

APPENDIX D

CONSULTATION LETTERS



IN REPLY REFER TO:

United States Department of the Interior

NATIONAL PARK SERVICE
Capitol Reef National Park
Torrey, Utah 84775

April 12, 2002

Mr. Henry Maddux
Field Supervisor
US Fish and Wildlife Service
2369 West Orton Circle
Suite 50
West Valley City, Utah 84119

Dear Mr. Maddux:

Capitol Reef National Park is preparing an environmental impact statement (EIS) to evaluate potential impacts to the natural and human environment resulting from a proposed action that would modify segments of the Burr Trail in the park.

The proposed action would modify a one-mile segment of the Burr Trail in Capitol Reef National Park and address drainage concerns at the Burr Trail/Hall's Creek crossing and at a drainage crossing the road near the base of the switchbacks in Burr Canyon. The one-mile segment of the Burr Trail that would be modified extends from the eastern park boundary to The Post. The purpose of the proposed action would be to meet the following objectives.

- Provide for safe travel on an all-weather, maintained, variable-width, unpaved road of gravel and native surfacing, acknowledging that the road may be occasionally and briefly impassible depending on localized weather conditions,
- Retain the winding nature and adventuresome character of the Burr Trail through Capitol Reef National Park, and
- Protect the natural and cultural resources of the park.

The need for the proposed action would be to address proposed road modifications that Garfield County would like to make to the Burr Trail. Completion of the EIS process would fulfill a May 30, 2001 Memorandum of Agreement, which established a mutually agreeable procedure between the National Park Service, the State of Utah, and Garfield County, Utah to conduct compliance on this section of the Burr Trail.

The road modifications would keep the driving experience much as it is today while achieving the three objectives stated above. The conceptual design elements associated with the modifications would include:

- Stabilization of the road surface using gravel base material at locations where the current bentonite surface makes the road inadequate for all weather travel,
- Installation or improvement of drainage facilities at wash crossings (alternative solutions to drainage problems include low water crossings, properly-sized steel culverts, or concrete box culverts),
- Widening and/or realignment of the road at milepost (M.P.) 0.6 or altering the size of the overhanging rock at that point to accommodate two-way vehicle traffic, and

- Installation of rip-rap along the northern bank of Sandy Creek, adjacent to the road, from approximately M.P. 0.75 to 0.85.

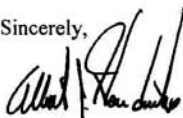
Other alternatives to achieve the purpose and objectives of the proposed action will be developed during the scoping process. Additionally, adverse effects of the alternatives on resources in the park would be minimized through the development and implementation of mitigation measures.

In order to meet our Section 7 consultation requirements for the EIS, we respectfully request that you provide us with the current listing and locations of endangered, threatened, proposed and candidate species and their associated critical habitats specific to Garfield County, Utah.

This letter is the first step of consultation for this project to ensure that the planning effort adequately addresses Section 7 requirements related to the Burr Trail EIS. When the draft EIS is completed, a copy will be sent to you with an official transmittal letter for your review and comment.

We look forward to working cooperatively with you on the planning and implementation of this project.

Sincerely,



Albert J. Hendricks
Superintendent

enclosures (1)

cc: NPS – C. Turk
Parsons Denver – C. Chitwood



IN REPLY REFER TO:

United States Department of the Interior

NATIONAL PARK SERVICE

Capitol Reef National Park

Torrey, Utah 84775

April 12, 2002

Mr. Don Ostler
Utah Department of Environmental Quality
Division of Water Quality
P.O. Box 144870
Salt Lake City, UT
84114-4870

Dear Mr. Ostler:

Capitol Reef National Park is preparing an environmental impact statement (EIS) to evaluate potential impacts to the natural and human environment resulting from a proposed action that would modify segments of the Burr Trail in the park.

The proposed action would modify a one-mile segment of the Burr Trail in Capitol Reef National Park and address drainage concerns at the Burr Trail/Hall's Creek crossing and at a drainage crossing the road near the base of the switchbacks in Burr Canyon. The one-mile segment of the Burr Trail that would be modified extends from the eastern park boundary to The Post. The purpose of the proposed action would be to meet the following objectives.

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- Protect the natural and cultural resources of the park.

The need for the proposed action would be to address proposed road modifications that Garfield County would like to make to the Burr Trail. Completion of the EIS process would fulfill a May 30, 2001 Memorandum of Agreement, which established a mutually agreeable procedure between the National Park Service, the State of Utah, and Garfield County, Utah to conduct compliance on this section of the Burr Trail.

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- Stabilization of the road surface using gravel base material at locations where the current bentonite surface makes the road inadequate for all weather travel,
- Installation or improvement of drainage facilities at wash crossings (alternative solutions to drainage problems include low water crossings, properly-sized steel culverts, or concrete box culverts),

- Widening and/or realignment of the road at milepost (M.P.) 0.6 or altering the size of the overhanging rock at that point to accommodate two-way vehicle traffic, and
- Installation of rip-rap along the northern bank of Sandy Creek, adjacent to the road, from approximately M.P. 0.75 to 0.85.

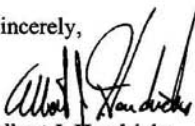
Other alternatives to achieve the purpose and objectives of the proposed action will be developed during the scoping process. Additionally, adverse effects of the alternatives on resources in the park would be minimized through the development and implementation of mitigation measures.

In order to provide a thorough assessment of all resources in the EIS, we respectfully request that you provide us information specific to issues you believe warrant consideration in association with the proposed action in Garfield County, Utah.

This letter is the first step of consultation for this project to ensure that the planning effort adequately addresses potential resource management concerns related to the Burr Trail EIS. When the draft EIS is completed, a copy will be sent to you with an official transmittal letter for your review and comment.

