

REDROCK

W I L D E R N E S S

The Newsletter of the Southern Utah Wilderness Alliance
Volume 32, Number 2 • Summer 2015

The Truth Behind Utah's Federal Land Grab

Cover Photo: *Stretching between the Glen Canyon NRA and Natural Bridges National Monument, the intricate maze of Utah's White Canyon is included in both the Bears Ears and Greater Canyonlands national monument proposals. Photo copyright Ray Bloxham/SUWA.*



The mission of the Southern Utah Wilderness Alliance (SUWA) is the preservation of the outstanding wilderness at the heart of the Colorado Plateau, and the management of these lands in their natural state for the benefit of all Americans.

SUWA promotes local and national recognition of the region's unique character through research and public education; supports both administrative and legislative initiatives to permanently protect Colorado Plateau wild places within the National Park and National Wilderness Preservation Systems or by other protective designations where appropriate; builds support for such initiatives on both the local and national level; and provides leadership within the conservation movement through uncompromising advocacy for wilderness preservation.

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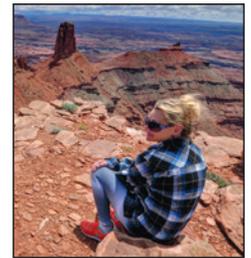
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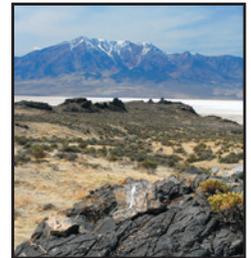
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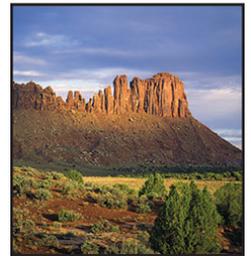
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This issue of *Redrock Wilderness* was written by the following staff and outside contributors: Steve Bloch, Ray Bloxham, Joe Bushyhead, Neal Clark, David Garbett, Jordan Giaconia, Scott Groene, Mathew Gross, Diane Kelly, Darrell Knuffke, Landon Newell, Dave Pacheco, and Jen Ujifusa. It was edited by Darrell Knuffke and laid out by Diane Kelly.

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wilderness notes



Hope for Wilderness Grand Bargain Persistent but Not Eternal

While southern Utah sizzles in the heat of midsummer, Utah politicians are feverishly throwing tax dollars at their attempt to seize 30 million acres of public land (see feature article, p. 6). Ignoring the law and the best interests of Utah, they've sued the United States over 20 times, hired a public relations firm to bamboozle the citizenry, and lionized a county commissioner convicted of leading an illegal off-road vehicle protest.

The wilderness discussions that Rep. Rob Bishop (R-UT) began—grandly and hopefully named the “Public Lands Initiative” or PLI—sit squarely in the middle of this toxic morass and are undercut by it. The process teeters ever more precariously mainly because of the unwillingness of local politicians to compromise. At this point, the ballyhooed initiative comes down to a pair of questions: will the Utah congressional delegation reward county commissioners' intransigence with an anti-wilderness bill, or will it move forward responsibly toward serious discussions with the conservation community?

As the rest of the world marches deeper into the 21st century, county politicians too often remain mired in the past, with dreams that old economies will somehow return. Still, the Utah congressional delegation has historically granted an absurd deference in these matters to a handful of southern Utah county commissioners, whether or not there is a good reason to do so. Grand County shows how undeserved such deference usually is.

Moab, where my family lives, is the Grand County seat. It has long been a tourist mess where anything goes. If its brazen motto isn't “faster, louder, more crowded” it certainly ought to be. The Bureau of Land Management's local office has contributed mightily to the problem by splintering the backcountry with off-road vehicle routes.

Standstill

On Memorial Day weekend, Christy and I fled Moab with our girls, headed for a destination no more specific than some place quieter. Driving north from town, we slowly passed a line of visitors over a mile long waiting to enter Arches National Park. The park was finally closed to allow traffic to clear. The point here is not that Arches isn't a glorious place and a part of every American's patrimony. The point is that Moab's insatiable appetite for the tourist dollar draws throngs, dumping them and their vehicles on every facility in the city and beyond. The numbers are neither manageable nor sustainable.

The crowding around Moab worsens every year. Some of us saw in the PLI an opportunity to restore some balance—both for those who live here and for visitors seeking more than a quick thrill ride in a Hummer and maybe a perfunctory, stick-your-nose-in peek at Arches. Instead, led by a former career BLM employee, Grand County cooked up a plan that would do little to rein in off-road vehicle use. New ORV focus areas would be created near the Green and Colorado Rivers. The mess would get messier.

For all of that, Grand County's neighbors have done worse. Clinging to the past, they seek to cement legislatively the rotten Bush-era management plans that we, with partners, have challenged in court. Emery County demands that a protected area be opened for a coal mine in the Book Cliffs. San Juan County seeks endorsement of its absurd ghost road claims. Carbon County wants to open protected areas for gas drilling in Desolation Canyon. Uintah County just wants to “drill baby drill” wherever it can . . . which is to say nearly everywhere.

wilderness notes**Too Good to Be True?**

We'd hoped there would be real discussion about the future of the Redrock that would result in accord. That happened in one place, Daggett County. There, to huzzahs throughout Utah, we reached agreement on wilderness protection. Except Daggett then reneged on the deal.

As this is written, it is unclear how the Utah congressional delegation will respond. But we remind the delegation that the counties' proposals and demands should be treated as the view of one interest, no more. The commissioners represent less than five percent of all Utahns, and no more than an infinitesimal speck in the U.S. population. These are national lands. They belong to all Americans.

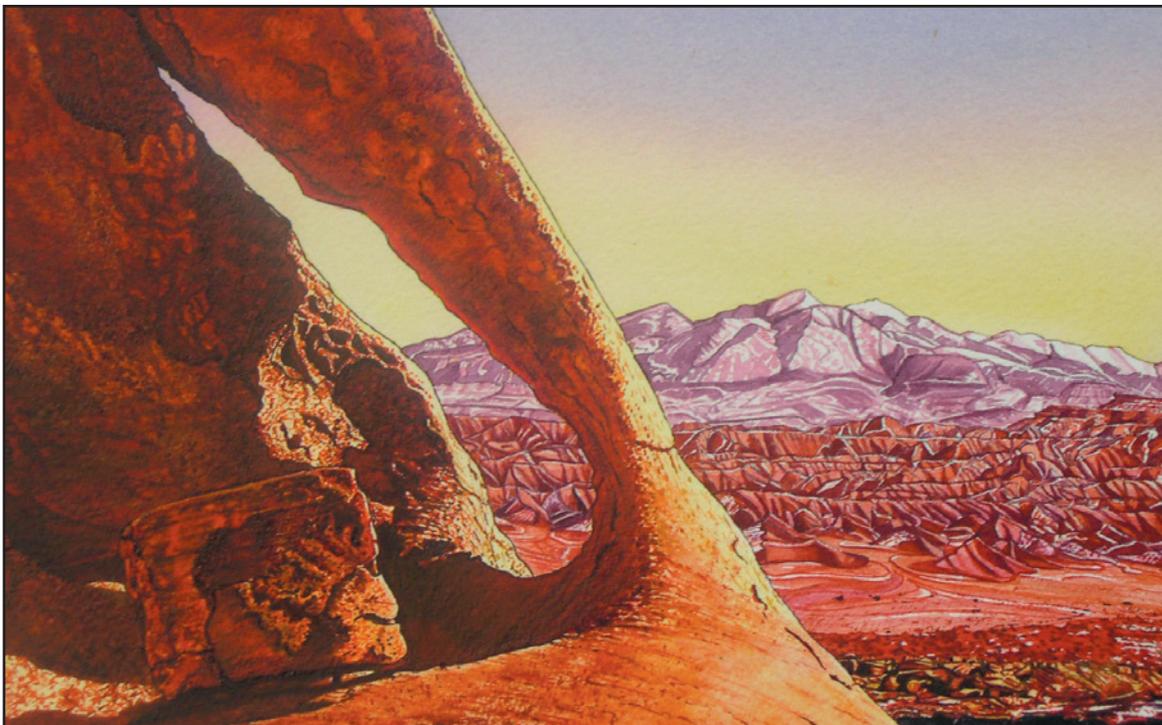
We were enthusiastic when Mr. Bishop first approached us about a wilderness discussion. Since it began, SUWA's staff has invested more time and energy in trying to reach agreement than we have in any other activity. And we've been rewarded with some precious goodwill and hard work from the delegation's staff. We still hope something good can happen. We're wilderness advocates in and for Utah. Optimism sustains us, so we naturally see hope where others may see gloom.

