

David C. Reymann (8495) (dreymann@parrbrown.com)
Austin J. Riter (11755) (ariter@parrbrown.com)
PARR BROWN GEE & LOVELESS, P.C.
101 South 200 East, Suite 700
Salt Lake City, Utah 84111
Telephone: (801) 532-7840

Attorneys for Plaintiff Southern Utah Wilderness
Alliance

IN THE THIRD JUDICIAL DISTRICT COURT
SALT LAKE COUNTY, STATE OF UTAH

SOUTHERN UTAH WILDERNESS
ALLIANCE, a Utah non-profit corporation,

Plaintiff,

vs.

KANE COUNTY COMMISSION and
GARFIELD COUNTY COMMISSION,

Defendants.

COMPLAINT

(Tier 2)

Case No. _____

Judge _____

Pursuant to Utah Code §§ 52-4-303(3), Plaintiff Southern Utah Wilderness Alliance (“SUWA”) hereby complains of Defendants Kane County Commission (“KCC”) and Garfield County Commission (“GCC”) (collectively, “Defendants”), and for its claims alleges as follows:

NATURE OF THE CASE

1. This case concerns Defendants’ violations of Utah’s Open and Public Meetings Act (the “Act”), Utah Code §§ 52-4-101, *et seq.*, by operating and conducting secret policy meetings with United States Secretary of the Interior Ryan Zinke (“Secretary Zinke”) during his trip to Utah on or about May 10, 2017 (the “Closed Meetings”).

2. The Closed Meetings flagrantly violated multiple provisions of the Act and, if left unchecked, would shield Defendants' activities on important public policy matters from the light of day and deprive Utah citizens of their right to have their public bodies "conduct their deliberations openly." Utah Code § 52-4-102(2)(b). SUWA brings this action to address this threat and put a stop to Defendants' backdoor policy discussions with high-level government officials.

PARTIES, JURISDICTION, AND VENUE

3. SUWA is a Utah non-profit corporation with its principal place of business located in Salt Lake County. It promotes local and national recognition of the unique character of Utah's remaining wild lands through research and public education; supports both administrative and legislative initiatives to permanently protect Utah's wild places; builds support for such initiatives on both the local and national level; and provides leadership within the conservation movement through advocacy for wilderness preservation. Its membership consists of citizens from all over Utah (including in Kane County and Garfield County) and throughout the rest of the nation.

4. KCC is a legislative and executive body of Kane County and is therefore a "public body" within the meaning of Utah Code § 52-4-103(9)(a). It consists of two or more persons; it expends, disburses, or is supported in whole or in part by tax revenue; it is vested with the authority to make decisions regarding the public's business; and it does not fall within any of the exceptions to the Act's definition of "public body" set forth in Utah Code § 52-4-103(9)(a)(c). KCC's mailing address is 76 North Main Street, Kanab, Utah 84741.

5. GCC is a legislative and executive body of Garfield County and is therefore a “public body” within the meaning of Utah Code § 52-4-103(9)(a). It consists of two or more persons; it expends, disburses, or is supported in whole or in part by tax revenue; it is vested with the authority to make decisions regarding the public’s business; and it does not fall within any of the exceptions to the Act’s definition of “public body” set forth in Utah Code § 52-4-103(9)(a)(c). GCC’s mailing address is 55 South Main Street, Panguitch, Utah 84759.

6. This Court has jurisdiction over this matter pursuant to Utah Code §§ 52-4-303(3) and 78A-5-102.

7. Venue is proper in this Court pursuant to Utah Code § 52-4-303(3).

8. SUWA seeks a decree that Defendants’ Closed Meetings with Secretary Zinke violated the Act pursuant to Utah Code § 52-4-303(3)(b), as well as an injunction compelling Defendants’ compliance with the Act and enjoining Defendants from further violating the Act pursuant to Utah Code § 52-4-303(3)(a). Because such relief is non-monetary in nature, SUWA is entitled to standard discovery as described for Tier 2 under Rule 26(c)(3) of the Utah Rules of Civil Procedure.

