

From: Simon, Benjamin
To: [Sarah Cline](#)
Subject: Fwd: FYI
Date: Monday, June 05, 2017 3:55:45 PM
Attachments: [20170525 bears ears Garfield County letter.docx](#)
[2016 economic up school down.pdf](#)
[Comparison of Laws Protecting Antiquities 1906 vs 2017.docx](#)
[Garfield County Economic Data.pdf](#)
[Protecting Paleontological Resources in GSENM.docx](#)

Hi Sarah,

Some of this material refers to Grand Staircase.

Ben

----- Forwarded message -----

From: **Bowman, Randal** <randal_bowman@ios.doi.gov>
Date: Mon, Jun 5, 2017 at 3:48 PM
Subject: Fwd: FYI
To: Benjamin Simon <benjamin_simon@ios.doi.gov>, Ann Miller <ann_miller@ios.doi.gov>

Seems I forgot to forward this earlier. It is a public comment

----- Forwarded message -----

From: **Magallanes, Downey** <downey_magallanes@ios.doi.gov>
Date: Sat, May 27, 2017 at 8:31 AM
Subject: Fwd: FYI
To: "Bowman, Randal" <randal_bowman@ios.doi.gov>

----- Forwarded message -----

From: **Brian Bremner** <engineer@color-country.net>
Date: Fri, May 26, 2017 at 5:40 PM
Subject: FYI
To: downey_magallanes@ios.doi.gov

This is what we submitted.

--

Downey Magallanes
Office of the Secretary
downey_magallanes@ios.doi.gov
202-501-0654 (desk)
202-706-9199 (cell)

--

Benjamin Simon, Ph.D., Chief DOI Economist
Office of Policy Analysis
U.S. Department of the Interior
1849 C St. NW
Washington DC
202 208 4916
benjamin_simon@ios.doi.gov

Garfield County (Utah) County Commission
Comments Regarding the Future of the Bears Ears National Monument

Ryan Zinke, Secretary of the Interior

Dear Secretary Zinke,

This document constitutes the formal comments of the Garfield County Commission regarding the Department of Interior's review of the Bears Ears National Monument. The Commission is the governing body for Garfield County, Utah; and it is the Commission's responsibility to protect the health, safety and welfare of the residents of Garfield County. The Commission asserts this responsibility can best be implemented by actively working with, and supporting, nearby counties in our region facing issues similar to our own, including San Juan County, our neighbor to the immediate east.

San Juan County and Garfield County share many common characteristics. Both counties are rural, semi-arid and cover areas larger than some eastern states. In both counties the land base is overwhelmingly under federal control (83% federal/tribal in San Juan; 90%+ federal in Garfield). Limited acreage in either county is under private ownership (8% in San Juan; 3% in Garfield). Both counties have traditionally relied on resource-based economies – principally timber, minerals and livestock grazing and have been increasingly impacted in a negative way by a single industry, recreation dominant economy. With designation of Bears Ears, the two counties share the dubious distinction of hosting two of the largest land-based national monuments in the lower 48 states. It is these similarities that make Garfield County's twenty one-year experience with the Grand Staircase-Escalante National Monument (GSENM) particularly relevant to the discussion concerning the future of the Bears Ears National Monument.

Our 21 years of experience defending ourselves against unreasonable and irresponsible management at the GSENM, and our realization that a similar situation is imminent in San Juan County, lead us to strongly recommend the Bears Ears designation be rescinded or at the very least significantly reduced to meet the requirements of the Antiquities Act. We also strongly encourage that management of the lands revert to the non-monument Bureau of Land Management. Further, based on the unfortunate abuses of the Antiquities Act over the last two decades, and the fact that the Act is over a century old and has been superseded by more refined legislation, the Garfield County Commission believes that it is time to rescind or significantly revise the Antiquities Act.

The remainder of this comment presents our justification for the above conclusions. We defer site specific comments on Bears Ears to San Juan County and recognize them as the authoritative voice for lands in San Juan County. We will focus on considerations identified in Executive Order 13792 of April 26, 2017 and Garfield County's experience with the Grand Staircase-Escalante National Monument (GSENM).