On the other hand, we are not stupid, we are not naïve, we are not delusional. Our hope, though durable, does not spring eternal. We will know the moment, if it comes, when hope deserves a hiatus. But no matter what, and only with your help, we'll do right by the Redrock.

For the Redrock,



Scott Groene
Executive Director



Artwork by Pat Priebe-Swanson.

features

What the Land Grabbers Are Really After (It's Not the Public Interest)

Campaigns to steal America's western public lands are not new. Every few decades they sneak out of the shadows to pester the fair minded and attempt to swindle our national heritage.

Opponents of public lands—led by the likes of Cliven Bundy, Phil Lyman, and Ken Ivory—are now back at it, hoping to prove that, if nothing else, history repeats itself. They argue that our vast national heritage of public land is an affront to the Constitution. They claim that states are the rightful and proper owners.

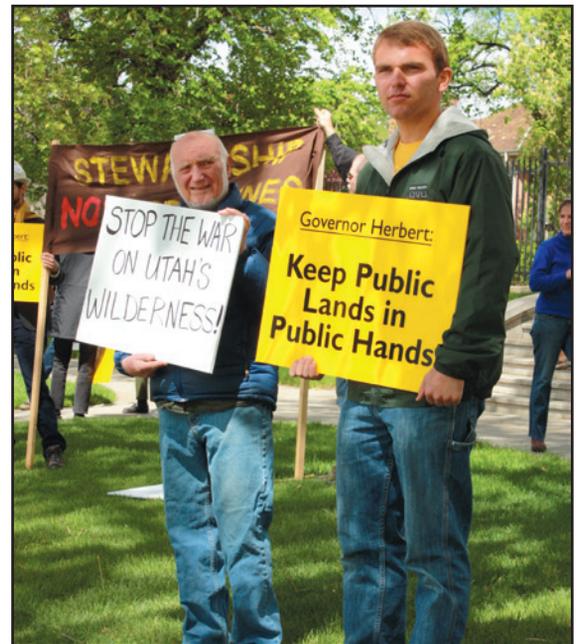
These claims are spurious and ultimately just a smokescreen for the true root of this movement. What Bundy, Lyman, and Ivory are really seeking is power.

Our public lands are too remarkable of a treasure to be lost to the ambitions and selfishness of a few. As previous efforts to steal our national heritage have failed, let us ensure that this current attempt meets the same fate.

Wrong on History

The first thing that the land grabbers have wrong is history. Ivory may be the major offender. He is the Utah legislator who sponsored the state's land grab legislation a few years back and is now its biggest crusader. Ivory conveniently cherry-picks self-serving quotes and random tidbits of history in spinning his tales, carefully ignoring the actual events surrounding statehood grants to the public lands states of the West. Utah, typical of these states, joined the nation with the understanding that it was giving up any claim to the public lands within its borders. This understanding is permanently memorialized in its state constitution.

Lest there be any confusion, one year after Utah became a state its first national forest was set aside. Known as a "forest reserve" at the time, it was a tract of land reserved from the standard disposal laws (i.e., laws intended to dispose of federal lands). In other words, the federal government made clear it did not intend to relinquish those



© Kahlene Audette-Luebke/SUWA

Activists protest the Utah land grab at a rally in Salt Lake City.

lands. Utahns of that day reacted differently from Ivory and his acolytes: rather than decry some sort of federal tyranny, Utahns asked for more.

One such request came from the Priesthood Session of the 1902 Mormon General Conference (a twice-yearly gathering in Salt Lake City of all Mormons). There, the Mormons voted in favor of asking the federal government to set aside more of Utah's forests.

Those early Utahns saw the wisdom of managed public resources. On the question of whether Utahns thought statehood meant that all federal land was to be given up, whom shall we believe: Ken Ivory as he twists the facts over a century later, or Utah's largest interest group speaking within six years of statehood?

Wrong on Economics, Too

A review of the economics does not help the land grabbers either. The Utah Legislature commis-

features

sioned a study to see if the land grab could pencil out financially. The study showed that it was unlikely Utah could afford the land. Under most scenarios, the state would lose millions each year in taking over federal lands. Only if oil and gas prices were to climb well above their current levels and stay there would the state be able to cover the costs.

When Utah passed the Transfer of Public Lands Act in 2012 demanding the end of federal land ownership, it cited economics. The land grabbers declared that Utah needed to do this to fund its schools. But they had never actually run the numbers. So when they got around to an analysis that produced dire prospects, did they quickly abandon their demands for the “return of our land”? Of course not.

This has never been about the economics of the general public welfare. Ensuring the financial health of a handful is as close to economics as land-grab thinking gets. Now that actual research shows that the math of the land grab stinks, crusaders have retreated to anecdote and make-believe to tout their scheme (see sidebar, right).

Failing the Legal Test

Most significantly, Ivory and his crowd are wrong on the law. Nearly everyone with a law degree that has evaluated the legal arguments of the land grabbers finds them to be complete bunk. The two exceptions to this are the lawyers whose paychecks depend on agreeing with the land grabbers—the Utah Attorney General, for example—and apparently one law professor. While the Utah Attorney General says the state has a case, he is not running to the courts with it. He quietly let the state’s ultimatum that the federal government give public lands to the state before 2015 pass without any action. One law professor concludes that the land grab arguments are “serious” because they are based on a historic promise, but he relies on a tortured interpretation of history rather than dealing with the actual events of statehood.

Phony Land Management and Fires

Finally, the land grabbers have their land management policy wrong. Ken Ivory’s favorite way to start an anti-public land sermon is with the tragedy of forest fires. To believe him is to believe our forests are all burning because of federal land mismanagement today.

