



HOUSE COMMITTEE ON  
**NATURAL RESOURCES**  
CHAIRMAN BRUCE WESTERMAN

**To:** House Committee on Natural Resources Republican Members  
**From:** Subcommittee on Federal Lands -- Aniela Butler and Jason Blore  
[Aniela@mail.house.gov](mailto:Aniela@mail.house.gov) and [Jason.Blore@mail.house.gov](mailto:Jason.Blore@mail.house.gov); and Subcommittee on Water, Wildlife and Fisheries -- Annick Miller [Annick.Miller@mail.house.gov](mailto:Annick.Miller@mail.house.gov)  
**Date:** Monday, April 22, 2024  
**Subject:** Oversight Field Hearing on “*Empowering Local Voices and Stopping Federal Overreach to Improve the Management of Utah’s Public Lands*”

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The Subcommittee on Federal Lands will hold an oversight field hearing on “*Empowering Local Voices and Stopping Federal Overreach to Improve the Management of Utah’s Public Lands*” on **Monday, April 22, 2024, at 12:00 p.m. MDT at The Rock Bowl in Hurricane, Utah.**

Member offices are requested to notify Colen Morrow ([Colen.Morrow@mail.house.gov](mailto:Colen.Morrow@mail.house.gov)) by 4:30 p.m. on Friday, April 19, 2024, if their Member intends to participate in the hearing.

## **I. KEY MESSAGES**

- On Earth Day 2024, the House Committee on Natural Resources will be holding its second outdoor field hearing this Congress to examine the unique challenges facing Utah’s public lands.
- The large footprint of federal land in Southern Utah has raised housing costs, reduced state and local tax receipts, limited economic opportunities, and deprived residents of access to, and the ability to engage in multiple uses of, public lands surrounding their communities.
- Even urgently needed local initiatives, such as the long-delayed Northern Corridor in St. George and carefully considered water resource planning in Washington County, have been thwarted by federal land managers, who habitually disregard state and local input.
- Compounding these difficulties, Southern Utah has become the epicenter of the larger national debate between conservation and preservation. From unpopular expansions of national monuments to proposed natural asset companies seeking to lock up access to public lands, radical environmental policies threaten the freedoms and traditional outdoor lifestyles that Utahns have long cherished.

## II. WITNESSES

- **The Honorable Adam Snow**, Commissioner, Washington County, St. George, Utah
- **The Honorable Eric Clarke**, County Attorney, Washington County, St. George, Utah
- **Mr. Carlos Braceras**, Executive Director, Utah Department of Transportation, Taylorsville, Utah
- **Mr. Zachary Renstrom**, General Manager, Washington County Water Conservancy District, St. George, Utah
- **Mr. Darcy Stewart**, President and CEO, SunRiver St. George Development, LLC., St. George, Utah

## III. BACKGROUND

### **Federal Overreach Fundamentally Upends the Western Way of Life**

#### *Overview*

For most of our nation’s history, the federal government encouraged citizens to live freely on the open terrain of the American West.<sup>1</sup> Realizing that frontier settlement bolstered public appreciation for liberty, self-reliance, and democratic values, federal laws such as the Homestead Act of 1862 urged families to inhabit, cultivate, and develop Western lands.<sup>2</sup> Millions of people responded to these measures by flocking to America’s newest states and territories to build better lives for their families.<sup>3</sup> The current uses of these Western landscapes, from grazing and farming to timber harvesting and energy production, are rooted in these early ideals.

Notably, such policies, in which much of the federal estate was relinquished to private ownership, reflected the profound trust the U.S. government once had in its citizens to care for and productively manage their land.<sup>4</sup> In the intervening decades, however, this trust apparently dissolved. The federal government turned towards a policy of land retention, producing a stark inequality in U.S. land ownership distribution.<sup>5</sup> Unlike in Eastern states, where federal land ownership is a paltry 4.1 percent, in America’s 11 contiguous Western states, the federal government owns a full 45.9 percent, or nearly half, of all available land.<sup>6</sup> Federal land ownership climbs even higher in states like Utah, where it reaches 63.1 percent.<sup>7</sup>

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<sup>1</sup> Kristina Alexander & Ross W. Gorte, “Federal Land Ownership: Constitutional Authority and the History of Acquisition, Disposal, and Retention,” Congressional Research Service, December 3, 2007, <https://sgp.fas.org/crs/misc/RL34267.pdf>. Federal laws, from the 1780s to at least the 1930s, generally favored transferring federal lands to private owners.

<sup>2</sup> Frederick Jackson Turner, “The Significance of the Frontier in American History,” 1893, *available at* <https://www.usmcu.edu/Portals/218/Turner%20Thesis%2C%20Frederick%20Jackson%20Turner.pdf>. Robert Fink, “Homestead Act of 1862,” Encyclopedia Britannica, June 16, 2020, <https://www.britannica.com/topic/Homestead-Act>.

<sup>3</sup> “Homestead Act,” History.com, September 13, 2022, <https://www.history.com/topics/american-civil-war/homestead-act>.

<sup>4</sup> *Id.* In a speech supporting the Homestead Act, President Abraham Lincoln stated, “the wild lands of the country should be distributed so that every man should have the means and opportunity of benefiting his condition.”

<sup>5</sup> *Id.*

<sup>6</sup> Carol Hardy Vincent & Laura A. Hanson, “Federal Land Ownership: Overview and Data,” February 21, 2020, <https://www.crs.gov/reports/pdf/R42346/R42346.pdf>. The 11 contiguous Western states are Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

<sup>7</sup> *Id.*

Under the Biden administration, the sprawling federal estate has become the setting of wild excesses in administrative overreach and environmental radicalism. This poses significant challenges to the many Western communities that are surrounded by federal lands. In the towns, farms, and ranchlands of Southern Utah, for example, state and local planning initiatives have repeatedly run afoul of federal bureaucrats in Washington, D.C. Even on issues of the utmost importance to area residents, including critical expansions of existing transportation routes and innovative state plans to expand water access, federal agencies like the Bureau of Land Management (BLM) too often refuse to budge. Moreover, this federal intransigence frequently comes only after years of feigned coordination with state and local planners.<sup>8</sup> As a result, the region’s residents, including those who live in fast-growing Washington County, Utah, struggle to plan for their futures, knowing all too well that federal land managers, who hold undue power over so much of their lives, are unlikely to heed even their deepest concerns.