We look forward to working cooperatively with you on the planning and implementation of this project.

Sincerely,



Albert J. Hendricks
Superintendent

enclosures (1)

cc: NPS – C. Turk
Parsons Denver – C. Chitwood



IN REPLY REFER TO:

United States Department of the Interior

NATIONAL PARK SERVICE

Capitol Reef National Park
Torrey, Utah 84775

April 22, 2002

Mr. Max Evans, SHPO
Utah State Historical Society
100 Rio Grande
Salt Lake City, Utah 84101

Dear Mr. Evans:

Capitol Reef National Park is preparing an environmental impact statement (EIS) to evaluate potential impacts to the natural and human environment resulting from a proposed action that would modify segments of the Burr Trail in the park.

The proposed action would modify a one-mile segment of the Burr Trail in Capitol Reef National Park and address drainage concerns at the Burr Trail/Hall's Creek crossing and at a drainage crossing the road near the base of the switchbacks. The one-mile segment of the Burr Trail that would be modified extends from the eastern park boundary to The Post, a distance of approximately one mile. The purpose of the proposed action would be to meet the following objectives.

- Provide for safe travel on an all-weather, maintained, variable-width, unpaved, gravel and native material road, acknowledging that the road may be occasionally and briefly impassible depending on localized weather conditions,
- Retain the winding nature and adventuresome character of the Burr Trail through Capitol Reef National Park, and
- Protect the natural and cultural resources of the park.

The need for the proposed action would be to fulfill the May 30, 2001 Memorandum of Agreement, which established a mutually agreeable procedure between the National Park Service, the State of Utah, and Garfield County, Utah to address proposed road modifications that Garfield County would like to make to the Burr Trail.

The road modifications would keep the driving experience much as it is today while achieving the three objectives stated above. The conceptual design elements associated with the modifications would include:

- Stabilization of the road surface using gravel base material at locations where the current bentonite surface makes the road inadequate for all weather travel,

- Installation or improvement of drainage facilities at wash crossings (alternative solutions to drainage problems include low water crossings, properly-sized steel culverts, or concrete box culverts),
- Widening the road at milepost (M.P.) 0.6 or altering the size of the overhanging rock at that point to accommodate two-way vehicle traffic, and
- Installation of rip-rap along the northern bank of Sandy Creek, adjacent to the road, from approximately M.P. 0.75 to 0.85.

Other alternatives to achieve the purpose and objectives of the proposed action will be developed during the scoping process. Additionally, mitigation measures would be developed to reduce potential impacts on resources.

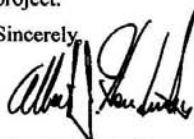
Planning and Section 106 compliance actions conducted by the National Park Service for various road modification proposals for the Boulder - to - Bullfrog Road have been on going since the 1970's. A summary of past cultural resources inventory and American Indian consultation conducted with regard to this road is enclosed for your consideration. On October 23, 1992 the Burr Trail was determined not eligible for the National Register of Historic Places.

This letter is the first step of consultation for the most recent road modification project to ensure that the planning effort adequately addresses Section 106 requirements related to the Burr Trail EIS. Although we do not believe that implementation of this project would have the potential to affect historic properties currently included in or that possibly may be eligible for inclusion in the National Register of Historic Places, we want to be sure you are aware of the continued planning efforts.

When the draft EIS is completed, a copy will be sent to you with an official transmittal letter for your review and comment as provided for in accordance with 36 CFR 800 and with the 1995 Service wide Programmatic Agreement, the Advisory Council on Historic Preservation, and the National Park Service. Copies of the draft EIS will also be sent to affiliated tribes. If you have any questions or concerns, please contact Cultural Resources Program Manager Lee Kreutzer at (435) 425-3791.

We look forward to working cooperatively with you on the planning and implementation of this project.

Sincerely,



Albert J. Hendricks

Superintendent

enclosures (3)

cc: NPS - C. Turk
Parsons Denver - C. Chitwood

Enclosure 2

NHPA Project Summary:

Proposals by Garfield County to modify the Boulder-to-Bullfrog road and/or segments of the road, that traverse through the park have involved on-going planning and evaluation since the 1970s. Each planning action has been accompanied by environmental documents and associated compliance actions undertaken by the National Park Service. The following studies and evaluations were undertaken to support section 106 compliance evaluations for various road modification project proposals.

- In consultation with the Utah State Historic Preservation Officer, the Burr Trail was evaluated for potential eligibility for the National Register of Historic Places in 1992 (NPS 1992). *The roadway was determined not eligible for the register as of October 23, 1992.*
- A Historic Resource Study was completed for Capitol Reef National Park in 1992 (O'Bannon).
- The National Park Service conducted a cultural resources survey along 8.4 miles of the Boulder-to-Bullfrog Road through Capitol Reef National Park and 7.6 miles through Glen Canyon National Recreation Area. This work, undertaken as part of a Section 106 Compliance action, was completed in 1992 by personnel from the National Park Service's Midwest Archeological Center (MWAC), Lincoln, Nebraska under the supervision of Betty LeFree of the Rocky Mountain Regional Office in Denver (LeFree 1993).
 - The survey team documented and evaluated 31 previously unrecorded cultural resources within a 200-meter-wide corridor along the road, the Area of Potential Effect (AOPE) defined for the project at that time (e.g. 100-meters on either side of the road). *Six of these sites later were mitigated in 1995-1996 by Abajo Archaeology, a contract firm hired by Garfield County in cooperation with the National Park Service. That mitigation work was completed before Garfield County began roadwork along the Burr Trail in 1996.*
- During the earlier planning phases in 1993, extensive discussions were held with potentially affiliated American Indian Tribes to identify possible ethnographic resources. Three surveys of the Boulder-to-Bullfrog Road were conducted to acquaint the American Indian tribes with the project area, and *two ethnographic resource inventory and assessment reports were completed* (Sucec 1996a and 1996b).
- No discrete resources were identified as Traditional Cultural Properties. Traditional Cultural Properties are defined by National Register Bulletin 38 (*Guidelines for Evaluating and Documenting Cultural Properties*). However,