The Requirements and Original Objectives of the Act

A plain reading of the Antiquities Act and its Congressional Record makes evident Congress envisioned a specific and narrow purpose for the Act. It was meant to protect specific, tangible historic landmarks,

historic structures and objects of historic and scientific interest. Actions that were taken at the time of the Act best document its intended purpose.

From 1906 through 1916 presidents designated 33 monuments encompassing 1,749,654 acres. Congress recognized the significance of 8 of those monuments and re-designated them as National Parks. 1,367,833 acres were moved to Park status, leaving 381,721 acres in 25 monuments for an average of 15,269 acres. Only three of the remaining monuments had acreages larger than 14,000 acres (Dinosaur - 283,885 acres, Bandelier – 37,780 acres, and Pinnacles – 26,174). The remaining 22 monuments (two thirds of the original 33 monuments) had an average acreage of less than 1,600 acres.

From 2006 through 2016 presidents also designated 33 monuments but identified 770,773,801 acres, 440 times the acres designate in the first 33 monuments. While the 1906 through 1916 period included 8 designations worthy of National Park Status, Congress has not recognized any of the latest 33 monuments as worthy of National Park status. The 1.35 million acre Bears Ears Monument is roughly equivalent to the size of the eight 1906-1916 monuments that were designated National Parks. More than half of the monuments designated in the 2006-2016 period have acreages larger than 14,000 acres, and eleven are significantly larger than Dinosaur National Monument's 283,885 acres.

Clearly, there has been a shift in the understanding of “the smallest area compatible with the proper care and management of the objects to be protected”. Eight of the monuments created in the last decade were larger than 1 million acres. And these designations came after a full century of presidents using the Act to designate what they considered to be areas most worthy for designation. Logically, the most outstanding objects would have received monument status at the earliest time, and areas of lesser quality would be left for our present day.

Appropriate Designation as Historic Landmarks, Historic and Prehistoric Structures and Objects of Interest

Presidents have also abandoned the original understanding of objects that merit protection. The Act identifies 1) historic landmarks; 2) historic and prehistoric structures; and 3) other objects of historic or scientific interest. Four terms need to be defined to evaluate if recent presidential actions are within authorized discretion or reach the level of abuse. Important terms are as follows:

- Historic: Famous or important in history
- Landmark: An object or feature of a landscape that is easily seen and recognized from a distance, especially one that enables someone to establish their location
- Prehistoric: Of or relating to the time or a period prior to recorded history
- Object: A material thing that can be seen and touched.

Applying the definitions to the language in the Act an object qualifying for monument must be: 1) a famous or important feature of a landscape that is easily seen and recognized from a distance, especially one that enables someone to establish their location; 2) a famous or important structure or a structure that is related to the time before recorded history; or 3) a material thing that can be seen and touched that is famous or important or has scientific interest.

Early designations clearly followed a process which presidents felt were within the limits of their discretion. A monument worthy object was identified and a boundary was drawn around it. For smaller monuments, the process seems to be similar in recent years. Presidents have used their discretion to identify discrete objects that are famous or important to national interests or science and then draw a boundary around it. However, for larger monuments boundaries seem to be drawn first and then indiscrete, flowery language is used to describe the general character of the area, without identifying any qualifying object. In Bears Ears, for example, the proclamation attempts to equate values, diverse vegetation, 15 species of bats, riparian communities and other generalized characteristics to discrete objects that need protection, which is inconsistent with the definition of an object. Many of the so-called objects are variable and come and go with seasons, precipitation and natural ecologic variations. There are no viable threats, so there is nothing to protect from. Interestingly the largest monuments have the least defined objects, a demonstration of abuse of the Antiquities Act.

Section 3 of the Act makes it abundantly clear that qualifying objects do not need to be maintained in their current condition. The Act authorizes extraction of qualifying objects for scientific study. Even today, monuments frequently encourage extraction of archeological and paleontological resources they are mandated to protect. Once an object is removed, what is the value of continued protection of the area from which the object was extracted?

