



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

INVESTIGATIVE REPORT OF ALLEGED PREFERENTIAL TREATMENT IN GRAND STAIRCASE-ESCALANTE NATIONAL MONUMENT BOUNDARY DECISION

This is a revised version of the report prepared for public release.

SYNOPSIS

In response to a request from an advocacy group for public lands in the Western United States, we investigated whether the boundaries of Utah's Grand Staircase-Escalante National Monument (GSENM) were modified, at least in part, for the personal financial benefit of former Utah State Representative Michael Noel, who owned property along the GSENM border and who is currently the executive director of the Kane County Water Conservancy District.

We investigated (1) whether the U.S. Department of the Interior (DOI) followed an established process for assessing proposed monument boundaries, including the proposed GSENM boundary modifications; and (2) whether Noel exerted any influence on the boundary-modification proposal Interior Secretary Ryan Zinke submitted to the President, including whether Zinke was aware of Noel's property ownership and financial interest in revising the boundaries and whether he gave Noel preferential treatment in the boundaries that were proposed.

We found that although the DOI had no formal processes in place for modifying national monument boundaries, DOI staff developed a process and followed it when reviewing the GSENM and other DOI-controlled national monuments under consideration for boundary modifications.

We also found no evidence that Noel influenced the DOI's proposed revisions to the GSENM boundaries, that Zinke or other DOI staff involved in the project were aware of Noel's financial interest in the revised boundaries, or that they gave Noel any preferential treatment in the resulting proposed boundaries.

We provided this report to the Deputy Secretary of the Interior for any action deemed appropriate.

DETAILS OF INVESTIGATION

We initiated this investigation based on a February 26, 2018 complaint submitted by the Western Values Project (WVP), a public-lands advocacy group. In the complaint, the WVP asked us to investigate whether the boundaries of the Grand Staircase-Escalante National Monument (GSENM), outside Kanab, UT, were modified, at least in part, for the personal financial benefit of former Utah State Representative Michael Noel, who owned 40 acres of property just inside the GSENM border and who is currently the executive director of the Kane County Water Conservancy District (KCWCD). In August 2018, several months after we opened our investigation, we received a second complaint from the WVP and a complaint from the Utah Rivers Council, both of which echoed the WVP's initial allegations.

We focused our investigation on whether:

- The U.S. Department of the Interior (DOI) followed an established process for assessing proposed monument boundaries, including the proposed GSENM boundary modifications

- Noel influenced the recommended boundary changes Secretary of the Interior Ryan Zinke submitted to the President, including whether Zinke knew about Noel's property ownership and financial interest in revising the boundaries and gave Noel any preferential treatment as a result

In support of this investigation, we interviewed Zinke, Noel, a Kane County official, and eight DOI and Bureau of Land Management (BLM) employees who were directly involved in the review of the existing GSENM boundaries.

Consistent Process Used for Recommendations To Modify DOI-Controlled National Monuments

We found that although the DOI had no existing processes in place for modifying national monument boundaries, staff developed and followed a consistent process to review the GSENM and other DOI-controlled national monuments whose boundaries were under consideration for modifications in response to the President's April 26, 2017 Executive Order No. 13792, *Review of Designations Under the Antiquities Act*.

We interviewed two DOI Solicitor's Office employees assigned to review monument boundaries during the modification effort. Both told us that national monument boundaries had been reduced 18 times before, the last time in 1963. They said the Antiquities Act of 1906, while setting out the broad authority of the President to create monuments, did not include procedures for reducing monument acreage.

We also interviewed a former DOI official who had served as the project manager for revisions to all DOI-controlled monuments. The former DOI official said she established a team of DOI and BLM staff to review the DOI-related monuments listed in the Executive Order, public comments submitted about the monument modifications, and economic reports created by the DOI Office of Policy Analysis (OPA). An OPA employee said that he proofread the OPA economic reports and provided them to the former DOI official and the review team. He said he also led the team that reviewed and summarized the public comments, and he coordinated requests with the bureaus to obtain policy documents related to the monuments and provided the documents to the former official.

According to the former DOI official, the monument boundary team:

- Reviewed the original proclamations to determine the locations and types of objects to be protected under the Antiquities Act
- Determined whether the land designated for the monuments met the requirement that the size of the monument be the smallest area compatible with protecting these objects
- Determined whether there was a scientific and rational basis for the existing boundaries, including types of land use within the monument, public access concerns, and appropriate environmental and cultural protections available beyond a monument designation

- Ensured that local voices and comments were heard by holding meetings with local, State, tribal, and other elected officials; nonprofit groups; and other stakeholders, as well as providing an online format for public comment
- Reviewed policies on public access, hunting and fishing rights, traditional use such as timber production and grazing, economic and environmental impacts, and potential legal conflicts

The two Solicitor's Office employees and the OPA employee confirmed that the team used this process for the GSENM boundary modifications.

No Evidence That Noel Influenced the GSENM Boundary Changes or That Zinke Knew About Noel's Property Ownership

We found no evidence that Noel influenced the DOI's proposed revisions to the GSENM's boundaries, that Zinke or any other DOI employee involved in the project were aware of Noel's financial interest in the revised boundaries, or that anyone at the DOI gave Noel preferential treatment when proposing the boundary modifications.

The GSENM was reduced from an area of almost 1.9 million acres to nearly 1 million acres. Interviewees involved in the project stated that neither Noel nor local officials influenced their boundary decisions.