### **Challenges Utah Communities Face Due to Federal Mismanagement of Public Lands**

#### *Overview of Southern Utah*



St. George, Utah. **Source:** We’re in the Rockies, 2024.

Like much of the Western U.S., Southern Utah is home to a massive federal presence. An estimated 75 percent of the land in Washington County is federally owned, with only 16.5 percent of its territory in private hands.<sup>9</sup> Local officials describe Washington County as

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<sup>8</sup> David Condos, “BLM decision reopens the debate over St. George’s Northern Corridor Highway,” KUER 90.1, December 5, 2023, <https://www.kuer.org/politics-government/2023-12-05/blm-decision-reopens-the-debate-over-st-georges-northern-corridor-highway>.

<sup>9</sup> Habitat Conservation Plan for Washington County, Utah,” Washington County Commission, May 2020, [https://eplanning.blm.gov/public\\_projects/1502103/200341977/20019247/250025451/Draft%20Amended%20HCP%20Washington%20County.pdf](https://eplanning.blm.gov/public_projects/1502103/200341977/20019247/250025451/Draft%20Amended%20HCP%20Washington%20County.pdf). “The General Plan of Washington County, Utah, 2010,” Washington County Board of Commissioners, *as amended*, August 2012, <https://www.washco.utah.gov/wp-content/uploads/cdev/pdf/gp/washco-general-plan.pdf>.

containing “an island of private land surrounded by public land” and observed that residents “can do very little without impacting, or being impacted by[,] the public lands in this county.”<sup>10</sup> Unsurprisingly, this severe ownership imbalance and the federal overreach that accompanies it has left Washington County and neighboring communities in southern Utah with serious and persistent challenges.

### *Encirclement by Federal Land Prevents Needed Housing and Development*

On a national scale, most land-use regulations are imposed by State and local governments.<sup>11</sup> In America’s Western states, however, the federal government’s excessive land holdings “can act as a constraint on housing development where population centers abut federal land.”<sup>12</sup> The effects of federal land-use restrictions on the price and availability of housing and rental units are substantial. In Western states, where approximately half of the land is federally owned, home prices have generally risen faster than in other regions of the country.<sup>13</sup> In Utah, residents looking for a home must contend with the seventh-highest housing prices in the nation.<sup>14</sup> Over a recent five-year interval, from 2017 to 2022, Utah’s median home price nearly doubled.<sup>15</sup> The state’s housing situation has deteriorated so much that Utah Governor Spencer Cox recently identified the state’s exorbitant housing prices as “the single greatest threat” to achieving future prosperity.<sup>16</sup>

The harmful consequences of Utah’s expensive housing options are acutely felt in Washington County and its largest city, St. George. Although the city’s beautiful surroundings, warm climate, and abundant recreational opportunities have made St. George one of the nation’s fastest-growing urban areas in recent years, these benefits are rapidly becoming unattainable for most.<sup>17</sup> In 2022, city officials determined that St. George was at 99 percent occupancy, indicating that there was virtually no available housing left in the community.<sup>18</sup> Worse still, the city’s limited housing stock has prevented local employers, including those in the healthcare industry, from filling open positions.<sup>19</sup> As Washington County planners warned in 2010, “[i]f housing permits are limited by strict land use controls, workforce housing may be stymied by sharp increases in

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<sup>10</sup> *Id.*

<sup>11</sup> Hugo Dante & Kevin Corinth, “The HOUSES Act: Addressing the National Housing Shortage by Building on Federal Land,” U.S. Congressional Joint Economic Committee, Republicans, August 2022, <https://www.jec.senate.gov/public/cache/files/efdd0c37-af95-40cd-9125-e80f8a11504b/the-houses-act---addressing-the-national-housing-shortage-by-building-on-federal-land.pdf>.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> Hanna Seariac, “Amid lower interest rates, Utah first-time homebuyers will still face a difficult market in 2024,” Deseret News, December 20, 2023, <https://www.deseret.com/utah/2023/12/20/24000558/utah-housing-market-forecast-2024/>. Amy Fontinelle, “Median Home Price By State 2024,” Forbes, October 24, 2023, <https://www.forbes.com/advisor/mortgages/real-estate/median-home-prices-by-state/>.

<sup>15</sup> Alex Gonzalez, “Report: Utah homeownership increasingly out of reach for many,” St. George News, March 28, 2024, <https://www.stgeorgeutah.com/news/archive/2024/03/28/prc-pns-report-utah-homeownership-increasingly-out-of-reach-for-many/>.

<sup>16</sup> *Id.*

<sup>17</sup> Vivian Chow, “Three Utah cities named fastest-growing in the country, according to the U.S. Census Bureau,” ABC4 News, June 7, 2022, <https://www.abc4.com/news/three-utah-cities-named-fastest-growing-in-the-country-according-to-the-u-s-census-bureau/>.

<sup>18</sup> Jordan Verdadeiro, “St. George is at 99% occupancy, no attainable housing according to city officials,” ABC4 News, January 4, 2022, <https://www.abc4.com/news/st-george-is-at-99-occupancy-no-attainable-housing-according-to-city-officials/>.

<sup>19</sup> *Id.*

residential values as can be seen in other areas where this has been tried.”<sup>20</sup> The scarce land that remains available in Southern Utah is often prohibitively expensive. In February 2024, for instance, home prices in St. George were up 13.7 percent in a single year.<sup>21</sup> Recent periods have witnessed even more dramatic increases; in 2016, Washington County’s median home price was \$240,000, whereas by 2021, it had risen 103 percent to \$487,500.<sup>22</sup> Rent in Washington County has also ballooned, rising 43 percent from 2019 to 2021.<sup>23</sup> Together, these conditions have forced many longtime residents to leave the area, while others can stay only by living out of their vehicles on nearby stretches of public land.<sup>24</sup> In fact, the lack of housing availability has made living out of vehicles a relatively common practice in Southern Utah.<sup>25</sup>