Waco Mammoth National Monument appears to be a proper example of a valid designation process. The object is defined and limited to a specific location. The Waco monument appears to be a reasonable size that meets minimum area criteria. Bears Ears is the antithesis: an overlarge area with no defined objects. In order to meet Antiquities Act criteria, the managing agency should be able to list each object identified in the presidential proclamation and provide an associated GPS coordinate / longitude-latitude. The Bears Ears proclamation failed to do so.

The process used to designate the GSENM created anger and distrust that continues to this day. The designation process used for the GSENM is well-documented in the November 9, 1997 Congressional Record, in a House Resource Committee majority staff report and attachments to that report. Bears Ears' proclamation has similar flaws including:

- It failed to identify specific landmarks, structures or objects,
- It failed to identify any threats to specific landmarks, structures or objects,
- It failed to identify any management prescriptions for landmarks, structures or objects,
- It throws a broad net over almost all federal land between other established federal designations, (National Parks, Recreation Areas and Forests). Such a broad net with ill-defined objects violates the Act

While the process for Bears Ears may not have been as secretive as for GSENM, the Obama administration failed to truly communicate and coordinate with state and local officials. Rather, it conducted shuttle diplomacy with special interests and Native Americans whom special interests were using to bring legitimacy to their wilderness initiative. The president made the proclamation without any real consideration of the local officials in spite of lip service to the contrary.

Effects of Designation on Available Uses of Designated Federal Lands

Grand Staircase-Escalante National Monument provides a graphic example of the effects of recent, overly broad monument designations. The Antiquities Act was not intended to create or protect large swaths of wilderness. That purpose was established with the Wilderness Act of 1964. Unfortunately, beginning with the designation of the GSENM, and replicated with the designation of Bears Ears, the Antiquities Act has become a vehicle for creating wilderness without Congressional consent.

Historical facts associated with GSENM accurately forecast the effects of monument designation for resource uses in Bears Ears. Those facts include:

- Two thirds of the County maintained road mileage that existed at the time of designation has been closed to the public by BLM.
- Although BLM does not claim management authority over any roads in GSENM under 23 CFR 460, it refuses to acknowledge Garfield and Kane Counties' claims and has forced the local governments into expensive litigation.
- BLM's refusal to allow reasonable improvements to high use transportation facilities has required Garfield County to grade the entire 56 miles of the Hole in the Rock Road an average of 17 times per year over the last 3 years, making it the intensive maintenance need on the County's road network.
- BLM's refusal to allow the Counties to install drainage culverts in maintained roads results in resource damage, erosion, emergency rescues, and washouts many times each year.
- GSENM has prohibited maintenance of vegetative treatments which has reduced land health and negatively impacted wildlife and livestock, while increasing erosion.
- All mining, commercial timber harvest and other traditional industries have been eliminated.
- Installation of needed infrastructure, communication facilities, powerlines, fiber optic lines, etc. has been delayed or prohibited – even when upgrades are located in existing rights of way.
- 94% of GSENM (approximately 1.77 million acres) is managed for wilderness with services restricted to signs needed to warn of natural hazards.
- Only 6% of GSENM (113,000 acres) is managed to accommodate.
- Extraction of common sand & gravel needed for community development has been prohibited.
- Grazing has been reduced.
- On 66% of the monument families are prohibited from recreation activities that include more than 12 people.
- On an additional 28% of the monument is restricted to a 25 person limit.
- BLM refuses to install restrooms at high use areas such as Peekaboo/Spooky slot canyons resulting in human waste concentrations and health hazards.

Simply and bluntly stated, the designation of both GSENM and Bears Ears was intended as a means to bypass Congress and lock-up large areas of land under management that follows wilderness prescriptions. Monument designation was not intended to protect specific objects, structures and landmarks as specified by the Antiquities Act and was not intended to serve the vast majority of the American public. Almost all uses in the GSENM have been eliminated or significantly reduced. A similar fate is anticipated for Bears Ears.

Effects of Designation on Uses of Non-Federal Lands

Once again the best predictor of impacts in the Bears Ears Monument is irrefutable actions that have occurred in GSENM. All state lands in GSENM at the time of designation were subsequently transferred to BLM. The transfer included payments to the state as whole and some BLM properties outside the Monument. But those payments and lands benefitted populations outside Garfield and Kane Counties – the very counties impacted by GSENM. A similar fate is forecast for Bears Ears.

