

Federalism in Practice: Bears Ears Case Study

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- Constitutional Literacy Institute
- June 25, 2025



Vocabulary Drill

Federalism

Government powers are divided between an executive, legislative and judicial branch

Separation of powers

Each branch of government has ways to limit potential abuses by the other branches of government

Checks and balances

This branch of government makes laws

Legislative branch

If the President does not approve of a law the President may do this to block it

Veto

The Supreme Court is in this branch of government

Judicial branch

This article of the Constitution discusses the Legislative branch

Article 1

Congress is made up of these two “houses”

Senate and House of Representatives

This branch of government enforces the laws

Power Grab

- The president decides to give Montana to Canada in return for a private hunting lodge in Saskatchewan for him and his family. He formalizes the deal in a treaty.
- You are a member of the Senate. What can you do to stop the president? Where do you find this authority?

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided 2/3 of the senators present concur;

Article 2, Section 2, Clause 2






Effective 5/14/2019

53G-10-302. Instruction in American history and government -- Study and posting of American heritage documents.

- (1) The Legislature recognizes that a proper understanding of American history and government is essential to good citizenship, and that the public schools are the primary public institutions charged with responsibility for assisting children and youth in gaining that understanding.
- (2)
 - (a) The state board and local school boards shall periodically review school curricula and activities to ensure that effective instruction in American history and government is taking place in the public schools.
 - (b) The boards shall solicit public input as part of the review process.
 - (c) Instruction in American history and government shall include a study of:
 - (i) forms of government, such as a republic, a pure democracy, a monarchy, and an oligarchy;
 - (ii) political philosophies and economic systems, such as socialism, individualism, and free market capitalism; and
 - (iii) the United States' form of government, a compound constitutional republic.
- (3) School curricula and activities shall include a thorough study of historical documents such as:
 - (a) the Declaration of Independence;
 - (b) the United States Constitution;
 - (c) the national motto;
 - (d) the pledge of allegiance;
 - (e) the national anthem;
 - (f) the Mayflower Compact;
 - (g) the writings, speeches, documents, and proclamations of the Founders and the Presidents of the United States;
 - (h) organic documents from the pre-Colonial, Colonial, Revolutionary, Federalist, and post Federalist eras;
 - (i) United States Supreme Court decisions;
 - (j) Acts of the United States Congress, including the published text of the Congressional Record; and
 - (k) United States treaties.

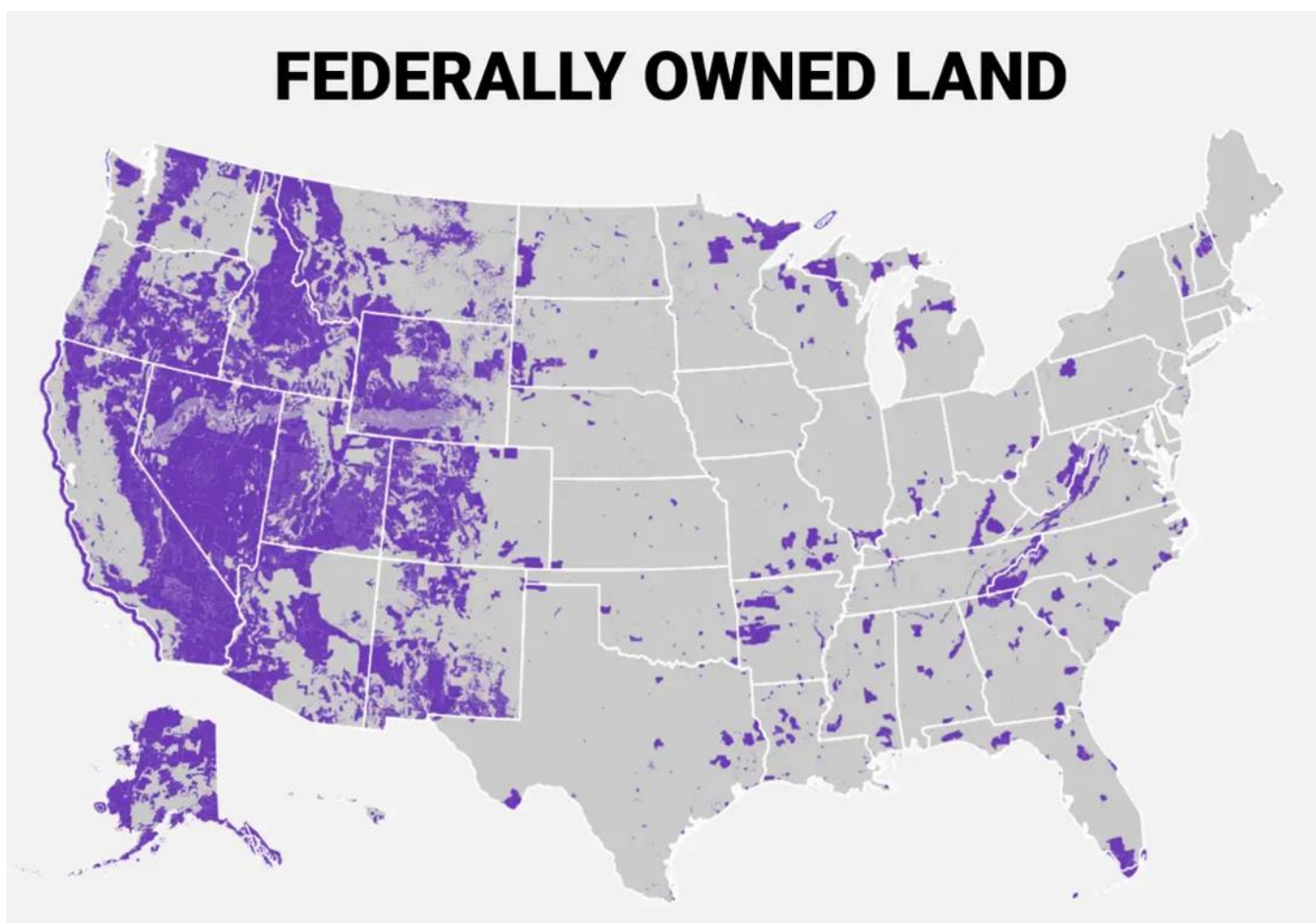
Madison, Federalist #51

There are, moreover, two considerations particularly applicable to the federal system of America, which place that system in a very interesting point of view. First. In a single republic, all the power surrendered by the people is submitted to the administration of a single government; and the usurpations are guarded against by a division of the government into distinct and separate departments. In the **compound republic** of America, the power surrendered by the people is first divided between two distinct governments, and then the portion allotted to each subdivided among distinct and separate departments. Hence a double security arises to the rights of the people. The different governments will control each other, at the same time that each will be controlled by itself. Second. It is of great importance in a republic not only to guard the society against the oppression of its rulers, but to guard one part of the society against the injustice of the other part. Different interests necessarily exist in different classes of citizens. If a majority be united by a common interest, the rights of the minority will be insecure.

