



REDROCK

W I L D E R N E S S

The Newsletter of the Southern Utah Wilderness Alliance
VOLUME 37, NUMBER 1 • SPRING 2020

**ROADS TO RUIN: HOW A CIVIL WAR-ERA LAW
CONTINUES TO THREATEN UTAH'S WILDERNESS**



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.

SUWA is qualified as a non-profit organization under section 501(c)(3) of the federal tax code. Therefore, all contributions to SUWA are tax-deductible to the extent allowed by law.

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This issue of *Redrock Wilderness* was written by the following staff and outside contributors: Steve Bloch, Joe Busyhead, Clayton Daughenbaugh, Scott Groene, Jack Hanley, Maddie Hayes, Katherine Indermaur, Olivia Juarez, Kya Marienfeld, Landon Newell, Dave Pacheco, Laura Peterson, Chris Richardson, Jen Ujifusa, and Oliver Wood. It was edited by Darrell Knuffke and laid out by Diane Kelly. Newsletter design by Amy Westberg.

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BEAUTY AND A BEASTLY PANDEMIC

It is strange, this spring in Moab, as it surely is everywhere else. I ride my bike quietly back and forth to my otherwise vacant office on Main Street along empty sidewalks typically jammed with tourists. Last night I coasted home down the middle of the five-lane state highway, unmolested by the phalanx of jeeps and utility terrain vehicles (UTVs) that normally parade during the Easter Jeep Safari. There are no planes in the sky to diminish Venus's dazzling evening display. Amid the fear and sickness, beauty remains.

Even as we are inundated with coverage of the coronavirus pandemic, we remain awash in uncertainty. We have nothing to add to that topic. So we will stick to what we know best: the redrock, the threats it faces, and how to defeat them. In other words, expect a traditional SUWA newsletter.

Still, it is impossible to completely avoid the disease in our report because it is impossible to ignore the toxic confluence of the pandemic and the Trump administration. Now should be a time to come together single-mindedly, to focus on the virus, to survive it—but we are denied that luxury.

The Trump administration knows that people preoccupied with a life-and-death threat have little capacity for tracking environmental malfeasance. It has found in the pandemic the perfect smoke-screen behind which to ramp up its assault on our environment, including Utah's public lands.

OPPORTUNISM AT ITS WORST

The administration recently suspended enforcement and civil penalties for energy companies and refineries. It seeks to block public scrutiny of the Bureau of Land Management's (BLM) large-scale destruction of piñon-juniper forests and sagebrush communities. It means to push electric bicycles (more like motorcycles with every iteration) onto non-motorized trails. It's moving toward what could be its biggest Utah energy lease sale in September.

Our public lands face a horror show of exploitation as former fossil fuel lobbyist David Bernhardt abuses the role of Interior Secretary and anti-public-lands zealot William Pendley demeans the post of BLM director. That pairing means extraordinary political pressure on local BLM officials. And too often the agency response is to scrub its mission and fold like a house of cards. The worst of Trump's backward campaign promises consume the agency's sparse resources: wholesale energy leasing in a time of climate crisis; a new coal mine in the Book Cliffs as the Age of Coal collapses; and even more uncontrolled off-road vehicle use across the desert.

We respond to this corrupt administration in every way we can, though we're mostly working from home, limited in our travel, and bereft of events at which we can make our voices heard and our presence felt. Thankfully, the courts are still open. We're currently involved in a dozen lawsuits and half a dozen administrative appeals.

LATEST IN A LONG LINE

The political appointees in place at the Interior Department share the anti-public-lands bent of most Utah politicians. Here in the Beehive State, it starts with the governor and permeates the Utah congressional delegation; the only exception is Rep. Ben McAdams.

We once hoped that freshman Rep. John Curtis might join McAdams as a public lands moderate. But Curtis seems destined to be another Rob Bishop, with cuter socks. He introduced legislation for Bears Ears National Monument that the Tribes vigorously opposed, and terrible legislation for the San Rafael Swell (both bills died well-deserved deaths). He has also aggressively and dishonestly fought America's Red Rock Wilderness Act.

As the courts are our defense against Trump, congressional champions like Sen. Dick Durbin of Illinois and Rep. Alan Lowenthal of California remain our bulwark against the Curtises in Congress. We have this protective strength because of you and thousands of other redrock lovers who have spoken out for the canyon country over the many years.

OUR GOAL IS UNCHANGED

SUWA remains focused on the goal of defending and protecting 9.5 million acres of Utah's redrock country. It's what we do, day in and day out, even in such times as these.

Especially now, it's worth reflecting that together we've gained protection in some form for 4,696,886 acres. When we win back Grand Staircase-Escalante and Bears Ears National Monuments, that figure will again rise to 5,575,594 acres.

Canyon country wilderness mattered five months ago. It matters now and it will matter even more when our children introduce their children to it. Our challenge is to keep it wild in the face of an administration willing to use human fear and suffering as a distraction from its destructive aims. The coronavirus has complicated our work but hasn't stopped it. We're doing our best. And thanks to you, our best is pretty damned good.

Please take care of yourselves in this strange and dangerous time.

For the Redrock,



Scott Groene
Executive Director

ROADS TO RUIN: HOW A CIVIL WAR-ERA LAW CONTINUES TO THREATEN UTAH'S WILDERNESS

As regular *Redrock Wilderness* readers will know, there has been considerable activity these past few years in the long-running RS 2477 litigation brought by the State of Utah and many Utah counties. The right-of-way claims at issue pose one of the most significant threats to Utah wilderness, yet they rarely grab front page headlines. If the plaintiffs win, it will open the door for the state and counties to literally carve up the landscape with thousands of “improved” and widened roads—even where none were discernable before.

Since the Trump administration took power, the state and counties have stepped up their efforts to win, either in court or by settlement (see sidebar on page 10). It is useful to recap, in what we hope are manageable bites, what it all means and how we got where we are today.

WHAT ARE RS 2477 RIGHTS-OF-WAY?

The obscure statute reaches back to the Mining Act of 1866. We now know its 20 words as “Revised Statute 2477.” Its goal was to encourage settlement and development of the

American West. Here it is in its totality: “[t]he right of way for the construction of highways across public lands, not reserved for public uses, is hereby granted.”

There is a lot to unpack in those few, deceptively straightforward words. We’ve included something of a glossary to help sort it out (see sidebar, opposite page).

Understanding the ancient statute and the current battle requires jumping ahead to explain the role of the Federal Land Policy and Management Act (FLPMA). The crucially important term “valid existing rights” does not appear in the old law but does in FLPMA. The Congress repealed RS 2477 via FLPMA in 1976 but preserved valid existing rights established before then. RS 2477 litigation revolves around establishing a factual record as to which of those claimed prior rights are valid, which not. The plaintiffs’ claims will largely rise and fall on just that question.

To complicate matters further, RS 2477 has been described as having created a free-standing offer by the United States. It required no formal paperwork for a claim on one end, no



THIS RS 2477 CLAIM IN THE FIFTYMILE MOUNTAIN WILDERNESS STUDY AREA (GRAND STAIRCASE-ESCALANTE NATIONAL MONUMENT) IS ONE OF 15 CURRENTLY AT PLAY IN THE BELLWETHER TRIAL. © SUWA

formal federal acceptance of a claim on the other. The validity of RS 2477 claims often can't be researched in local or federal property records; they have to be proven in federal court . . . which leads us to the matter at hand.