Fortunately, workable solutions to the region’s housing crisis remain firmly within reach. In a 2022 study, Republicans on the U.S. Congressional Joint Economic Committee (JEC) found that “[t]he federal government can alleviate a large share of the housing shortage in the West by disposing of a minuscule share of its vast landholdings.”<sup>26</sup> The JEC found that Washington County, Utah, is one of the counties most constrained by federal land ownership nationwide, while Utah as a whole suffers from the third-highest housing shortage among U.S. states.<sup>27</sup> Freeing up only 0.1 percent of the federal government’s landholdings for residential development across the West could lead to the construction of 2.7 million new homes and empower 4.7 million Americans to finally afford averagely-priced homes in their states.<sup>28</sup> In Utah, allowing for more housing to be built on federal lands could address 35 percent of the current housing shortage.<sup>29</sup>

### *Federal Land Deprives States and Localities of Revenue*

Federally owned land is often exempt from state and local taxation.<sup>30</sup> Because states and municipalities use property taxes to fund a wide variety of public services, the loss of territory within their borders to federal ownership can be a significant drain on state and local coffers.<sup>31</sup> Beginning in the 1970s, the federal government has attempted to offset such losses through various payment programs, including Payments in Lieu of Taxes (PILT).<sup>32</sup> Such programs, however, “poorly reflect state and local tax equivalency” and, in certain cases, “fall short of what many might consider ‘fair’ compensation.”<sup>33</sup> Even when Utah received over \$40 million in PILT transfers in 2023, state leaders argued that the payment was insufficient to account for lost

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<sup>20</sup> “The General Plan of Washington County, Utah, 2010,” Washington County Board of Commissioners, *as amended*, August 2012, <https://www.washco.utah.gov/wp-content/uploads/cdev/pdf/gp/washco-general-plan.pdf>.

<sup>21</sup> “St. George, UT Housing Market,” Redfin.com, last accessed April 10, 2024, <https://www.redfin.com/city/16751/UT/St-George/housing-market>.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> Rachel Fixsen, “The Reality of Van Life in Moab, Utah,” Utah Stories, November 14, 2021, <https://utahstories.com/2021/11/the-reality-of-van-life-in-moab-utah/>.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> Anne A. Riddle, “Compensating State and Local Governments for the Tax-Exempt Status of Federal Lands: What Is Fair and Consistent?”, Congressional Research Service, March 22, 2012, <https://crsreports.congress.gov/product/pdf/R/R42439/7>.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

revenues.<sup>34</sup> This dynamic is replicated nationwide, where PILT payments across all U.S. counties have lagged far behind local property tax revenues.<sup>35</sup>

The lack of revenue to states and localities due to significant footprints of federal land is further compounded when land managers lock up lands for revenue-generating activities such as grazing, timber harvesting, or energy and mineral development. The BLM administers 35 wilderness areas and 77 wilderness study areas in Utah.<sup>36</sup> Encompassing millions of acres, these designations are often touted as an unambiguous boon for tourism, local economies, and state residents.<sup>37</sup> But careful observers have cast doubt on the rosy caricatures that tend to dominate land-use discourse. After controlling for other factors, economic researchers found that a “[w]ilderness designation is significantly associated with lower per capita income, lower total payroll, and lower total tax receipts in counties.”<sup>38</sup> This, in turn, means that counties with wilderness-designated lands within their borders are “at an economic disadvantage” compared to counties without such protections.<sup>39</sup> Further, this analysis noted that “[t]he benefits and costs from [w]ilderness are unevenly distributed between local and non-local communities, with local communities incurring a larger burden of the costs.”<sup>40</sup> Far from being motivated by pure ideological hostility, local residents have firm economic reasoning behind their opposition to wilderness designations in the communities where they work to earn their livelihoods.

### *Delays to the Northern Corridor Showcase Federal Mismanagement*

The Northern Corridor is a proposed four-lane highway that would cross through a portion of federal land called the Red Cliffs National Conservation Area (NCA), a tract of BLM-managed land just North of St. George.<sup>41</sup> The proposed highway would connect the Northeast and Northwest sides of St. George, which officials believe would significantly reduce traffic congestion in the city.<sup>42</sup> Although the plan is decades in the making and popular with area residents, it continues to face stiff opposition and frustrating delays from environmental activists and federal land managers. Washington County has tried to obtain approval for the highway at least six times since 2006 to no avail.<sup>43</sup>

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<sup>34</sup> Brian Maffly & Jacob Scholl, “A guide to Utah’s public lands: What you can and can’t do in places run by the government,” The Salt Lake Tribune, February 1, 2024, <https://www.sltrib.com/news/environment/2023/09/20/guide-utahs-public-lands/>.

<sup>35</sup> M. Lynne Corn, “PILT (Payments in Lieu of Taxes): Somewhat Simplified,” Congressional Research Service, December 10, 2014, [https://www.everycrsreport.com/files/20141210\\_RL31392\\_84d53764ee314451376fd632bad757d409b5b3d8.pdf](https://www.everycrsreport.com/files/20141210_RL31392_84d53764ee314451376fd632bad757d409b5b3d8.pdf).

<sup>36</sup> “Utah National Conservation Lands,” U.S. Department of the Interior, Bureau of Land Management, <https://www.blm.gov/programs/national-conservation-lands/utah>.

<sup>37</sup> *Id.*

<sup>38</sup> Testimony of Dr. Ryan M. Yonk, Assistant Professor, Southern Utah University, before the House Natural Resources Subcommittee on National Parks, Forest and Public Lands, October 14, 2011. <https://www.govinfo.gov/content/pkg/CHRG-112hhrg70721/html/CHRG-112hhrg70721.htm>.