	Legislative	Executive	Judicial
<div>National, Federal</div> <div></div>			
<div>State</div> <div></div>			
<div>County/City</div> <div></div>			

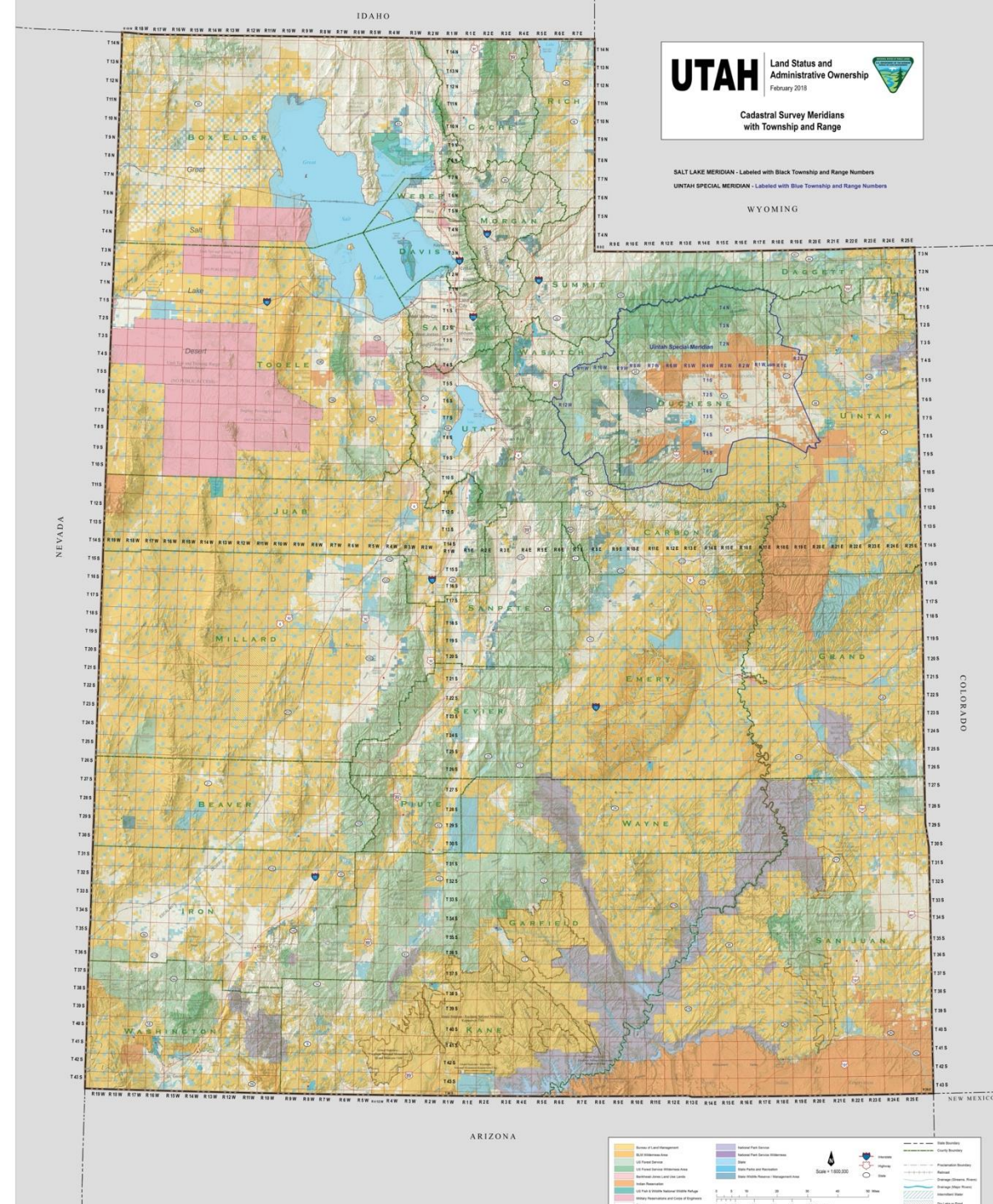
Article 4 Section 3

The **Congress** shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.



Utah Enabling Act 1895

Second: That the people inhabiting said proposed State do agree that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof; and to all lands lying within said limits owned or held by any Indian or Indian tribes; and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States;



Could Utah's federal lands become a safe haven for abortion?

By Marjorie Cortez, Deseret News | Posted - June 27, 2022 at 9:09 p.m.



Who gets to decide what happens on land in Utah?

U.S. Rep. Alexandria Ocasio-Cortez, D-N.Y., speaks at a news conference on Dec. 7, 2021, on Capitol Hill in Washington. Leading Democratic women in Congress are calling on President Joe Biden to use federal lands as a "safe haven" for abortion. (Jacquelyn Martin, Associated Press)

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,	:	Violation Notice #
	:	F1087576
Plaintiff,	:	
	:	ENTRY OF PLEA AND
v.	:	STIPULATED DISPOSITION
	:	
JEFFEREY D. NOKES,	:	Magistrate David Nuffer
	:	
Defendant.	:	