THE LARGEST SUITE OF LITIGATION UTAH EVER FILED

The most expansive litigation Utah has ever brought was not against the tobacco industry or polluters that damage public health. That distinction goes to the decades' long assault on wilderness through 14,000 RS 2477 claims totaling more than 35,000 miles (see map on page 8). The claims cross wilderness and wilderness study areas, lands proposed for wilderness in America's Red Rock Wilderness Act, national monuments, and national parks and recreation areas.

Pushed by rural legislators, the state has dumped tens of millions of dollars into pursuing these cases. Today, it has more than a dozen attorneys and staff focusing almost exclusively on RS 2477. That doesn't include the legion of private attorneys who represent Kane County and a handful of others in these cases, largely paid for by Utah taxpayers.

Because these cases present such a threat to our goal of durable protection for redrock wilderness, SUWA has assembled its own team. It includes attorneys from national and local firms, working pro bono or at much-reduced rates, along with SUWA's in-house attorneys and other staff. Together, we have pushed the lawyers representing the United States to do a better job.

FIGHTING FOR A SEAT AT THE TABLE

But we want the right to intervene as a full party in these cases and have fought hard for a seat at the table. The plaintiffs, and even the United States, have fought equally hard to keep us at arm's length. After years of see-sawing, the Tenth Circuit Court of Appeals issued a key ruling in June 2019 in one of the state and Kane County's RS 2477 cases saying that SUWA was entitled to intervene and participate as a full party. In March 2020 the circuit court declined to rehear the case—a sort of judicial assurance that it meant what it said in the first place. We're using that decision to push for the same rights as all the other parties and also seeking to re-open past hearings from which we were boxed out.

Despite all the money they've thrown at this litigation, things haven't been coming up all roses for the plaintiffs. In 2005 the state and San Juan County sued to establish a

WHAT DOES THAT MEAN? A GLOSSARY OF RS 2477 TERMS

Sometimes, the plain words of a statute are little help in understanding what's really going on, particularly when they figure in lawsuits. That is surely the case with RS 2477. Here are some key terms and what they mean today.

RIGHT-OF-WAY: This is the "right" to travel across a tract of land. The land owner can condition the right but not prohibit it. The right holder can maintain and in some circumstances even improve the route so it's wider and in better shape than it was in 1976. Thus, what was a narrow dirt trail in 1976 might become a two-lane graveled road in 2020.

CONSTRUCTION: Establishing the existence of a right-of-way under RS 2477 requires that the route was built. That can mean work with picks, shovels and bulldozers. But it can also mean the mere passage of vehicles over time. According to previous court rulings, it is possible to "construct" an RS 2477 solely through vehicle travel. Note that it demands public use: uses such as access to private land, grazing, or post-cutting do not count.

HIGHWAY: That term has been interpreted to mean that the route should either lead to a destination or connect two places. Routes that start and end nowhere or lead only to private land or operations may not count.

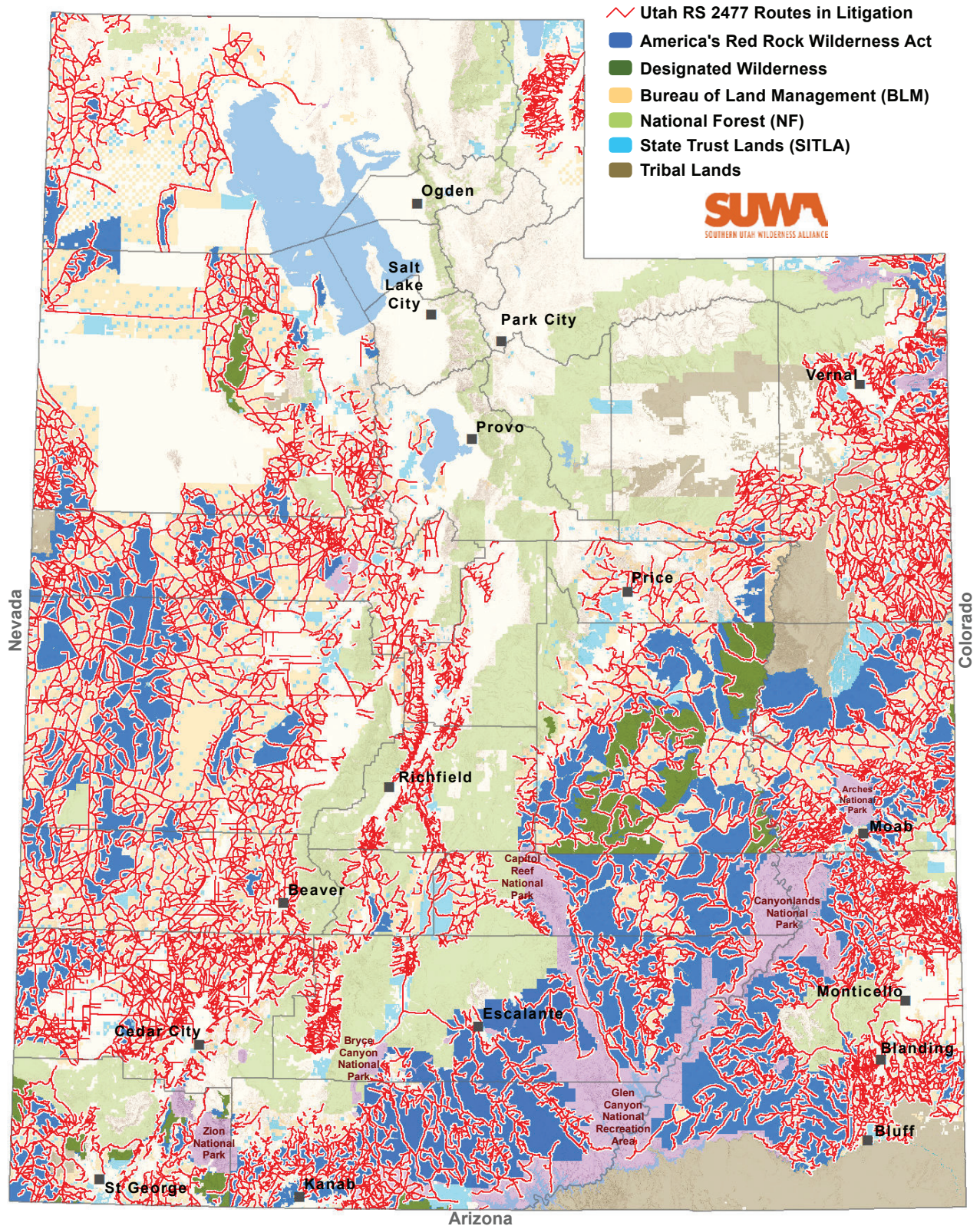
ACROSS PUBLIC LANDS: The RS 2477 litigation focuses solely on claims across federal public lands or lands that were federal at the time an RS 2477 is alleged to have been constructed (even if the lands are now state or privately held).