<sup>39</sup> *Id.*

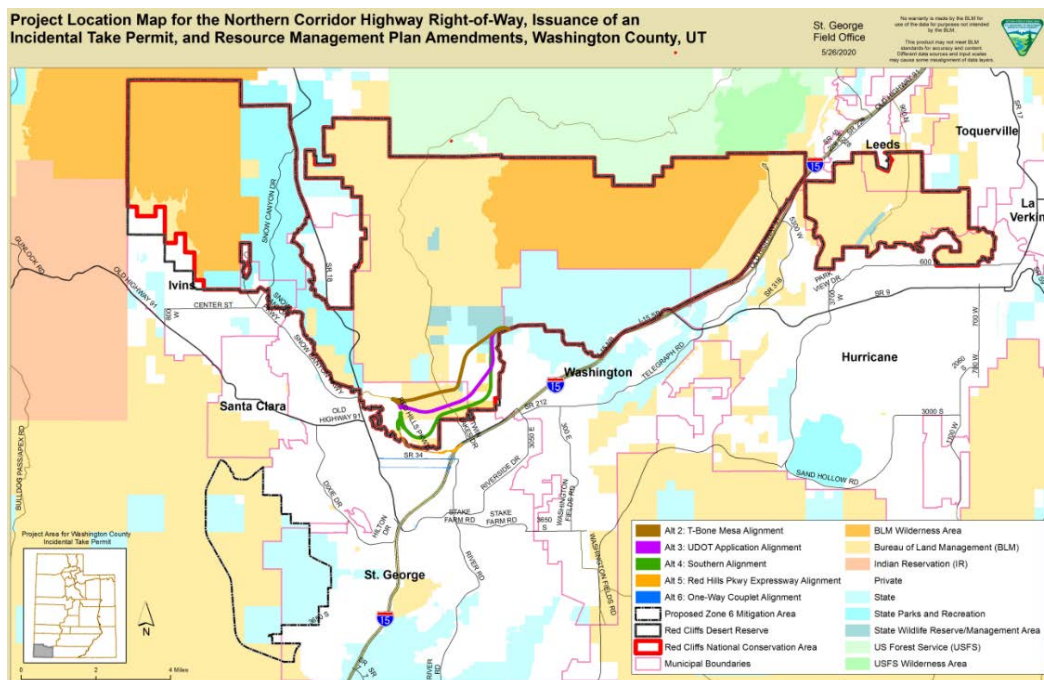
<sup>40</sup> *Id.*

<sup>41</sup> Final Environmental Impact Statement to Consider a Highway Right-of-Way, Amended Habitat Conservation Plan and Issuance of an Incidental Take Permit for the Mojave Desert Tortoise, and Proposed Resource Management Plan Amendments, Washington County, UT, Volume 1: Executive Summary,” Bureau of Land Management and U.S. Fish and Wildlife Service, U.S. Department of the Interior, November 2020, [https://eplanning.blm.gov/public\\_projects/2026562/200567514/20088511/250094693/FEIS\\_Vol1\\_ExecSummary\\_NorthernCorridor\\_WashingtonCtyITP.pdf](https://eplanning.blm.gov/public_projects/2026562/200567514/20088511/250094693/FEIS_Vol1_ExecSummary_NorthernCorridor_WashingtonCtyITP.pdf).

<sup>42</sup> David Condos, “BLM decision reopens the debate over St. George’s Northern Corridor Highway,” KUER 90.1, December 5, 2023, <https://www.kuer.org/politics-government/2023-12-05/blm-decision-reopens-the-debate-over-st-georges-northern-corridor-highway>.

<sup>43</sup> “Northern Corridor Highway,” Conserve Southwest Utah, 2023, <https://conservewsu.org/northern-corridor-highway/>.

In 1995, Washington County developed a Habitat Conservation Plan (HCP) with the BLM and the U.S. Fish and Wildlife Service (FWS) to protect the populations of the Mojave desert tortoise (desert tortoise) that live in the County.<sup>44</sup> In response to these efforts, in 1996, FWS granted Washington County a 20-year incidental take permit, which allowed the county to use portions of existing and potential desert tortoise habitat for development purposes.<sup>45</sup> In 2006, Utah’s congressional delegation proposed legislation that would have relied on the take permit to greenlight the Northern Corridor, but the attempt was unsuccessful.<sup>46</sup> Later, the Omnibus Public Land Management Act of 2009 (OPLMA) created the Red Cliffs NCA, a 45,000-acre protected area in Washington County administered by the BLM, to protect the area’s natural resources and the desert tortoise.<sup>47</sup> OPLMA also required developing “a comprehensive travel management plan” for BLM-managed land within Washington County.<sup>48</sup> In 2018, the Utah Department of Transportation (UDOT) relied on this requirement when it applied to the BLM for a right-of-way (ROW) for the Northern Corridor to traverse a section of the Red Cliffs NCA.<sup>49</sup>



BLM map of the proposed Northern Corridor ROW. **Source:** BLM, 2020.

After years of negotiations with Washington County and St. George officials, the BLM and FWS finally agreed, in January 2021, to grant the ROW.<sup>50</sup> The approved route would have spanned 4.5 miles, with only 1.9 miles of road crossing over

<sup>44</sup> *Conserve Sw. Utah v. U.S. Dep’t of the Interior*, Civil Action 21-1506 (ABJ), <https://casetext.com/case/conservesw-utah-v-us-dept-of-the-interior>.

<sup>45</sup> *Id.*

<sup>46</sup> *Id.* “Northern Corridor Highway,” *Conserve Southwest Utah*, 2023, <https://conserveswu.org/northern-corridor-highway/>.

<sup>47</sup> Final Environmental Impact Statement to Consider a Highway Right-of-Way, Amended Habitat Conservation Plan and Issuance of an Incidental Take Permit for the Mojave Desert Tortoise, and Proposed Resource Management Plan Amendments, Washington County, UT, Volume 1: Executive Summary,” Bureau of Land Management and U.S. Fish and Wildlife Service, U.S. Department of the Interior, November 2020, [https://eplanning.blm.gov/public\\_projects/2026562/200567514/20088511/250094693/FEIS\\_Vol1\\_ExecSummary\\_NorthernCorridor\\_WashingtonCtyITP.pdf](https://eplanning.blm.gov/public_projects/2026562/200567514/20088511/250094693/FEIS_Vol1_ExecSummary_NorthernCorridor_WashingtonCtyITP.pdf).