Enclosure 2

tribal consultants asserted cultural ties to the area, ascribed religious significance to the entire viewshed between the Burr Trail and the Henry Mountains, and beyond, and identified plant species and mineral types traditionally used by their peoples. They also considered all archeological resources to be ethnographic properties. *Tribal consultants generally preferred that road improvements to Burr Trail be kept to a minimum.*

- In 2002, Cultural Resources Program Manager Lee Kreutzer revisited the current one-mile project corridor, examining an area 20-meters on each side of the existing edge of road. This survey area was designed to cover the project area of potential effect as presently defined. Ms. Kreutzer located a previously undocumented, faint historic inscription on a cliff adjacent to the road, and is currently investigating the possible historic significance of that inscription. Although the inscription is largely illegible, the name "Pectol" is visible, suggesting Ephraim P. Pectol of Torrey, Utah, created it. Mr. Pectol was a local tourism promoter and state legislator who is credited with helping establish Capitol Reef National Monument in 1937.
- Ms. Kreutzer is currently consulting with Pectol descendants on this matter, and will soon make a recommendation to the Utah State Historic Preservation Officer. The inscription is located on a cliff face adjacent to and only a few meters away from a cliff segment that overhangs the road. Road modifications may involve removal of the overhang by blasting, road realignment, or other methods that possibly could affect the nearby inscription.
- Ms. Kreutzer also surveyed the drainage at the base of the switchback where installation of a new culvert is proposed, but she found no cultural remains within the road corridor at that location. An Archaic-style pictograph panel, 42GA1444 exists on a cliff face immediately next to the road a short distance away. This site is outside of the potential area of effect for the culvert installation, but due to its proximity to the road, the National Park Service would monitor construction to ensure that no damage occurs.
- A second culvert installation is proposed for a location a little less than a quarter-mile west of the switchbacks intersection. Ms. Kreutzer resurveyed the area and re-documented a site (42GA0646) originally recorded by Marvin Kay in 1973. That site is well beyond the potential area of effect for this project. No cultural resources were noted within the project area.

REFERENCES

LeFree, Betty J.

- 1993 *Boulder to Bullfrog Road Improvement: Archeological Survey in Glen Canyon National Recreation Area and Capitol Reef National Park*, with the Projectile Point Analysis by Dennis Danielson. Utah Project Number U92 NA57 N.S. Denver, Colorado. National Park Service, Rocky Mountain Region.

O'Bannon, Patrick W.

Enclosure 2

1992 *Capitol Reef National Park: A Historic Resources Study*. Prepared for the Rocky Mountain Region, National Park Service, Denver, Colorado. Philadelphia, Pennsylvania: John Milner Associates, Inc.

Sucec, Rosemary J.

1996a *Ethnographic Resource Inventory and Assessment for the Burr Trail, Capitol Reef National Park, Utah and Glen Canyon National Recreation Area, Utah, in Cooperation with the Hopi Tribe*. Denver, Colorado. National Park Service, Rocky Mountain Regional Office.

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IN REPLY REFER TO:

United States Department of the Interior

NATIONAL PARK SERVICE
Capitol Reef National Park
Torrey, Utah 84775

April 22, 2002

Governor
Santa Clara Pueblo
Box 580
Española, NM 87532

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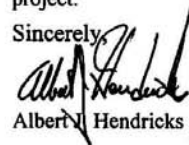
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We want to be sure that you are aware of the continued planning efforts, and we also want to be sure to give you the opportunity to inform us of any ethnographic resources valued by your tribe that may be affected by this project. When the draft EIS is completed, a copy will be sent to you with an official transmittal letter for your review. If you have any questions or concerns, please contact Cultural Resources Manager Lee Kreutzer at (435) 425-3791.

We look forward to working cooperatively with you on the planning and implementation of this project.

Sincerely,



Albert Hendricks

Superintendent

enclosures (3)

cc: NPS - C. Turk

Parsons Denver - C. Chitwood

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NHPA Project Summary:

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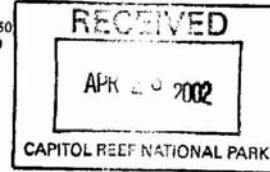
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United States Department of the Interior
FISH AND WILDLIFE SERVICE

UTAH FIELD OFFICE
2369 WEST ORTON CIRCLE, SUITE 50
WEST VALLEY CITY, UTAH 84119



In Reply Refer To
FWS/R6
ES/UT

April 24, 2002

To: Superintendent, National Park Service, Capitol Reef National Park, Torrey, Utah 84775

From: Field Supervisor, Fish and Wildlife Service, Utah Field Office, West Valley City, Utah

Subject: Proposed Road Work on the Burr Trail Road

In response to your letter dated April 12, 2002, below is a list of endangered (E), threatened (T), and candidate (C) species that may occur in the area of influence of your proposed action.