In addition, the DOI employees had varying degrees of knowledge about Noel's ownership of property in the GSENM: Either they knew that Noel owned property in the GSENM but not where it was, they had learned about Noel's property from news articles published after the GSENM boundary modifications were publicly released, or they did not know about the property until we told them about it during their interviews. The employees also stated that they had been under no pressure to remove Noel's property from the GSENM and had no knowledge of any financial benefit that Noel may have derived from its removal.

Several of the interviewees also told us that while private properties in and surrounding the GSENM were marked on the maps they reviewed, the ownership of those properties was not identified on the maps or otherwise known to them.

The former DOI official said Noel attended a meeting in Kanab, UT, and accompanied her and Zinke on a tour of the GSENM on May 10, 2017. She said she did not know where Noel's property was located, and she did not recall Noel ever telling her that he owned property within the GSENM boundaries. The former official said that she never saw or heard Zinke and Noel discuss Noel's property, and that neither Zinke nor anyone else had ever told her they had discussed Noel's property with Noel. In addition, she said, she did not discuss Noel's property with Utah Governor Gary Herbert, who was also on the trip.

The former DOI official and other interviewees stated that the team made an overall effort to exclude private property from the redrawn GSENM boundaries because this would enable them to remove more acreage from the GSENM. The former official denied that Noel's property was

removed to financially benefit him and said that no one had pressured her or the DOI to remove Noel's property from the GSENM. Similarly, she knew of no pressure placed on others in the DOI to remove any privately owned property from the GSENM.

Zinke stated that he met Noel at meetings in Salt Lake City and San Juan County, UT, where a group of State and local legislators discussed the size and management of the GSENM. He said that he and Noel did not discuss Noel's property and that he had been unaware that Noel owned property along the GSENM border until we interviewed him. Zinke also stated that he did not direct anyone involved in the project to remove Noel's property, or anyone else's property, from the GSENM.

We also interviewed Noel, who acknowledged that he owned several thousand acres in Kane County, including the 40-acre tract that was the subject of the WVP and Utah Rivers Council complaints. He stated that that he believed this tract may have been within the GSENM boundaries before the modifications, but he was unsure whether the property was currently within the boundaries. Noel said that he did not ask Zinke or anyone else from the DOI to change the GSENM boundaries to remove his property.

Noel recalled that he and other local officials met with Zinke and the former DOI official on May 10, 2017, when they visited the GSENM. The meeting was held in the KCWCD conference room in Kanab, UT, and officials from Kane and Garfield Counties, along with other local citizen groups, made 10- to 15-minute presentations to Zinke about their ideas for the GSENM. According to Noel, an official from Kane County and one from Garfield County each provided Zinke a map showing their proposals for the GSENM boundary changes. Noel said he told Zinke that he did not believe the GSENM had to be that large because other Federal laws and regulations were in place to protect these areas rather than designating the entire area as a monument.

Noel confirmed that he accompanied Zinke and the former DOI official on a tour of the GSENM after the presentations. Over the course of the day, Noel said, he talked about his overall philosophy on the size and management of the GSENM and listened to Zinke's philosophy on public land issues.

Noel said he did not suggest to Zinke or the former DOI official that specific blocks of property be removed or specific GSENM boundaries be moved; he said he only suggested that the size of the monument be the smallest area necessary to protect historical, prehistoric, and paleontological objects in the area, as required by the Antiquities Act. He did not know whether any other owners of property along the GSENM's boundaries may have solicited Zinke or the former official to remove their properties from within the confines of the GSENM.

The Kane County official stated that he had his staff create a map that reduced the GSENM to a size that, in his opinion, was consistent with a designated monument. He said he presented the map to Zinke and the former DOI official at the May 10, 2017 meeting in Kanab. According to the Kane County official, his presentation to Zinke was not officially sanctioned because the other Kane County officials had not voted on it.

The Kane County official stated that Noel never asked him, or other Kane County officials, to advocate for changing the GSENM boundary to remove his property. He also said that he never heard Noel discuss his property with Zinke or the former DOI official. The Kane County official did not specifically recall whether Noel's property was located within or outside the GSENM.

The Kane County official confirmed that Noel accompanied Zinke on the GSENM tour and made general statements to Zinke or the former DOI official, or both, that supported a reduction of the monument from 1.9 million acres to around 70,000 acres. The official stated that neither Noel nor any other owner of privately held land within the GSENM had requested that Kane County advocate for the removal of their property. According to the Kane County official, some local property owners were more interested in reducing the overall size of the GSENM to about 100,000 acres rather than "shave a little" from different places along the boundaries, and other property owners were unhappy that their land was removed from within the GSENM boundaries because they were in favor of the boundaries staying the same.

In addition to the GSENM proposal the Kane County official submitted at the May 10, 2017 meeting, Garfield County officials proposed changes that would have eliminated Noel's property from within the confines of the GSENM. The former DOI official said the only instance where they considered a suggestion from either county's proposal was to create a boundary line along one road because no objects along that road were protected under the Antiquities Act and the counties believed that the road was unnecessarily encumbered by its location within the GSENM.

The DOI employees we interviewed told us they disregarded Kane and Garfield Counties' proposed boundary changes. They said the proposals significantly reduced the size of the GSENM and that the proposed borders appeared to have been randomly drawn and did not consider the protection of objects under the Antiquities Act.

SUBJECTS

1. Ryan Zinke, Secretary of the Interior.
2. Michael E. Noel, Executive Director, KCWCD.

DISPOSITION

We provided this report to the Deputy Secretary of the Interior for any action deemed appropriate.

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