NOT RESERVED FOR PUBLIC USES: Did Congress reserve or withdraw the underlying public lands for any period before 1976? For example, Congress withdrew the public lands that would become Canyonlands National Park in 1962. This means that no RS 2477 right-of-way could be established after 1962 and that a claim of construction by use would have to span the years from 1952 to 1962, at the latest.

(Continued on page 9)

State of Utah's RS 2477 Litigation

14,500 Segments and 36,000 Miles



right-of-way in the streambed—yes, the streambed—of Salt Creek Canyon in Canyonlands National Park. The Tenth Circuit rejected the claim in 2014.

The state and Kane County brought another suit in 2008 involving 15 RS 2477 claims, each claim representing a specific route. That case ended in a divided ruling. The circuit court rejected several claims on procedural grounds and resolved a few in favor of the plaintiffs.

A TORRENT OF LAWSUITS

Then the floodgates opened. From 2010 to 2012, the state and various counties filed more than 20 additional RS 2477 lawsuits in Utah federal district court. In an effort to streamline these cases the federal court instituted a so-called “bellwether process.” It specified that the court and parties would focus on only a handful of cases, in a staggered format, and then attempt to apply the lessons learned from those cases to the larger suite of litigation. The first bellwether case out of the chute would be another case originating in Kane County and focusing on a different set of 15 RS 2477 claims.

The bellwether process was originally supposed to be handled by a “special master” (an out-of-state federal magistrate) but it instead ended up before a Utah federal district judge who now oversees all the RS 2477 cases. After years of skirmishing and delays, the bellwether trial went ahead in February in a three-week bench trial. The state, county and United States called witnesses who offered testimony about the bellwether claims. Had the routes been used before 1976? By whom? For how long? For what purpose? The federal government called expert witnesses including a historian and an aerial photography specialist.

All of this dragged on for the full three weeks without SUWA being permitted to play any active role other than advising the United States behind the scenes and during breaks. The judge refused to allow us to cross examine witnesses, to object to the introduction of evidence by the plaintiffs, or to call our own expert witnesses to testify.

What happened? As noted above, SUWA has fought to participate in the RS 2477 cases as a full party for years and finally won the right to do so last summer. Or so we thought. In response to the Tenth Circuit’s ruling that SUWA was entitled to intervene in a related RS 2477 case, the judge overseeing these cases restricted SUWA’s rights to participate more than ever. He announced that he would not follow the Tenth Circuit’s ruling until that court decid-

NOT JUST ANY OLD ROAD— A REALLY BIG ONE

For every claimed RS 2477 route, the state and counties seek a right-of-way measuring 66 feet wide (plus an extra, unspecified width for drainage ditches, run outs, and the like). Just how wide is 66 feet? Well, it’s 16 feet wider than a regulation basketball court. A 2020 Subaru Outback is just over six feet wide; eleven would fit in a right-of-way. So would ten 2020 Ford F-150 pickups. This is not just some two-track path through the desert.

ed whether to rehear its ruling as requested by the plaintiffs and the United States.

SOMETHING IS GROSSLY OUT OF WHACK

To be clear, that’s not the way things are supposed to work. We petitioned the Tenth Circuit to step in and order the district judge to follow the law. The circuit court agreed that there were problems but declined to right the wrong. The trial went ahead.

(A few days after the trial ended, the Tenth Circuit finally denied the plaintiffs’ request that it rehear its earlier decision that SUWA could participate fully. We have already filed a new motion to intervene as a full party in the bellwether case and intend to move for a new trial, citing the prejudice SUWA suffered by being forced to sit on the sidelines.)

The post-trial briefing, summarizing the trial testimony and testimony received through depositions, as well as all the documentary evidence as to whether the plaintiffs met their burden of proof for each route, continues and will run into early fall. Then the court will hear closing arguments and issue a written decision sometime down the line. If we succeed in our motion for a new trial, things would go back to step one or some intermediate step along the way.

SUWA BRINGS RELATED CASE TO UTAH SUPREME COURT

Just as the bellwether process began to pick up steam in 2015, three of the federal judges involved in the RS 2477 cases decided that a state law issue SUWA raised—whether

KEEPING AN EYE OUT FOR SETTLEMENT

Before President Trump had even taken office in January 2017, the State of Utah kicked into high gear and began plotting for a way to settle its RS 2477 litigation, or at least rekindle administrative shortcuts to resolve its RS 2477 claims.

One of the state's main emissaries to the Interior Department headquarters in Washington, DC is Kathleen Clarke, director of Utah's Public Land Policy Coordinating Office. Clarke is no stranger to the halls of Interior; she served as BLM Director under Interior Secretary Gale Norton from 2001-2006. Clarke has held a steady stream of meetings with her old counterparts from the Bush administration who are once again setting the nation's public land policies.

Over the past three years, SUWA has filed two Freedom of Information Act (FOIA) lawsuits in Washington, DC to obtain records related to Clarke and her colleagues' meetings, and has several other FOIA requests that are producing records without resorting to litigation. What we've seen so far has confirmed our fears: Clarke and other Utah officials hold regular meetings with political appointees at Interior and BLM, and RS 2477 is on almost every agenda (along with a grab bag of other terrible ideas).

We expect the state to ramp up the pressure to settle these cases as Trump's time in office winds down.



This isn't about a transportation network. It's about control over federal public lands, dressed up under the slogan of 'maintaining our western lifestyle.' To many Utah legislators and county commissioners that motto means the right to drive wherever you want, whenever you want."

the plaintiffs' lawsuits had all been filed too late and should thus be dismissed—needed to first be resolved by the Utah Supreme Court.

After over two years and a highly unusual two rounds of briefing and oral argument, we lost in a deeply divided 3-2 opinion. The majority agreed with us that a straightforward reading of the state law at issue meant that the state's cases had been filed too late, but then reached the remarkable conclusion that surely such an outcome was not what a reasonable Utah legislator from the early 1900s would have intended. The matter was sent back to federal court.

WHAT'S REALLY GOING ON HERE?

To hear the plaintiffs' version of things, the litigation is about keeping essential roads open, making sure kids get to school and products get to market. Let's get real. Neither any federal agency nor SUWA is suggesting that a maintained, paved, chip-sealed or graveled road should be closed. We may argue whether those are legitimate RS 2477 claims and who gets to say whether they are widened or improved, but the fact is those routes will almost certainly remain open.

The overwhelming majority of the claims, however, are for something altogether different: unmaintained dirt two-tracks, many invisible, and even stream bottoms. You won't find school buses on these dirt paths, but you'll see people roaring about on their off-road vehicles or ranchers driving around in the desert looking for their cows. This isn't about a transportation network. It's about control over federal public lands, dressed up under the slogan of "maintaining our western lifestyle." To many Utah legislators and county commissioners that motto means the right to drive wherever you want, whenever you want.

This is also a desperate fight over wilderness. Long ago, though well after Congress repealed RS 2477, the state and its counties came to realize that they had, in this ancient and arcane law, a weapon. Wielded successfully, it would allow them to riddle proposed wilderness areas with roads and thereby block wilderness designations. We've been onto that gambit for a while now. And fortunately, despite efforts to keep us out of these cases, we've forced our way in. With that entry, we can better defend our members' interests and protect Utah's remarkable redrock wilderness for current and future generations.

