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Senate Committee on Energy and Natural Resources  
Subcommittee on Public Lands, Forests, and Mining

S. 365 — A bill to improve rangeland conditions and restore grazing levels within the Grand Staircase-Escalante National Monument, Utah  
May 21, 2015

**Introduction**

I write to urge the committee to reject S. 365: “A bill to improve rangeland conditions and restore grazing levels within the Grand Staircase-Escalante National Monument, Utah.” Despite the bill’s brevity and innocuous title, it represents unprecedented interference in the ability of federal land managers to adjust levels of use to suit conditions on the ground. The troubling provision is in Section 1.(a)(2), which states that “the Secretary of the Interior shall implement a management program...to restore livestock grazing to the level of usage in those areas that existed as of September 17, 1996.” That date, of course, is the day President Clinton designated the monument.

I will show that Section 1.(a)(2), despite its heavy-handed legislative meddling in professional land management, is a solution in search of a problem, as 96.4% of the Monument continues in active grazing with permitted numbers unchanged from the time before 1996. Further, the provision renders meaningless an extensive BLM management planning process that has been underway since 2013, and is on schedule to produce a Monument-wide Grazing DEIS by this fall.

In the field, compliance with this provision would eliminate the vanishingly rare un-grazed areas that managers and ranchers can use as references against which to evaluate the effects of grazing across all the rest of the landscape. Compliance would also once again plague the unique and critical Escalante River canyon with cattle, where they would concentrate and damage the water quality, destroy the recovering riparian area with its native plants and archaeological riches, and resurrect conflicts with recreationists in the premier hiking and camping destination in the Monument.

Lastly, the 1999 closure of the river canyon to grazing through amendment of the Escalante Management Framework Plan was accomplished through a proper and comprehensive NEPA process and the conclusion was supported by the Utah Governor’s Office and Utah Division of Wildlife Resources. This followed a private, willing seller transaction in which several ranchers approached a conservation group requesting a buy-out so that they might restructure their operations in locations more favorable than the remote, inaccessible Escalante River Canyon. If this plan amendment is undone through legislative caprice, it will greatly chill free market solutions to environmental problems across the West. In that regard, this bill, already pointless, harmful to professional land management, and ecologically damaging, also manages to be anti-

rancher, as the grazing buy-out market is often the only market for the permits of desperate ranchers hurt by drought, fire, illness, inter-generational transfer issues and the many other problems that make grazing in arid parts of the country so risky.

**S. 365 does not solve any problem.**

One would think that an extraordinary legislative intervention like S. 365 would be justified by a federal land management agency run amok, barring ranchers from the land; but the facts do not support any such assertion. The Grand Staircase-Escalante National Monument administers 77 active grazing allotments covering 1.82 million acres of the Monument and an additional 450,000 acres of lands extending into Glen Canyon National Recreation Area (Figure 1). In the Monument lands affected by S. 365, ten allotments are officially closed to grazing by livestock. These cover 64,000 acres, or just 3.6% of the Monument. Across all the open allotments, permitted Animal Unit Months (AUMs) remain unchanged from pre-Monument levels: that is, they remain at the greatly inflated historical numbers found across the western public lands.

