

**The Wilderness Society * Earthjustice * Southern Utah Wilderness Alliance
Center for Biological Diversity * Wild Wilderness * Great Old Broads for Wilderness
Californians for Western Wilderness * Oregon Natural Desert Association
Sierra Club * Grand Canyon Trust * Native Forest Network
San Juan Citizens Alliance * Friends of Sloan Canyon
Campaign for America's Wilderness * Defenders of Wildlife
American Hiking Society * Save Our Canyons * U.S. PIRG * Wildlands CPR
Natural Resources Defense Council * Soda Mountain Wilderness Council
Arizona Wilderness Coalition * American Rivers
Center for International Environmental Law * Wasatch Mountain Club**

November 16, 2005

The Honorable Gale Norton
Secretary
United States Department of the Interior
1849 C Street, NW
Washington, DC 20240

Dear Secretary Norton:

On behalf of our organizations, our membership, and members of the public who value our wild lands, we write to reiterate our deep concern with the Department of the Interior's (DOI) continued failure to remove unauthorized Kane County off-road vehicle (ORV) signs posted throughout the Grand Staircase Escalante National Monument, protected Bureau of Land Management (BLM) wilderness study areas (WSAs), and other wilderness quality public lands and waters in southern Utah.

We are deeply troubled that the Department, by condoning trespass and impairment to our public wild lands, is taking the extreme position that the federal government will tolerate damage to our public lands and that those who damage our public lands can do so without fear that DOI will enforce the law. Such an approach could invite further damage not only to the areas at risk in southern Utah, but to many other wilderness quality lands across this nation. We thus again implore you to immediately remove the signs because they invite damage to public lands.

A number of us expressed our concerns to you about this matter in May 2005. Since then, your department has done nothing to discharge its duty to protect our public lands and the public's safety by removing the illegal ORV signs. The failure to respond to trespass against public lands and damage to public resources directly jeopardizes lands within the Grand Staircase Escalante National Monument, one of the nation's premier national monuments. The BLM's abdication of its management and enforcement duties to remove

the illegal signs endangers these special places as well as all public lands throughout the West.

As you are aware, Kane County posted its ORV signs on public lands without authorization from BLM staff. As of June 21, 2005, the BLM had documented a total of 268 Kane County signs on public lands. In total over 100 illegal off-road vehicle signs were placed in the Monument, wilderness study areas, and other wilderness quality lands. Many of these signs encourage ORV use on lands formally "closed" to off-road vehicle travel by the land use plan for the Monument and emergency closure orders for the WSAs.

The placement of Kane County's illegal off-road vehicle signs in the Monument is an affront to the BLM's duty and authority to manage the federal lands and waters within the Monument. Such action also puts the public at risk and invites damage to sensitive natural and cultural resources. Former Utah BLM Director Wisely noted in an April 26 letter to Kane County Commissioner Mark Habbeshaw, "I am very concerned that such [unauthorized signing] actions, which result in conflicting management directive, may likely present serious safety issues to members of the public, possibly subject them to legal exposure, and cause resource damage."

We are dismayed that the Department has not removed the signs though the infractions have persisted for over eight months. From correspondence between Senator Durbin and the Department of the Interior, we understand that the Department now appears to be taking the position that a recent ruling from the Tenth Circuit Court of Appeals¹ affects the BLM's authority to respond to damage and trespass violations on federal lands.

However, the court's decision does nothing to modify the Department's congressionally-mandated duty under the Federal Land Policy and Management Act (FLPMA) to protect BLM lands from unnecessary degradation. Any implication to the contrary would be unjustified and immensely harmful to public lands throughout the West. In fact, the Tenth Circuit made it clear the Department is the owner and manager of public lands until proven otherwise when it held that claimants claiming an R.S. 2477 right-of-way have the burden of proving affirmatively that such a claim is valid. Yet to our knowledge Kane County has provided no evidence to validate its claimed rights of way nor has it received recognition of its claims from the courts.

The Department of the Interior does a great disservice to the American public by continuing to condone the degradation of federal lands, as such actions could well invite other damage, trespass, and violation to wilderness quality lands throughout the nation. Furthermore, we remind you that the public at large, not exclusively those who unilaterally defy the agency's statutory management of public lands, should have a voice in the management of our public lands. Therefore, if the Department has plans to negotiate or consult with Kane County about the claims in dispute, we request that the Department also ensure that any negotiations or consultations involve the public.

¹ SUWA v. BLM, 425 F. 3d 735 (10th Cir. 2005).

We strongly urge you to take immediate action to enforce the law and remove the illegal off-road vehicle signs from the Monument, wilderness study areas, and other public lands. Only by doing so can the Department discharge its legal obligations and send a message that it intends to protect America's precious natural heritage not only in Utah but across the West.

Thank you in advance for your prompt attention to this matter.

Sincerely,



William H. Meadows, President
The Wilderness Society

On behalf of:

Buck Parker, Executive Director
Earthjustice

Scott Groene, Executive Director
Southern Utah Wilderness Alliance

Michael Finkelstein, Executive Director
Center for Biological Diversity

Scott Silver, Executive Director
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Bill Marlett, Executive Director
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Sierra Club

Bill Hedden, Executive Director
Grand Canyon Trust

Matthew Koehler, Executive Director
Native Forest Network

Mark Pearson, Executive Director
San Juan Citizens Alliance

Bill James, President
Friends of Sloan Canyon

Mike Matz, Executive Director
Campaign for America's Wilderness

Rodger Schlickeisen, President
Defenders of Wildlife

Gregory A. Miller, Ph.D., President
American Hiking Society

Lisa Smith, Executive Director
Save Our Canyons

Gene Karpinski, Executive Director
U.S. PIRG

Bethanie Walder, Executive Director
Wildlands CPR

Frances G. Beinecke, Executive Director
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Dave Willis, Chair
Soda Mountain Wilderness Council

Don Hoffman, Director
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Andrew Fahlund, Vice President
American Rivers

Daniel B Magraw Jr., President
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Will McCarvill, Executive Director
Wasatch Mountain Club

cc: The Hon. Jon Huntsman, Jr., Governor of Utah
Mr. Chad Calvert
The Hon. Kathleen Clarke
Mr. Gene Terland
Mr. David Hunsaker
Mr. Larry Jensen