<u>Common Name</u>	<u>Scientific Name</u>	<u>Status</u>
Aquarius Paintbrush	<i>Castilleja aquariensis</i>	C
Autumn Buttercup	<i>Ranunculus aestivalis</i>	E
Jones Cycladenia	<i>Cycladenia humilis</i> var. <i>jonesii</i>	T
Maguire Daisy	<i>Erigeron maguirei</i>	T
Ute Ladies'-tresses	<i>Spiranthes diluvialis</i>	T
Bonytail ^{1,10}	<i>Gila elegans</i>	E
Colorado Pikeminnow ^{4,10}	<i>Ptychocheilus lucius</i>	E
Humpback Chub ^{4,10}	<i>Gila cypha</i>	E
Razorback Sucker ^{4,10}	<i>Xyrauchen texanus</i>	E
Bald Eagle ³	<i>Haliaeetus leucocephalus</i>	T
California Condor ⁷	<i>Gymnogyps californianus</i>	E
Mexican Spotted Owl ^{1,4}	<i>Strix occidentalis lucida</i>	T
Southwestern Willow Flycatcher	<i>Empidonax traillii extimus</i>	E
Western Yellow-billed Cuckoo	<i>Coccyzus americanus occidentalis</i>	C
Utah Prairie Dog	<i>Cynomys parvidens</i>	T

¹ Nests in this county of Utah.

³ Wintering populations (only four known nesting pairs in Utah).

⁴ Critical habitat designated in this county.

⁷ Experimental nonessential population.

¹⁰ Water depletions from any portion of the occupied drainage basin are considered to adversely affect or adversely modify the critical habitat of the endangered fish species, and must be evaluated with regard to the criteria described in the pertinent fish recovery programs.

The proposed action should be reviewed and a determination made if the action will affect any listed species or their critical habitat. If it is determined by the Federal agency, with the written concurrence of the Service, that the action is not likely to adversely affect listed species or critical habitat, the consultation process is complete, and no further action is necessary.

Formal consultation (50 CFR 402.14) is required if the Federal agency determines that an action is "likely to adversely affect" a listed species or will result in jeopardy or adverse modification of critical habitat (50 CFR 402.02). Federal agencies should also confer with the Service on any action which is likely to jeopardize the continued existence of any proposed species or result in the destruction or adverse modification of proposed critical habitat (50 CFR 402.10). A written request for formal consultation or conference should be submitted to the Service with a completed biological assessment and any other relevant information (50 CFR 402.12).

Candidate species have no legal protection under the Endangered Species Act (ESA). Candidate species are those species for which we have on file sufficient information to support issuance of a proposed rule to list under the ESA. Identification of candidate species can assist environmental planning efforts by providing advance notice of potential listings, allowing resource managers to alleviate threats and, thereby, possibly remove the need to list species as endangered or threatened. Even if we subsequently list this candidate species, the early notice provided here could result in fewer restrictions on activities by prompting candidate conservation measures to alleviate threats to this species.

Only a Federal agency can enter into formal Endangered Species Act (ESA) section 7 consultation with the Service. A Federal agency may designate a non-Federal representative to conduct informal consultation or prepare a biological assessment by giving written notice to the Service of such a designation. The ultimate responsibility for compliance with ESA section 7, however, remains with the Federal agency.

Your attention is also directed to section 7(d) of the ESA, as amended, which underscores the requirement that the Federal agency or the applicant shall not make any irreversible or irretrievable commitment of resources during the consultation period which, in effect, would deny the formulation or implementation of reasonable and prudent alternatives regarding their actions on any endangered or threatened species.

Please note that the peregrine falcon which occurs in all counties of Utah was removed from the federal list of endangered and threatened species per Final Rule of August 25, 1999 (64 FR 46542). Protection is still provided for this species under authority of the Migratory Bird Treaty Act (16 U.S.C. 703-712) which makes it unlawful to take, kill, or possess migratory birds, their parts, nests, or eggs. When taking of migratory birds is determined by the applicant to be the only alternative, application for federal and state permits must be made through the appropriate authorities. For take of raptors, their nests, or eggs, Migratory Bird Permits must be obtained through the Service's Migratory Bird Permit Office in Denver at (303) 236-8171.

We recommend use of the *Utah Field Office Guidelines for Raptor Protection from Human and Land Use Disturbances* which were developed in part to provide consistent application of raptor protection measures statewide and provide full compliance with environmental laws regarding raptor protection. Raptor surveys and mitigation measures are provided in the Raptor Guidelines as recommendations to ensure that proposed projects will avoid adverse impacts to raptors, including the peregrine falcon.

The following is a list of species that may occur within the project area and are managed under Conservation Agreements/Strategies. Conservation Agreements are voluntary cooperative plans among resource agencies that identify threats to a species and implement conservation measures to proactively conserve and protect species in decline. Threats that warrant a species listing as a sensitive species by state and federal agencies and as threatened or endangered under the ESA should be significantly reduced or eliminated through implementation of the Conservation Agreement. Project plans should be designed to meet the goals and objectives of these Conservation Agreements.

Common Name

Aquarius Paintbrush

Arizona Willow

Colorado River Cutthroat Trout

Scientific Name

Castilleja aquariensis

Salix arizonica

Oncorhynchus clarki pleuriticus

If we can be of further assistance or if you have any questions, please feel free to contact Laura Romin of our office at (801)975-3330 extension 142.

Sincerely,



Henry R. Maddux
Utah Field Supervisor

RECEIVED
CAPITOL REEF NATIONAL PARK

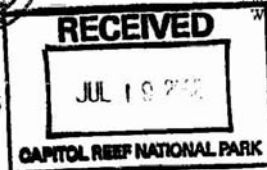
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United States Department of the Interior
FISH AND WILDLIFE SERVICE

UTAH FIELD OFFICE
2369 WEST ORTON CIRCLE, SUITE 50
WEST VALLEY CITY, UTAH 84119

In Reply Refer To
FWS/R6
ES/UT



July 16, 2002

To: Superintendent, Capitol Reef National Park, National Park Service, HC 70, Box 15, Torrey, Utah 84775

From: Field Supervisor, Ecological Services, Fish and Wildlife Service, West Valley City, Utah

Subject: Environmental Impact Statement for the Burr Trail Road Modifications

This responds to your letter we received on May 23, 2002 regarding the subject project. We have no comments on the project, as proposed. Should project plans change or if additional information becomes available we may choose to provide comments in the future.