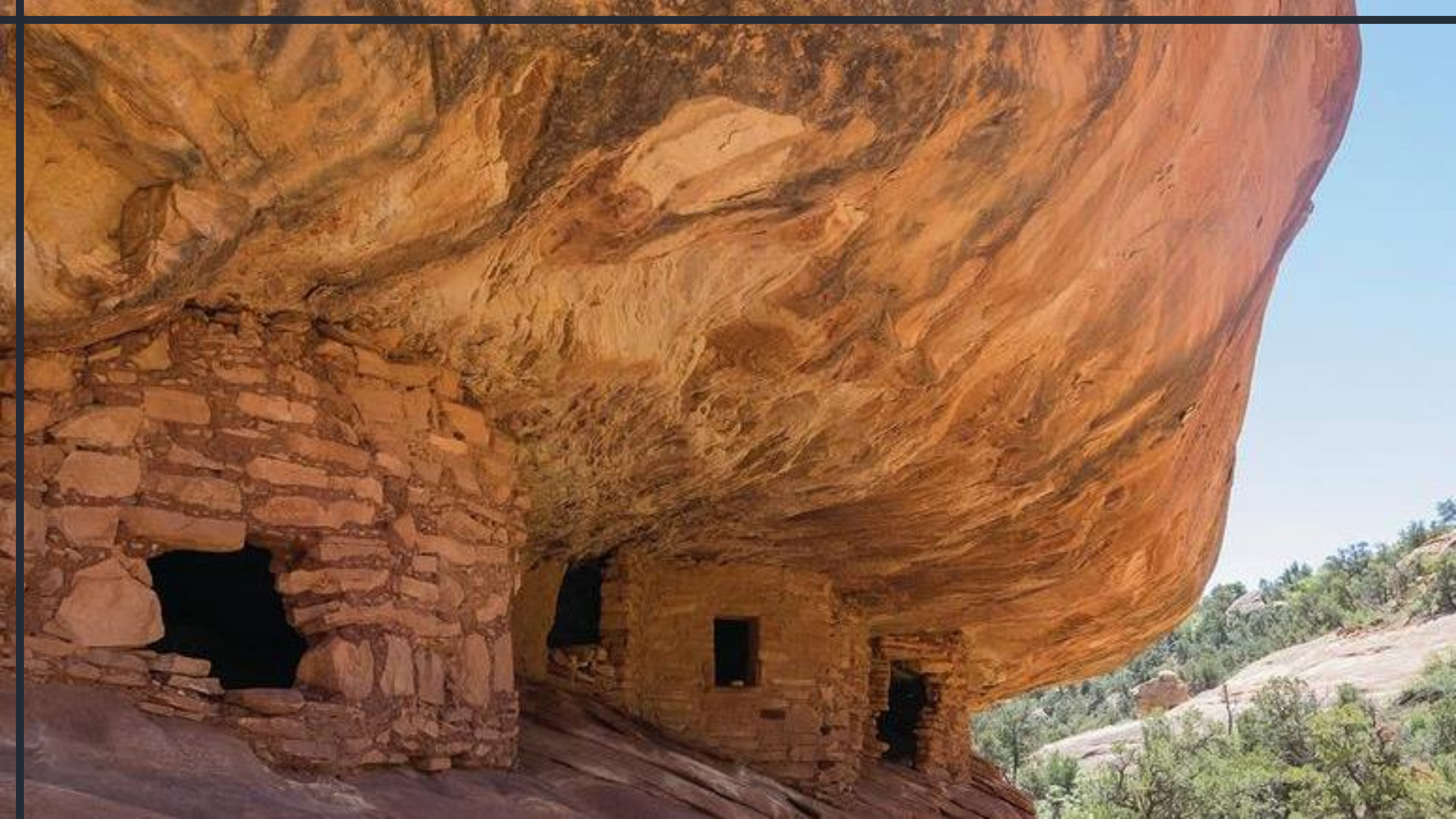
Come now, the parties in this cause of action and respectfully submit this Entry of Plea and Stipulated Disposition.

The parties hereby stipulate and agree as follows:

1. The Defendant waives his rights as set forth in Federal

Bears Ears National Monument







Clara Maryboy, Diné elder
© Lynn Hoffman-Brouse

Bears Ears A NATIVE PERSPECTIVE

*on America's most significant
unprotected cultural landscape*



Ancestral Pueblo dwellings on Cedar Mesa
© Don Rummo

A sacred landscape

Dear Friends,

I would like to express my heartfelt support for the work of the Bears Ears Inter-Tribal Coalition. At the museum I direct, we are committed to discovery and knowledge gained from our collective history, our unique cultures, and the environment. To build an informed and competent citizenry and a sustainable future, we believe our work must encompass and be accountable to both people and place.

This report modestly describes an incomparable and priceless place, a place with irreplaceable cultural resources, a place called Bears Ears. It is a place many Native peoples in the Four Corners area continue to define as home, soul, and the setting for the cultivation of cultures.

Unfortunately, this landscape and its ancient shrines, petroglyphs, plants, animals, minerals, and cultural artifacts have become a center of desecration, looting, and disrespect. The proposed Bears Ears national monument will provide much needed protection for this nation's most rich cultural landscape



© April Chabries Makgoeng

so that we can care for it in perpetuity. Through an Inter-Tribal coalition, five area tribes are proposing the Bears Ears Monument that would be managed by the tribes and the federal government, where planning, authority, and decision-making are shared equally.

In addition, a Bears Ears monument will serve as a unique learning place where science and tribal traditional knowledge will work to manage Bears Ears equally, a place with shared and balanced knowledge systems, a sanctuary for cultural, social, and intellectual mediation.