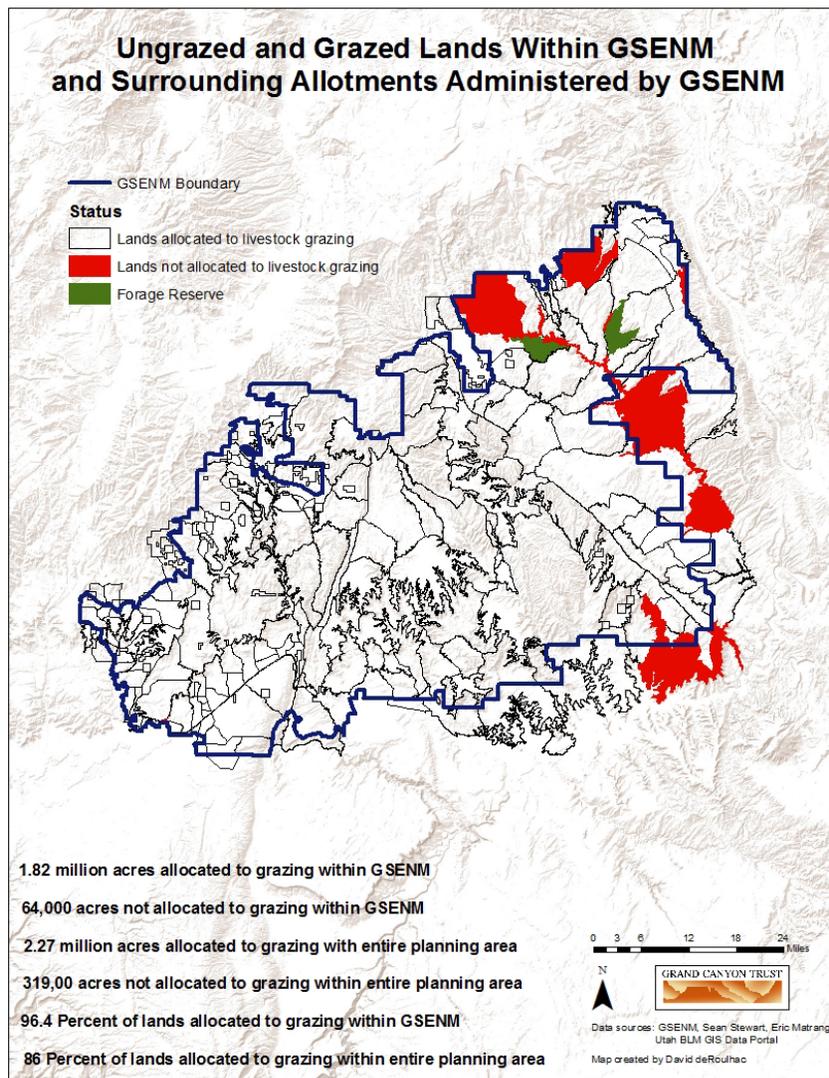


Figure 1.

Actual levels of use are set each year after consultation about the availability of forage between BLM range staff and the ranchers. Comparing actual use as a percentage of permitted use against NOAA's Palmer Drought Severity Index for the Monument yields a clear and responsive correlation between grazing levels and rainfall. In the GSENM, 13 of the 19 years since 1966 have been classified as drought. During the relatively wet years from 1996-2000, actual use was 71.3% of permitted use. In the moderate to extreme drought of 2011-2013, actual use fell to 48.2% of permitted use. These numbers are typical of grazing management on public lands.

Thus, grazing is continuing as usual across the vast majority of the landscape. Surely there is a reason for S.365's attempt to reopen that last 3.6% of the land to cows? Perhaps the un-grazed lands are suffering ecologically in comparison with the grazed areas? Field studies prove that is not so. Both BLM staff and others have documented extensive degradation of Monument lands due to the combined impacts of livestock grazing and drought. The streams are suffering from denuded, trampled banks and active head-cuts, with fouled waters and dying aquatic life. Heavily grazed pastures are ravaged by overland erosive flows during rains. Native forbs and grasses, evolved without cattle, are being depleted or eliminated by overgrazing, and the biological soil crusts that hold the soil together and fix nitrogen at the base of the food web are being destroyed. In a futile attempt to make desert grazing feasible, BLM has seeded thousands of acres in exotic crested wheatgrass monocultures, replacing native and endemic species and mechanically destroying biological soil crusts and cultural artifacts in the process.

The extent of the overgrazing can be better conveyed by photographs. Here on the left is a typical upland allotment in the Monument showing dramatic erosion and the vegetation that might have held the soil in place cropped to stubble. This photo was taken in mid-April this year. The cattle have two additional hot, dry months to graze on this pasture. What will they eat? Not surprisingly, studies show that the vegetative productivity of nearly all the uplands is in steep decline. On the right is a rare un-grazed upland showing native bunch-grasses, sagebrush, and intact biological soil crusts.



To those who are not plant ecologists, the conditions of the Monument's water sources are perhaps even more striking than the uplands. Here on the left is a typical spring, trampled and

fouled; while on the right is a spring within a small enclosure, where a fence protects the area from cows. Viewing the stark difference, one begins to understand why grazing proponents might not want any un-grazed areas standing in mute, eloquent condemnation of livestock management.