We appreciate the opportunity to review your project. Should you have any questions or need any further information please contact Randy Swilling, Fish and Wildlife Biologist at (801)975-3330 ext. 132.

Sincerely,

Henry R. Maddux
Utah Field Supervisor

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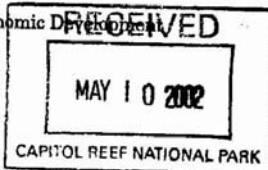


State of Utah

Department of Community and Economic Development
Division of State History
Utah State Historical Society

Michael O. Leavitt
Governor
Max J. Evans
Director

300 Rio Grande
Salt Lake City, Utah 84101-1182
(801) 533-3500 FAX: 533-3503 TDD: 533-3502
ushs@history.state.ut.us <http://history.utah.org>



May 6, 2002

Albert J. Hendricks
Superintendent
Capitol Reef National Park
Torrey UT 84775

RE: One-Mile Segment of the Burr Trail in Capitol Reef National Park

In Reply Please Refer to Case No. 02-0558

Dear Mr. Hendricks:

The Utah State Historic Preservation Office received the information on April 30, 2002. Thank you for the update concerning this stage of the undertaking, the USHPO concurs with the NPS determination of **No Potential to Effect**, (§36CFR 800.3).

This information is provided to assist with Section 106 responsibilities per §36CFR800. If you have questions, please contact me at (801) 533-3555. My email address is: jdykman@history.state.ut.us

As ever,

James L. Dykman
Compliance Archaeologist

JLD:02-0558 NPS/NAE

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Preserving and Sharing Utah's Past for the Present and Future



Albert J. Hendricks, Superintendent
National Park Service
Capitol Reef National Park
Torrery, Utah 84775

April 30, 2002

CAPITOL REEF NATIONAL PARK

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Archeo	Wayne Taylor, Jr.	
FILES	CHAIRMAN	
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	VICE CHAIRMAN	

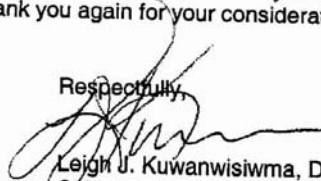
Dear Superintendent Hendricks,

Thank you for your letter dated April 22, 2002, regarding Capitol Reef National Park preparing an Environmental Impact Statement to evaluate potential impacts resulting from a proposal to modify segments of the Burr Trail. The Hopi Cultural Preservation Office appreciates Capitol Reef National Park's continuing solicitation of our input and your efforts to address our concerns.

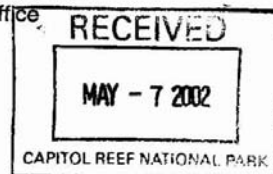
The Hopi Cultural Preservation has reviewed the enclosed National Historic Preservation Act Project Summary. We understand that the 2002 survey of the current, one-mile project corridor identified an Archaic style pictograph panel, 42GA1444, and site 42GA0604, which are both outside the potential area of effect for this proposal. We also appreciate that a Hopi ethnographic resource inventory and assessment was completed in 1996 for this project. Therefore, unless prehistoric cultural resources will be adversely affected, we have no further concerns regarding this proposal.

We also appreciate your patience with our extended review of Rosemary Sucec's Chapter on the Hopi Tribe's Affiliation with Capitol Reef National Park. Please contact Clay Hamilton at the Hopi Cultural Preservation Office should you have any questions or need additional information. Thank you again for your consideration.

Respectfully,


Leigh J. Kuwanwisiwma, Director
Cultural Preservation Office

xc: Rosemar Sucec, Yellowstone National Park
Clay Hamilton, Hopi Cultural Preservation Office



P.O. BOX 123 — KYKOTSMOVI, AZ. — 86039 — (520) 734-3000



REPLY REFER TO:

United States Department of the Interior

NATIONAL PARK SERVICE

Capitol Reef National Park
Torrey, Utah 87327

RECEIVED

MAY - 7 2002

April 22, 2002

Cultural Preservation Office
Zuni Pueblo
Zuni Heritage & Historic Office
Box 339
Zuni, NM 87327-0339

The Zuni Heritage and Historic Preservation Office has no comments on any possible historic properties affected by this undertaking.

[Signature]
Director, Zuni Heritage and Historic Preservation Office, Pueblo of Zuni
P.O. Box 1149, Zuni NM 87327

Dear Sir or Madam:

Capitol Reef National Park is preparing an environmental impact statement (EIS) to evaluate potential impacts to the natural and human environment resulting from a proposed action that would modify segments of the Burr Trail in the park.

The proposed action would modify a one-mile segment of the Burr Trail in Capitol Reef National Park and address drainage concerns at the Burr Trail/Hall's Creek crossing and at a drainage crossing the road near the base of the switchbacks. The one-mile segment of the Burr Trail that would be modified extends from the eastern park boundary to The Post, a distance of approximately one mile. The purpose of the proposed action would be to meet the following objectives.

- Provide for safe travel on an all-weather, maintained, variable-width, unpaved, gravel and native material road, acknowledging that the road may be occasionally and briefly impassible depending on localized weather conditions,
- Retain the winding nature and adventuresome character of the Burr Trail through Capitol Reef National Park, and
- Protect the natural and cultural resources of the park.