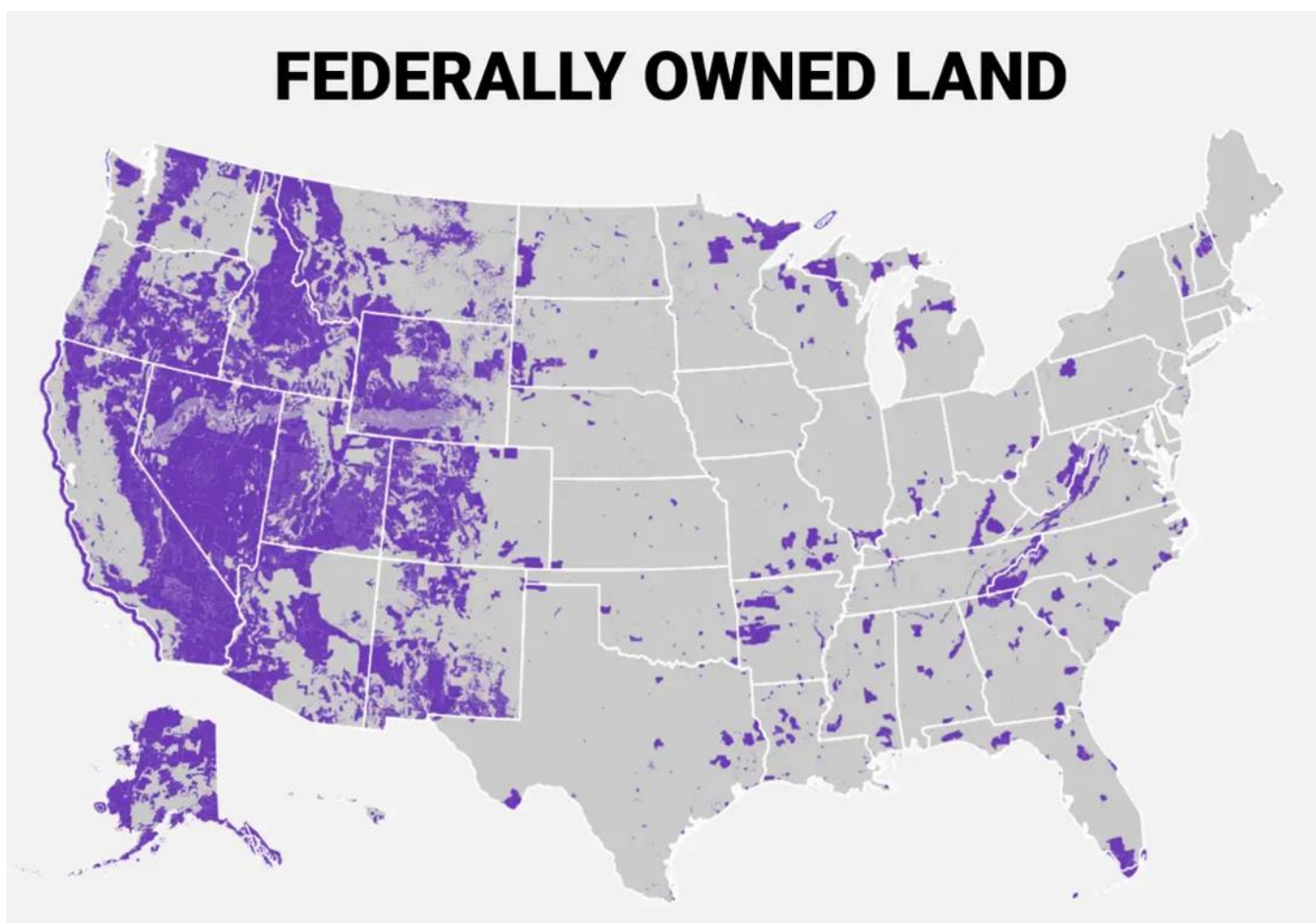
Please take a moment to read this report and learn more about why it is vitally important to make Bears Ears this nation's next glorious national monument.

Thank you,

Jim Enote, Director
A:shiwi A:waan Museum and Heritage Center
Zuni, NM

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Congress
↓
President

THE ANTIQUITIES ACT

— JUNE 8, 1906 —



The President of the United States is hereby authorized, in his discretion, to declare by public proclamation historic landmarks, historic and pre-historic structures, and other 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...

Theodore Roosevelt



**NO
MONUMENT**

This Land is our
Livelihood
Don't take
Away!

Don't take
More away!
Monument

NO Protect
Live
Monum

Don't keep
us Out!
No Bears!