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> “Interior releases decisions for the Northern Corridor to help support local communities while also protecting habitat and species,” Bureau of Land Management, U.S. Department of the Interior, January 14, 2021, <https://www.blm.gov/press-release/northern-corridor-decision-released>.

federal lands.<sup>51</sup> In return, Washington County would have established a new 6,813-acre protected area, named “Zone 6,” within the Red Cliffs Desert Reserve, with additional protections for the desert tortoise.<sup>52</sup> BLM described its approval of the ROW as providing “the foundation for the future infrastructure needed to support one of the fastest growing communities in the nation,” while providing needed conservation protections.<sup>53</sup> The agency further proclaimed that the decision “highlights how we support growing communities by providing decisive leadership and cooperating with our partners.”<sup>54</sup>

But all this progress is now in jeopardy. Soon after the ROW’s approval, environmental groups sued BLM and FWS.<sup>55</sup> In November 2023, BLM announced that, as part of a settlement agreement with the plaintiffs, the agency would conduct a supplemental environmental impact study (SEIS) that “includes a new round of public input, or scoping period, regarding the project.”<sup>56</sup> At a minimum, this agreement puts the Northern Corridor on hold until at least November 2024.<sup>57</sup> The corridor’s proponents worry, with justifiable concern, that the BLM may use the supplemental study to rescind the ROW and effectively cancel the project altogether.<sup>58</sup> State and local officials have warned that “the preexisting traffic system will ‘fail’ if the Northern Corridor is not constructed to help relieve increased traffic that will come with a projected county population of nearly 500,000 by 2060.”<sup>59</sup> As Washington County Commissioner Gil Almquist lamented, the County spent years “jump[ing] through hoops” to meet environmental requirements, only to have the project’s approval potentially reversed.<sup>60</sup>

### *Unnecessary Federal Water Restrictions Parch Southern Utah*

Washington County’s water is managed by the Washington County Water Conservancy District (District), a not-for-profit public agency established in 1962.<sup>61</sup> The County’s water supply comes from the Virgin River watershed, a tributary of the Colorado River.<sup>62</sup> The Virgin River flows are dictated by several different factors, such as precipitation, temperature, snowpack, and soil moisture.<sup>63</sup> According to the District, current water “supplies are approaching their full development capacity, and the Utah State Engineer has concluded that the Virgin River Basin is fully allocated.”<sup>64</sup> Based on current growth projections and conservation goals, demand will begin to exceed water supply in 2028.<sup>65</sup> To meet future water demands, local resources must be

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<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> Mori Kessler, “Northern Corridor review sparks debate. Roadway’s fate tied to Bureau of Land Management’s study,” St. George News, December 8, 2023, <https://www.stgeorgeutah.com/news/archive/2023/12/08/mgk-northern-corridor-review-sparks-debate-roadways-fate-tied-to-bureau-of-land-managements-study/>.

<sup>57</sup> “BLM National NEPA Register: Timeline,” Bureau of Land Management, March 12, 2024, <https://eplanning.blm.gov/eplanning-ui/project/2026562/550>.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> Mission and History. Washington County Water Conservancy District. <https://www.wcwcd.gov/about-us/history/>.

<sup>62</sup> “2023 Regional Water Master Plan.” Washington County Water Conservancy District. Page 57. <https://www.wcwcd.gov/wp-content/uploads/2023/05/WCWCD-Regional-Water-Master-Plan-JAN-2023-UPDATE-For-distribution.pdf>.

<sup>63</sup> *Id.*

<sup>64</sup> *Id.* at page 11.

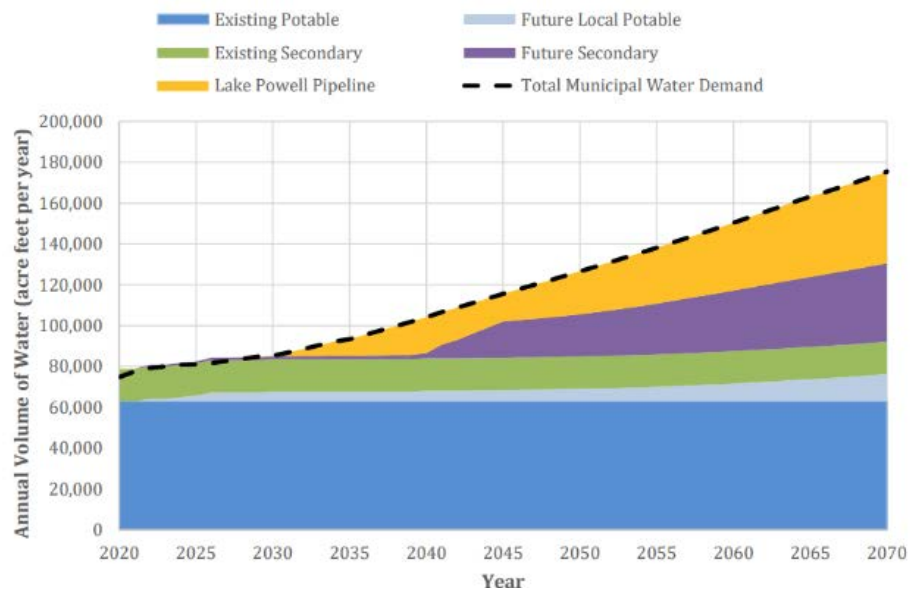
<sup>65</sup> *Id.* at page 11.



further maximized through additional conservation and reuse measures, and new regional supply development projects would have to occur outside the Virgin River Basin.

In the 1990s, the Utah Division of Water Resources began studying the feasibility of the Lake Powell pipeline to meet the projected growing regional water needs.<sup>66</sup> The pipeline would be able to deliver up to 83,756-acre feet of water per year from Lake Powell on the Colorado River.<sup>67</sup>

An acre-foot of water equals 325,851 gallons, which is enough to serve the needs of 3.3 families for a year in the County.<sup>68</sup> In 2006, Utah state legislators passed the Lake Powell Pipeline Development Act, authorizing the state to build and finance the project.



Total Projected Water Supply Need vs. Existing and Future Water Supply  
**Source:** Washington County Water Conservancy District, no date.

The Bureau of Reclamation (Reclamation) released the project’s Draft Environmental Impact Statement in June 2020. This was met with opposition from the other six Colorado River Basin states, which asked that Reclamation:

Refrain from issuing a Final Environmental Impact Statement (FEIS) or Record of Decision (ROD) regarding the Lake Powell Pipeline until such time as the seven Basin States and the Department of the Interior (Interior) are able to reach consensus regarding outstanding legal and operational concerns raised by the proposed Lake Powell Pipeline project.<sup>69</sup>

The project has since been indefinitely postponed, however, the gap between water supply and demand in the St. George area will continue an upward trajectory until the Lake Powell Pipeline is completed or an alternative solution is found.

<sup>66</sup> “Zach Renstrom: Planning for the Future of the Washington County Water Conservancy District.” Municipal Water Leader. March 2021. [https://issuu.com/waterstrategies/docs/mwl\\_march\\_2021/s/11855051](https://issuu.com/waterstrategies/docs/mwl_march_2021/s/11855051).

<sup>67</sup> “What is the LLP?” <https://lpputah.org/what-is-the-lake-powell-pipeline/>.