The need for the proposed action would be to fulfill the May 30, 2001 Memorandum of Agreement, which established a mutually agreeable procedure between the National Park Service, the State of Utah, and Garfield County, Utah to address proposed road modifications that Garfield County would like to make to the Burr Trail.

The road modifications would keep the driving experience much as it is today while achieving the three objectives stated above. The conceptual design elements associated with the modifications would include:

- Stabilization of the road surface using gravel base material at locations where the current bentonite surface makes the road inadequate for all weather travel,

- Installation or improvement of drainage facilities at wash crossings (alternative solutions to drainage problems include low water crossings, properly-sized steel culverts, or concrete box culverts),
- Widening the road at milepost (M.P.) 0.6 or altering the size of the overhanging rock at that point to accommodate two-way vehicle traffic, and
- Installation of rip-rap along the northern bank of Sandy Creek, adjacent to the road, from approximately M.P. 0.75 to 0.85.

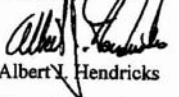
Other alternatives to achieve the purpose and objectives of the proposed action will be developed during the scoping process. Additionally, mitigation measures would be developed to reduce potential impacts on resources.

Planning and Section 106 compliance actions conducted by the National Park Service for various road modification proposals for the Boulder - to - Bullfrog Road have been on going since the 1970's. A summary of past cultural resources inventory and American Indian consultation conducted with regard to this road is enclosed for your consideration.

We want to be sure that you are aware of the continued planning efforts, and we also want to be sure to give you the opportunity to inform us of any ethnographic resources valued by your tribe that may be affected by this project. When the draft EIS is completed, a copy will be sent to you with an official transmittal letter for your review. If you have any questions or concerns, please contact Cultural Resources Manager Lee Kreutzer at (435) 425-3791.

We look forward to working cooperatively with you on the planning and implementation of this project.

Sincerely,


Albert V. Hendricks
Superintendent

enclosures (3)

cc: NPS - C. Turk
Parsons Denver - C. Chitwood

APPENDIX E

CAPITAL REEF LEGISLATION

PROCLAMATIONS AND RELATED LEGISLATION

12. Capitol Reef National Monument

Establishment: Proclamation (No. 2246) of August 2, 1937.....Page 136

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

(No. 2246 -- Aug. 2, 1937 -- 50 Stat. 1856)

Whereas certain public lands in the State of Utah contain narrow canyons displaying evidence of ancient sand dune deposits of unusual scientific value, and have situated thereon various other objects of geological and scientific interest; and

Whereas it appears that it would be in the public interest to reserve such lands as a national monument, to be known as the Capitol Reef National Monument:

Now, Therefore, I, Franklin D. Roosevelt, President of the United States of America, under and by virtue of the authority vested in me by section 2 of the act of June 9, 1906, ch. 3060, 34 Stat. 225 (U.S.C., title 16, sec. 431), do proclaim that, subject to all valid existing rights, the following described lands in Utah are hereby reserved from all forms of appropriation under the public-land laws and set apart as the Capitol Reef National Monument:

Salt Lake Meridian

T. 28 S.R. 5 E., All of sec. 34 north of the right-of-way of State Hwy.

No. 24;

secs. 35 and 36.

T. 28 S., R. 6 E., sec. 31 and the west half of sec. 32.

T. 29 S., R. 5 E., All of secs. 1 and 2 north of the right-of-way of State Hwy. No. 24.

T. 29 S., R. 6 E., secs. 1 to 4, inclusive;

All secs. 5, 6, 8 and 9 north of the right-of-way of State Hwy. No. 24;

secs. 10 to 15, inclusive; All of sec. 16 north of the right-of-way of State Hwy. No. 24;

secs. 22 to 25, inclusive;

sec. 26, E1/2 and N1/2 NW1/4;

sec. 27, N1/2 N1/2;

sec. 35, NE 1/4;

sec. 36.
T. 30 S., R. 6 E., sec. 1;
sec. 12, E 1/2.
T. 29 S., R. 7 E., secs. 5 to 8, 17 to 20 and 29 to 32, include.
T. 30 S., R. 7 E., secs. 4 to 9 and 15 to 17, include.;
sec. 18, E 1/2 and NW 1/4;
sec. 19, NE 1/4 and N1/2 SE 1/4;
sec. 20 N 1/2 and N1/2 SW 1/4;
secs. 21 to 23, and 26 to 28 include.;
sec. 29, E 1/2 E1/2;
secs. 33 to 35, inclusive, containing approximately 37, 060 acres.

Warning is hereby expressly given to all unauthorized persons not to appropriate, injure, destroy, or remove any feature of this monument and not to locate or settle upon any of the lands thereof.

The Director of the National Park Service, under the direction of the Secretary of the Interior, shall have the supervision, management, and control of this monument as provided in the act of Congress entitled "An Act To establish a National Park Service, and for other purposes," approved August 25, 1916 (ch. 408, 39 Stat. 535, U.S.C., title 16, secs. 1 and 2), and acts supplementary thereto or amendatory thereof.

Nothing herein shall prevent the movement of livestock across the lands included in this monument under such regulations as may be prescribed by the Secretary of the Interior and upon driveways to be specially designated by said Secretary.

In Witness Whereof, I have here unto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this 2d day of August, in the year of our Lord nineteen hundred and thirty-seven and of the Independence [seal] of the United States of America the one hundred and sixty second.

FRANKLIN D. ROOSEVELT.

By the President:

Cordell Hull.

The Secretary of State.