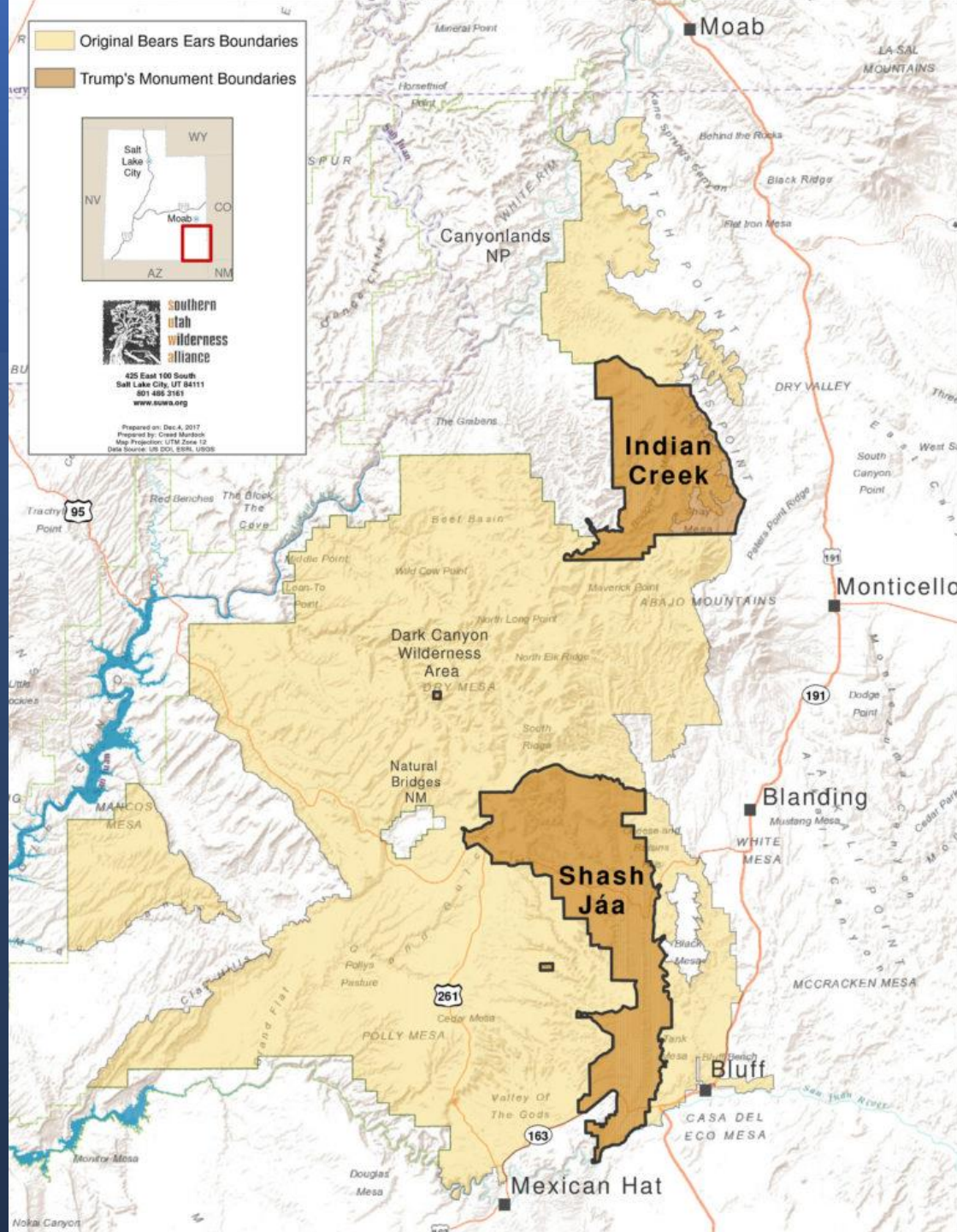
NO NATIONAL
Monument

**NO
MONUMENT**

Seriously, a
Monument would
SUCK!

We the
Do
You

NO
monument
SAN

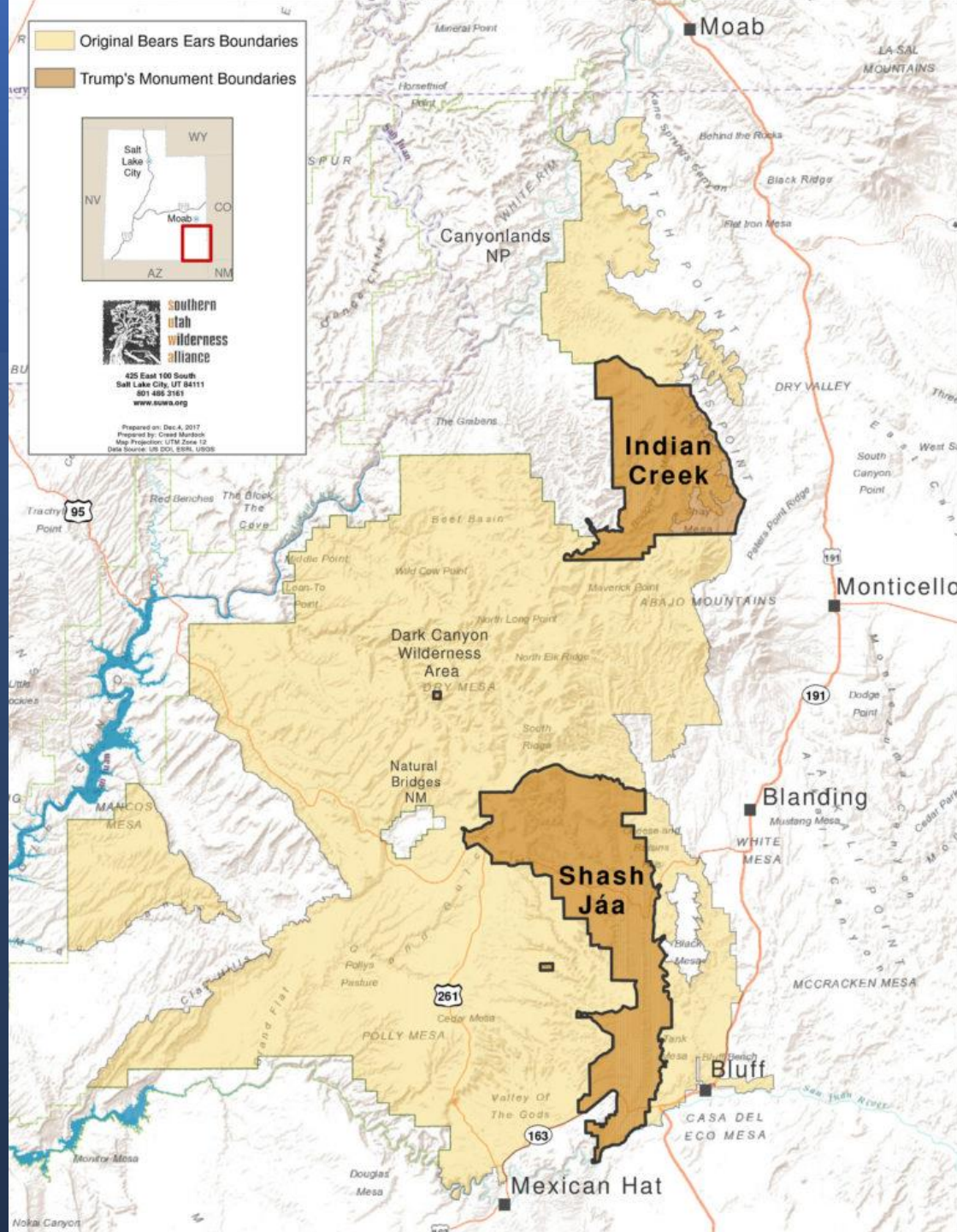


Trump announces reductions to Bears Ears, Grand Staircase monuments

Trump said Monday he would downsize Bears Ears, an action likely to touch off a battle with conservation groups and Native American tribes.



— President Donald Trump speaks at the Utah State Capitol, where he announced big cuts to Utah's sprawling wilderness national monuments, in Salt Lake City on Dec. 4, 2017. Kevin Lamarque / Reuters



