

## **New Information Requested on Executive Order on the Review of Designations Under the Antiquities Act**

### **BLM-Utah Responses to Additional Questions**

- a) Any legislative language, including legislation in appropriations bills

There is no specific legislation regarding Grand Staircase-Escalante National Monument (GSENM).

- b) alternative options available for protection of resources applicable at each monument, such as Native American Graves Protection and Repatriation Act, Paleontological Resources Preservation Act, Archaeological Resources Protection Act, Historic Preservation Act and agency-specific laws and regulations.

The following options could provide some options to protect specific resources found in GSENM. Protection would likely occur on a site-by-site or resource-by-resource basis and also would take a significant amount of time to accomplish under these various laws. These laws may not provide a mechanism to protect all cultural or tribal resources in GSENM. For example, there are no statutory protections for cultural landscapes, but such resources could be protected under the Antiquities Act. See also the attached *Stegner Center\_NM vs NCA.pdf*.

National Historic Preservation Act, (NHPA)

Native American Graves Protection and Repatriation Act, (NAGPRA)

Paleontological Resources Preservation Act, (PRPA)

Archaeological Resources Protection Act, (ARPA)

American Indian Religious Freedom Act (AIRFA)

- c) Designated wilderness areas (name, acreage), Wilderness Study Areas (name if there is one, acreage, type), and/or areas managed to preserve wilderness or roadless characteristics that are not WSAs.

1. There is no designated wilderness within GSENM.
2. There are 16 Wilderness Study Areas totaling 881,997 acres within GSENM.
  - Phipps-Death Hollow Instant Study Area (ISA) - 42,731 acres
  - Steep Creek Wilderness Study Area (WSA) - 21,896 acres
  - North Escalante Canyons/The Gulch ISA - 120,204 acres
  - Carcass Canyon WSA - 47,351 acres
  - Scorpion WSA - 35,884 acres
  - Escalante Canyons Tract 1 ISA - 360 acres

- Escalante Canyons Tract 5 ISA - 760 acres
- Devils Garden ISA - 638 acres
- The Blues WSA - 19,030 acres
- Fiftymile Mountain WSA - 148,802 acres
- Death Ridge WSA - 63,667 acres
- Burning Hills WSA - 61,550 acres
- Mud Spring Canyon WSA - 38,075 acres
- The Cockscomb WSA - 10,827 acres
- Paria/Hackberry and Paria/Hackberry 202 WSA - 135,822 acres
- Wahweap WSA - 134,400 acres
  - *WSA/ISA acres listed are the total BLM-administered surface acres from the Utah Statewide Wilderness Study Report, October 1991. GIS calculations would vary.*

3. The most recent comprehensive inventory of lands with wilderness characteristics within GSENM is Utah's statewide inventory effort in 1999. Within GSENM there are approximately 471,700 acres of lands with wilderness characteristics. GSENM completed a Monument Management Plan in 2000, but did not make specific land use planning decisions regarding the management of lands with wilderness characteristics. Instead, the MMP designates lands within the GSENM in different "Management Zones," to help define permitted or excluded activities and any stipulations pertaining to them. There are four types of Management Zones in GSENM: Frontcountry, Passage, Outback and Primitive. Lands with wilderness characteristics that are within the Outback or Primitive zones are managed according to goals and objectives that more closely align with protection of wilderness characteristics

*See attached maps: GSENM PassageZone LWC WSA.pdf; GSENM OutbackZone LWC WSA.pdf; GSENM FrontcountryZone LWC WSA.pdf; GSENM\_PrimitiveZone\_LWC\_WSA.pdf and GSENM\_FEIS\_WSAmap.jpeg.*

d) Outstanding R.S. 2477 claims within a monument    type of road claimed and history

There are ~1,525 roads claimed in Garfield and Kane counties under R.S. 2477. This figure also includes lands outside of GSENM managed by the Kanab Field Office. (See: *Statewide\_RS2477\_Claims\_102313.pdf; Utah\_RS2477Claims.pdf and Snapshot\_GSENMRS2477Claims.jpg*). Between 2005 and 2012, the State of Utah and 22 counties filed 30 lawsuits seeking quiet title to over 12,000 claimed R.S. 2477 rights-of-way. The vast majority of these claims are on BLM-administered lands, but claims are pending on lands administered by the National Park Service and U.S. Forest Service. To date, only one case, involving three roads, has been settled (Juab 1). Under a case management order, six cases involving 1,500 claims statewide are currently being litigated    Kane (1), Kane (2), (3), and (4), and Garfield (1) and (2). Of the 1,500 claims, approximately half are located in Grand Staircase Escalante National Monument. The remaining cases have been stayed, although preservation depositions have been allowed to continue. BLM-Utah maintains thousands of records related to R.S. 2477 claims and active or pending litigation, but some of the information is attorney-client privileged.