Desperate Times in Garfield County? Not so Much

Commissioners in Garfield County, Utah, voted unanimously in June to declare an official state of emergency in their county. You might guess the trigger was too much water (flooding) or too little (drought), a tornado, a raging wildfire, or some other natural calamity we westerners must periodically endure. But no, this is an altogether different sort of “emergency”—one of an insidious, delayed-onset variety that purportedly stems from the 1996 designation of the Grand Staircase-Escalante National Monument.

Here’s the story. Alarmed by declining school enrollment, the commissioners scratched their heads and concluded that the federal government—and federal land management policies in particular—must be to blame. According to Commission Chairman Leland Pollock, the monument’s designation almost two decades ago hampered natural resource extraction, triggering a downward economic spiral and the exodus of Garfield County youth.

Not to be nitpicky, but the facts suggest the county commissioners should look elsewhere for the source of their woes. For example:

- County economic indicators actually rose after the monument was designated, with personal income and total employment both increasing 25 percent from 1996 to 2002. Per capita personal income rose 11 percent during the same period.
- Total Garfield County population grew 9.23 percent from 2000-2010, very close to the national average of 9.7 percent.
- According to the Census Bureau’s latest American Community Survey, Garfield County’s median household income is \$45,357, a roughly 30 percent increase from 2000.
- Garfield County describes itself as having a “thriving economy” on its own website.
- Mining jobs were largely gone by the time the monument was established in 1996, representing only 1.5 percent of total non-agricultural employment in the county.

It’s easy (and unfailingly popular) to point the finger at the federal government whenever things go wrong—or, as in this case, not as well as the commissioners think they deserve—but it won’t help rural communities find real solutions to the challenges they face.

features

Gandhi, Chief Joseph, Rosa Parks, and . . . Phil Lyman?

Followers of San Juan County Commissioner Philip Lyman have apparently produced a t-shirt that elevates him to the pantheon of genuine heroes of civil disobedience, including Gandhi, Chief Joseph, and Rosa Parks. Lyman was convicted of conspiracy after he led an illegal ATV ride last year into Recapture Canyon, closed to vehicles to protect its archaeological treasures from damage.

The chief difference between Lyman and those legitimate heroes is that none of them tried to weasel out of the consequences of their actions, whereas that is pretty much all Lyman has done. Though he pitched his plan as an act of civil disobedience, when the moment came, Lyman developed cold feet. He went on to lead the ride after some of those in attendance shamed him into it. At his trial, impatient with the civil disobedience thing, the Blanding bookkeeper argued that he had actually received permission to ride the route and had no idea he was breaking the law. The court convicted him anyway.

Lyman was denied a public defender so had to foot his own legal bills. After his May conviction, he got a little help from friends Mike Noel and Mark Ward. Noel is a Utah legislator, a fed basher, and a SUWA-hater. Ward works for the Utah Association of Counties (UAC), which does everything it can to thwart sensible public land management (with taxpayer money). Both men advocate the elimination of federal land ownership in Utah.

This pair launched an effort to get \$100,000 in public money to fund Lyman's criminal defense. That effort fell apart, probably because of its blatant illegality, and became a private defense fund instead. The governor pledged to get the ball rolling with \$10,000 from his campaign coffer.

In a June 30 editorial ("Even without taxpayer money, land grab makes Utah look bad") the *Salt Lake Tribune* said, "[I]t is still troubling that such savvy politicians think it is either an ethical or political winner for them to be seen backing the illegal acts of people who defile the grand tradition of civil disobedience for a cause no greater than the childish desire of a bunch of grown men to play with their toys on someone else's land."

Lyman is scheduled to be sentenced on Sept. 15. He is liable to receive a fine and jail time. If he's fined, others, including the governor, will pay it. That is too easy and it dishonors the respected tradition of civil disobedience. No one can serve a jail sentence for him, though.

Ivory never mentions the wrongheaded history of western fire suppression: that we have frantically doused every spark for a century and more. There is no reference, either, in Ivory's catechism, of a warming planet or of stubborn drought and their effect on forest fires.

Neither does Ivory ever propose what you might call an actual solution to forest fires. Instead, a tautology suffices: the lands must be turned over to the states because that is the only solution. But what will the states do differently? As he never really answers this question our best guess is that he thinks if we eliminate forests, we eliminate forest fires. It would be logging on steroids and Red Bull. In Ivory's world, no natural system should ever be allowed to operate naturally. A vibrant, healthy, standing forest—that, yes, even includes dead trees—is an affront to someone who believes the destiny of every tree is to fall to the chainsaw.

Ironically, the issue of forest fires, while serving as their favorite policy argument, is also the land grabbers' biggest policy hurdle. Fighting forest fires is spectacularly expensive. Indeed, the potential bill is so astronomically high that it is probably the first reason why many states have not stocked up on Ivory's magic elixir.

"Trust Me"

Ivory declares that states will manage the lands better than the federal government because they are closer to the resources. That is also a description of parochialism—precisely the sort of parochialism that led to the creation of federal land management systems in the first place. No entity short of the federal government will manage for the broad national public interest against those "closer to home" power blocs that dominate lower levels of government.

History gives a clear picture of how Utah would manage public lands if ever it should lay hands on them. At statehood, the U.S. granted Utah one-ninth of its land base as state lands. Over half of that endowment has since been sold. Not too long ago, the Utah Supreme Court made clear that state lands below the beds of navigable waters were open to public access. The Utah Legislature has subsequently done everything it could to undo that ruling by whittling away public access as a sop to landowners. And Utah's state parks continue to be

features



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If the land grab ideologues were to get their way, scenic landscapes would inevitably be leased or sold and Americans would lose access to treasured public lands.

severely under-funded. Just a few years ago the legislature considered closing some to cut costs.

Seeking Power

This movement has always been about power and control. The efforts of Cliven Bundy and Phil Lyman illustrate this clearly.

Bundy needs little introduction. More than twenty years ago he began refusing to pay fees for grazing his livestock on public lands. He defied court orders and even an attempt to confiscate his cattle, with the help of an armed gaggle. Bundy does not recognize federal lands and he does not recognize federal authority. In short order it became apparent that Bundy was a racist after making insensitive remarks about African Americans. His racism seemed symptomatic of an inability to empathize with the plight of others or think outside himself.

Another such darling of fed-haters is Phil Lyman, the San Juan County, Utah, commissioner who led an illegal ATV ride into Recapture Canyon—an area closed to vehicles due to its abundance of cultural resources (see sidebar, opposite page). A movement's heroes tell us much about its principles.

So what lofty ideals do these two land grab proponents represent? Taking public resources without

paying for them. The “right” to drive an off-road vehicle anywhere one pleases, including over sacred cultural sites. This is what passes for high principle among the land grabbers: theft of the public estate.

Contrast these two with the writers and thinkers that have advocated throughout the years for public lands. These are heroes of conservation like John Muir, Aldo Leopold, Edward Abbey, Wallace Stegner, Bernard DeVoto, and Terry Tempest Williams. They have all written compellingly about the value of wild places and open spaces, of their ability to inspire us, to heal us, and to reform us.

But even the land grabbers will eventually lose out with their ephemeral dream of ending federal management. Ironically, the inevitable privatization of land under their scheme will ultimately deprive even them of the control and power they seek. Meanwhile, they will have deprived the rest of us of a treasure. They must not be allowed to win and we will not let them. For our sake, and that of posterity, as well as the plants and animals that depend upon these landscapes, we must keep our public lands.