President Joe Biden starts process to restore Utah's national monuments

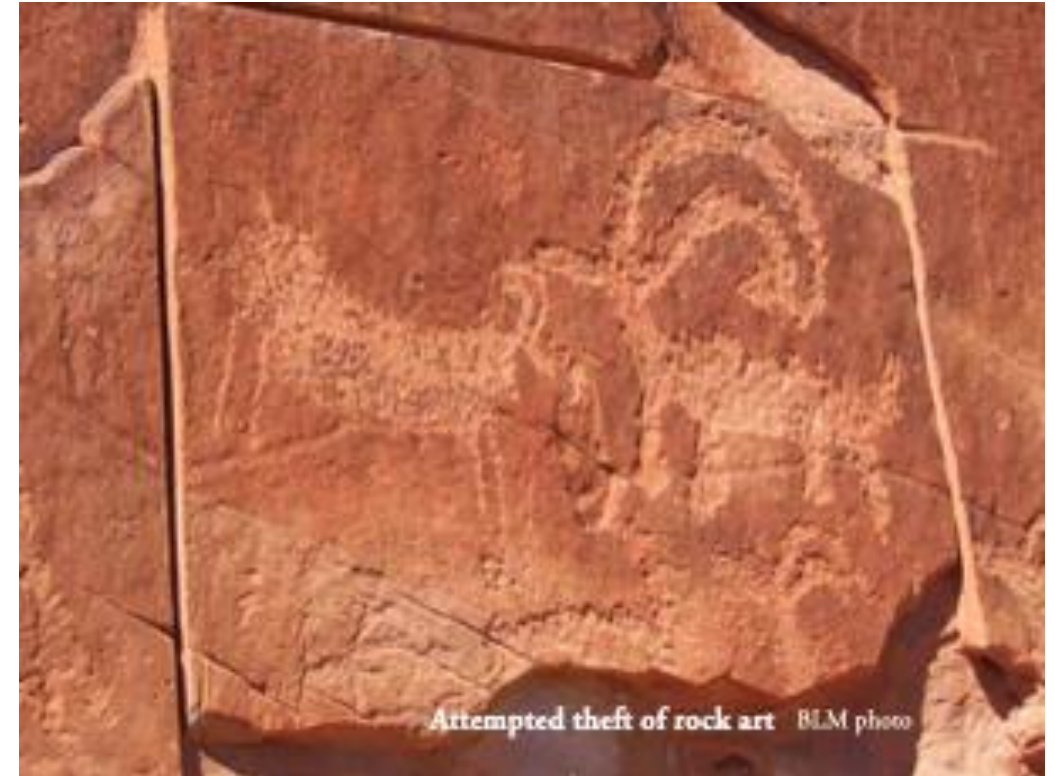
Utah's Republican leaders call on Biden to tap brakes, work for consensus solution for Bears Ears, Grand Staircase.



(Evan Vucci | AP) President Joe Biden waits to sign his first executive order in the Oval Office of the White House on Wednesday, Jan. 20, 2021, in Washington. An order starting the restoration of original boundaries to Bears Ears National Monument and Grand Staircase-Escalante National Monument were expected to be among the initial orders signed.

By Brian Maffly, Zak Podmore and Taylor Stevens | Jan. 20, 2021, 4:00 p.m.
| Updated: Jan. 21, 2021, 5:54 p.m.

Bears Ears and Grand Staircase-Escalante national monuments may soon be enlarged.



Utah Legislature OKs bipartisan effort to create Bears Ears visitors center

By Ashley Imlay | @ashley_imalay | Mar 3, 2021, 10:33am MST

f t  SHARE

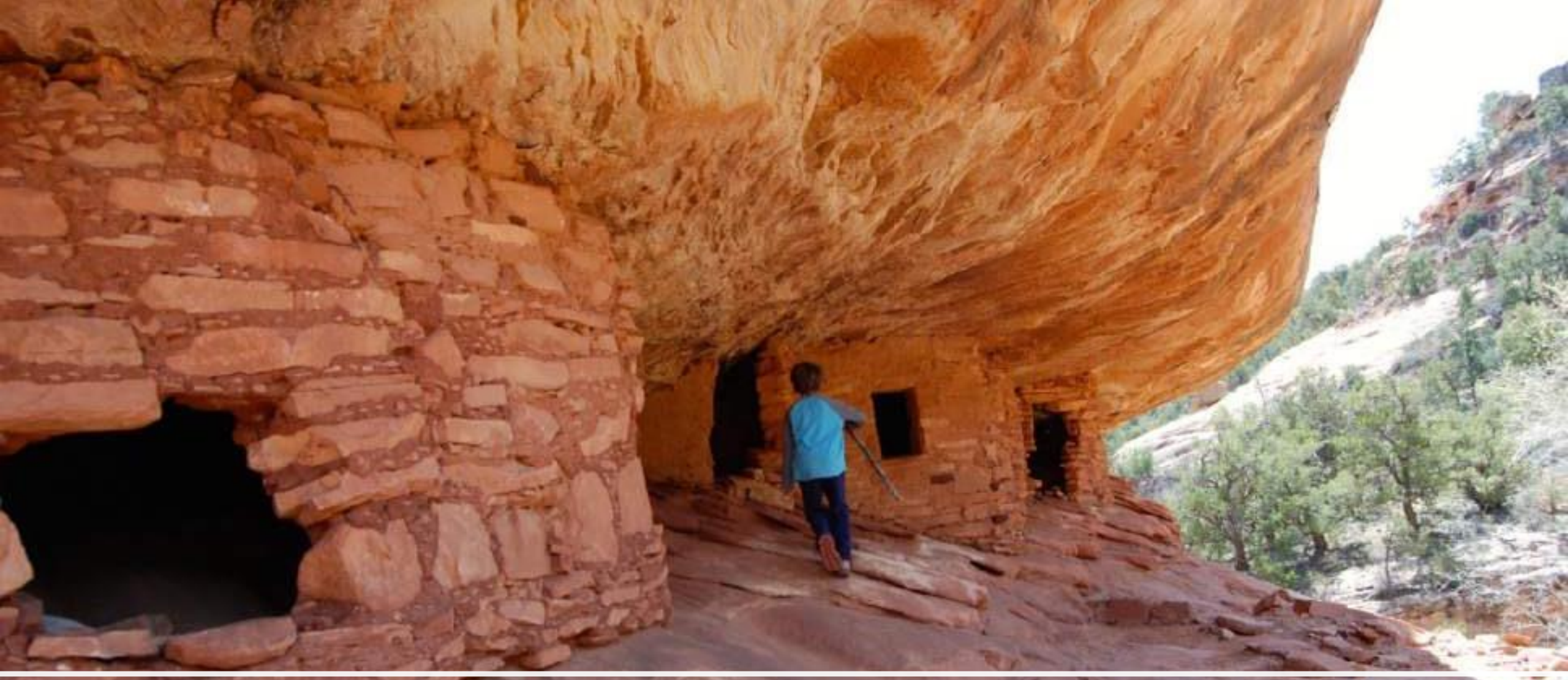


Rep. Phil Lyman, R-Blanding, speaks at a press conference at the Capitol in Salt Lake City on Monday, Feb. 8, 2021. Bipartisan legislation co-sponsored by Lyman and Rep. Doug Owens, D-Millcreek, would establish a new Bears Ears Visitors Center Task Force. The Utah Legislature passed the bill on Wednesday. | Scott G Winterton, Deseret News

SALT LAKE CITY — The Utah Legislature passed a bill to begin planning for a new visitors center in Bears Ears to offset impact from the large growth in tourism since the southeastern Utah area became a national monument.