Payments to local schools and communities that are based on State trust land acreage were significantly reduced because state lands in GSENM were traded out the monument for lands outside Kane and Garfield Counties. Jobs associated with State Trust Lands were eliminated by monument regulations that prohibit continuation of traditional industries. Use of common materials needed in construction of homes, roads and communities available on the trust lands has been completely eliminated.

When state lands were transferred, it exposed the lands to the full complement of federal regulations and prohibited more efficient use of the lands. Livestock grazing permits were altered to comply with more onerous federal regulations. Permitting processes became more costly, and management moved from local control to the National Landscape Conservation System in Washington DC. The ability of lands to be sold or traded to communities for public purposes was lost, and local ability to improve facilities under beneficial laws such as the Recreation and Public Purpose Act was eliminated.

GENM designation and subsequent land transfers foreclosed opportunities for sale of Trust lands to private parties. This eliminated commercial opportunities and opportunities to support County property taxes. This would be a problem in any county, but is a particular problem in counties such as Garfield and San Juan where private property is a rare and precious commodity.

Monument employees – GSENM’s landscape architect in particular- have opposed reasonable projects outside GSENM and have lobbied against projects supported by the duly elected Garfield County Commission. They have continually harassed county employees engaged in authorized endeavors and have attempted to force monument authority outside their jurisdiction.

Based on our 21 year experience with the GSENM, Garfield County cannot identify a single benefit to the use of non-federal lands in and adjacent to GSENM. The Garfield County Commission strongly encourages San Juan County, the State of Utah and private individuals to resist all efforts to transfer any non-federal lands within the Bears Ears area to the federal government.

DOI also needs to be aware of serious unethical efforts by BLM to forcibly take private ground under the guise of federal authority. In 2009 BLM began organizing an armed occupation of a private property adjacent to GSENM in an effort to “encourage” the property owner to transfer a portion of the land to federal ownership. The action never took place, largely due to a monument employee’s declaration that he would publicly disclose the operation if it was carried out. Garfield County’s information regarding the armed operation is limited, but complete details can be obtained by contacting Drew Parkin, former GSENM Escalante Field Station Manager, at (435) 491-2160

Concerns of State, Tribal and Local Governments Affected by a Designation, Including Economic Development and Fiscal Condition

We defer to the San Juan County Commission for the official local position on economic development and fiscal condition. However, we offer our experience regarding local economic conditions.

Much has been claimed regarding economic impacts of monuments on local economies. Generalized studies, however do not always apply to the site specific conditions associated with individual monuments. For example, in 2011 headwaterseconomics.org produced a document entitled *The Economic Importance of National Monuments to Local Economies*. On the surface, the document indicates that growth in communities near monuments do not demonstrate a cause-and-effect relationship and there is no evidence that new monuments prevent continued economic growth. In GSENM's case, the document was flawed in that it a) considered major communities that were not in GSENM's service area as contributors to the monument's economy and b) incorrectly lumped the lightly populated, federally dominated communities of Kane and Garfield Counties in with major metropolitan areas where a monument made up a small percentage of the land base and local economy. Garfield County asserts economic conditions regarding monuments are site specific. Statistics and demographics can be manipulated to push a decision in almost any direction. Analysis of community conditions often gives a clearer picture. The following describes conditions in Garfield County since creation of GSENM since September 1996:

- Escalante High School enrollment (the school possibly most impacted by monument designation) has declined from 150 in 1996 to less than 60 in 2016, a decline of 60%. The decline has forced the County Commission to declare a local state of emergency. The trend is especially alarming when considering Utah has one of the fastest growing school-age populations in the nation.
- Garfield County has high school graduation rates in excess of the national average. Yet, college degrees are below national average, and advanced degrees are well below national averages. We assert this documents an outmigration of individuals with higher education that is tied to a lack of jobs.
- An economic snapshot produced by Utah Workforce Services indicated 71 new government jobs in Garfield County in the last year. However, an inventory conducted by the local school district indicates a loss of 10 school children from families employed by the federal government. (See Attached 2016 Economic up school down.pdf)
- A simple glance at the unemployment rates for Garfield County in the last 20 years will quickly demonstrate an unstable economy tied to tourism/recreation. Winter unemployment is far in excess of state and national averages. (See attached Garfield County economic data.pdf)