—David Garbett

DC news

Test Range Proposal Morphs into Major Public Lands Giveaway

Something fishy is up at the Utah Test and Training Range (UTTR), the 1.7-million-acre military training ground and bombing range in Utah's West Desert. You've passed it if you've driven from Salt Lake to Wendover on I-80, but like most people, you probably haven't been there. It's completely closed to the public.

In the last Congress, Utah Sen. Orrin Hatch proposed an expansion of this training range by including in it about 700,000 additional acres of land now overseen by the Bureau of Land Management. The Pentagon didn't ask for this, but it was tacked on to the National Defense Authorization Act anyway. That act is a behemoth piece of legislation that combines all manner of military initiatives and routinely passes Congress. Fortunately, the UTTR expansion didn't make the final cut.

However, when the expansion proposal was revived in this Congress, a number of bad public lands provisions stuck like burrs onto its coattails at the behest of Utah representatives. Now, in

addition to the enlargement, the proposal would give "highway" rights-of-way to Juab, Tooele, and Box Elder Counties, something that has nothing to do with the UTTR and has everything to do with the State of Utah's ideological battles against federal lands.

Thousands of Miles of Bogus Routes

We don't know which routes we're talking about yet (the draft language refers to a mystery map, which has not been provided), but we do know that these three counties have claimed rights to thousands of miles of routes under a legal loophole known as Revised Statute 2477. More than 3,000 miles of those routes are "Class Ds," the ghost tracks, cowboy meanders, and dirt paths that nobody would call a highway with a straight face (but you might with a crooked smile). One Tooele County claim even goes through the designated Cedar Mountains Wilderness. Legislating the giveaway of any of these so-called "routes" would be devastating to public lands.

The bill also facilitates a land exchange that would trade parcels currently isolated within the UTTR for parcels now in proposed wilderness. That would put the lands at risk from mining, and would expand grazing to new areas without the usual environmental review. None of this, incidentally, helps the troops.

That's unfortunate. When the Cedar Mountains were designated as wilderness in 2006—with the unanimous support of the Utah delegation—the reasoning was that wilderness made an excellent buffer for these military facilities. We could achieve another such success for gorgeous wild places like the Silver Island Mountains, the Fish Springs Range, the Dugway Mountains and the Newfoundland Mountains, all of which are proposed for protection in America's Red Rock Wilderness Act. Instead, national security is being used as a shield for undermining national treasures.

Worried the delegation would again try to tack the giveaway provisions onto the large military package



© Ray Bloxham/SUWA

Utah's Silver Island Mountains (above), Fish Springs Range, and Newfoundland Mountains are just a few of the wild places at risk if the latest version of a Utah Test and Training Range expansion proposal is passed by Congress.



One of SUWA's ads against the UTTR proposal.

that was on the floor this summer, we ran ads in Capitol Hill newspapers, and have briefed our allies on the Hill about the nefarious add-ons in the proposal. The scheme has so far not ended up in that package, but work on it isn't finished yet. We'll keep an eye out. We know a little something about defense ourselves.

—Jen Ujjfusa

Good News!

Champs Reintroduce America's Red Rock Wilderness Act

Sen. Dick Durbin (D-IL) and Rep. Alan Lowenthal (D-CA) have introduced America's Red Rock Wilderness Act in the 114th Congress. Fourteen senators were original cosponsors of the Senate bill, S. 1375. The companion measure in the House, H.R. 2430, had 77 cosponsors at introduction. The May introduction marks the 26th anniversary of legislation to permanently protect the ecological, cultural and recreational values of over 9 million acres of desert wildland in Utah.

"These wild and precious lands are our birthright as Americans, and they are essential to who we are as a nation," said Lowenthal. "My bill safeguards these special lands and the waters, the flora, and the fauna within them. It furthers the great American conservation ethic of John Muir, of Theodore Roosevelt, and of the many others who helped to preserve the great wild places we cannot imagine today living without."

SUWA's work to protect these irreplaceable elements of our natural heritage depends upon the leadership and courage of champions like Sen. Durbin and Rep. Lowenthal. We thank them. And we hope that if you live in Rep. Lowenthal's 47th California congressional district or in Sen. Durbin's state of Illinois, that you will thank them, too.

—Jordan Giaconia

Help Us Build Support for America's Red Rock Wilderness Act in the 114th Congress!

Write your legislators at:

The Honorable [Representative's name]
United States House of Representatives
Washington, DC 20515

The Honorable [Senator's name]
United States Senate
Washington, DC 20510

Or call your legislators at (202) 224-3121 (ask to be connected to the appropriate office)

Learn more at www.suwa.org/ARRWA

canyon country updates

Good
News!

Utah RMP Litigation Enters New Phase: Judge Tells BLM to Get to Work

In a ruling that raises serious questions about several other Bush-era land use plans in Utah, a federal district court judge has directed the Bureau of Land Management (BLM) to go back to the drawing board with the Richfield resource management and travel plan, and to do it with reasonable speed.

Specifically, Judge Dale Kimball directed the BLM to complete comprehensive cultural surveys and additional analyses over the next 1-3 years for lands within the Richfield resource management area.

Judge Kimball's long-awaited May ruling—a so-called “remedy decision”—follows the November 2013 decision in a suit conservationists brought against the Richfield plan. The court held that the plan violated several substantive laws but deferred a decision on the appropriate remedy until a second round of briefing was completed.

In the Richfield plan, which primarily covers lands between Capitol Reef and Canyonlands National

Parks, the BLM designated over 4,200 miles of dirt roads and trails for ORV use. That's the distance from Los Angeles to New York City and a good part of the way back. The BLM made the designations despite evidence that ORVs damage Utah's unique redrock landscapes, harm irreplaceable cultural resources, and cause conflicts with other public lands visitors.

Henry's, Dirty Devil at Risk

SUWA led a coalition of conservation groups in challenging the plan, hoping to stem the ORV damage to wilderness landscapes such as the Dirty Devil Canyon system (including Butch Cassidy's infamous hideout, Robber's Roost), the Henry Mountains (the last mountain range to be mapped in the lower 48 states) and Factory Butte.

Richfield's is just one of six land use plans—covering more than 11 million acres of eastern and southern Utah—that the Interior Department shoved



© Ray Bloxham/SUWA

The Richfield resource management and travel plan designated over 4,200 miles of dirt roads and trails for ORV use, threatening the solitude and wild character of places like the Henry Mountains proposed wilderness, pictured above.

canyon country updates

out the door as the Bush administration left office in 2008. The other five are of a piece with the Richfield plans: all wildly unbalanced in favor of off-road vehicle use and energy development. And all threaten Utah's redrock country.

Judge Kimball's decision flatly rejects the Utah BLM's "designate trails first, think later" approach to off-road vehicle management. And by setting forth strict timelines for the agency to undertake long-overdue inventories for cultural sites and to prepare necessary environmental analyses, the court has sent a clear message that the status quo is not acceptable. Utah's remarkable redrock landscapes deserve better!