Most telling of all are the streams. These are the critical jewels that sustain wildlife and plant diversity in the desert. They are also most relevant to the present case, because the principal un-grazed area in the Monument is the Escalante River Canyon and its various tributary side canyons. These are the areas that would be reopened by S. 365. On the left below is a representative creek in the Monument, showing the denuded, trampled banks, erosion, and fouled water remaining at the end of each grazing season. On the right is the lower part of Calf Creek just above its confluence with the Escalante River. It is closed to grazing, full of fish and beaver, and the site of a successful reintroduction of otters. Not surprisingly, BLM has a major campground along this stretch of Calf Creek, visited by people from all over the country and across the world.



Much of the Monument is suffering from these ecological problems, and the depressing images of overgrazing could be multiplied ad-nauseam. But we are not talking about regulating overgrazing here—we are talking about legislatively re-opening the tiny fragments of the landscape that are not cow-burnt. We are not, as we should be, talking about how to take the 96.4% of degraded lands and move them toward the health and productivity of the lands on the right in the photo pairs; we are talking about turning the right-hand images into facsimiles of the ones on the left. Surely the American public deserves better treatment of its lands from the U.S. Senate!

At a minimum, one cannot say that grazing is being over-regulated in the GSENM. The small patches of un-grazed lands represent critical reference areas for distinguishing between climate and grazing impacts; for comparing with the ecological conditions of grazed lands and thus informing management; and for providing functional ecological systems that benefit communities and wildlife while providing resilience to extreme drought.

### **Economic Considerations**

If the un-grazed areas provide important benefits to land health and management, perhaps S.365 would reopen them because they are critical to local economic health? Again, this is not so. According to the U.S. Bureau of Economic Analysis (USBEA.gov), at the time of the establishment of the Monument, the combined economies of Kane and Garfield counties (the affected counties) showed personal income of \$179 million. In that year, farm income showed a loss of (\$1.73) million. By 2013, local personal income had grown to \$421 million, a rise of 237%, while farm income had continued at a loss until the wet year of 2005, when it rose to \$5.1 million, only to fall again to a loss of (\$2.1) million during 2013 as drought resumed and deepened. Overall, farm income was negative in 12 of the 18 years for which data are available. Ranching here, whatever the diverse motivations of the individuals, is not a mainstay of the economy. It is not sarcasm, but simple realism, to note that reopening the Escalante Canyon would have the net economic effect of letting a few additional hobby ranchers lose their shirts. In sum, one struggles in vain to grasp the purpose of Senator Hatch's bill.

### **S. 365 preempts an intensive management planning process.**

In the years following establishment of the GSENM, BLM publicly developed plans for the Monument, culminating in a Monument Management Plan in 2000 that covered most activities and resources except grazing. This controversial subject was temporarily set aside for treatment in its own EIS, a process that took longer than expected—the document is only now nearing completion. Across 96.4% of the Monument, grazing continues under the terms of highly outdated permits from the 1980s, but BLM has been industriously working to remedy this situation in recent years.

To launch the Grazing EIS, BLM issued a 60 day scoping notice in early November 2013 and held three open houses to communicate about the process. Scoping was completed in January 2014 after more than 400 comments were received.

From the scoping process, BLM fashioned 5 alternatives to bring forward to the Draft EIS, opening an extra public comment process not required by NEPA to ask whether the alternatives truly captured a full range of options. Three public workshops were held before this second comment period was completed in January 2015.

Throughout all these activities, BLM has sought to elicit the most informed comments and suggestions by holding public workshops on subjects such as the economics of Monument grazing, field monitoring of grazing, and the functions of biological soil crusts, an object of protection named in the Monument Proclamation. A future workshop on vegetation treatments is planned for the same reasons.

Managers have also worked to deepen understanding of these issues as part of this process. Monument staff have been partnering with the Natural Resources Conservation Service to assess the current state of vegetation production across the Monument, and BLM plans, within a few weeks, to release an economics assessment to the public based on interviews with permittees, the counties, and outside economists.

The GSENM is on schedule to release a Monument-wide Draft Grazing EIS in late fall of 2015, with a Final EIS expected in 2016. Senator Hatch's S. 365 would void all of this work and public involvement with a stroke of extremely unwise legislative pre-emption.