GENERAL ALLEGATIONS

9. In two separate Closed Meetings on or about May 10, 2017, all three members of the KCC, and all three members of the GCC, met with Secretary Zinke while he was in Utah.

10. On information and belief, the subject matter of the discussions at the Closed Meetings involved, among other things, the possible partial revocation of the Grand Staircase-Escalante National Monument; its potential implications for Kane County’s and Garfield

County's political, economic, business, and development interests and relationships; and other similar matters over which Defendants exercise jurisdiction and/or advisory power.

11. Defendants did not publicly notice the Closed Meetings.

12. Nor did Defendants permit any members of the public to attend or otherwise participate in the Closed Meetings, including members of SUWA who were in Kane County and Garfield County when the meetings occurred, and who would have attended and participated if Defendants had properly noticed the meetings under the Act and kept the meetings open to the public.

FIRST CAUSE OF ACTION
(Violation of Utah's Open and Public Meetings Act)

13. SUWA incorporates by this reference the foregoing allegations of this Complaint as though fully set forth herein.

14. Defendants are "public bodies" within the meaning of Utah Code § 52-4-103(9)(a).

15. "Quorums" of Defendants were present at each of the Closed Meetings within the meaning of Utah Code § 52-4-103(11)(a).

16. As set forth above, on information and belief, the Closed Meetings involved discussions that directly affects multiple matters over which Defendants exercise jurisdiction and/or advisory power. *See id.* §§ 52-4-103(6)(a); *id.* § 52-4-103(3).

17. The Closed Meetings were "meetings" within the meaning of Utah Code § 52-4-103(6)(a).

18. None of the reasons for proper closure of a meeting—which are limited and narrow in light of the strong public policy favoring access—applies here. *See id.* § 52-4-204.

19. Defendants have violated the Act by virtue of the conduct alleged herein, and SUWA has been denied rights as a result of such conduct, including:

- a. The right to a minimum of 24-hours' public notice of the Closed Meetings, including notice of their agenda items, dates, times, and places, *see* Utah Code § 52-4-202;
- b. The right to attend, understand, and otherwise participate in the meetings (which, on information belief as discussed above, involved discussion of important public policy matters going to the very heart of SUWA's organizational mission), *see id.* § 52-4-201(a);
- c. The right to creation of—and access to—written minutes and recordings of the meetings, *see id.* § 52-4-203; and
- d. The rights to be present for, understand the alleged basis of, and object to any attempt by Defendants to close the meetings, and to require two-thirds of the KCC, and two-thirds of the GCC, to publicly announce and record in minutes any votes by name for closure, the alleged reasons for closure, and the locations of the closed meetings. *See id.* § 52-4-204.

20. SUWA accordingly is entitled to a decree that the Closed Meetings violated the Act pursuant to Utah Code § 52-4-303(3)(b).

21. SUWA is further entitled to an injunction compelling Defendants' compliance with the Act and enjoining Defendants from further violating the Act pursuant to Utah Code § 52-4-303(3)(a).

PRAYER FOR RELIEF

WHEREFORE, SUWA demands judgment against Defendants as follows:

1. For a decree that the Closed Meetings violated the Act pursuant to Utah Code § 52-4-303(3)(b);

2. For an injunction compelling Defendants' compliance with the Act and enjoining Defendants from further violating the Act pursuant to Utah Code § 52-4-303(3)(a); and

3. For such other and further relief as this Court deems reasonable and just.

DATED this 15th day of August 2017.

PARR BROWN GEE & LOVELESS, P.C.

/s/ David C. Reymann

David C. Reymann

Austin J. Riter

Attorneys for Plaintiff Southern Utah Wilderness Alliance

Plaintiff's Address:

425 East 100 South

Salt Lake City, Utah 84111