The Obama administration, unfortunately, has continued to defend its predecessor's plans, both in court and in practice. We have challenged all six; the Richfield plan is the first to be litigated. Stay

tuned as we work to apply these decisions to the other five plans.

The coalition of conservation groups challenging the plans includes SUWA, the Sierra Club, the Grand Canyon Trust, the National Parks Conservation Association, The Wilderness Society, the Natural Resources Defense Council, the Utah Rivers Council, Great Old Broads for Wilderness, the National Trust for Historic Preservation and Rocky Mountain Wild.

Representing the groups are attorneys Heidi McIntosh and Robin Cooley of Earthjustice, Steve Bloch and David Garbett of SUWA, and Robert Wiygul of Waltzer, Wiygul and Garside. Attorneys Nada Culver and Alison Flint of The Wilderness Society are also part of our legal team.

—Steve Bloch

What the Judge Said and Why It Matters

Conservationists won their 2013 challenge to the BLM's Richfield resource and travel plans. But whether that victory was more than Pyrrhic depended on what followed.

Yes, the plans were legally flawed. But how do we fix them and on whose schedule? Vague direction without deadlines could have rendered the ruling with little meaning in practical terms; the BLM has raised foot-dragging and willful misunderstanding to high art. Judge Kimball's remedy ruling undercuts both those tendencies.

Judge Kimball:

- Directed the BLM to prepare new analyses within three years documenting that the agency's off-road vehicle designations minimize impacts to a number of specific resources including wildlife, non-motorized recreation, and riparian areas.
- Directed the BLM to complete intensive, on-the-ground surveys for historic and cultural resources within three years for all designated routes.
- Agreed with SUWA and our coalition partners that the BLM should begin its work with all routes in the area between Capitol Reef National Park, the Henry Mountains, and the Green River. He wants this work completed within one year of his May 22 order.

Judge Kimball gave the agency six months to issue a new decision on whether to designate the Henry Mountains as an Area of Critical Environmental Concern. That status would give heightened protection to its bison herds and large expanses of remote, spectacularly scenic lands. And he directed the agency to issue a new decision within a year on whether Happy Canyon and portions of Buck and Pasture Canyons are eligible for protection under the Wild and Scenic Rivers Act.

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RS 2477 Question Heads to the Utah Supreme Court

Revised Statute 2477 provides in its entirety: “the right of way for the construction of highways across public lands, not reserved for public uses, is hereby granted.” Congress repealed the law in 1976, but pre-existing claims—if proven legitimate—are honored as valid existing rights. This convenient loophole has allowed the State of Utah and its counties to pursue thousands of dubious (some outright ludicrous) right-of-way claims across Utah’s public lands in the interest of thwarting wilderness designation (see autumn/winter 2014 issue, p. 6).

Last summer, SUWA joined wilderness advocate and Tooele County, Utah, resident Michael Abdo to file a lawsuit challenging the legality of the State of Utah’s costly anti-wilderness RS 2477 litigation.

Our argument is simple: Utah law prohibits the state from filing a quiet title action more than seven years after the state’s right or title to the property accrued. Any right or title to an RS 2477 right-of-way necessarily accrued in 1976, when Congress repealed RS 2477 with the passage of the Federal Land Policy and Management Act. Accordingly, the state and counties had only until 1983 to bring suit; their statewide RS 2477 cases, filed in 2012, missed the statutory cutoff by nearly 30 years.

We brought our case, captioned Michael Abdo v. Sean D. Reyes, with one goal in mind: to have Utah courts hold the state and counties accountable to Utah law. We may hit that goal much sooner—and much differently—than we expected.

In April, three federal judges overseeing the state’s and counties’ RS 2477 cases formally asked the Utah Supreme Court to interpret the very provision of Utah law that is at issue in our state court case. Specifically, the federal judges asked the Utah Supreme Court whether the state law (Utah Code § 78B-2-201, for those inclined to detail) is a statute of limitations or a statute of repose.

If this leaves you at bit at sea, you are in good company. Many lawyers have never run into this arcane feature of the law. The difference is a subtle one but with huge consequences. Both statutes of limitations and repose prevent a plaintiff (here, the state

and counties) from filing suit after a certain time. A statute of limitations measures that time from the event (most often an injury) giving rise to a plaintiff’s legal claim. Imagine you’ve been rear-ended on the freeway. A statute of limitations would require that you sue the negligent driver within a certain time after the date of the accident.

A statute of repose, on the other hand, measures that time from an independent event unrelated to a legal claim. That’s just how this Utah law operates: it prohibits the state and counties from suing over real property (like a right-of-way easement) more than seven years after “the right or title to the property accrued.” The accrual date, 1976 at the latest, started the clock. It’s a common-sense law for real property. The limitation gives landowners, both private and public, certainty and protection from stale lawsuits.

By asking (or, in legalese, “certifying”) their question to the Utah Supreme Court, the three federal judges have essentially fast-tracked our state law case to the state’s highest court. And that could mean a quick end to the state’s long-expired lawsuits. The judges’ certification order recognizes that “if SUWA’s assertion is correct”—and § 78B-2-201 is a statute of repose—“then the RS 2477 road cases pending before this court would be barred.”

This is an exciting turn and we’ll keep you updated as the case moves along.

—Joe Bushyhead

Good
News!

Indian Creek ATV Trail On Hold (for Now)

The Interior Board of Land Appeals (“Board”) recently issued an order prohibiting construction of the Indian Creek ATV trail pending appeal. The order—triggered by a “Petition for Stay” filed by SUWA, the Grand Canyon Trust, Sierra Club, and the Great Old Broads for Wilderness—prohibits construction of 6.4 miles of new ATV trail and three associated parking areas in Indian Creek until the Board rules on the legal merits of our administrative appeal.

In its ruling, the Board validated our argument that agency actions resulting in a permanent loss of

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© Steve Bartlett

The Interior Board of Land Appeals has halted construction of a new ATV trail in the scenic Indian Creek area until a ruling is made on our appeal.

BLM-identified wilderness character lands constitutes “irreparable harm” and determined that there is a “sufficient likelihood of success” on at least a portion of our legal claims.

The BLM’s Monticello field office irresponsibly approved construction of the Indian Creek ATV trail in February of 2015 (see our Spring 2015 issue, p. 15). Originally proposed by the pro-motorized recreation, anti-conservation leaders of San Juan County, the purpose of the ATV trail is to facilitate increased motorized use in the Indian Creek corridor by linking the proposed trail to an existing ATV trail network.

If implemented, the new trail will result in increased ATV use in and near Lavender Canyon, Davis Canyon, and Bridger Jack Mesa—areas bordering Canyonlands National Park that currently see very little motorized recreational use. What’s more, the trail will bisect an area that the BLM itself identified as possessing wilderness characteristics and which is proposed for wilderness designation in America’s Red Rock Wilderness Act.

The Indian Creek corridor is the gateway to the Needles District of Canyonlands National Park and is world-renowned for its abundance of cultural resources and quiet recreation opportunities. We

are hopeful that the Board will ultimately rule in a manner consistent with protecting this irreplaceable landscape for future generations.