We've got a long fight ahead of us and are deeply grateful for your support.

—Steve Bloch

GOOD
NEWS

RED ROCK BILL REINTRO- DUCED IN 116TH CONGRESS

America's Red Rock Wilderness Act, which for ease of reference we call ARROWA, has now been introduced in both chambers of Congress—in the Senate in December and in the House in early February.

We have worked hard since then to gather cosponsors on the legislation to protect over 9 million acres of Utah's redrock country. With our champions, Sen. Dick Durban (D-IL) and Rep. Alan Lowenthal (D-CA), leading the charge, we now have 17 cosponsors in the Senate and 77 cosponsors in the House. Some of those came on board after volunteer activists from around the country visited their own members of Congress during Wilderness Week in February (see article on page 13).

Others are there because you bothered to ask for their support. SUWA

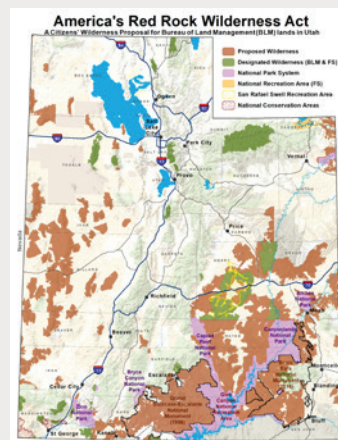
members have made all the difference in this campaign to make ARROWA the law that will protect the redrock. Invariably, when we ask, you respond. Your phone calls and visits to your representatives' offices, as well as personal contacts when members are back in their states and districts, have been a huge boost. Your requests and your personal stories are more persuasive with elected officials than you can imagine.

If you haven't already contacted your representatives in support of ARROWA, there's no time like the present! To see if your members of Congress have already cosponsored the legislation, visit suwa.org/cosponsors. To ask them to cosponsor the bill, go to suwa.org/sponsorARROWA.

—Chris Richardson



GOOSENECK OF THE COLORADO RIVER. © RAY BLOXHAM/SUWA



RECENT CHANGES TO OUR WILDERNESS PROPOSAL

You may notice changes to our map showing lands proposed for wilderness under America's Red Rock Wilderness Act (see page 23). While working with the Ute Indian Tribe on the Emery County legislation, we learned that the Tribe had filed litigation asserting that the Uncompahgre Reservation was never extinguished and that BLM management of lands therein is unlawful. This includes lands that we've proposed for wilderness.

We've discussed the issue with the Ute Business Council, and they asked us to remove these lands from our legislation so as to not undermine their litigation. We and the broader Utah Wilderness Coalition have agreed. This primarily affects our proposal in the southern half of Uintah County. On our recommendation, our House and Senate champions made these changes to the most recent version of the bill.

SUWA TESTIFIES AGAINST BLM CLEARCUTTING PRACTICES

One of the oldest tricks in politics is to hide bad intentions behind innocuous names. Such is the philosophy behind the Bureau of Land Management's (BLM) clearcuts on public lands.

The process is simple and grisly. An anchor chain is affixed to two bulldozers, then dragged across tens-of-thousands of acres of piñon and juniper forests, ripping trees from the ground by their roots and leaving a scarred and denuded landscape behind. Sometimes the trees are fed into a munching machine called, evocatively, a "bullhog masticator." That leaves a pile of woodchips where once a healthy desert forest stood.

Clearcutting disturbs the living soil crusts that hold the Colorado Plateau together. It wrecks habitat and in some cases destroys cultural resources. The agency gets away with it, in part, because it files this destruction under misleading labels such as "vegetation treatments" or "habitat restoration."

We hear a range of justifications for these projects: wildfire mitigation, watershed improvement, etc. But closer inspection often reveals that the chief motivation is to make more

rangeland for cattle. The money, like the rationalizations, springs from murky sources and evaporates before it can be fully traced. Late last year, the agency committed \$75 million over five years for these projects in Utah alone.

SUWA Wildlands Attorney Kya Marienfeld appeared before a House appropriations subcommittee in February to detail these facts and to describe the devastation clearcutting wreaks on western public lands. She also cited the dearth of accountability and oversight for the projects and their lack of any scientific rationale.

Peering at handouts showing the carnage left behind after one clearcut, Rep. Chellie Pingree (D-ME) asked Marienfeld the \$64,000 question: "Why are they doing this?" Why indeed!

SUWA has recently stopped some of these large-scale projects, including a 30,000-acre proposed clearcut in Grand Staircase-Escalante National Monument. Now, the Trump administration seeks to make public input even harder and transparency even less likely by loosening the National Environmental Policy Act rules that SUWA has leveraged to stop this destruction (see article on page 15).

For an in-depth interview on this subject, listen to our "Kya Goes to Washington" podcast at suwa.org/podcast.

—Jen Ujifusa



SUWA WILDLANDS ATTORNEY KYA MARIENFELD TESTIFIES BEFORE A HOUSE SUBCOMMITTEE ON THE BLM'S SCIENTIFICALLY UNSUPPORTED PRACTICE OF PIÑON AND JUNIPER FOREST CLEARCUTTING.

SENATORS CALL FOR SUSPENSION OF COMMENT PERIODS DURING COVID CRISIS

From sports to weddings to birthday parties, many daily activities have ground to a halt in our nation and worldwide due to the COVID-19 pandemic. But the Trump administration is barreling along on initiatives to change the National Environmental Policy Act, the Migratory Bird Act, and dozens of other policies while the public is distracted.

The comment periods for these proposed rulemakings remain open and the clock is ticking. That is a problem for millions of Americans who, whether out of work, working from home, or juggling care of loved ones through the pandemic, likely have not had the bandwidth to pay attention to unrelated public processes.

(Continued next page)

Sen. Tom Udall (D-NM) and Rep. Alan Lowenthal (D-CA) both recognized this unfairness and urged the administration to extend or suspend comment periods until the crisis has passed.

Udall led 21 other senators in a letter to Russell Voght, acting Director of the Office of Management and Budget, urging that all comment periods across agencies be extended indefinitely until the public has been cleared to safely gather again.

Joining Udall in that request were Sens. Jacky Rosen (D-NV), Sheldon Whitehouse (D-RI), Angus King (I-ME), Ron Wyden (D-OR.), Chris Van Hollen (D-MD), Dianne Feinstein (D-CA), Kamala D. Harris (D-CA), Ed Markey (D-MA), Brian Schatz (D-HI), Elizabeth Warren (D-MA), Jeffrey A. Merkley (D-OR), Amy Klobuchar (D-MN), Tammy Baldwin (D-WI), Martin Heinrich (D-NM), Jack Reed (D-RI), Michael F. Bennet (D-CO), Tina Smith (D-MN.), Mazie Hirono (D-HI), Maria Cantwell (D-WA), Sherrod Brown (D-OH), and Cory Booker (D-NJ).

Meanwhile, Rep. Lowenthal led 70 of his House colleagues in a similar letter to Interior Secretary David Bernhardt urging that his department either pause all comment periods and, upon reopening following the crisis, extend them an additional 45 days, OR continue the comment periods indefinitely, until 45 days after the end of the declared emergency.

