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Procedural Comments

BLM proposes the rule purportedly to reduce harm to the “objects and values” specified in the Presidential Proclamation designating Cotoni Coast Dairies as a unit of the California Coastal Monument. As such, the rules illogically precede the carrying capacity analysis needed to inform a set of regulations that would, for instance, preclude overuse, overcrowding, and user conflict. The proposed rule follows an extremely faulty Resource Management Plan, wherein recreational planning analyses failed to use modern recreational planning principles: carrying capacity analysis (to avoid overuse, overcrowding and user conflicts), or natural resource carrying capacity analysis (to avoid disturbing sensitive wildlife, etc.). So, the plan could not and did not (as stated) “establish land use decisions... [that] support responsible recreation opportunities.” Before finalizing the proposed rule, BLM must complete legal obligation to develop a baseline inventory, carrying capacity analysis, identification of limits to acceptable change, and a science plan as required by BLM Manual 6220.

More specific comments are below, organized by title of section and breaks.

I. Public Comment Procedures

This section is missing the following important information:

- Timeline and process for the public to appeal the final rule;
- Policy/procedures whereupon the “entire comment, including your personal identifying information, may be made publicly available at any time.”

Please correct the final rule to include these details.

II. Background

“This regulatory provision allows the BLM to issue rules of less than national effect without codifying the rules in the Code of Federal Regulations.”

This section fails to describe the process for determining how the proposed rule does or does not meet the threshold of ‘less than national effect.’ The property is designated as part of the National Conservation Lands network as well as being a portion of the California Coastal Monument. Both such designations designate the national significance of the property and so rules would seem to have national effect.

Please list individuals involved and decision-making process for making this determination.

III. Discussion of Proposed Supplementary Rule

The BLM completed the Cotoni-Coast Dairies Resource Management Plan (RMP) Amendment on June 23, 2021, to establish land use decisions that protect the objects and values of the Cotoni-Coast Dairies unit of the California Coastal National Monument and support responsible recreation opportunities.”

In my prior correspondence with BLM on their RMP Amendment, I notified BLM about many ways that the document fell short of providing resource protection and responsible recreation opportunities. As BLM failed to adequately address those failures, I must remind BLM that this opening statement is false. Please clarify the following:

- Where did the RMP list the ‘objects’ of the Monument?
 - See the list of Objects and Values of the Monument in Attachment 1, below
- How has the BLM abided by its Manual 6220?
- How has the BLM undergone a natural resource carrying capacity analysis?
 - What are the limits of acceptable change for sensitive natural resources, including objects and values of the Monument?
- How has the BLM undergone a social carrying capacity analysis?
 - What are the limits of acceptable change for user conflicts such that decisions can be made to protect responsible recreation opportunities?

(n.b., these comments about lack of clarity of Section III also relate to the section: “*Clarity of the Proposed Supplementary Rule Executive Order 12866 and Executive Order 13563 require each agency to write regulations that are simple and easy to understand.*”)

“Persons performing essential operations central to the BLM’s mission would be exempt. Such persons would include, for example, members of any organized law enforcement, rescue, or fire-fighting force.”

It is not clear what the phrase ‘persons performing operations central to BLM’s mission’ would be. Please clarify if the following types of persons would be exempt and how such an exemption would be made apparent to the public as well as the persons listed:

- Personnel involved with the livestock operations taking place on the property;
- Scientists working in partnership with BLM (note MOU’s in place)
- Tribal members working in partnership with BLM (note MOU’s in place)
- Santa Cruz Mountains Trail Stewardship associates
- Utility workers (PG&E and associated contractors)

“Resource Damage: Presidential Proclamation 9563 added the Cotoni- Coast Dairies unit to the California Coastal National Monument and identified resource objects and values o be protected. A supplementary rule is needed to ensure protection of these resources, particularly

biological and cultural resources.”

The BLM has yet to acknowledge or list the ‘objects and values to be protected’ in any of its planning documents. And so, the BLM has failed to disclose to the public how it is working to ‘ensure protection of these resources.’ In fact, some of these resources fall within the footprint of the trails upon which the public will be restricted. And so, the Proposed Rule is confusing and contradictory.

- What are the ‘objects and values’ of the Monument to which the Proposed Rule refers?
 - Where are they?
 - How close are they to the trails where the Proposed Rule suggests limiting access?
 - How sensitive to disturbance are said objects and values?
- How has the BLM abided by the Manual 6220 in creating a baseline analysis of the objects and values of the Monument?

“Public Safety: As visitation increases among all types of recreational users, so do the conflicts between user groups. In crowded areas, conflicts among users increase risk to visitor safety. Other recreationists and nearby landowners also have concerns for their personal safety, as well as damage to property. A supplementary rule is needed to avoid or minimize such conflicts.”