—Neal Clark

More Motorized Madness for Labyrinth Canyon

The BLM’s Price field office appears determined to greatly increase motorized use in the Labyrinth Canyon and San Rafael River regions. What the agency is now cooking up will create a growing web of routes across the now-quiet reaches of Labyrinth Canyon in particular. The destructive potential will dwarf what even the Bush administration’s ugly travel plans imposed on this wild area.

The earlier BLM motorized travel plan dealt jointly with Labyrinth Canyon and the San Rafael Swell. While that combined plan resulted in the agency designating large motorized sacrifice zones—in places like Sids Mountain Wilderness Study Area, Head of Sinbad, Temple Wash, and Behind the Reef—the plan promoted a quieter, wilder recreational experience for Labyrinth itself. The direction the BLM is now heading will likely change that,

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shattering the quiet of what remains a relatively isolated place by making it yet another Mecca for recreational vehicles.

The core of the BLM's decision-making on this travel plan is an inventory of what the agency euphemistically calls "linear features." What it is really talking about are such things as old, reclaimed seismic lines—hundreds of miles of them—now thick with blackbrush and shifting desert sands. It is also talking about expanding motorized use on former locations of damaging motorcycle races. The BLM is hungry to formally declare these "linear features" routes and to thereby promote more motorized activity.

What's at stake is one of the area's more remote and undeveloped landscapes. The Price field office has already designated countless routes on the lands it manages; Labyrinth's magnificent landscape should be preserved for its remarkable wild character.

A prudent Price BLM would pay some attention to the recent legal victories SUWA has achieved against the 2008 BLM travel plans elsewhere in the state (see article on p. 12) . . . and know that we will continue to combat such irresponsible nonsense on our public lands.

—Ray Bloxham



© Ray Bloxham/SUWA

The BLM has inventoried countless "linear features" such as this one (can you find it?) and is using them to potentially justify ORV route designations, greatly increasing motorized use within the Labyrinth Canyon region.

A Handcart Invasion on Cedar Mesa?

The BLM's Monticello field office is proposing to allow the Hole-in-the-Rock Foundation to guide hiking and handcart treks (reminiscent of early Mormon pioneer journeys) on three routes/trails in the Cedar Mesa area. The BLM's current alternatives would allow for a maximum of 250 participants per day, pulling handcarts and supported by motor vehicles. Approximately 90 percent of this activity would occur over a 13-week "high use" period from June 1st to August 31st. Based on recent BLM data, approving any of the proposed alternatives will result in an increase of 90 percent to 576 percent above current commercial and organized group use levels!

Although the BLM has considered a number of alternative proposals, all of them would allow total groups sizes of 250 people. For comparison, the Monticello Resource Management Plan currently only allows for a maximum of 12 people per group in all canyons within the Cedar Mesa Special Recreation Management Area.

As for handcart use, the Hole-in-the-Rock Foundation itself states that "handcarts were not part of the Hole-in-the-Rock journey." Therefore, putting the issue of permitted group size aside, the purpose of providing a historical experience can be met without the use of handcarts and the associated additional impacts to natural and cultural resources.

Cedar Mesa is known for its world-class cultural resources and wilderness-quality lands. The abundance and density of archaeological sites—from intact cliff dwellings to pristine rock art—combined with unparalleled solitude offer visitors a truly unique backcountry experience. This proposal has the potential to vastly change the current character of the Cedar Mesa area by adversely impacting both cultural resources and visitor expectations and experiences.

SUWA has submitted comments on the draft environmental assessment and will continue to work towards finding a reasonable solution to this currently ridiculous proposal. We'll keep you posted.

—Neal Clark

Landmark Anchors Tribal “Bears Ears” Monument Proposal



Navajo Mountain framed by the Bears Ears formation.

© Tim Peterson

The odds of seeing a new national monument in southern Utah improved considerably recently when the nonprofit Utah Diné Bikéyah (dinebikeyah.org) and several Native American tribes unveiled a 1.9 million-acre proposal named for one of the region’s most recognizable features, the Bears Ears.

The new monument proposal seeks protection for National Forest and BLM lands to the south and east of Canyonlands National Park, including Lockhart Basin and Indian Creek, Beef Basin, White Canyon, Cedar Mesa, Tables of the Sun, and the Bears Ears themselves. The proposal is wholly within San Juan County and the BLM lands proposed for protection overlap considerably with the San Juan County portion of America’s Red Rock Wilderness Act (ARRWA). The monument as proposed would be a significant step forward in protecting ARRWA lands in southeastern Utah.

The Bears Ears proposal also overlaps the Greater Canyonlands National Monument proposal; together they have in common more than 930,000 acres. We believe these proposals are complementary, rather than competitive, and we support them both.

The area boasts more than 100,000 cultural, archaeological, and historic sites. They range from Ice Age hunting camps to places of ancestral Puebloan occupation and to later use by Navajo and Ute people. Important resources include cliff dwellings, prehistoric villages, and historic dwelling sites and rock art panels, along with a range of artifacts from across that span of time.

More than a dozen tribes share ancestral ties to the Bears Ears landscape. We at SUWA believe that tribal interests in cultural resource preservation are compatible with other conservation values (such as wildlife, air and water quality, scenery, opportunities for solitude, and primitive forms of recreation). Indeed, the lands within the tribal monument proposal are places that SUWA has advocated for and worked to protect for more than 30 years.

Whatever the eventual boundary or name, there is no question that there is a pressing need for permanent, landscape-scale protection for southern Utah’s exceptional cultural and natural landscapes.

inside SUWA

Intern Karsyn Ansari Brings the Redrock to Summer Festivals and Fairs

Summer is a busy time for organizers, and interns make it possible to be in many more places so we can build a stronger Redrock Nation.

This year's summer organizing intern, Karsyn Ansari, has been a dandy. She is volunteering 20 or more hours per week, anchoring our community outreach at festivals, fairs, and special events, and also organizing college students around the state to help protect redrock wilderness.

A student in the University of Utah's Environmental Studies Department, Karsyn hails from New Jersey and is participating in a student exchange program that took her to the University of Hawaii Hilo campus and then on to Salt Lake City. When she's not working hard, she enjoys winter skiing, spending time in wilderness, and exploring our vast public lands. Thanks to Karsyn for all her help!



Summer intern Karsyn Ansari, right, with volunteer Dena Cohen-Copeland at the 9th West Farmers Market in Salt Lake City.



Thanks and best of luck to our spring legal intern, Taylor Smurthwaite.

Thanks to Taylor Smurthwaite, a Terrific Legal Intern

We thank Taylor Smurthwaite, our spring 2015 legal intern, for his exceptional work with us. Taylor helped our legal team on a broad range of issues, including RS 2477, travel management litigation, and SUWA's always-busy oil and gas docket.

Over the past several months, Taylor helped prepare administrative appeals, comments on energy development projects, and a memorandum on the U.S. Fish and Wildlife Service's decision not to list the Coral Pink Sand Dunes tiger beetle as endangered or threatened under the Endangered Species Act.

Taylor graduated in May from the University of Utah's S.J. Quinney College of Law. He will take the bar exam this summer in New York, where he plans on working for a few years before transitioning to a career in public interest environmental law. Good luck, Taylor, and thank you for all your hard work!