PROCLAMATION 3249
ENLARGING THE CAPITOL REEF NATIONAL MONUMENT, UTAH

WHEREAS it appears that the public interest would be promoted by adding to the Capitol Reef National Monument, Utah, certain adjoining lands needed for the protection of the features of geological and scientific interest included within the boundaries of the monument and for the proper administration of the area:

NOW, THEREFORE, I, Dwight D. Eisenhower, President of the United States of America, by virtue of the authority vested in me by section 2 of the act of June 8, 1906, 34 Stat. 225 (16 U.S.C. 431), do proclaim that, subject to valid existing rights, (1) the lands now owned by the United States within the exterior boundaries of the following-described tracts of lands are hereby added to and made a part of the Capitol Reef National Monument, and (2) the State-owned and privately-owned lands within those boundaries shall become parts of the monument upon acquisition of title thereto by the United States:

SALT LAKE MERIDIAN

T. 29 S., R. 5 E.,

Sections 1 and 2, these portions not previously included in the Monument.

T. 29 S., R. 6 E.,

Sections 5, 6, 9, and 10, those portions not previously included in the Monument;

Sections 7, 8, and 17, those portions lying north of Sulphur Creek;

Section 26, SW 1/4 and S 1/2 NW 1/4.

T. 30 S., R. 7 E.,

Section 20 NW 1/4 SE 1/4 (except S 1/2 S 1/2 NW 1/4 SE 1/4) and NE 1/4 SE 1/2 (except S 1/2 SW 1/4 NE 1/4 SE 1/4).

containing 3,040 acres, more or less.

Warning is hereby expressly given to all unauthorized persons not to appropriate, injure, destroy, or remove any feature of this monument and not to locate or settle upon any of the lands thereof.

Nothing herein shall prevent the movement of livestock across the lands included in this monument under such regulations as may be prescribed by the Secretary of the Interior and upon driveways to be specifically designated by said Secretary.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this second day of July in the year of our Lord nineteen hundred and [seal] fifty-eight, and of the Independence of the United States of America the one hundred and eighty-second.

DWIGHT D. EISENHOWER

By the President:

JOHN FOSTER DULLES,
Secretary of State.

THE PRESIDENT

Proclamation 3888

ENLARGING THE CAPITOL REEF NATIONAL MONUMENT, UTAH

WHEREAS, the Capitol Reef National Monument in Utah was established by Proclamation No. 2246 of August 2, 1937, and enlarged by Proclamation No. 3249 of July 2, 1958, to set aside and reserve certain areas possessing significant features and objects of geological and scientific interest; and

WHEREAS, it would be in the public interest to add to the Capitol Reef National Monument certain adjoining lands which encompass the outstanding geological feature known as Waterpocket Fold and other complementing geological features, which constitute objects of scientific interest, such as Cathedral Valley; and

WHEREAS, under section 2 of the act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), the President is authorized "to declare by public proclamation * * * objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and may reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected";

NOW, THEREFORE, I, LYNDON B. JOHNSON, President of the United States, under the authority vested in me by section 2 of the act of June 8, 1906, supra, do proclaim that, subject to valid existing rights, (1) the lands owned or controlled by the United States within the exterior boundaries of the following described area are hereby added to and made a part of the Capitol Reef National Monument, and (2) the State-owned and privately owned lands within those boundaries shall become and be reserved as parts of that monument upon acquisition of title thereto by the United States:

SALT LAKE MERIDIAN

- T. 26 S., R. 5 E.,
 - Secs. 25 to 29, inclusive, partly unsurveyed;
 - Secs. 32 to 36, inclusive, partly unsurveyed.
- T. 27 S., R. 5 E.,
 - Secs. 1 to 4, inclusive;
 - Secs. 9 to 16 inclusive;
 - Secs. 21 to 28 inclusive;
 - Secs. 33 to 36 inclusive.
- T. 28 S., R. 5 E.,
 - Secs. 1 to 3, inclusive, partly unsurveyed;
 - Secs. 10 to 15, inclusive, unsurveyed;

-
- Secs. 22 to 27, inclusive, partly unsurveyed;
T. 26 S., R. 6 E.,
Secs. 27 to 34, inclusive, partly unsurveyed.
T. 27 S., R. 6 E.,
Secs. 3 to 5, inclusive, partly unsurveyed;
Secs. 8 to 10, inclusive, unsurveyed;
Secs. 15 to 17, inclusive, partly unsurveyed;
Secs. 20 to 22, inclusive, unsurveyed;
Secs. 27 to 29, inclusive, unsurveyed;
Secs. 32 to 36, inclusive, partly unsurveyed.
T. 28 S., R. 6 E., that portion not previously included in the monument, partly unsurveyed.
T. 29 S., R. 6 E.,
Secs. 7, 8, and 17, those portions not previously included in the monument;
Sec. 18, NE 1/4, unsurveyed;
Secs. 20 and 21, partly unsurveyed;
Sec. 27, unsurveyed, those portions not previously included in the monument;
Secs. 28, 29, and 34, partly unsurveyed;
Sec. 35, those portions not previously included in the monument.
T. 30 S., R. 6 E.,
Secs. 2 and 11;
Sec. 12, W 1/2;
Sec. 13.
T. 27 S., R. 7 E.,
Secs. 31 and 32, partly unsurveyed.
T. 28 S., R. 7 E.,
Secs. 2 to 11, inclusive, partly unsurveyed;
Secs. 14 to 23, inclusive, partly unsurveyed;
Secs. 26 to 35, inclusive, partly unsurveyed.
T. 29 S., R. 7 E.,
Secs. 1 to 4, inclusive, partly unsurveyed;
Secs. 9 to 12, inclusive, unsurveyed;
Secs. 13 and 14, that portion north of State of Utah Route 24, unsurveyed;
Secs. 27, 28, 33, and 34, unsurveyed.
T. 30 S., R. 7 E.,
Secs. 3 and 10, unsurveyed;
Secs. 18, 19, 20, and 29, those portions not previously included in the monument;
Secs. 30, 31, and 32.
T. 31 S., R. 7 E.,
Secs. 3 to 11, inclusive, partly unsurveyed;
Secs. 14 to 23, inclusive, partly unsurveyed;
Secs. 27 to 33, inclusive;
Sec. 34, W 1/2.
T. 32 S., R. 7 E.,
Secs. 1 to 18, inclusive;
Secs. 22 to 27, inclusive;