The reality is that traditional jobs have been lost and that these have been replace by low paying, seasonal jobs that typically go to people from outside the community. People attracted to the monument outbid local residents for housing, and young families are forced to leave. The people replacing these families seldom have children, and the result is that our schools contract. When the GSENM was designated in 1996, Escalante, the city most directly affected by the GSENM, had a stable population of about 1,000 people. That year the population started on a downward trend and the City now has approximately 800 residents. In addition, the student population at Escalante High School has decreased from 150 students in 1996 to 60 today.

The Garfield County Commission is committed to supporting the economic and social wellbeing of county residents, and if life in our County indicated the GSENM enhanced the lives of County residents, we would say so. But we have concluded otherwise. On balance, from an economic perspective, the County would be better off without the monument. Given the similarity between Garfield and San Juan

counties, and the similarity between GSENM and Bears Ears, it is probable that after twenty years with Bears Ears San Juan County will experience similar difficulties. Garfield County's economic woes may not be connected solely to GSENM, but the monument has done nothing to relieve them. The best economic picture for Garfield County and its relationship with GSENM are the economic reports included in the GSENM Grazing EIS currently underway. Reports are available at the GSENM website.

Availability of Federal Resources to Manage Designated Areas

Garfield County's experience is that resources needed to manage large blocks of land designated as monuments are totally insufficient. Management of monuments tends to expand administrative positions and limit on-the-ground staff. Just the opposite should happen. Monuments should have programs that enhance resources rather than programs that restrict use and promote bureaucratic regulation.

Improvements in GSENM are often connected to local and state programs that provide necessary funding. Nearly all public services (law enforcement, emergency medical, search & rescue, solid waste collection & disposal, road maintenance, etc.) are funded by local or state government. Creation of GSENM has only increased the difficulty and expense associated with federal land management.

Conclusion

Thank you for allowing the Garfield County Commission to provide comments on the designation, management and community effects of national monuments, especially the Bears Ears National Monument. The decision that will be made concerning this matter will have dramatic effects on the future of this area and the surrounding region. We implore you to consider the effects that this decision will have on the people who have dedicated their lives to creating southern Utah's unique communities and culture. In this case, protection of antiquities located in the Bears Ears area is already required by numerous federal laws that were not in place when the Act was adopted in 1906. Implementation of existing laws and regulations adequately protect federal resources. Administration of the Bears Ears area should be conducted under reasonable multiple use management under the administration of the BLM's local area office and, on national forest system lands, the Manti-La Sal National Forest. Furthermore, it should be conducted in coordination and cooperation with local San Juan County officials.

Brian Bremner
Garfield County Engineer
55 South Main, P.O. Box 77
Panguitch, Utah 84759
Office (435) 676-1119
Cell (435) 690-1050
engineer@color-country.net

ECONOMIC SNAPSHOT

Garfield County



Updated 5/2/2017
Utah Department of Workforce Services

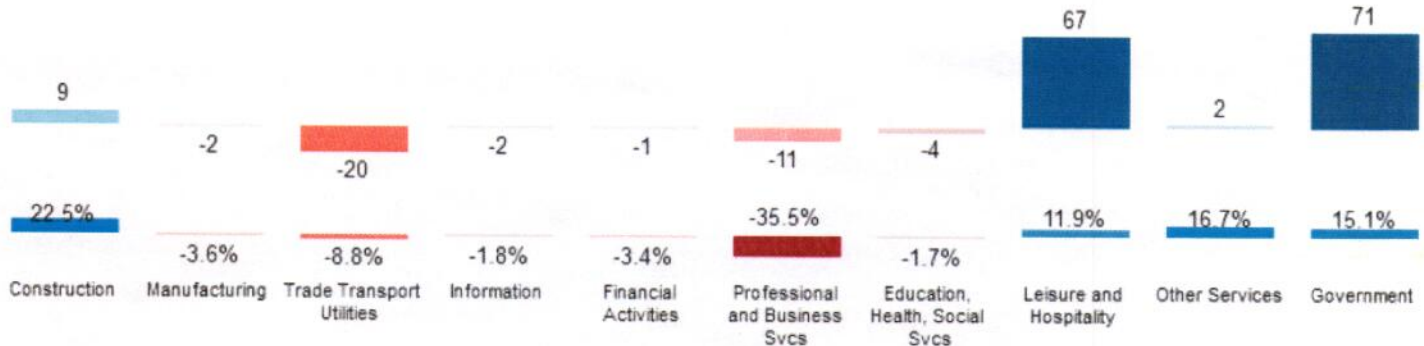
Year-to-Year Change in Nonfarm Jobs DECEMBER 2016*