Best Wishes to Rebecca Johnston, Our Plucky D.C. Intern

When dozens of activists come to town for Wilderness Week, the thankless tasks around SUWA's Washington office multiply like rabbits. There's the endless printing, harried catering runs, early mornings and late nights, and the name tag organization. This year, there were snowstorms to boot. We couldn't have handled it all without our tireless intern Rebecca Johnston, who tackled tasks big and small with aplomb through Wilderness Week and beyond, all the while enduring a majorly long commute and earning her master's degree. Thank you, Rebecca!



Thanks to Rebecca Johnston for all her hard work in D.C.

Get Involved and Stay Connected at SUWA.ORG



SUWA's newest t-shirt is available online (attorney not included).

Follow Us . . .

Check out our *Redrock Headlines* blog at suwa.org/blog for news, alerts, and commentary on Utah wilderness issues posted by SUWA staff and guests. You can also follow us on Facebook (facebook.com/SouthernUtahWildernessAlliance) and Twitter (twitter.com/SouthernUTWild).

Make a Secure Online Donation

SUWA's critical work advocating for and protecting the wild lands of southern Utah is primarily funded by individual contributions. If you are not yet a member, please join us today. Annual dues are just \$35. You can easily join or renew online through our secure donation form at www.suwa.org/donate. SUWA is a non-profit 501(c)(3) organization, so contributions are tax-deductible to the extent allowed by law.

← Order Your New SUWA T-Shirt!

Be the first on your block to sport a brand new SUWA t-shirt! This 100% combed cotton tee features original artwork and is available for just \$20 on our website (sizes small through XXL). We also offer posters, books, hats, *Wild Utah* DVDs, and gift memberships—all of which make great gifts for that wilderness lover on your shopping list. To view our online product catalogue, go to suwa.org/goodies.

inside SUWA**Thank You SUWA Business Members!**

SUWA's Business Membership Program is a great way for your small business or company to support the protection of Utah's redrock country. If you own a business and care deeply about protecting Utah's magnificent wilderness lands for future generations, please consider joining today. For an annual donation of \$150 or more, we'll print your company's name in our newsletter once a year and on our website at suwa.org/businessmembers. At higher levels of support we offer additional benefits, such as a featured spot in our monthly e-newsletter. For more information, please contact Michelle Farnsworth at (801) 236-3763 or michelle@suwa.org.

Listed below are businesses from Utah and across the country that currently support Utah wilderness through SUWA's business member program.

Entrada Members

(\$5,000+)

Hyperspod Sports, ID

Kayenta Members

(\$1,000-\$4,999)

Powderhound Marketing, CO

Treasure Mountain Inn, UT

Stone Forest Inc, NM

Black Diamond Equipment, UT

Imlay Canyon Gear, UT

Zion Mountain School, UT

Wingate Members

(\$500-\$999)

Injoy Productions, CO

Stephen L. Gilsdorf, CPA, AZ

Phillips Gallery, UT

Underwood Environmental, Inc, UT

Gospel Flat Farm, CA

Workspace Installations LLC, CT

Dammeron Corporation/Zion Canyon Brewery,
UT

Rocking V Cafe, UT

Words and Photographs by Stephen Trimble, UT

Moenkopi Members

(\$150-\$499)

Institute of Taoist Education and Acupuncture, Inc,
CO

Community Builders Cooperative, MA

Manning Curtis Bradshaw & Bednar, UT

Baked In Telluride, CO

Caffe Ibis Coffee Roasting Co, UT

Four Crows Photography, MA

Ody Brook Enterprises, MI

Carl May, Biological Photo Service, CA

Real Estate By Mosaic, CO

Clayhaus Photography, UT

A Wanderlust Adventure, CO

Brown Bag Farms, CA

Dabney & Dabney PC, UT

Glenn Randall Writing and Photography, CO

Horsethief Ranch, CO

Maui Mountain Environmentally Friendly Coffee,
HI

With Gaia Design, UT

Adventure Safety International, UT

Alta Lodge, UT

Inkwater Press, OR

Peter Boehringer Photography, NM

Select Stone, Inc, MT

Steven Lamb Attorney at Law, KY

Tom Till Gallery, UT

Trio Restaurant Group, UT

William Stone Photography, NM

Paul Fuller Massage Therapy, CO

Spring Lake Publishing, UT

Matheson Design, OR

Boulder Mountain Lodge, UT

Consulting Psychologists, AZ

Dennis Chavez Development Corporation, NM

Moab Cliffs and Canyons, UT

Polar Equipment, CA

Richard Farrell CPA, CO

Rupestrian CyberServices, AZ

Streamline Bodyworks, LLC, UT

Deanna Rosen LCSW, UT

Leslie Peterson, ND, Naturopathic Physician, UT

Nichols Expeditions, UT

City Cleaners, Inc, UT

Muench Photography Inc, NM

Neiman Wealth Management, LLC, FL

Pack Rat Outdoor Center, AR

James Kay Photography, UT

Make a Longterm Investment in Utah Wilderness

Join Our Monthly Giving Program

If you're looking for a convenient, hassle-free way to help SUWA over the longterm, our monthly giving program is for you. Monthly giving is easy and secure, and provides us with reliable, year-round funding to fight current and future attacks on Utah wilderness. Simply select a contribution of \$5 or more per month, enter your credit card information, and we'll do the rest. To sign up, go to suwa.org/donate, select a monthly amount, and check the recurring donation box.

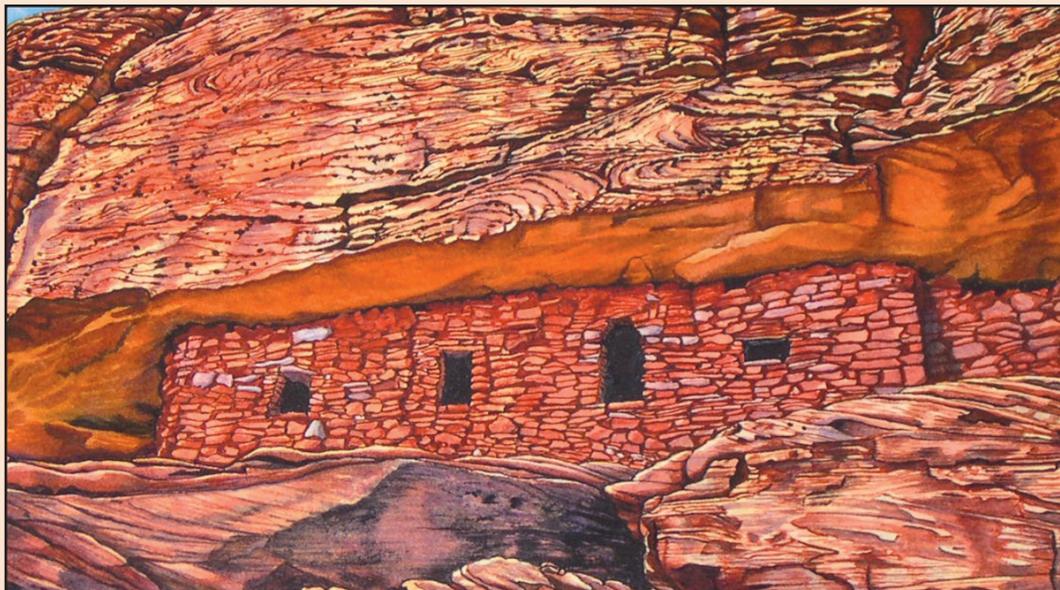
Leave a Legacy for the Redrock

Please consider leaving a gift to SUWA in your will or trust. Bequests are a simple, effective way for those of us who love the redrock to ensure that when we're gone, the work to protect these amazing landscapes continues.