<sup>68</sup> “Acre-Foot”. Water Education Foundation. <https://www.watereducation.org/aquapedia/acre-foot>. “2022 Washington County Per Capita Consumptive Use Report.” Washington County Water Conservancy District. <https://www.wewcd.gov/wp-content/uploads/2024/01/ConsumptiveUseReport-w-FN-122123.pdf>.

<sup>69</sup> Gross, Sam. “Six other Colorado River states send warning to Interior over Utah’s Lake Powell Pipeline” Sep. 9, 2020. St. George Spectrum & Daily News. <https://www.thespectrum.com/story/news/2020/09/09/six-states-send-letter-warning-utah-over-lake-powell-pipeline/5759869002/>.

To respond to these challenges, the County instituted several measures to ensure greater resilience of the region’s water supply. These include developing a water reuse and recycling program, developing new technologies to improve efficiency in agriculture practices, creating additional storage space, instituting a prohibition on non-functional grass, and issuing grass removal rebates.<sup>70</sup> Last year, the District released its “20 Year Plan to Secure New Water Supplies for Washington County Utah.”<sup>71</sup> This plan included similar water conservation efforts, groundwater optimization, and water reuse efforts to meet growing population demands and mitigate these challenges. The District is also currently moving forward with Toquer Reservoir, a project that would store up to 3,638 acre-feet in currently dry washes administered by the BLM. The purpose of the project is to capture water being lost to seepage at Ash Creek Reservoir and pipe it to Toquer Reservoir. This project will help ensure predictable water supplies, minimize water losses, conserve high-quality potable water for human consumption, recharge the Navajo aquifer, and provide water-based public recreational uses. The Toquer Reservoir is expected to cost approximately \$94 million, and, to date, it has received approximately \$11.7 million from the Bureau of Reclamation’s Small Storage Program.<sup>72</sup>

**Federal Overreach Disregards Local Utahns' Input and Threatens Public Access**

*Antiquities Act Abuses in Utah*



Utahns protest the Bears Ear National Monument. Source: NPR, 2016.

In recent decades, Democratic presidents and federal land managers have treated Southern Utah’s diverse landscapes as their personal playground. President Bill Clinton ushered in this worrisome trend when, in 1996, he unilaterally designated over 1.8 million acres of land as the Grand Staircase-Escalante National Monument (Grand Staircase), flouting the passionate disapproval of most Utah

<sup>70</sup> Utah Department of Natural Resources. Washington County’s aggressive conservation plan applauded. October 26, 2022. <https://naturalresources.utah.gov/dnr-newsfeed/washington-countys-aggressive-conservation-plan/>

<sup>71</sup> 20-year Plan to Secure New Water Supplies, Washington County Water Conservancy District. <https://www.wcwcd.gov/wp-content/uploads/2024/01/20-Year-Plan.pdf>.

<sup>72</sup> “Biden-Harris Administration Announces \$35 Million from Investing in America Agenda for Small Storage Projects in California and Utah.” Mar. 27, 2024. Bureau of Reclamation. <https://www.usbr.gov/newsroom/news-release/4786>.

residents.<sup>73</sup> Relying on a questionable interpretation of the Antiquities Act, President Clinton overrode bipartisan opposition from Utah’s congressional delegation and added insult to injury by announcing his unpopular designation from out of state.<sup>74</sup> Emulating his predecessor’s brazenness, President Barack Obama proclaimed 1.3 million acres of Southeastern Utah’s San Juan County as the Bears Ears National Monument (Bears Ears) in 2016.<sup>75</sup> This designation, which also locked up vast quantities of natural resources in Utah’s poorest county, once again defied local sentiment.<sup>76</sup> Opportunities for local input and feedback were again limited, with the announcement occurring in the waning days of the Obama administration.<sup>77</sup> When President Donald Trump reduced the Grand Staircase and the Bears Ears in 2017, local residents said that his actions “represented the first time a sitting U.S. president had actually listened to them.”<sup>78</sup> Unfortunately, this rare instance of federal deference to rural voices would prove to be short-lived. President Biden returned both national monuments to their original boundaries in 2021, reviving local opposition and ensuring years of litigation.<sup>79</sup>

### *Failure to Coordinate with Utah Stakeholders in Resource Management Planning*

The federal government’s shortcomings in Southern Utah are not confined to the initial designation of national monuments. Rather, agencies like the BLM continue the disturbing pattern of eschewing local feedback through resource management planning processes.<sup>80</sup> In January 2024, officials representing Garfield and Kane Counties voiced concerns at a BLM Coordination Meeting about BLM planning for Grand Staircase.<sup>81</sup> Specifically, these officials cited BLM’s lack of coordination over the two-year period that began in 2021, when the BLM started working on a Resource Management Plan (RMP) in response to President Biden’s expansion of the monument.<sup>82</sup> BLM failed to meet a number of critical deadlines during that period, and, despite repeated requests from state and local representatives, BLM has yet to produce a list of the “objects” that would be protected by the monument’s new acreage.<sup>83</sup> County officials also believe BLM is misleading the public about road closures that would occur under the agency’s preferred alternative.<sup>84</sup> Although Section 202 of the Federal Land Policy and Management Act of 1976 requires that the planning process “provide for meaningful public involvement of State and local government officials,” a county official lamented that the BLM “included almost none of the cooperating agencies’ suggestions in any of the proposed

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<sup>73</sup> Mike Lee, et al. “A monumental insult,” *Deseret News*, October 8, 2021, <https://www.deseret.com/opinion/2021/10/8/22716955/bidens-expansion-monuments-an-insult-sens-lee-romney-curtis-moore-utah-stewart-owens-bears-ears/>.

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

<sup>78</sup> Amy Joi O'Donoghue, “With stroke of his pen, Biden restores Utah’s monuments. Here are 5 things you need to know,” *Deseret News*, October 8, 2021, <https://www.deseret.com/utah/2021/10/8/22716450/5-things-you-need-to-know-about-bidens-decision-on-utahs-monuments-public-lands-tourism-bears-ears/>.

<sup>79</sup> *Id.*

<sup>80</sup> “Utah National Conservation Lands,” U.S. Department of the Interior, Bureau of Land Management, <https://www.blm.gov/programs/national-conservation-lands/utah>. BLM co-manages Bears Ears with the U.S. Forest Service.

