision in the consultation period submitted under the name “Shimada” on behalf of the Society of Vertebrate Paleontology (SVP) but no meaningful response, analysis, or justification for adopting the provision was given in Appendix U of the final RMP and EIS. Our original comments are appended to this document as per 43 CFR 1610.5-2. Our protest is based on years of experience by members of the SVP, a professional non-profit organization of about 2,000 members, many of whom have ongoing paleontological research (see **Appendix**) at BENM and have enjoyed partnerships with BLM and USFS as well as with tribes.

The comments we made in the consultation period give detailed reasons why the provision on collection and curation is unworkable for scientific research, but briefly:

- the majority of fossils can only be taxonomically identified after careful collection, preparation, curation, comparison, and analysis;
- without that identification, it is impossible to conduct a meaningful inventory of paleontological resources;
- without identification, it is impossible to conduct a scientific study of the fossils to reconstruct ancient ecosystems and environments, or to recognize new extinct species;
- the majority of fossils can only be cast and shared after extraction, curation, and preparation; therefore,
- the majority of fossils can only be cast and shared after extraction, curation, and preparation; therefore,

- without collection and curation, it is impossible to realize Proclamation 10285's aim of "future exploration" to "greatly expand our understanding of prehistoric life on the Colorado Plateau";
- without collection and curation, it is also impossible to realize the Proclamation's aim of protecting Bears Ears to ensure that the "scientific values of this area remain for the benefit of all Americans"; and
- without collection and curation, it is also impossible to realize the RMP and EIS's management objectives to inventory paleontological resources or to conserve them.

The Proposed RMP and EIS text asserts that collection and curation are incompatible with traditional ecological knowledge, but this stipulation is made without analysis and contradicts the collaborative land management plan from the Bears Ears Tribal Coalition that was circulated as Appendix L of the Draft RMP and EIS, as well as the practices of tribes and tribal members who value collecting, exhibiting, studying, and being inspired by fossils. The decision thus appears to be arbitrary and capricious.

We note that we are not protesting co-management or collaboration with the Bears Ears Commission (BEC) nor the relevance of traditional ecological knowledge for co-managing resources, all of which are critically important and which we welcome. Rather we are protesting the Proposed RMP's categorical assertion that collection and curation are incompatible with traditional ecological knowledge, the decision to curtail scientific study of the paleontological resources at the Monument, and the internal inconsistency between the RMP's limit on collection and curation and its emphasis on managing paleontological resources. We recognize that scientific work is inappropriate at many sacred or culturally important locations within the Monument, but we believe that in cooperation with the BEC and with a rigorous permitting process that meaningful, yet unobtrusive scientific collection and curation can be carried out at other locations.

Questions and comments concerning our letter can be addressed to any of us or Dr. David Polly and Dr. Kenshu Shimada of SVP's Government Affairs Committee at svp@vertpaleo.org.

Yours sincerely,

Margaret E. Lewis, Ph.D.
SVP President

Stuart S. Sumida, Ph.D.
SVP Vice President

Jessica M. Theodor, Ph.D.
Past SVP President





APPENDIX

This appendix clarifies what paleontology is and addresses additional concerns about the resources available to manage paleontological resources on federal lands. Paleontology is quite distinct from archaeology even though both disciplines deal with the past. Paleontology and paleontological research are the scientific study of the remains and traces of pre-historic, usually but not always, pre-human life (e.g., animals and plants) based on the fossil record. These 'paleontological resources' document biological and geological information in deep time, often entailing millions or billions of years of Earth's history. Archaeology in contrast focuses on the human past where the timeframe, in the case of BENM, is from about 15,000 years to the present. Archaeological traces are by definition always cultural, but almost all paleontological resources have never been handled by people of the past and represent the pre-human history of our planet. *Therefore, paleontological resources are a shared heritage important to the entire world.*

Despite the vast scale of paleontological resources and the challenges of understanding and effectively managing them, the funding for paleontology programs in the Department of the Interior and the Department of Agriculture has remained practically unchanged for many years despite new mandates for scientific management from the Paleontological Resources Preservation Act (PRPA) of 2009 (e.g., see <https://vertpaleo.org/wp-content/uploads/2023/04/SVP-PRPA-funding-support-letters.pdf>). The skills needed to comply with these mandates require advanced paleontological training in biology, geology, and anatomy, completely different from the skills and knowledge base required to manage archaeological and cultural resources.

As of April 2024, the U.S. government employs 1,274 archaeologists in the five federal land-management agencies (USFS, BLM, NPS, FWS, and BOR) (https://documents.saa.org/container/docs/default-source/doc-governmentaffairs/final_fy2024_testimony.pdf) but only a handful of paleontologists. Our calculations suggest that *archaeologists currently outnumber paleontologists by about 30:1 in BLM, and by more than 200:1 in USFS*. The budgets currently allocated to the agencies' paleontology programs are already strained, and new initiatives or directives, including management of paleontological resources at Bears Ears, cannot be carried out effectively without hiring more qualified paleontologists and increasing budgets for inventories and curations, consultations with BEC, processing of permit applications, or even monitoring the state of known paleontological resources.