Secs. 35 and 36.
T. 33 S., R. 7 E.,
Secs. 1 and 2;
Secs. 11, 12, 13, 24, and 25, unsurveyed.
T. 32 S., R. 8 E.,
Secs. 6, 7, 18, and 19;
Secs. 29 to 32, inclusive.
T. 33 S., R. 8 E.,
Secs. 5 to 8, inclusive, partly unsurveyed;
Secs. 16 to 21, inclusive, partly unsurveyed;
Secs. 28 to 34, inclusive, partly unsurveyed.
T. 34 S., R. 8 E.,
Secs. 3 to 11, inclusive, partly unsurveyed;
Secs. 13 to 36, inclusive, partly unsurveyed.
T. 35 S., R. 8 E.,
Secs. 1 to 5, inclusive, partly unsurveyed;
Secs. 8 to 16, inclusive, partly unsurveyed;
Secs. 22 to 26, inclusive, unsurveyed;
Sec. 36.
T. 34 S., R. 9 E.,
Sec. 19, unsurveyed;
Secs. 30 to 32, inclusive, partly unsurveyed.
T. 35 S., R. 9 E.,
Secs. 5 to 8, inclusive, unsurveyed;
Secs. 16 to 21, inclusive, partly unsurveyed;
Secs. 28 to 33, inclusive, partly unsurveyed.
T. 36 S., R. 9 E.,
Secs. 4 to 9, inclusive, unsurveyed;
Secs. 16, 17, and 21, partly unsurveyed.
Containing 215, 056 acres, more or less.

Warning is hereby expressly given to all unauthorized persons not to appropriate, injure, destroy, or remove any feature of this monument and not to locate or settle upon any of the lands thereof.

Any reservations or withdrawals heretofore made which affect the lands described above are hereby revoked.

Nothing herein shall prevent the movement of livestock across the lands included in this monument under such regulations as may be prescribed by the Secretary of the Interior and upon driveways to be specifically designated by said Secretary.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of January
in the year of our Lord nineteen hundred and sixty-nine and of the Independence of the United
States of America the one hundred and ninety-third.

Lyndon B. Johnson (signature)

[F.R. Doc. 69-899; Filed, Jan. 21, 1969; 10:31 a.m.]

Public Law 92-207
92nd Congress, S. 29
December 18, 1971

AN ACT

To establish the Capitol Reef National Park in the State of Utah.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subject to valid existing rights, the lands, waters, and interests therein within the boundary generally depicted on the map entitled "Boundary Map, Proposed Capitol Reef National Park, Utah," numbered 158-91, 002, and dated January 1971, are hereby established as the Capitol Reef National Park (hereinafter referred to as the "park"). Such map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(b) The Capitol Reef National Monument is hereby abolished, and any funds available for purposes of the monument shall be available for purposes of the park. Federal lands, waters, and interests therein excluded from the monument by this Act shall be administered by the Secretary of the Interior (hereinafter referred to as the "Secretary") in accordance with the laws applicable to the public lands of the United States.

Sec. 2. The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, transfer from any Federal agency, exchange, or otherwise, the lands and interests in lands described in the first section of this Act, except that lands or interests therein owned by the State of Utah, or any political subdivision thereof, may be acquired only with the approval of such State or political subdivision.

Sec. 3. Where any Federal lands included within the park are legally occupied or utilized on the date of approval of this Act for grazing purposes pursuant to a lease, permit, or license for a fixed term of years issued or authorized by any department, establishment, or agency of the United States, the Secretary of the Interior shall permit the persons holding such grazing privileges or their heirs to continue in the exercise thereof during the term of the lease, permit, or license, and one period of renewal thereafter.

Sec. 4. Nothing in this Act shall be construed as affecting in any way rights of owners and operators of cattle and sheep herds, existing on the date immediately prior to the enactment of the Act, to trail their herds on traditional courses used by them prior to such date of enactment, and to water their stock, notwithstanding the fact that the lands involving such trails and watering are situated within the park: *Provided*, That the Secretary may promulgate reasonable regulations providing for the use of such driveways.

Sec. 5. (a) The National Park Service, under the direction of the Secretary, shall administer, protect, and develop the park, subject to the provisions of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535) as amended and supplemented (16 U.S.C.1-4).

(b) The Secretary shall grant easements and right-of-way on a nondiscriminatory basis upon, over, under, across, or along any component of the park area unless he finds that the route of such easements and right-of-way would have significant adverse effects on the administration of the park.

Lyndon B. Johnson (signature)
(F.R. doc. 69-899; Filed, Jan. 21, 1969; 10:31 a.m.)



As the nation's principal conservation agency, the Department of the Interior has responsibility for most of our nationally owned public lands and natural resources. This includes fostering sound use of our land and water resources; protecting our fish, wildlife, and biological diversity; preserving the environmental and cultural values of our national parks and historical places; and providing for the enjoyment of life through outdoor recreation. The department assesses our energy and mineral resources and works to ensure that their development is in the best interests of all our people by encouraging stewardship and citizen participation in their care. The department also has a major responsibility for American Indian reservation communities and for people who live in island territories under U.S. administration.

NPS 158 / December 2005