<sup>81</sup> “County Officials Vent Frustrations to BLM over Monument Plan,” *The Byway*, January 12, 2024, <https://utahbyway.com/2024/01/post/county-officials-vent-frustrations-to-blm-over-monument-plan/>.

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

alternatives.”<sup>85</sup> A similar dynamic unfolded only a month later involving Bears Ears.<sup>86</sup> According to Governor Cox and members of the state legislature, “[t]he federal government has signaled that it once again plans to adopt a restrictive land management plan that will harm recreational access, grazing and other traditional public uses of these lands.”<sup>87</sup> Utah leaders also criticized the Biden administration for continuing to ignore their “good faith input” by failing to coordinate with the state.<sup>88</sup> This pattern extends beyond national monuments and into other RMPs in Utah. For example, in 2017, Washington County contested the BLM’s RMPs for the Beaver Dam Wash NCA and Red Cliffs NCA, citing the agency’s insufficient coordination efforts and repeated failures to notify stakeholders of significant changes to area planning.<sup>89</sup>

### *BLM’s Latest Preservationist Rulemaking Threatens Utah and the Western Way of Life*

On April 18, 2024, the BLM announced its final so-called “Conservation and Landscape Health” (BLM Rule).<sup>90</sup> The finalized rule would broadly allow the BLM to lease lands under new and vaguely defined restoration and mitigation leases and change standards around multiple-use decisions. These leases could potentially prevent access to federal land for current and future BLM permittees. If the administration determines other uses, such as grazing, energy production, mining, or recreation, are incompatible with a lease, those uses would not be allowed and could be prohibited indefinitely from those lands, even after the expiration of a lease. This would effectively lock up those lands indefinitely from multiple-use, including potential historic uses of the land. Restoration and mitigation leases pose significant risks to Western lands and the American public.

The BLM Rule is a particular concern for Utah. Utah and Washington County would be particularly vulnerable to the untested effects of conservation leases, with roughly 40 percent of their respective lands managed by the BLM.<sup>91</sup> Terry Camp, a representative of the Utah Farm Bureau, commented: “[The BLM Rule] will fundamentally change management of BLM lands in the State of Utah and across the West to the detriment of livestock grazing and other long-standing uses of BLM lands.”<sup>92</sup> In June 2023, Governor Cox, along with several other Western governors, sent a letter to Secretary Haaland outlining the concerns of Utahns and Westerners regarding the BLM Rule.<sup>93</sup> These concerns went unaddressed in the final rule.

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<sup>85</sup> *Id.* 43 U.S.C. § 1712, <https://www.law.cornell.edu/uscode/text/43/1712>. “County Officials Vent Frustrations to BLM over Monument Plan,” *The Byway*, January 12, 2024, <https://utahbyway.com/2024/01/post/county-officials-vent-frustrations-to-blm-over-monument-plan/>.

<sup>86</sup> Anastasia Hufham, “Why Utah leaders just rejected a valuable Bears Ears land swap,” *The Salt Lake Tribune*, February 6, 2024, <https://www.sltrib.com/news/environment/2024/02/06/why-utah-leaders-just-rejected/>.

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> *Washington County v. Bureau of Land Management*, Appellants’ Statement of Reasons, U.S. Department of the Interior, Office of Hearing and Appeals, Board of Land Appeals, February 21, 2017, available at <https://conserveswu.org/wp-content/uploads/2018/04/Washington-County-RMP-appeal-3-13-17.pdf>.

<sup>90</sup> Public Lands Rule, Bureau of Land Management, April 18, 2024, <https://www.blm.gov/public-lands-rule>.

<sup>91</sup> “What We Manage in Utah,” U.S. Department of the Interior, Bureau of Land Management, accessed April 15, 2024, <https://www.blm.gov/about/what-we-manage/utah>. Habitat Conservation Plan for Washington County, Utah,” Washington County Commission, May 2020, [https://eplanning.blm.gov/public\\_projects/1502103/200341977/20019247/250025451/Draft%20Amended%20HCP\\_Washington%20County.pdf](https://eplanning.blm.gov/public_projects/1502103/200341977/20019247/250025451/Draft%20Amended%20HCP_Washington%20County.pdf).

<sup>92</sup> Camp, Terry, “BLM LAND PROPOSAL LEAVES MORE QUESTIONS THAN ANSWERS,” 6/23/2023, <https://www.utahfarmbureau.org/Article/BLM-Land-Proposal-Leaves-More-Questions-Than-Answers>.

<sup>93</sup> Letter to Secretary Haaland, June 14, 2023, <https://drive.google.com/file/d/18LKsD-ZIFpMh-RgBbGNMVP-6e4KllrPB/view>.

## *Natural Asset Companies Could Lock Up Access to Utah's Public Lands*

On September 27, 2023, the New York Stock Exchange (NYSE) filed a proposed rule change with the Securities and Exchange Commission (SEC) that would have allowed a new type of entity, called natural asset companies (NACs), to be listed on the NYSE.<sup>94</sup> NACs are a proposed new form of company “whose primary purpose is to actively manage, maintain, restore . . . and grow the value of natural assets and their production of ecosystem services.”<sup>95</sup> To “protect” natural assets, NACs would “hold the rights to the ecological performance” of prescribed areas, including public lands, for “conservation, restoration, or sustainable management.”<sup>96</sup> When the SEC published the proposed rule on October 4, 2024, it prompted massive opposition and widespread confusion. Stakeholders raised troubling questions about how these companies would function and whether they could be used as a tool to stop multiple uses of public lands.<sup>97</sup> Opponents of the proposed rule raised doubts over how the “ecological services” rendered by NACs could be accurately and transparently monetized.<sup>98</sup> NACs would allow the company to hold rights to U.S. land and could prevent the land from being used to produce natural resources, including fossil fuels, mining, timber harvesting, and grazing. Further, it became clear that NACs could enable private and foreign entities to wield managerial authority over the natural assets held in their private investment portfolios.<sup>99</sup> In part, because these natural assets could be found on public lands, Committee Republicans sent a letter to the SEC expressing deep concern over the rule’s potential impact.<sup>100</sup>

Utahns were strongly opposed to this proposed rule. The Utah Public Lands Policy Coordinating Office sent a letter to the SEC outlining the negative effects of the proposed rule for Utah, highlighting the rule’s negative effects on the state’s “any-of-the-above energy” strategy.<sup>101</sup> Utah State Treasurer Marlo Oaks also stated that the “proposed creation of Natural Asset Companies is one of the greatest threats to rural communities in the history of our country.”<sup>102</sup> Facing backlash from Congress and stakeholders, the SEC announced on January 17, 2024, that the

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<sup>94</sup> Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change To Amend the NYSE Listed Company Manual To Adopt Listing Standards for Natural Asset Companies, Securities and Exchange Commission, 88 Fed. Reg. 68811, October 4, 2023, <https://www.federalregister.gov/d/2023-22041>.