↑ 106

5.9%
Garfield County

2.9%
State of Utah

1.5%
United States



How's the economy?

After a period of vacillating employment expansion, Garfield County ended 2016 on a robust economic note. Jobs showed exuberant year-to-year job growth in every month of fourth quarter. The county's unemployment rate continues to edge lower and lower and currently measures at its lowest level since before the recession began. First-time claims for unemployment insurance are running at low seasonal levels and average wages are ticking upward. Gross taxable sales rounded out the positive economic picture with strong fourth quarter gains. All in all, the final quarter of 2016 showed Garfield County's strongest economic performance of the year.

Jobs

On a year-to-year basis, job growth proved particularly strong in fourth quarter 2016, ranging from 8.5 percent in November to 5.9 percent in December.

The county added almost 110 jobs between December 2015 and December 2016.

Most of the job gains occurred in leisure/hospitality services and the public sector.

On the flip side, both retail trade and professional/business services showed a noticeable employment drop.



*Preliminary
Source: U.S. Bureau of Labor Statistics; Utah Department of Workforce Services.

Garfield County School District Move IN/OUT Stats for 2016

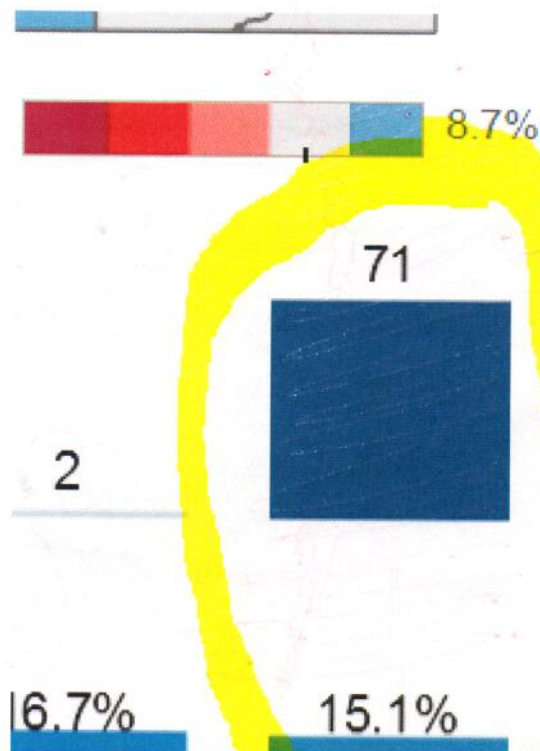
How many families **moved into** your school during the year 2016 that worked for a State agency? A federal agency?

How many students **moved into** your school during the year 2016 that worked for a State agency? A federal agency?

How many families **left** your school during the year 2016 that worked for a State agency? A federal agency?

How many students **left** your school during the year 2016 that worked for a State agency? A federal agency?

| Number | School | Families State IN | Families FED IN | Students State IN | Students FED IN | Families State OUT | Families FED OUT | Students State OUT | Students FED OUT |
|--------|--------|-------------------|-----------------|-------------------|-----------------|--------------------|------------------|--------------------|------------------|
| 104 | ARS | | | | | | | | |
| 108 | BES | | | | | | | | |
| 112 | BVES | 0 | 0 | 0 | 0 | 0 | 3 | 0 | 5 |
| 116 | EES | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 124 | PES | 2 | 0 | 2 | 0 | 0 | 1 | 0 | 3 |
| 304 | PMS | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 704 | BVHS | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 2 |
| 708 | EHS | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 712 | PHS | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | | 2 | 0 | 2 | 0 | 0 | 6 | 0 | 10 |