A gift to SUWA from your estate—whatever the amount—is entirely free from federal estate taxes. This means we are able to use the full amount of the bequest to protect the redrock. Also, bequests generally are not subject to state inheritance or estate taxes. You can also create a bequest so that the needs of your heirs are taken care of first.

A bequest for SUWA (or any other charitable organization) is very simple to establish. Just name the Southern Utah Wilderness Alliance in your will, trust, retirement plan, or life insurance policy, along with our contact information and tax I.D. number and the dollar amount or percent of your estate you wish to contribute.

If you'd like to make a gift to SUWA or have already included a gift to SUWA in your estate, please contact Deeda Seed at deeda@suwa.org or (801) 428-3971. You can also visit us online at suwa.org/plannedgiving.



Artwork by Pat Priebe-Swanson.

inside SUWA

Give a Gift Membership and Save \$10!

If you share a love of the outdoors with your friends, why not share your activism too? Gift memberships make wonderful gifts for birthdays and holidays. Simply mail in this form with **\$25 for each membership** (a \$10 savings) or order online at **suwa.org/goodies**.

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Please make your check payable to SUWA or include credit card information below (VISA, MC, AMEX, DISC):

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**SUWA, 425 E. 100 S.
Salt Lake City, UT 84111**

Order a Copy of SUWA's Wild Utah Video on DVD

SUWA's popular multi-media slideshow, *Wild Utah! America's Redrock Wilderness* includes video interviews, stunning photos, and compelling narration by longtime wilderness activist Robert Redford. These DVDs make great gifts and educational tools!

Please send _____ copies of the *Wild Utah DVD* at \$10 each (includes shipping).

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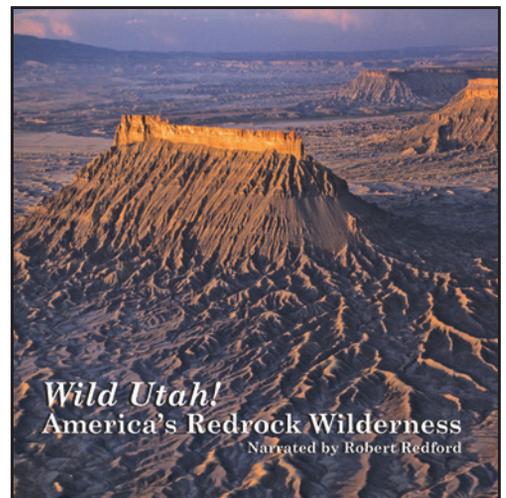
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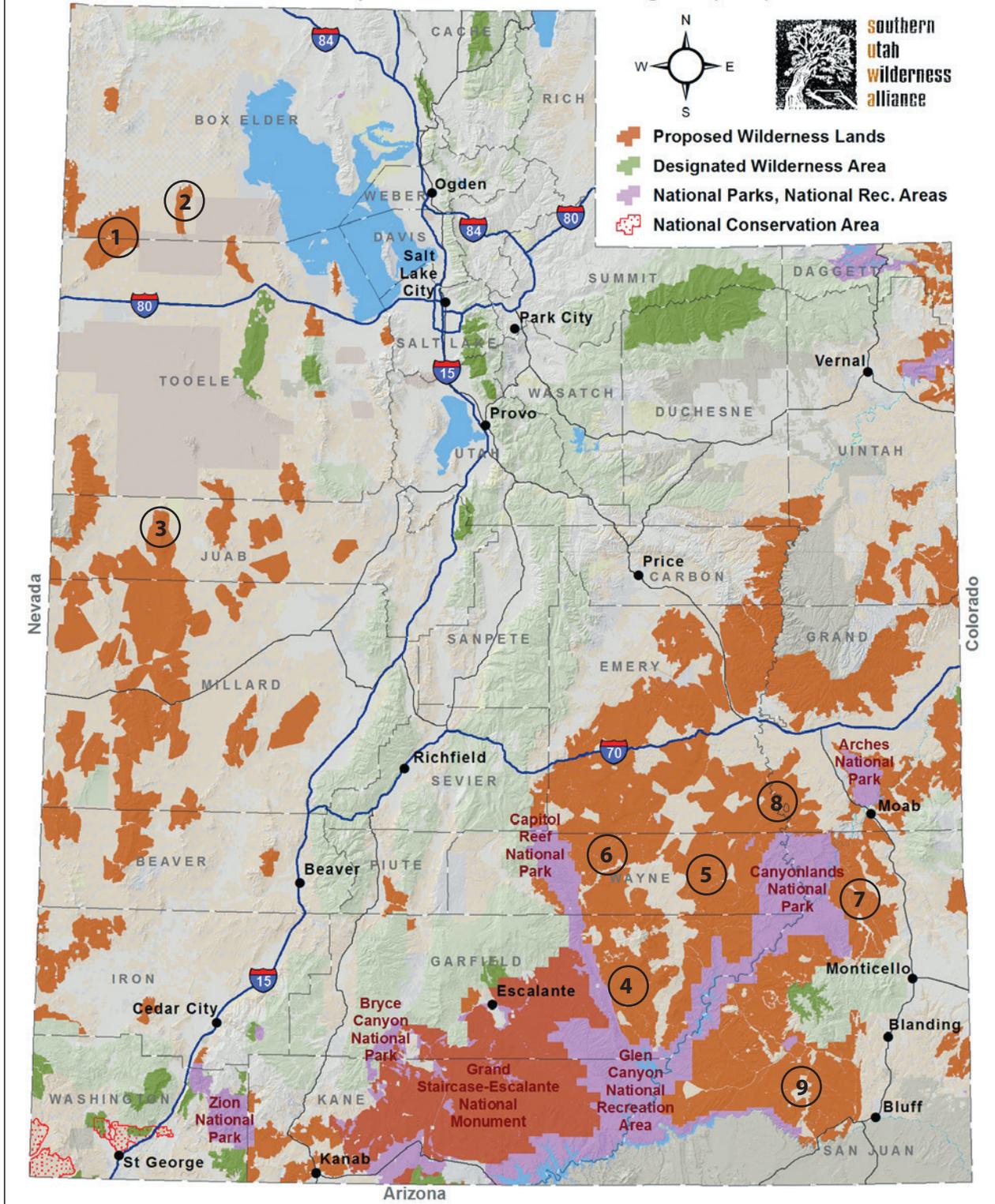
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Wild Utah DVDs can also be ordered online at **suwa.org/goodies**.

America's Red Rock Wilderness Act

ACitizen's Wilderness Proposal for Bureau of Land Management (BLM) lands in Utah



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Labyrinth Canyon, copyright James W. Kay (www.jameskay.com).

“I have found that people go to the wilderness for many things, but the most important of these is perspective. They may think they go for fishing or the scenery or companionship, but in reality it is something deeper. They go to the wilderness for the good of their souls.”

—Sigurd Olson