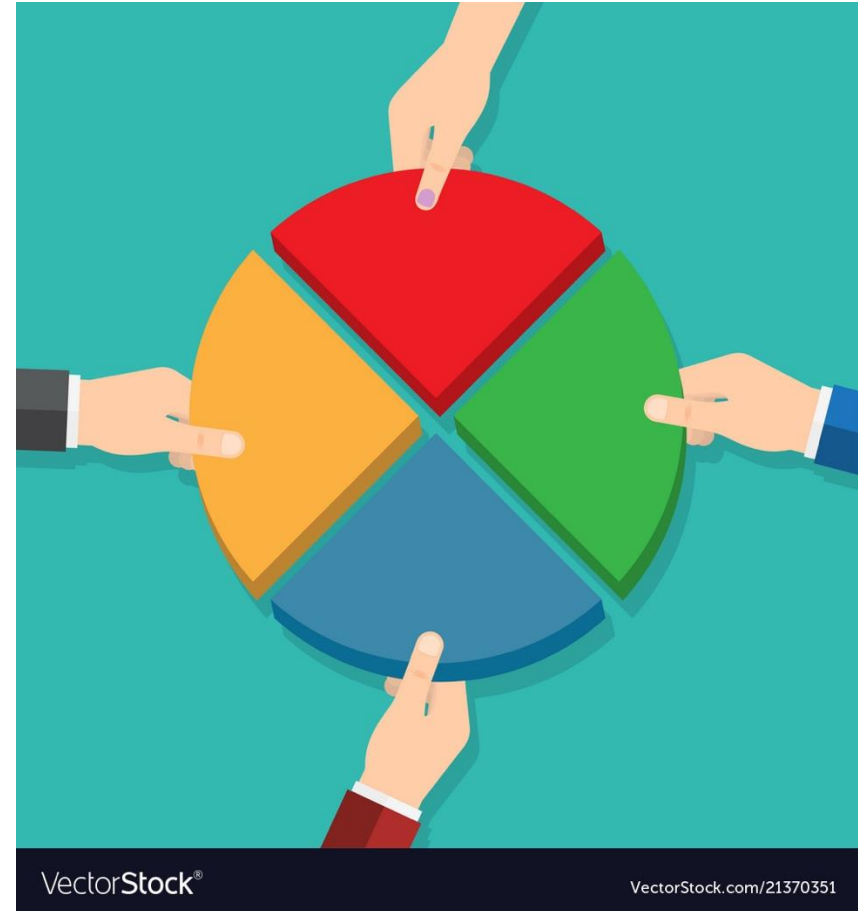
Report ad



Who should make decisions about land and resource access and use?
What should be the guiding principles in seeking consensus?

Who should make decisions about land and resource access and use?
What should be the guiding principles in seeking consensus?

- Federal government representing concerned citizens across the nation
- State government representing concerned citizens across the state
- Local government and residents
- Tribal government and members



Source: website created by the Bureau of Land Management providing information about the creation and significance of the Bears Ears National Monument and links to more important documents related to its history.
<https://www.blm.gov/programs/national-monuments/bears-ears-national-monument>



Excerpt from web page:

Bears Ears National Monument holds special meaning to a wide variety of users. This area's rich cultural heritage is held sacred by many Native American Tribes, who continue to rely on these lands for traditional and ceremonial uses. The natural resources here are regularly used by local communities for firewood gathering and livestock grazing. Beyond cultural and natural resources, this area is meaningful to recreationists who visit the Bears Ears region to backpack, rock climb, river raft, and more. ...

Bears Ears National Monument truly embodies the Bureau of Land Management's multiple use mission. While the Proclamation provides a framework for prioritizing the protection of the monument's objects and values, other uses continue. The Monticello Field Office strives to accommodate these different user groups....

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**Document 3: Website w
Indigenous Proposal for B**

Source: website created in 2015 by the Bears Ears Coalition, a group of Indigenous nations who were instrumental in the creation of the original Bears Ears National Monument. Found at <https://www.bearscoalition.org>



Excerpt from the web page:

The Bears Ears Inter-Tribal Coalition proposes a U.S. Presidential National Monument designation under the Antiquities Act of 1906 to protect historic and scientific objects in southern Utah. The area encompasses 1.9 million acres of ancestral land on the Colorado Plateau. We propose that the most appropriate and effective management strategy is collaborative management by the tribes and federal agencies.

The member tribes of the Bears Ears Inter-Tribal Coalition hold the Bears Ears immediate landscape, as well as the lands fanning out from its twin plateaus, as traditional sacred lands. This land is a place where tribal traditional leaders and medicine people go to conduct ceremonies, collect herbs for medicinal purposes, and practice healing rituals stemming from time immemorial, as demonstrated through tribal creation stories.

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*Source: video and newspaper article
Juan County expressing opposition to
by Theresa Davis for the Daily Universe
University newspaper on November 1
<https://universe.byu.edu/2016/11/17/sfight-to-stop-bears-ears-national-monument>*



Excerpt from the web page:

The proposal to make Bears Ears a national monument has created divisions throughout the state of Utah. But in San Juan County, residents of all backgrounds are taking a stand to oppose the monument designation. While support for a monument has received national media coverage, residents in small towns including Blanding, Bluff and Monticello have started their own grassroots movement to oppose the monument. They have educated themselves on the issues. The group's website and Facebook page tell their stories and assert their rights as citizens who would be directly affected by any economic, physical or political changes a monument would create. Several dozen residents said they are "100 percent opposed to the Bears Ears Monument."