The statement is confusing as to how it relates to the proposed rule. The proposed rule restricts use to designated areas and allows enforcement for those restrictions. However, there are no evident social carrying capacity analyses in the RMP for the property and no defined limits of acceptable change defined from such an analysis. Without such planning, it is unclear how enforcement and planned trail use designation can ‘avoid or minimize’ conflicts.

- How has BLM defined social carrying capacity?
 - What is the threshold for ‘minimization’ of conflicts between all user groups and
 - passive wildlife viewing users
 - hiking families with young children
- Where does BLM suppose there will be ‘crowded areas’ on the property?

V. Proposed Rule

Definitions

The definition section is missing a definition of sunrise and sunset in order to make clear Restriction #7.

The definition section is missing a definition of ‘service animal’ in order to make clear the definition of ‘pet’ and Restriction #8

Restrictions on Public Lands in the Coast Dairies Unit of the California Coastal National Monument

Additional Necessary Restrictions

The restrictions fail to address several crucial issues that commonly occur on other conservation lands near the Cotoni Coast Dairies property, as follow:

- The restrictions do not address the regional problem of unpermitted trail improvement. State Parks and other lands managers have a common and widespread problem of unauthorized ‘improvement’ including adding ramps, holes, and other features designed to making the trail more technically challenging or enjoyable to a certain subset of recreationists. Please include a restriction to address this matter
- The restrictions do not explicitly protect wildlife-related objects and values of the Monument. Suggested language:
 - *“Killing, harming, or harassing of wildlife listed as Objects of the Monument including engaging in behavior that significantly changes behavior, including foraging or movement, including by creating noise and/or moving into interruptive proximity.”*
- The restrictions do not explicitly protect plant- or plant community-related objects and values of the Monument. Suggested language:
 - *“Trampling, collecting, or in any other way harming plants or plant communities listed as Objects of the Monument including moving beyond the bare-soil previously created for users, or; introducing weeds, invasive animals, or pathogens, collecting or; harming, or harassing pollinators.”*
- The restrictions do not explicitly address the release of organisms onto the property. Suggested language:
 - *“Release of organisms including translocated wild or domestic animals, native or non-native plants, fungi, and pathogens.”*
- The restrictions do not explicitly prohibit for-profit activities. Suggested language:
 - *“Use of the property for any for-profit activities including media production, tours, and guided recreational activities.”*
- The restrictions do not explicitly address the protection of livestock and livestock management infrastructure. Suggested language:
 - *“Disturbance of livestock including altering movement or foraging behavior”*
 - *“Alteration or damage to livestock management infrastructure including gates, fences, water systems.”*

“6. Established parking areas are for the use of visitors to Cotoni-Coast Dairies unit of the California Coastal National Monument only.”

This language is nonsensical as those using parking lots are, by definition, visitors to the Cotoni-Coast Dairies property by virtue of using a parking lot. In addition, the word ‘established’ is unnecessary, unless BLM is thinking of creating parking ad hoc parking lots for use by visitors who want to access beaches, etc. Please update the language to the following including deleting the word ‘established’ -

“Visitors leaving vehicles in parking areas shall not depart from the Cotoni-Coast Dairies unit of the California Coastal Monument while their vehicles remain in those parking areas.”

“22. any person whose activities are authorized in writing by the BLM.”

This language requires improvement as it allows this unauthorized people to partake in activities authorized in writing by BLM. For instance, the language would allow anyone to engage in livestock grazing or trail construction/maintenance. Please update language to:

- “...people authorized in writing whose activities are authorized in writing by the BLM.”

Federally listed species (4):

Tidewater goby

Steelhead

Coho salmon

California red-legged frog

BLM California species (2):

White tailed kite

Townsend's big-eared bat

Biotic groups/communities (13):

California sagebrush

Coyote brush scrub

Amphibians and reptiles

Bats

Red alder forests

Arroyo willow forests

Riparian areas

Riparian corridors

Wetlands – in riparian areas as well as meadows and floodplains

Grasslands

Scrublands

Woodlands

Forests

Non-federally protected species (24):

Wilson's warbler

Orange-crowned warbler

Downy woodpecker

Black swift

Tree swallow

Cooper's hawk

American kestrel

California vole
Dusky footed woodrat
Black-tailed jackrabbit
Gray fox
Bobcat
Mountain lion
Mule deer
California buttercup
Brown-headed rush
Redwood sorrel
Elk clover
Madrone
California bay
Monterey pine
Knobcone pine
Douglas fir
Coast live oak