We thank Sen. Udall, Rep. Lowenthal and all who joined them for urging the Trump administration to stop trying to sneak rulemakings through in the midst of a crisis.

Stay tuned for updates.

—Jen Ujifusa



WILDERNESS WEEK ACTIVISTS MET WITH MORE THAN 140 CONGRESSIONAL OFFICES IN LATE FEBRUARY. © SUWA

WILDERNESS WEEK BRINGS 28 ACTIVISTS TO NATION'S CAPITAL

Twenty-eight redrock volunteers traveled to Washington, DC in the waning days of February to participate in our annual Wilderness Week event. Their advocacy will lay the groundwork for the next big step forward in protecting Utah's magnificent wild lands.

The purpose of February's Wilderness Week was to ramp up support among members of Congress for America's Red Rock Wilderness Act—the flagship legislation for our redrock protection campaign. Fortunately, our activists completed their mission and were safely back home before the spread of COVID-19 brought air travel (and group events) to an abrupt halt.

The Utah Wilderness Coalition (whose leading organizations are SUWA, Sierra Club, and the Natural Resources Defense Council) coordinates Wilderness Week. Over the course of several days, our volunteers crisscrossed Capitol Hill and walked the marble corridors of Congress

wearing their highly visible “Protect Wild Utah” buttons. The volunteers came from Utah and 17 other states. Working together in 12 teams, they held more than 140 meetings with congressional offices.

Activists' efforts last year concentrated on the Emery County bill; its passage permanently protected 663,000 acres of wilderness in Utah's San Rafael Swell and Desolation and Labyrinth Canyons. Reintroduction of the redrock bill thus got a late start in the 116th Congress. Nevertheless, we're already up to 77 cosponsors in the House of Representatives and 17 in the Senate.

You can help us increase these numbers by urging your own members of Congress to cosponsor America's Red Rock Wilderness Act today (see article on page 11 for details).

—Clayton Daughenbaugh

**GOOD
NEWS**

LEGAL WINNING STREAK HOLDS ENERGY LEASING AT BAY (FOR NOW)

SUWA has long sought to force the Bureau of Land Management (BLM) to look before it leases. To that end, we filed two lawsuits last summer challenging the agency's oil and gas leasing decisions in Utah. Victories in both have bought us time in the effort to protect wild and culturally important landscapes from fossil fuel leasing and development.

The first of the two suits challenged the agency's decision to sell 35 parcels for development on public lands sandwiched between the Canyons of the Ancients and Hovenweep National Monuments to the east, and Bears Ears National Monument to the west. These are some of the most culturally rich lands in the United States.

In the second lawsuit, SUWA and the Center for Biological Diversity challenged the agency's decision to sell 130 leases in eastern Utah. These are located in important wildlife habitat, are adjacent to waterways including the Green

River, and are on lands with wilderness characteristics such as the Desolation Canyon and White River areas. By bringing these lawsuits, we forced the BLM to suspend all 165 leases, prepare new analysis on the climate impacts of the lease offerings and the ensuing development activity, and ultimately to reevaluate its decision to lease in these areas in the first place. While the leases are suspended, no surface disturbing activities can occur.

SUWA also forced the BLM to suspend more than 65 additional oil and gas leases through administrative appeals filed with the Interior Board of Land Appeals—an administrative board responsible for reviewing challenges to things like leasing decisions. These leases are located in the San Rafael Desert, near the Horseshoe Canyon portion of Canyonlands National Park, and on wilderness-quality lands in the Labyrinth Canyon area. The BLM must now re-analyze the climate impacts of offering these leases for development.



KEEPING DRILL RIGS OUT OF THE REDROCK

The cumulative effect of these wins is substantial. In the last year, we have compelled the BLM to suspend a total of more than 230 leases covering more than 300,000 acres of redrock lands. This achievement—possible only with your support—is especially important in light of the increasingly critical global climate crisis.

SUWA also successfully opposed the BLM's approval of oil and gas development projects on already-leased lands. Early this year we won a challenge to the BLM's decision to approve 175 wells on Horse Bench—a prow of land located above the culturally rich Nine Mile Canyon and the Desolation Canyon stretch of the Green River. We likewise blocked a 16-well drilling proposal for lands within one mile of the Green River near the entrance to Desolation Canyon.

GREED SPRINGS ETERNAL

Unfortunately, the Trump administration's BLM shows no sign of curbing its zeal for oil and gas leasing and development in Utah. Despite record low oil and gas prices, the agency has received hundreds of industry "expressions of interest" for new leasing in Utah, including on more than 100,000 acres of public lands on the doorsteps of Arches and Canyonlands National Parks.

The SUWA staff is actively preparing to fight these new threats. Stay tuned for updates and opportunities to get involved.

—Landon Newell

BLM MOVES TO EVADE PUBLIC OVERSIGHT OF CLEARCUTTING PLANS

SUWA has long opposed the Bureau of Land Management's (BLM) frenzied rush to destroy sagebrush communities and piñon pine and juniper forests to encourage the growth of forage for cattle. In recent years, public opposition has stymied many of these controversial projects in such places as the Tavaputs Plateau and Grand Staircase-Escalante National Monument.

Because of public oversight and involvement, we were able to block or reshape clearcutting schemes that lacked adequate environmental analysis or ignored the law or sound



AFTERMATH OF BULL HOG MASTICATION ON PUBLIC LANDS IN UTAH. © RAY BLOXHAM/SUWA

science many times over the last several years. Because of this, we hoped that the BLM would finally begin to re-evaluate its million-dollar rubber-stamping of large-scale projects that, by their very nature, entail surface disturbance and ecosystem devastation.

Instead, rather than making necessary changes to reform its antiquated clearcutting program—listening and learning from the best science and public input—the BLM has decided that it would be best to cut out public input and environmental review altogether.

To that end, the BLM has proposed a new "categorical exclusion" (CX) under the National Environmental Policy Act (NEPA). This change to the BLM's NEPA procedures would allow projects as large as 10,000 acres to mechanically remove piñon pine and juniper forest with no environmental analysis, public accountability, or public input. The BLM justifies the proposed CX on the need to improve mule deer and sage grouse habitat, although science does not support this claim. According to the agency, the public is in the way.

ABUSE OF NEPA

The ability to establish limited categorical exclusions was written into NEPA to ease the approval process for commonplace, environmentally insignificant federal

actions—like fixing a buried water pipe or mowing the lawn at a visitor center—without a full environmental assessment. The provision was never intended to allow for mowing down every living, growing thing on 10,000 acres without public accountability. Too often, federal agencies see CXs as a way to shield from public review and scientific scrutiny broad and controversial classes of actions.

This CX would also allow the BLM to use heavy surface-disturbing machinery, such as front-end loaders and bull hog masticators, to remove vegetation. Because there are few outright limitations on the areas where these projects could be carried out, the categorical exclusion could be applied within national monuments, wilderness study areas, lands with wilderness characteristics, "areas of critical environmental concern," and other sensitive management areas.

It is unclear what criteria or guidelines the BLM will use, if any, to determine what qualifies as sage-grouse or mule deer habitat, and because there will be no public process, the BLM will not have to explain or defend anything.