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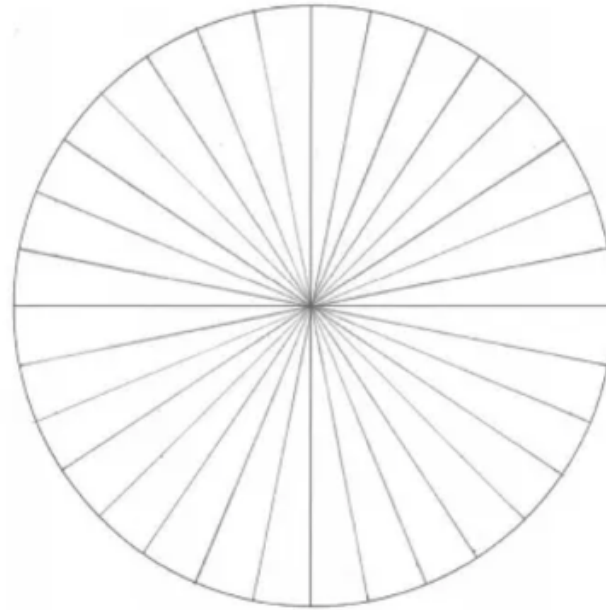
Period _____

Recapture Canyon Demonstration: Who Should get to Decide How Land is Used?

You will be given some background information and a number of documents related to a demonstration organized in Recapture Canyon in southern Utah to protest the extended closure of some primitive roads by the federal government's Bureau of Land Management. As you listen to the arguments made in the documents, record reasons that each of the groups shown should be given a voice in determining how the land is used. Then create a pie graph showing what percentage of the decision-making power should belong to each group.

Federal government and people across the nation
national special interest groups

State government and people across the state



Local government and local residents

Tribal government and tribal members

A group of diverse students are sitting in a circle in a classroom. A girl in a pink shirt is using a laptop. A boy in a white shirt is holding a tablet. A girl in a blue shirt is looking at the camera. A boy in a blue shirt is looking down. A girl in a white shirt is looking at the camera. A boy in a red shirt is looking at the camera. The background shows a whiteboard and a bulletin board.

Classroom Consensus Document



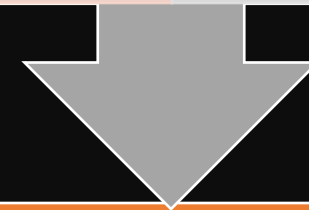
Bears Ears

1. Statement of Personal Beliefs about the Issue

What is the most pressing issue regarding

Federal v. local
control of land

Bears Ears as case



What are three policies you would strongly support regarding the balance of federal, state, and local control of land?




2. Group Statement about the Issue

With a partner identify two policies you could support regarding the balance of federal, state, and local control of land?




3. Class Statement about the Issue

As a class create a policy
we could all support
regarding the balance of
federal, state, and local
control of land?



4. Teacher or
student(s)
write a policy
paper

“Ms. Teacher’s fourth period class respectfully submits the following suggestions for balancing federal, state, and local control of land in Utah.”



5. The policy
paper is shared
with those in
power

Students sign the
document or write a
dissenting paper to
be submitted with it.

Resources for teaching about federalism:

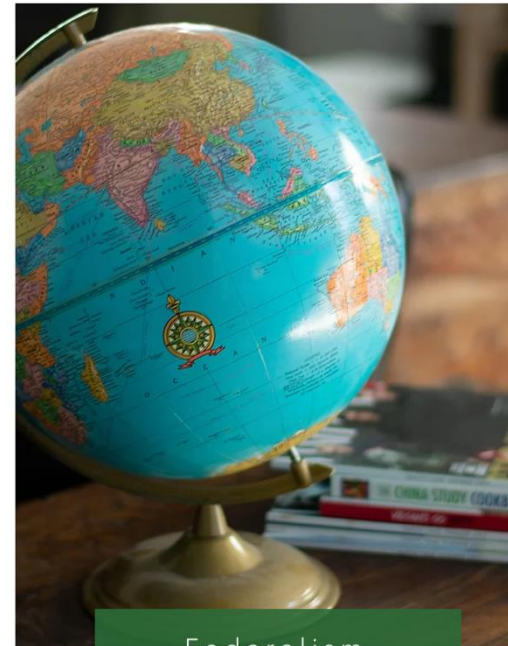
FIP Classroom



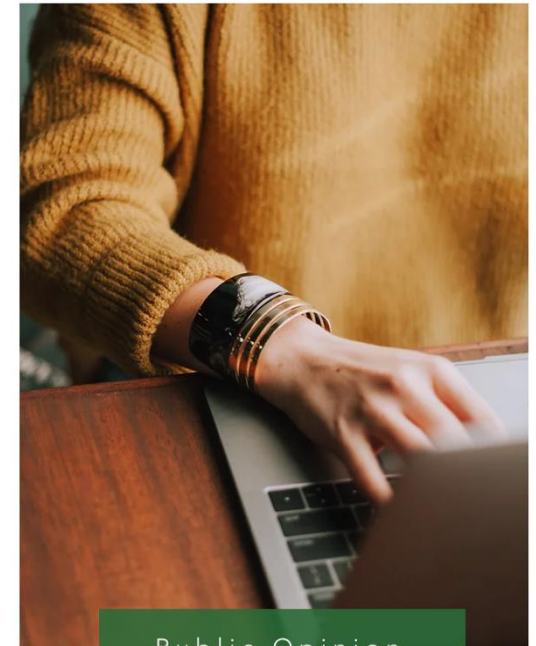
Regulations



Centralization



Federalism
Organizations



Public Opinion

Let's Chat!

<https://www.uvu.edu/ccs/federalism-index/index.html>

Current and recent issues involving federalism:

Federalism Policy Tracker

Updated April 2023

Welcome to the Federalism Index Policy Tracker. Check back here for updates on major legislation, regulation, and state actions that affect the balance of authorities and powers between the federal government and the states. If you would like to see more topics, or if you have a policy area that needs to be included, please let us know by using the "Let's Chat!" button below.



Current and recent issues involving federalism:

Utah

Doses given
2.9M

Fully vaccinated
1.22M

% of population fully vaccinated
38.2%



United States

Doses given
334M

Fully vaccinated
159M

% of population fully vaccinated
48.5%



POLITICS • CLIMATE CHANGE
California Already Has a Green New Deal. Here's How It Works

Debriefing