e) Maps

GSENM provided multiple maps in the initial data response (2.g.1 *GSENM SiteDensity.pdf*; 2.g.2 *GSENM Inventories.pdf*; 2.g.3 *GSENM ArchSites.pdf*; 2.g.4 *GSENM\_ArchNumofSites.pdf*; 2.b.Upper Valley Field Map.pdf; *GSENM Background Info subfolder- GSENM\_Brochure\_Map.pdf*; *MAP\_WSA\_for MMP DEIS Map.pdf*; *GrandStaircaseEscalante map.pdf*; *Paleo CulturalSitesMap5-8-17.pdf*; *PaleoSitesMap5-8-17.pdf*). There are also numerous maps contained within the Monument Management Plan. We are attaching the *GSENM ManagementZones\_Transportation Map.pdf*.

f) Cultural or historical resources, particularly Tribal, located near a monument but not within the boundary that might benefit from inclusion in the monument

- Nipple Lake: Private inholding within GSENM. Landowner in the past has expressed interest in selling this property. This is considered a Traditional Cultural Property (TCP) by the Kaibab Paiute, in conjunction with the nearby Mollies Nipple land form (a prominent, isolated rocky peak), known to the Kaibab Paiute as "Mountain that Breathes. It is the only permanently wet meadow within GSENM, providing for a very unique habitat. The area is very dense in cultural sites, early ancestral pueblo occupation, and pilgrimage trails.
- Vermilion Cliffs Front: Kanab Field Office (KFO) and private land near the Kanab Creek boundary. Ancestral pueblo/archaeological record; site is contiguous with GSENM; includes important Ancestral Puebloan (Anasazi) sites, including the earliest studied and reported in the area
- Paria River Canyon (between Vermilion Cliffs NM & GSENM; managed by KFO) - Includes pilgrimage trails for Hopi & Paiute. Archaeological sites in this area contain evidence of continued Hopi pilgrimage use long after abandonment by the Ancestral Puebloans (Anasazi). (Note: This is also the location of Buckskin Gulch, one of the longest continuous slot canyons in the world, and the famous "Wave" formation).
- Shinarump Cliffs: KFO & private inholdings: Very dense array of Ancestral Puebloan (Anasazi) sites, including the earliest dated pottery in the area. The archaeological record here is equal to that at Grand Gulch.

(See: *GSENM Data\_call\_CulturalOutsideGSENM.pdf* and *Stoffle et al 2001 Kaibab Paiute Ethnographic Assessment in GSENM.pdf*)

g) Other general questions or comments

- a) **Discuss the full range of Proclamation objects.** The initial DOI data call focuses almost exclusively on cultural objects, but the Proclamation identifies many objects of antiquity or historical or scientific interest to be protected. GSENM published a table of all resources and objects in the Analysis of the Management Situation for the Livestock Grazing Plan Amendment EIS (*GSENM AMS Final July2015.pdf*, starting on pg.136). Objects within GSENM include geologic stratigraphy and structures, paleontological sites, cultural use, human history and biological resources. Each annual Manager's Report also notes the status and trend of the identified objects. We included the 2014, 2015, and 2016 Manager's Report in the GSENM Background Info subfolder in Drive. The Science Symposium subfolder in Drive also summarizes some of the scientific studies on GSENM. The paleontological resources on GSENM are particularly noteworthy and

world class. See attached: *Paleontology on the GSENM Titus.docx* and *GSENM Fossil Map.pdf*.

- b) **Extent of the designation:** The GSENM designation was the subject of litigation. The case concerned the designation of 1.7 million acres of federal land as a national monument pursuant to the Antiquities Act. The court held that the President complied with the Antiquities Act by (1) designating, in his discretion, objects of scientific or historic value, and (2) setting aside, in his discretion, the smallest area necessary to protect the objects. (See: *Utah Ass'n of Counties v. Bush.pdf* and *2004-04-19 Opinion & Order.pdf*)

In order to protect the objects identified in the Proclamation, the Department must consider the connectivity between them. This concept is particularly critical for biological resources, but also applies to management of cultural resources and tribal interests. Protection of isolated identified cultural sites is not synonymous with protection of a cultural landscape (e.g., Traditional Cultural Properties, vision quest sites, etc.) The Secretary memo to the President articulates the rationale for the GSENM boundaries based on these factors and considerations. (See: *7.2\_8-15-96\_Secretarial Memo.pdf* in Drive)

- c) **Monument Advisory Committees (MACs).** MACs provide for local and subject matter expert input and advice into management objectives. The GSENM MAC includes seven scientist positions that focus on the identified objects in the Proclamation. (See: *May 11, 2017 DOI MAC Data Call.docx*). For those Monuments that do not have MACs, the RACs provide that same level of integrating multiple stakeholders in an advisory capacity.
- d) The designation of GSENM as a national monument elevates protection of the identified objects in many ways, including:
- Increased attention and public awareness of resources and objects
  - Expanded educational/research efforts by employees and researchers related to these objects
  - Increased partnership opportunities and funding via Universities that focus on research in Monuments