Even as the world was focused on the coronavirus pandemic, the BLM imposed a limited comment period on this sweeping proposal. We worked hard with our conservation allies to submit detailed comments, noting that this unprecedentedly broad exclusion from NEPA is illegal, unsupported by science, and runs counter to NEPA's core principles of public involvement and environmental review. The BLM's plan is short-sighted and its impacts potentially devastating. It is deeply troubling, but also sadly in line with the policies of the Trump administration. We are committed to stopping it.

—Kya Marienfeld



CULTURAL SITE IN BEARS EARS NATIONAL MONUMENT. © JEFF FOOTT

BLM RELEASES NEW BEARS EARS PLANS, BUT DAY OF RECKONING NEARS

It was no great surprise when over the winter the Bureau of Land Management (BLM) released its management plans for the Trumpified Bears Ears and the Grand Staircase-Escalante National Monuments. The agency also released its plan for the lands lopped off the Grand Staircase—what the agency now calls the “Kanab-Escalante planning area.”

The vastly reduced Bears Ears is now limited to the Shash Jáa and Indian Creek units; Grand Staircase-Escalante, at a million acres, is half its original size.

SUWA, together with many of our partners, filed administrative protests with the BLM and the Forest Service (Bears Ears only) over these plans. We detailed how the plans would drive the management of these remarkable places and their irreplaceable cultural, biological, and scenic resources to an

unlawful lowest common denominator. We also emphasized that the plans are the fruit of the poisonous tree: they are unlawful because Trump's dismantling of the monuments was unlawful. We argued too that the plans violated a myriad of environmental and historic preservation laws.

We were also unsurprised when the BLM and Forest Service rejected our protests out of hand. The plans set the stage for the agency to possibly begin a new spate of oil, gas, and coal leasing and new chaining and other destructive vegetation treatment projects. We're keeping a close eye out for those first projects and an equally watchful eye on Garfield and Kane Counties for any mischief on their part.

In the meantime, the day of reckoning is coming for Trump's undoing of Grand Staircase-Escalante and Bears Ears. Our lawsuits challenging

his actions will be fully briefed by mid-May and ready for the judge's decision. Many of our partners are party to the suits and we filed them alongside similar lawsuits by Native American tribes (Bears Ears) and other groups/businesses.

The core of our argument is that Congress has only authorized the president to establish national monuments, not tear them apart. We're confident that we have the better argument and we look forward to the judge's decision.

—Steve Bloch

FACTORY BUTTE LAWSUIT DISMISSED

A federal judge in Utah has dismissed our lawsuit challenging the Bureau of Land Management's (BLM) 2019 decision to allow cross-country off-road vehicle (ORV) use in the spectacular Factory Butte area. SUWA, the Natural Resources Defense Council, and The Wilderness Society brought the suit.

The judge ruled that the BLM was not required to perform environmental analysis under the National Environmental

Policy Act before it lifted a longstanding travel closure order prohibiting cross-country ORV use. The order had been in place since 2006.

The reversal allows unrestricted motorized travel throughout two "play areas" totaling 5,400 acres. One of the two areas rings Factory Butte itself. The BLM gave no prior notice or opportunity for public comment before making this decision. The agency also failed to perform any environmental analysis or explain its reasoning before lifting the closure order.

The BLM closed the area after SUWA and Friends of Factory Butte filed a petition with the agency outlining the devastating effects of unmanaged cross-country ORV travel in the area. The BLM concluded that closure was necessary to protect cactus species listed under the Endangered Species Act. One of them, the endangered Wright fishhook, suffered serious mortality from cross-country ORV travel. SUWA has monitored the Factory Butte closure area from the beginning and has documented continued, deliberate ORV violations and associated damage to natural resources.

You can find photographs of the remarkable Factory Butte area on SUWA's website, along with a timeline of ORV use



WITHOUT ENVIRONMENTAL ANALYSIS OR OPPORTUNITY FOR PUBLIC COMMENT, THE BLM RECENTLY REOPENED 5,400 ACRES AROUND FACTORY BUTTE TO UNRESTRICTED OFF-ROAD VEHICLE USE. © RAY BLOXHAM/SUWA

and mismanagement at Factory Butte and a point-by-point refutation of the BLM's misleading arguments about why it lifted the closure.

We strongly disagree with the court's reasoning and are evaluating next steps for appealing the decision. Stay tuned for updates.

—Laura Peterson

BLM PUSHES FOR MTN BIKE TRAILS AND CAMPGROUNDS IN PROPOSED WILDERNESS

The Bureau of Land Management (BLM) has proposed a pair of projects in southern Utah that would combine developed campgrounds with non-motorized, multiple-use trail systems in areas that America's Red Rock Wilderness Act proposes for protection.

One calls for development of mountain biking and hiking trails, a campground, and yurts adjacent to tiny Goosenecks State Park above the San Juan River. The scheme would effectively increase the size of the park and likely demand some sort of co-management arrangement between the BLM and the state of Utah. The park has no trails today.

The second proposal, called the Granite Mountain Recreation Area, would develop a campground and yurts alongside a proposed mountain bike and hiking trail system in the remote and rarely visited Granite Mountains west of Beaver, Utah. It would build trails through stunning granite domes and dense scrub oak.

The agency claims that developed campgrounds are necessary to manage impacts from increased visitation. However, new trails and campgrounds will only draw a recreation bullseye on already sensitive public lands that currently receive little attention from the agency.

In both projects, the BLM is approaching projects piecemeal rather than within a landscape-level planning pro-



THE BLM IS PROPOSING DEVELOPMENT OF MOUNTAIN BIKING AND HIKING TRAILS, A CAMPGROUND, AND YURTS ADJACENT TO TINY GOOSENECKS STATE PARK ABOVE THE SAN JUAN RIVER, A MOVE THAT COULD OVERWHELM THIS SCENIC SPOT WITH INCREASED RECREATION. © RAY BLOXHAM/SUWA

cess designed to rationally address where recreational facilities should be located. The Goosenecks project area is within the original Bears Ears National Monument. Were the original monument boundaries still intact, the monument's proclamation would have required the agency to create a landscape-level plan for the entire monument before building any campgrounds, trails, or roads.

The legality of the Trump administration's gutting of Bears Ears National Monument is a matter before the courts (see article on page 16). We are asking the BLM to postpone any

project that would arguably violate the original Bears Ears proclamation. As to the Granite Mountains project, the agency should issue no decision on such a scale until it completes its forthcoming Cedar City Resource Management Plan. That plan would—or at least *should*—specify where such things as mountain bike trails may be located.

Luckily, the BLM has made no final decision on whether to proceed with the projects. SUWA is closely monitoring them and will keep you posted.

—*Oliver Wood*

SUWA CHALLENGES ILLEGAL BURR TRAIL PAVING APPROVAL

A year ago the Bureau of Land Management (BLM) hurriedly approved Garfield County's proposal to lay chip seal, a form of pavement, on the Burr Trail just east of Capitol Reef National Park.

Instead of requiring Garfield County to obtain a permit, the BLM allowed the project to proceed on the assumption that the county held a court-adjudicated RS 2477 right-of-way to the Burr Trail. In fact, no court has ever decided a Quiet Title Act case in favor of Garfield County or Utah regarding a Burr Trail right-of-way.