**The closure of the Escalante River to grazing is entirely appropriate.**

The closing of the Escalante River began with a rancher's near death experience. Dell LeFevre, who is one of the last full-time ranchers in the Monument and is also a Garfield County Commissioner, held grazing permits for three allotments in the remote sections of the canyon. One day while riding alone in the deep backcountry checking on cattle that had been dying from eating noxious halogeton plants, a stream bank collapsed under LeFevre's horse, breaking the animal's leg and hopelessly trapping the rider beneath the stricken horse. The hot sun desiccated him over long hours until LeFevre, gripped by inspiration, strained to the utmost and managed to get a can of soda out of his saddlebag. Instead of drinking it, he poured the carbonated drink into the horse's nostrils and wriggled free when the animal rose up in a final choking spasm. He vowed that day, walking out of the canyon, that he was getting rid of his permits—the place was too remote, too full of poisonous plants, too treacherous, and too much in the cross-hairs of complaining campers. He wanted out.

LeFevre talked with several neighbors who also grazed the river. Two branches of one family wanted no part of grazing in a national monument and had already located a private land ranch in Oregon, if only they could find a buyer for their permits. Another had reached retirement age, but his only child was going blind from retinal degeneration, so their permits needed to be sold as well. These are the all-too-human stories that make private market transactions to retire grazing a compassionate response to real world situations.

In this case, LeFevre approached me about a buyout because we had become friendly when I was a Councilman in Utah's Grand County. We began a complex negotiation aimed at bringing a

proposal to BLM for consideration. Our goal was that one extended family could move to their new ranch in Oregon, another might retire with some funds in the bank for medical expenses, and LeFevre could continue ranching on a reconfigured operation built around more accessible allotments out of the canyon. For my part as buyer, I aimed for the Escalante River, jewel of the new Monument, to be closed along with several important side canyons.

BLM, after some changes, took our eventual proposal through a public process (EA UT-049-98-043) that ended in amendment of the Escalante Management Framework Plan in March of 1999. The ranchers were well compensated to relinquish their permits to BLM, and the agency reallocated the forage to wildlife and watershed restoration, finding that “This would eliminate conflicts between recreation and grazing in this area. Reallocation of these AUMs would protect and enhance riparian, wildlife, fisheries, and watershed values of the Escalante River and some tributaries.” The Utah Division of Wildlife Resources commended the action in a detailed letter and Governor Michael Leavitt wrote to approve of it. Over the years, BLM’s terse assessment of the benefits has proven true, especially in comparison with areas that were not retired. But perhaps it is worth quoting from the Utah Division of Wildlife Resources letter to remind ourselves what is really at stake:

“There are important wildlife values in the area that would be enhanced by the proposed changes in livestock grazing. Riparian vegetation and understory cover along the Escalante River and several tributaries would be protected and improved. Riparian habitats are highly valued for wildlife, even more so in arid regions such as the GSENM. The greatest diversity and abundance of species are found in riparian zones. Healthy and abundant streamside and floodplain vegetation benefits fisheries and water quality by providing cover and food resources, regulating water temperature, filtering and trapping sediments and nutrients, and increasing water storage for release over longer periods. The endangered Southwestern willow flycatcher, an obligate riparian species, occurs along this section of the Escalante River, along with many other bird and mammal species. Two Utah sensitive fish species, the flannelmouth sucker and bluehead sucker, as well as other native fishes are found in the Escalante River. Moreover, upland grasses, forbs, and vegetative cover would increase and provide additional forage and cover for mule deer, desert bighorn sheep, rabbits, and other small mammals, which are in turn prey species for predators such as mountain lions, bobcats, coyotes, foxes, and raptors. In addition to benefitting wildlife, increasing vegetative cover can improve watershed quality, reduce soil erosion, allow better infiltration of precipitation into the soil, and enhance recreational and aesthetic values.”

Since the beginning of this entire process, nobody involved with the Escalante River closure has ever raised a complaint, yet now Senator Hatch seeks to undo the result legislatively. If this unobjectionable transaction in the flagship national monument is undone by mean-spirited legislative fiat after 16 years of benefits, then market-based private solutions to environmental conflicts will rightly be chilled everywhere. Senator’s Hatch’s S.365 is a harmful instrument that deserves to be rejected by the Sub-Committee.

Willard Hedden lives in Moab, Utah and is Executive Director of the Grand Canyon Trust. He served as a Councilmember in Utah’s Grand County from 1994-98, and is President of North Rim Ranch, LLC, which runs a public lands cattle operation on 830,000 acres of BLM and USFS lands on the North Rim of the Grand Canyon.