<sup>95</sup> *Id.*

<sup>96</sup> *Id.*

<sup>97</sup> Spike Jordan, “Natural Asset Companies latest in land schemes,” Tri-State Livestock News, January 5, 2024, <https://www.tsln.com/news/natural-asset-companies-latest-in-land-schemes/>. Shad Sullivan, “Natural Asset Companies Proposed Rule Threatens Property Rights,” Capital Press, January 9, 2024, [https://www.capitalpress.com/free/commentary-natural-asset-companies-proposed-rule-threatens-property-rights/article\\_907699a2-af1d-11ee-8dc1-2f7482e6dd46.html](https://www.capitalpress.com/free/commentary-natural-asset-companies-proposed-rule-threatens-property-rights/article_907699a2-af1d-11ee-8dc1-2f7482e6dd46.html).

<sup>98</sup> “Companies That Can’t Make Money: The SEC Pushes a Plan to Misallocate Capital by Buying Land and Taking It Out of Productive Use,” Marlo Oaks, Wall Street Journal, November 15, 2023, <https://www.wsj.com/articles/biden-administration-invents-companies-that-cant-make-money-ad71f8f3>.

<sup>99</sup> Letter to the U.S. Securities and Exchange Commission, Senators Pete Ricketts, Mike Crapo, and James E. Risch, November 2, 2023, [https://www.risch.senate.gov/public/\\_cache/files/2/6/26ede68e-ff87-4f69-b00d-789beab76417/FD5F7F980A061BC97348F90EDE03593D.letter-to-sec-natural-asset-companies-final.pdf](https://www.risch.senate.gov/public/_cache/files/2/6/26ede68e-ff87-4f69-b00d-789beab76417/FD5F7F980A061BC97348F90EDE03593D.letter-to-sec-natural-asset-companies-final.pdf).

<sup>100</sup> Members Initiate Probe Into SEC’s Rule Change Permitting Foreign Agents and Radical Activists to Control America’s National Parks and Lands, House Natural Resources Committee, January 11, 2024, <https://naturalresources.house.gov/news/documentsingle.aspx?DocumentID=415387>.

<sup>101</sup> A copy of the letter can be found here: <https://www.sec.gov/comments/sr-nyse-2023-09/srnyse202309-281221-687202.pdf>.

<sup>102</sup> Oaks, Marlo, “Natural Asset Companies,” <https://treasurer.utah.gov/natural-asset-companies/>.

NYSE had withdrawn the proposed rule change involving NACs.<sup>103</sup> Despite the proposed rule being withdrawn, IEG maintains that it will continue to pursue “different options” for introducing NACs into financial markets.<sup>104</sup> The BLM Rule and future NACs or NAC-equivalents could enable private and foreign entities to wield enormous influence over the use and management of American public lands. Left unchecked, this threatens to be another ominous feature of preservationist public lands policies that seek to limit access and local input.

### **Republican Solutions to Empower Local Voice and Improve Access to Public Lands**

House Republicans are fully committed to advancing feasible, commonsense solutions that would increase access to public lands and empower local stakeholders to have more say in land use decisions. In the 118<sup>th</sup> Congress, Republicans developed legislative solutions that would transfer underutilized federal parcels to Utah’s superbly run state parks system, prohibit NACs from using Utah’s lands or natural resources, and require congressional oversight for the creation of new national monuments. A selection of bills already considered and planned for consideration this Congress by the House Committee on Natural Resources include the following:

- **H.R. 3397 (Rep. Curtis), “*Western Economic Security Today (WEST) Act of 2023*”:** Withdraws the proposed BLM Rule and prohibits BLM from finalizing, implementing, or enforcing any substantially similar rule.<sup>105</sup>
- **H.R. 5499 (Rep. Miller-Meeks), “*Congressional Oversight of the Antiquities Act*”:** Amends the Antiquities Act by requiring congressional approval for the designation of national monuments. If Congress does not approve the designation within six months, the monument cannot be redesignated by the President for 25 years.<sup>106</sup>
- **H.R. 7006 (Rep. Curtis), *To prohibit natural asset companies from entering into any agreement with respect to land in the State of Utah or natural assets on or in such land*:** Restricts a NAC from entering into any agreement regarding land or natural assets in Utah.<sup>107</sup>
- **H.R. 7332 (Rep. Maloy), “*Utah State Parks Adjustment Act*”:** Conveys roughly 510 acres of BLM land to the State of Utah for inclusion in Antelope and Wasatch Mountain State Parks and approximately 272 acres of U.S. Forest Service land to the State of Utah for inclusion in Fremont Indian State Park, subject to certain conditions.<sup>108</sup>

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<sup>103</sup> Division of Trading and Markets, Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Withdrawal of Proposed Rule Change To Amend the NYSE Listed Company Manual To Adopt Listing Standards for Natural Asset Companies, Securities and Exchange Commission, 89 Fed. Reg. 4354, January 17, 2024, <https://www.sec.gov/files/rules/sro/nyse/2024/34-99355.pdf>.

<sup>104</sup> Jennifer Yachnin, “‘Natural asset companies’ felled by critics,” E&E News, January 18, 2024, <https://subscriber.politicopro.com/article/eenews/2024/01/18/natural-asset-companies-felled-by-critics-00136273>.

<sup>105</sup> H.R. 3397, <https://www.congress.gov/bill/118th-congress/house-bill/3397>.

<sup>106</sup> H.R. 5499, <https://www.congress.gov/bill/118th-congress/house-bill/5499>.

<sup>107</sup> H.R. 7006, <https://www.congress.gov/bill/118th-congress/house-bill/7006>.

<sup>108</sup> H.R. 7332, <https://www.congress.gov/bill/118th-congress/house-bill/7332>.