The BLM's approval smacked of bad faith. The agency knew the county's proposal was controversial—SUWA, along with the National Park Service, fought off an earlier effort to pave the stretch in 2009. But this time around the BLM gave the county the go-ahead, with road equipment already poised and idling, days before telling the public.

SUWA and a coalition of partners took the BLM to court. Our first fight involved the administrative record—the “evidence” supporting (or, in this case, undermining) the BLM's decision. We successfully argued that the agency needed to produce hundreds of pages of relevant documents it had wrongly withheld.

In April, SUWA attorneys filed the opening brief challenging the decision on the merits. We're seeking an order requiring the BLM to comply with its statutory mandates to protect public land, rather than bow to the county's spurious claim to title. Briefing will continue into early summer.

—*Joe Bushyhead*

AMID PANDEMIC, STEWARDSHIP PROGRAM SHIFTS GEARS

The key to resilience is adaptability. The pandemic forced sweeping changes to our Stewardship Program's project calendar this spring, requiring a reorientation of our near-term efforts to ensure protection of Utah's most vulnerable wild landscapes.

With our standard multi-day volunteer work trips on hold, we have shifted over to developing new, comprehensive project proposals for when our season resumes. While staying close to home, we are surveying the landscape for existing and new impacts. Limited agency presence on public lands during the pandemic means impacts will multiply and we are currently tracking—from a safe distance—where our remediation efforts will be most effective later this season.

We are also reviewing past project sites in our wilderness backyard here in southern Utah. Visiting a past work site to find it better than you left it is a hopeful relief in these strange times, like a dripping spring at the end of a sweltering box canyon.

As we adjust to new uncertainties, centuries-old juniper trees stand sentinel to flood and drought, fire and cold, growing balanced and strong. Like these stalwart desert dwellers, we will endure the storm.



LEAVE IT TO GINA TO MAKE MOSQUITO NETTING LOOK LIKE ELEGANT CAMPING ATTIRE.

FAREWELL AND HAPPY RETIREMENT TO GINA RIGGS!

The end of 2019 was also the end of an era at SUWA: Gina Riggs, our long-time administrative associate, retired after 13 years in our Salt Lake City office. Gina took with her a wealth of institutional knowledge and she left a legacy of infectious laughter and an undying passion for the redrock.

Gina viewed her job as whatever needed doing, from the routine to the exceptional—the “above and beyond.” You might have found her helping clean out the storage shed, shouldering kitchen duties someone else had neglected, or even volunteering a weekend with SUWA’s Stewardship Program. Hers was the warm and welcoming voice callers to SUWA’s headquarters usually heard first.

Gina was the one who opened mail from members and donors (and the occasional troll). And if that mail included an inspiring story or appreciative note from someone about our work, she thoughtfully took the time to share it with her colleagues, a welcome morale boost in these tough political times.

The office is somewhat less cheery now without Gina’s sense of humor and her boom box tuned to our local public radio station (KRCL) or a CD from her “album of the month” club. The SUWA dogs miss her too. They could always count on Gina for a treat and a scratch behind the ears.

We could always count on her too, and will miss her enormously. We thank Gina for her many years of service, and we look forward to seeing her at local concerts and out on the desert trails!

JOYELLE HATCH JOINS SALT LAKE CITY OFFICE

Late last year, SUWA welcomed Joyelle Hatch as our new administrative associate in the Salt Lake City office.

Joyelle grew up in West Valley City, Utah, (where she attended high school with our administrative director, Michelle Martineau). She developed an early enthusiasm for wilderness, exploring Utah’s mountains with her older brothers while backpacking, skiing, and mountain biking. Before joining SUWA’s staff, Joyelle worked for 12 years at Verizon Wireless in customer service roles. That background is evident in her courtesy and professionalism.

Growing up in Utah and raising her children here, she came to realize the importance of protecting Utah’s public lands. Her search for a job she could be passionate about brought her to SUWA. Her predecessor, Gina Riggs, retired after 13 years in the position. Replacing someone as experienced as Gina could be intimidating, but Joyelle has shown she’s equal to the task. She is willing to tackle any challenge, eager to help however she can to ensure that our office runs smoothly for both our staff and members.

Welcome to the team, Joyelle!



JOYELLE IS A NATURAL AT PROMOTING SUWA MERCHANDISE.

SUWA WELCOMES LEGISLATIVE ADVOCATE CHRIS RICHARDSON



CHRIS EXPLORES HIS NEW HOME CITY.

SUWA is pleased to welcome Chris Richardson to the staff as our new legislative advocate in the Washington, DC office.

Chris comes to us as a graduate of the Benjamin Cardozo School of Law at Yeshiva University in New York, with a background in solar energy. A Miami native, Chris has had an interesting start in DC, with only a couple months on the job before the Covid-19 pandemic confronted him with the challenge of doing all his lobbying remotely. Still, he's made a good start gathering cosponsors for the redrock wilderness bill. And auspiciously, he was born on Earth Day!

Welcome aboard, Chris!

THANKS TO CIARA COMBS FOR HER CRUCIAL INTERIM HELP

We owe a special thanks to Ciara Combs, who helped us out of a tricky situation in our administrative ranks. She joined us as administrative assistant just as Michelle Martineau, our administrative director, went on parental leave and Gina Riggs, who was soon to retire, stepped in to temporarily fill her role.

Ciara quickly learned the basics of the job and helped keep the office running smoothly. Within a short few months, though, a change in Ciara's personal circumstances required that she leave the job. Fortunately, she was willing to help us train Joyelle Hatch (see opposite page) during our busiest time of year. We are so grateful for her willingness to help and her enthusiasm for SUWA and the redrock country. Thanks, Ciara!



SUWA IS GRATEFUL FOR CIARA'S ASSISTANCE THROUGH THE BUSY HOLIDAY SEASON AND BEYOND.



THANK YOU DC INTERN ABBY MILES

Interns like Abby Miles are one in a million. We are extremely grateful that she was a part of our team from August to December of 2019 and we were sad to see her go.

Abby, originally from Riverton, Utah, was passionate and committed in the fight for Utah's wild places from the very first day with us. She sought—as redrock lovers often do—to make sure through her work that these lands will be permanently protected.

During her time with us, Abby tackled a variety of grassroots projects, attended congressional hearings, and worked with legislators and their staffs to advance cosponsorship of America's Red Rock Wilderness Act.

We thank Abby for sharing her energy and creativity with us. She has all the tools to succeed in the environmental field and that is just what she means to do. She is committed to finishing her bachelor's degree in environmental studies and returning to Washington, DC to put her education to work. We wish her the best of luck!

INTERN TAYLOR REID BOOSTS NEWSLETTER DISTRIBUTION

As SUWA's spring grassroots intern, Taylor Reid proved to be the right hire at the right time. His challenge was to identify new locations for placement of our *Redrock Wilderness* newsletter. His previous work as a delivery driver and knowledge of the area enabled him to hit the ground running in early January. Before the coronavirus suspended his work, he identified 125 new locations, doubling the previous number.

"As an intern I had the privilege to represent SUWA and work on a variety of projects, mostly face-to-face with the people of my community" Taylor said.