Comparison of Laws Protecting Antiquities 1906 vs 2017

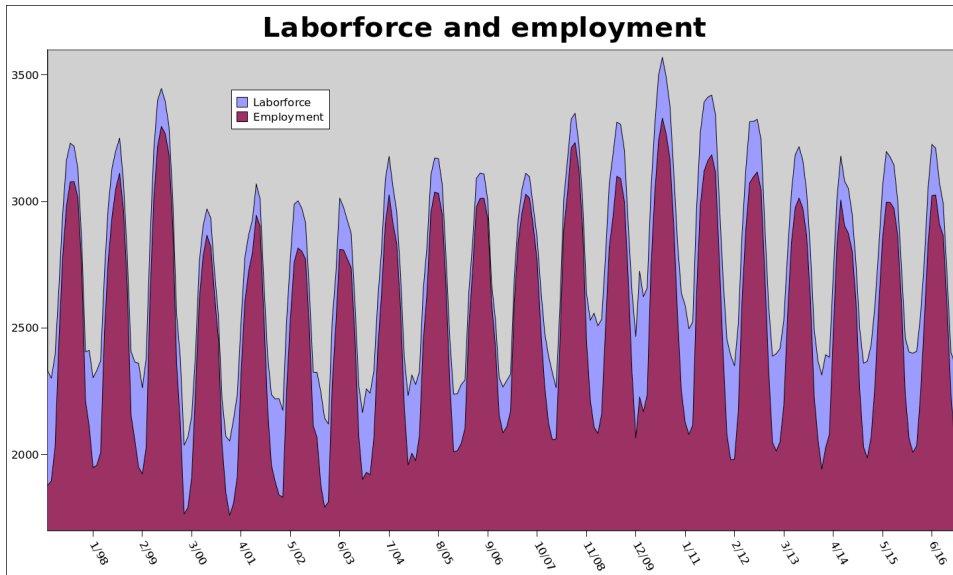
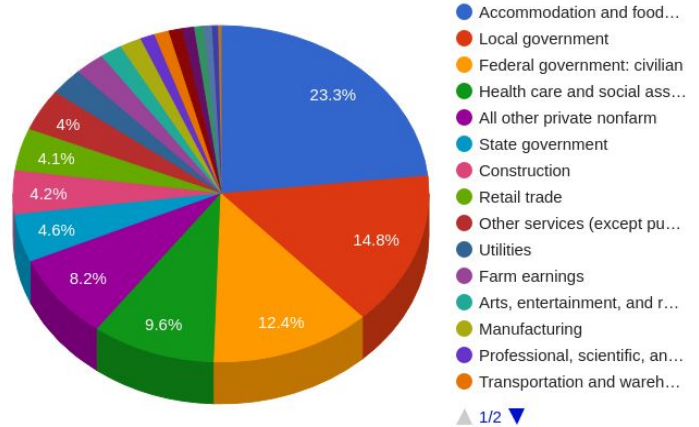
| 1906 | 2017 |
|-------------------------|--|
| Antiquities Act of 1906 | <p data-bbox="488 342 761 369">Antiquities Act of 1906</p> <p data-bbox="862 415 1057 443" style="text-align: center;">Additional Laws</p> <ul data-bbox="537 451 1373 1031" style="list-style-type: none"> • Historic Sites, Buildings and Antiquities Act of 1935 • National Stolen Property Act of 1948 • Management of Museum Properties Act of 1955 • Reservoir Salvage Act of 1960 • National Historic Preservation Act of 1966 (NHPA) • National Environmental Policy Act of 1969 (NEPA) • Archeological and Historic Preservation Act of 1974 (AHPA) • Archaeological Resources Protection Act of 1979 (ARPA) • Native American Graves Protection & Repatriation Act of 1990 • Illegal Trafficking in Native American Human Remains And Cultural Items 1990 • Paleontological Resources Preservation Act of 2009 • Theft and Destruction of Government Property 18 USC 1361 • National Historic Landmark Program 54 USC 302102 – 302108 <p data-bbox="886 1077 1032 1104" style="text-align: center;">Regulations</p> <ul data-bbox="537 1113 1419 1524" style="list-style-type: none"> • Curation of Federally-Owned & Administered Archeological Collections, 36 CFR 79 • Native American Graves Protection & Repatriation Act Regulations, 43 CFR 10 • Preservation of American Antiquities 43 CFR 3 • Protection of Archaeological Resources 43 CFR 7 • Statement of federal Financial Accounting Standards #29 (2005) • Historic Sites Regulations 36 CFR 1-65 • Theft and Destruction of Government Property 18 USC • National Historic Landmark Program 36 CFR 65 <p data-bbox="862 1570 1057 1598" style="text-align: center;">Executive Order</p> <ul data-bbox="537 1606 1386 1850" style="list-style-type: none"> • E. O. 11593 Protection & Enhancement of the Cultural Environment (1971) • E. O. 13007 Indian Sacred Sites • E. O. 13175 Consultation and Coordination With Indian Tribal Governments • E. O. 13287 Preserve America |