Taylor is a native of Layton, Utah, and a graduating senior from the University of Utah's Environmental and Sustainability Studies Program. He was the recipient of the Dr. Norman Weissman Internship for Preservation of Wild & Scenic Utah, a generous gift made possible by the Weismann family.

We thank Taylor for a job well done and wish him all the best.



UTAH'S EARTH DAY LIVE EVENTS FEATURED AN INTERGENERATIONAL CONVERSATION WITH CLIMATE ACTIVIST MISHKA BANURI AND ACCLAIMED AUTHOR TERRY TEMPEST WILLIAMS.

EARTH DAY AND CLIMATE STRIKE SHARE THREE DAYS OF ONLINE ACTIVISM

Like many grassroots movements in the age of COVID-19, SUWA's organizing team is testing the waters of virtual activism. We joined the People's Energy Movement in April in a digital celebration of Earth Day's 50th anniversary Climate Strike to stoke local action against climate change.

Around 800 people from around the country participated. The three-day celebration featured speeches and workshops and at-home measures for climate justice. In keeping with national Earth Day Live messages, we highlighted intergenerational conversation on climate justice and issued a call for Utah's education systems to end reliance on fossil fuels.

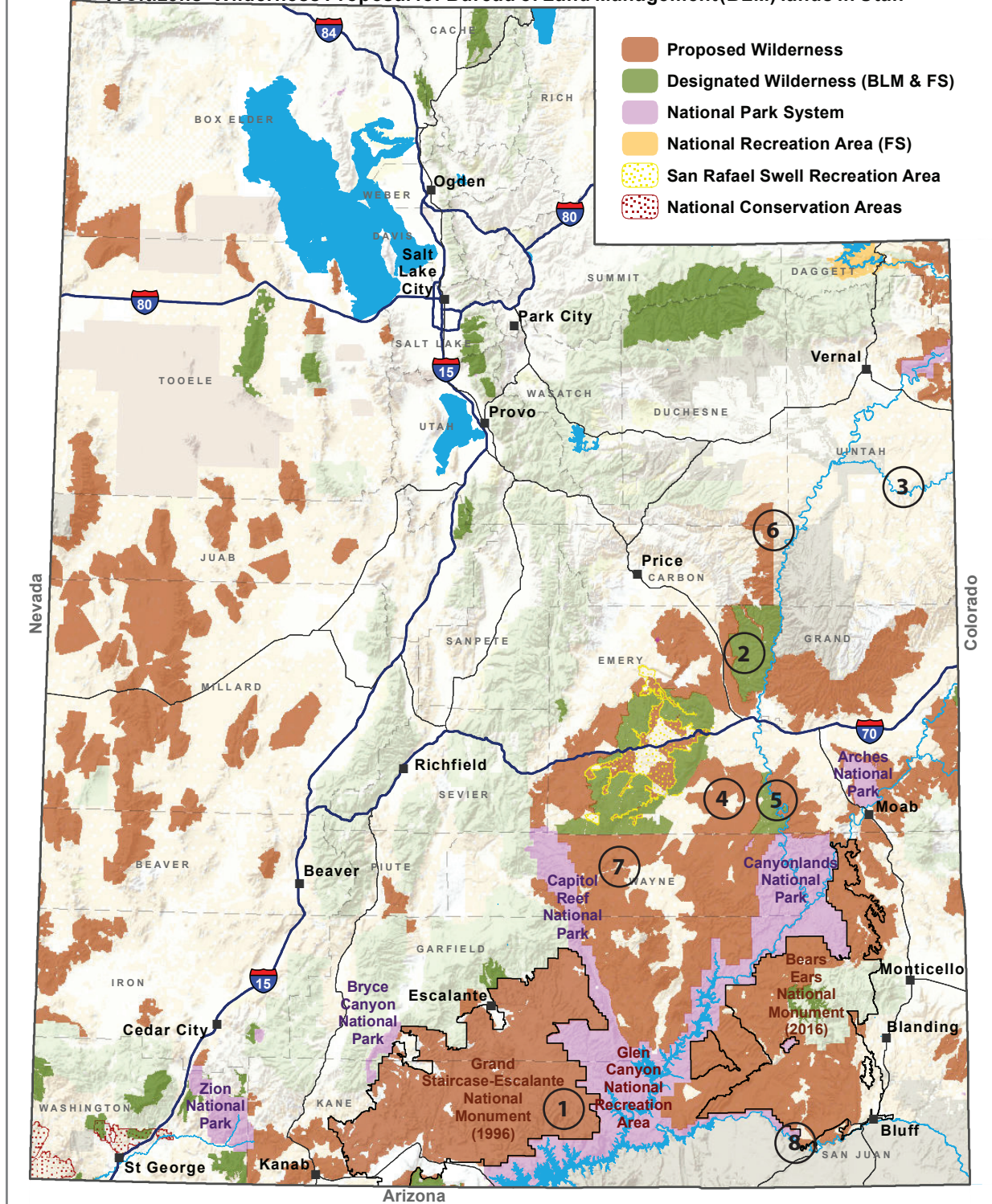
A wonderful conversation between young Utah climate activist Mishka Banuri and acclaimed author Terry Tempest Williams got us started. Then, a storytelling, song, and art celebration featuring Raquel Juarez, a high school climate striker, and Diné elder Mark Maryboy concluded our live Earth Day events. They spoke about moving beyond "sacred rage" against land desecration into hope through community, mentoring, and courage. (Terry and Mark are both long-time SUWA board members.)

SUWA's Dave Pacheco co-led a skills workshop on effective opinion letter writing. Art and song workshops tapped into people's imaginations to produce vivid descriptions of what a healthy planet would look like. Another session detailed how to organize strikes to move schools towards climate action. High school and University of Utah students presented a panel discussion on how to persuade officials to rid academic investment portfolios of fossil-fuel stocks and to reinvest in renewable energy firms, farms, and ranches.

Thanks to all who participated! If you missed the live presentations, you can still view the recordings on UtahEarthDay.org.

America's Red Rock Wilderness Act

A Citizens' Wilderness Proposal for Bureau of Land Management (BLM) lands in Utah



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| 2 Desolation Canyon (p. 14) | 5 Labyrinth Canyon (p. 14) | 8 Goosenecks State Park (p. 18) |
| 3 White River (p. 14) | 6 Horse Bench (p. 15) | |



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YOUR MEMBERSHIP MAKES A DIFFERENCE

Your membership provides both the political and financial strength needed to defend our redrock wild lands. If you are facing financial hardship due to the coronavirus pandemic, please consider the \$20 membership level when joining SUWA or renewing your membership. This level is typically reserved for students or those on a fixed income, but in light of these difficult times, we are making an exception. Please visit our website at suwa.org/donate at and select “\$20 Student Membership” to keep your membership active.

If you are able, one especially helpful way to support SUWA today is our monthly giving program. You can protect the redrock year-round with a \$5 or \$10 gift every month. That adds up to \$60 or \$120 a year and goes a long way to helping keep your public lands wild. For more details on joining SUWA's monthly giving program, please visit our website at suwa.org/monthly.

Your support is what makes our work possible. Thank you!



PENSTEMON AND CLARET CUP CACTUS, GRAND STAIRCASE-ESCALANTE NATIONAL MONUMENT. © TOM TILL



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