Garfield County Economic Data

In a county as small as Garfield County, GDP data are generally not available; however, there are data on personal earnings by industry. Half of all earnings in Garfield County are represented by three sectors: accommodation and food services, local government, and civilian federal government. It is likely that agriculture represents a greater share of Garfield County's economy than the graph shows because of the way farm earnings are calculated.

When farm and government earnings are excluded, accommodation and food services represent more than a third of private nonfarm earnings.

All Earnings

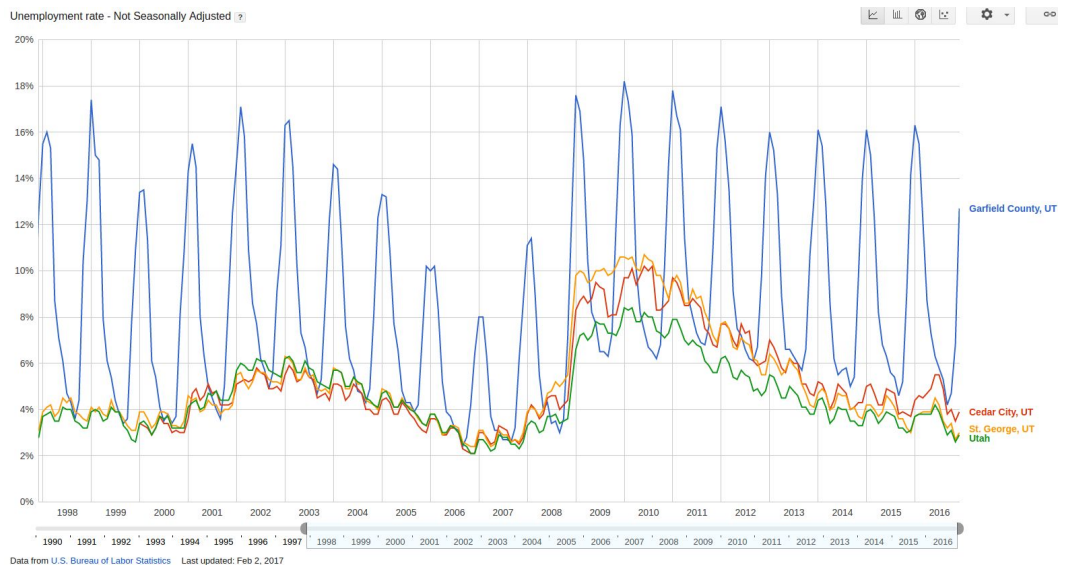


The year-round labor force in Garfield County consists of approximately 2,300 people. This swells to about 3,300 during summer months, given the seasonality of the accommodations and food services industry, and brings in transient employees from all over the world.

One result from this seasonal swell is difficulty providing housing in some areas of the county.

Among the permanent workforce, about one person in six will be unemployed in January every year.

While Garfield County unemployment dropped below the regional and state averages in the summer months during the early years of the Great Recession, it exceeds those areas in recent years.



Current Methods for Protecting Paleontological Resources in GSENM
(Dig it up and haul it off)

